



An  
Bord  
Pleanála

## Inspector's Report ABP-317090-23

<b>Development</b>	Construction of 16 houses and all ancillary site development works and connections to public services
<b>Location</b>	Ballylannidy, Ennis, Co. Clare
<b>Planning Authority</b>	Clare County Council
<b>Planning Authority Reg. Ref.</b>	22263
<b>Applicant</b>	Darvin Trading Company Limited.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant permission
<b>Type of Appeal</b>	Third Party
<b>Appellant</b>	Willy O'Doherty
<b>Observers</b>	None
<b>Date of Site Inspection</b>	29 <sup>th</sup> November 2023
<b>Inspector</b>	Siobhan Carroll

# Contents

1.0 Site Location and Description .....	4
2.0 Proposed Development .....	4
3.0 Planning Authority Decision .....	5
3.1. Decision .....	5
3.2. Planning Authority Reports .....	5
3.3. Prescribed Bodies .....	6
3.4. Third Party Observations .....	7
4.0 Planning History.....	7
5.0 Policy Context.....	7
5.1. Project Ireland 2040-National Planning Framework.....	7
5.2. Section 28 Ministerial Guidelines .....	8
5.3. Clare County Development Plan 2023-2029.....	8
5.4. Natural Heritage Designations .....	10
5.5. EIA Screening .....	10
6.0 The Appeal .....	12
6.1. Grounds of Appeal .....	12
6.2. Applicant Response .....	15
6.3. Planning Authority Response.....	18
7.0 Assessment.....	18
7.1. Policy context and zoning .....	19
7.2. Residential amenity.....	21
7.3. Roads and access .....	22
7.4. Services .....	23

7.5. Other issue.....	24
7.6. Appropriate Assessment.....	25
8.0 Recommendation.....	59
9.0 Reasons and Considerations.....	60
10.0 Conditions .....	60
Appendix 1 – Form 1: EIA Pre-Screening	
Appendix 2– Form 2: EIA Preliminary Examination	

## **1.0 Site Location and Description**

- 1.1. The appeal site at Ballylannidy, Ennis, Co. Clare has a stated area of 1.538 hectares and is located to the western side of the town of Ennis, Co. Clare. It is situated circa 3km from the town centre. The site is accessed off the Shanaway Road the L4601 which is served by a footpath along its southern side. The Shanaway Road the L4601 runs south-west of the N85 the Ennistimon Road.
- 1.2. The southern boundary of the site extends for 46m it adjoins the Shanaway Road. This includes an existing vehicular entrance which serves a rear access to no. 9 Woodstock View. There is a track access road which extends north through the site. The main area of the site is located to the east of this track. The site level falls from east to west.
- 1.3. The eastern boundary of the site adjoins the rear of four properties in Woodstock View. The Woodstock View estate which contains 32 no. detached two-storey and dormer dwellings of mixed designs is located to the west of the site on the opposite side of the Ballyard road.
- 1.4. The Woodstock Hotel is located to the south and the Woodstock Golf and Country Club comprising a 18 no. hole golf course is located to the southern side of the Shanaway Road. Garville Court a small housing scheme comprising three terraces of two-storey dwellings is located to the west of Woodstock Hotel.
- 1.5. Woodstock Drive estate which contains 20 no. detached dormer dwellings is located to the west of Woodstock Golf and Country Club.

## **2.0 Proposed Development**

- 2.1. Permission is sought for a development which will consist of the following;
  - (a) 16 no. dwelling houses in total consisting of 2 no. detached two-storey houses and 14 no. semi-detached two-storey dwelling houses
  - (b) All ancillary site development works and connections to public services.

- 2.2. At further information stage the design of the scheme was revised to 14 no. dwellings comprising 6 no. detached houses and 8 no. semi-detached houses.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

- 3.1.1. The Planning Authority granted permission for the development subject to 28 no. conditions.

#### **3.2. Planning Authority Reports**

##### **3.2.1. Planning Reports**

Further information was requested on the 18<sup>th</sup> of May 2022 in relation to the following matters:

1. Design, layout and open space.
  2. Appropriate Assessment.
  3. Traffic and roads issues.
  4. Potable water, waste water and surface water.
- Following the submission of a response to the request for further information the Planning Authority considered that all issues were satisfactorily addressed. A grant of permission was recommended subject 28 no. conditions.

##### **3.2.2. Other Technical Reports**

- 3.2.3. Taking in Charge Team – report dated 25/4/2022 – They requested further information on matters referring to the design and layout of the scheme, roads/access and surface water.
- 3.2.4. Chief Fire Officer – report dated 25/4/2022 – no objection to the proposed development provided it complies with the Building Regulations 1997 to 2019.

### **3.3. Prescribed Bodies**

- 3.3.1. Development Applications Unit – Department of Housing Local Government and Heritage: Report dated 29/4/2022 – The proposed development is approximately 1km from Pouladatig Cave SAC (Site Code 000037). In Conservation Objectives the proposed site is within the 2.5km Lesser Horseshoe bat foraging habitat for the SAC. Clare County Council must ensure it is satisfied that the proposed development will not negatively impact on the Conservation Objectives of the European Site. Of concern is the potential loss of foraging habitat for Lesser Horseshoe Bats, The Conservation Objectives of the European Site are to maintain or restore the favourable conservation condition of the qualifying interest Annex habitats and species.
- 3.3.2. Also, a Soprano pipistrelle bat roost has been recorded adjacent to the site, and they are very likely to use the site.
- (a) It is strongly recommended that Clare County Council ensure existing hedges and tree lines are retained. It is also recommended that native hedgerow/tree line planting is included in the site design to replace those recently removed and retain connections between the bat foraging habitats mapped in the Conservation Objectives.
  - (b) It is strongly recommended that Clare County Council ensure light does not impact on potential bat foraging in particular hedgerows and tree lines. Bat Conservation Ireland's guidelines for Bats and lighting: Guidance Notes for Planners, Engineers, Architects and developers.
- 3.3.3. The site is also approximately 2.6km from Lower River Shannon candidate Special Area of Conservation (Site Code: 002165) Clare County Council must ensure it is satisfied that the proposed development will not negatively impact on water quality in the cSAC.
- 3.3.4. Development Applications Unit – Department of Housing Local Government and Heritage: Report dated 28/4/2022 – It is noted that the proposed development site encompasses an overall area of 1.538 hectares and is partially located within the Zone of Archaeological Notification for RMP CL033-066 -----(Ringfort – Cashel).

They recommend that an Archaeological Impact Assessment (including Archaeological Test Excavation) be carried out as further information.

### **3.4. Third Party Observations**

- 3.4.1. The Planning Authority received 6 no. submissions/observations in relation to the application. The main issues raised are similar to those set out in the appeal.

## **4.0 Planning History**

- 4.1.1. Reg. Ref. 15/597 – Permission was granted to extend the duration of planning permission P10/629 for construction of 1 no. dwelling house and connection to public services.
- 4.1.2. Reg. Ref. 14/564 – Permission was granted to extend the duration of planning permission P09/837 to construct a dwelling house and site, entrance and to connect to the existing sewer, services, watermain and all associated site works.
- 4.1.3. Reg. Ref. 10/629 – Permission was granted to construct 1 no. dwelling house and connect to existing public services, create a new entrance and all associated site works.
- 4.1.4. Reg. Ref. 09/1141– Permission was refused to construct 1 no. dwelling house and connect to existing public sewer and services, create a new entrance and all associated site works.
- 4.1.5. Reg. Ref. 09/837 – Permission was granted to construct a dwelling house and site entrance and to connect to the existing sewer, services and watermain and all associated site work.

## **5.0 Policy Context**

### **5.1. Project Ireland 2040-National Planning Framework**

- 5.1.1. The NPF includes a Chapter, No. 6 entitled ‘People, Homes and Communities’. It sets out that place is intrinsic to achieving good quality of life. National Policy Objective 33 seeks to “prioritise the provision of new homes at locations that can

support sustainable development and at an appropriate scale of provision relative to location”.

- 5.1.2. National Policy Objective 35 seeks “to increase residential density in settlements, through a range of measures including restrictions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights”.
- 5.1.3. National Planning Objective 13 also provides that “In urban areas, planning and related standards, including in particular height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected”.

## **5.2. Section 28 Ministerial Guidelines**

- 5.2.1. The following is a list of section 28 Ministerial Guidelines considered of relevance to the proposed development. Specific policies and objectives are referenced within the assessment where appropriate.
- Sustainable Residential Development and Compact Settlements – Guidelines for Planning Authorities (2024)
  - ‘Design Manual for Urban Roads and Streets’ (DMURS) (2019)
  - ‘The Planning System and Flood Risk Management’ (including the associated ‘Technical Appendices’) (2009)

## **5.3. Clare County Development Plan 2023-2029**

- 5.3.1. Volume 3a of the Development Plan refers to Ennis Municipal District Settlement Plans.
- 5.3.2. As per the Ennis Land Use zoning map the appeal site at Ballylannidy, Ennis, Co. Clare is located within the Ennis Plan Boundary. The site is located predominately on



lands zoned “Low Density Residential” and identified as LDR15. The southern section of the site is zoned Existing Residential and a section of the western side of the site is zoned Agriculture.

5.3.3. Section 2.11 refers to Woodstock Neighbourhood - This neighbourhood is somewhat removed from the main body of the town/town centre. There are two residential areas identified (LDR6 and LDR15), and other future residential development in this neighbourhood will focus on consolidation of the existing pattern of development by the development of infill sites.

5.3.4. LDR15 Shanaway Road – Future development of this site must be in compliance with the requirements of Objective CDP3.3. set out in Volume 1 of this Plan, to ensure there are no significant effects on any European sites within close proximity or something to that effect which would cover us for the various SACs designated for bats.

5.3.5. Development Plan Objective CDP 3.3 – It is an objective of the Clare County Council:

a) To require compliance with the objectives and requirements of the Habitats Directive, specifically Article 6(3) and where necessary 6(4), Birds, Water Framework, and all other relevant EU Directives and all relevant transposing national legislation;

b) To require project planning to be fully informed by ecological and environmental constraints at the earliest stage of project development and any necessary assessment to be undertaken, including assessments of disturbance to species, where required together with the preparation of both statutory and non-Statutory Ecological Impact Assessments (EclA);

c) To protect, manage and enhance ecological connectivity and improve the coherence of the Natura 2000 Network; d) To require all proposals to ensure there is ‘no net loss’ of biodiversity within developments

d) To ensure that European sites and Natural Heritage Areas (designated proposed NHAs) are appropriately protected; e) To require the preparation and assessment of all Plans and Projects to have regard to the information, data and requirements of the Appropriate Assessment Natura Impact Report, SEA Environmental Report and

Strategic Flood Risk Assessment Report contained in Volume 10 of this Development Plan; and f) to require compliance with the objectives of the Water Framework Directive and support the implementation of the 3rd Cycle River Basin Management Plan (and any other iteration during the lifetime of the CDP).

#### **5.4. Natural Heritage Designations**

- 5.4.1. River Shannon and River Fergus Estuaries SPA is situated circa 5.3km to south-east of the appeal site.
- 5.4.2. Lower River Shannon SAC (Site Code 002165) is situated 2.5km to the east of the appeal site.
- 5.4.3. Pouladatig Cave SAC (Site Code 000037) is situated 1.1km to the south-west of the appeal site.
- 5.4.4. Newhall and Edenvale Complex SAC (Site Code 002091) is situated 2.8km to the south of the appeal site.

#### **5.5. EIA Screening**

- 5.5.1. The proposed development comprises 16 residential units on a 1.538 hectare site. The development subject of this application falls within the class of development described in 10(b) Part 2, Schedule 5 of the Planning and Development Regulations, 2001, as amended. EIA is mandatory for developments comprising over 500 dwelling units or over 10 hectares in size or 2 hectares if the site is regarded as being within a business district.
- 5.5.2. The number of dwelling units proposed at 16 is well below the threshold of 500 dwelling units noted above. Whilst within the town of boundary Ennis it is not in a business district. The site is, therefore, materially below the applicable threshold of 10 hectares.
- 5.5.3. The proposal for 16 residential units is located within the development boundary of Ennis on lands zoned Low Density Residential in the Clare County Development Plan 2023-2029. The site comprises a greenfield site. It is noted that the site is not designated for the protection of the landscape or of natural or cultural heritage. The

proposed development will not have an adverse impact in environmental terms on surrounding land uses. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The existing wastewater treatment plant serving the town of Ennis has sufficient capacity to accommodate the development. The site is not within a European site. The issues arising from the proximity/connectivity to a European Site can be adequately dealt with under the Habitats Directive. The application is accompanied by a Design Statement, NIS, Screening for Appropriate Assessment Report, Bat Survey Report and a Road Safety Audit submitted in response to further information requested. These address the issues arising in terms of the sensitivities in the area.

5.5.4. Having regard to;

- the nature and scale of the proposed development, which is below the threshold in respect of Class 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- the location of the site on lands within the development boundary of Ennis on lands zoned under the provisions of the Clare County Development Plan 2023-2029 and the results of the strategic environmental assessment of the Clare County Development Plan 2023-2029, undertaken in accordance with the SEA Directive (2001/42/EC).
- the location of the site within the existing built-up urban area, which is served by public infrastructure, and the existing pattern of residential development in the area.
- the location of the site outside of any sensitive location specified in article 109 of the Planning and Development Regulations 2001 (as amended),
- The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003),

- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), I have concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and the need for environment impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required. See Appendix 2 attached to this Report for the preliminary examination.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

A third party appeal was submitted by Willy O'Doherty the issues raised are as follows;

- The appeal is made against the decision to grant permission for 14 no. houses at Ballylannidy, Ennis, Co. Clare.
- The appellant states that he made a submission to Clare County Council supporting the Chief Executives Officer's proposal in the Draft Development Plan 2023-2029 to re-zone a small plot of land at Ballylannidy, Ennis from "Existing residential" to "Agriculture".
- The reasons provided were (1) it was a minor site on the rural fringe at, the periphery of Ennis Town Bounday. (2) The land does not fall with Tier 1 or Tier 2 lands as set out in the National Planning Objective 72. (3) The land owner made no effort to develop the site in the last 25 years. (4) The site has no access to suitable infrastructure, roads, footpaths, public lighting, foul sewer drainage, surface water drainage or water. (5) The site by its actual location, historic and existing use is de facto agricultural land. (6) The zoning of the site as "Agricultural" is consistent with the primary objectives of the Draft Development Plan 2023-2029 and the focus on the 10 minute town.
- Subsequently the Elected members overruled the CEO's proposal.

- The original application for 16 no. houses. It is stated that the original site layout showed the footprint of the construction site encroaching onto the mature landscaped area of the Woodstock View housing estate.
- As part of the further information the developer revised the site layout plan.
- In relation to the Development Plan the appellant questions the suitability and appropriateness of the site for the proposed development. They state that the site is small and located at the fringe of the town boundary surrounded by agricultural lands. The CEO in the original draft Clare County Council Development Plan 2023-2029 proposed to rezone the site from residential to agricultural use. However, this proposal was overruled by the elected members.
- The developer's submission of the 16<sup>th</sup> of February 2023 acknowledges that the lands to the west of the site and which are proposed to form part of the "open space" to the development are zoned as agriculture. The appellant contends that this is completely inappropriate.
- The proposed development is contrary to the spirit of the recent Ministerial Draft Directive. The development site is located in a peripheral location and would encourage a pattern of development in this location which is inconsistent with national and regional policy objectives promoting compact forms of development.
- The appellant highlights his comments in his submission to the Council regarding the Draft Development Plan 2023-2029.
- The footprint of the site incorporates an area of land which is currently zoned as "Agricultural". It is totally inappropriate to incorporate "Agricultural" lands into a development project even if that portion of land is being used as open space.
- It is submitted that the density is inappropriate for a rural site.
- The proposal comprises 14 no. houses, 8 no. semi-detached and 6 no. detached it would represent a residential density of approximately 8 housing units per acre. When the access road and the footprint of the site for house A is excluded, it is considered that the actual observed density is approximately

10 houses per acre. This is considered an extremely high residential density in this remote rural area.

- The existing established pattern of development on Shanaway Road and on satellite housing estates off the Shanaway Road is for single, detached houses on their own site with a density of 2 - 4 houses per acre. It is considered that the proposed development fringes on the town boundary and that it represents a deterioration in the existing and established residential density. That it would provide a clustered, high density residential development. That it would encroach on the high amenity landscape area which is integral part of the Woodstock View housing estate and that it incorporates a portion of lands zoned as "Agriculture" into the development site.
- It is submitted that the proposed development by reason of its size, cluster, density, location, future risk of traffic accidents and impact on the existing waste water treatment system would be inconsistent with the proper planning and sustainable development of this rural area.
- It is submitted that the proposed development would be inconsistent with the predominant pattern of development along the entire stretch of Shanaway Road.
- It is submitted that the revised access road onto Shanaway Road is not suitable. It is considered that it would represent a further traffic hazard and increase traffic flow at a location where there are multiple accesses in close proximity to each other including the access to Woodstock View, Woodstock Hill, Woodstock Golf Club, Woodstock Hotel, Woodstock Leisure Centre, Woodstock Country Club, Garville Court Holiday Homes and Woodstock Drive. It is considered that these accesses are in close proximity along an undulating road with extremely poor sight lines. The traffic accident history in the area was raised.
- The proposed development provides 32 no. additional car parking spaces. The appellant does not consider that the developer has satisfactorily addressed the serious traffic hazard that the development would generate along this section of the Shanaway Road.

- Section 2.11.1 of the Clare Development Plan 2017-2023 states: “any future residential development in this (Woodstock) neighbourhood that would significantly increase the number of vehicles movements in the area must be accompanied by an assessment of the capacity of the Shanaway Road/Lahinch Road junction to accommodate additional traffic.”
- The sight lines indicated on the drawings are inconsistent with the requirements of the sight lines at point A1.9.2 of the County Development Plan 2017-2023. The x distance, as shown on the developer’s plan is taken from the centre of the road and not the near road edge.
- The revised layout incorporates a buffer zone of undeveloped lands behind house no’s 5 to 14. It is considered that the revised layout is totally inconsistent with the development pattern in the local area. The proposed revised layout has a crescent shape which extends away from the Woodstock View housing estate with no integration into the local settlement pattern.
- The proposed development, by reason of its density alone is more akin to an urban development in this rural setting. Therefore, it is considered that the proposed urban development is inconsistent with the local rural setting.

## 6.2. Applicant Response

A response to the appeal was submitted by Brian Foudy and Associates Limited on behalf of the applicant Darvin Trading Company Limited. The issues raised are as follows;

- Regarding the zoning the lands were previously zoned as residential under the previous plan and are also under the new Clare County Council Development Plan 2023-2029.
- It is submitted that the lands are directly adjacent to other developments which were developed by Darvin Trading Company Limited including Woodstock View, Woodstock Hill, Garville Court and Woodstock Drive.
- The site is also adjacent to amenities including Woodstock Hotel and Leisure Centre and Woodstock Golf Club.

- It is stated that Darwin Trading has developed the infrastructure and services along the Shanaway Road at the behest of the Council over a number of years.
- It is stated that the Shanaway Road was realigned with the provision of footpaths, public lighting, foul sewer and watermain services at considerable expense.
- It is submitted that the site is at the centre of a developed community with all required services and infrastructure in place.
- It is noted that the appellant stated that the development is contrary to the spirit of the Ministerial Draft Directive to Clare County Council (S.I 116 of 2023).
- They note that the Ministerial/Draft Directive made no comment in relation to these lands and that they have been adopted in the Clare County Council Development Plan 2023-2029. The Ministerial Draft Directive related to the lands that had no services or were a flood risk.
- Regarding the nature of the proposed development the appellant notes that the development “promotes negative and clustered housing development”. The first party submits the site would be suitable for a higher density development given its central location in the community and the infrastructural services already in place at the site.
- The layout of the scheme has been influenced by a registered right of way to lands directly to the north of the site.
- As part of the further information response, discussions were held with Clare County Council. The layout of the scheme was revised to provide greater privacy to existing residents of Woodstock View.
- It is highlighted that the grant of permission is for 14 no. houses, a reduction of 2 no. houses from the originally proposed scheme. The development has been designed to the highest standard and is in keeping with the pattern of development in the area.



- The appeal refers to Point 2.1.1 of Clare Development Plan 2017-2023 which states: 'Any future residential development in this neighbourhood that would significantly increase the number of vehicle movements in the area must be accompanied by an assessment of the capacity of the Shanaway Road/Lahinch Road junction to accommodate additional traffic.' It is highlighted that this extract from a now superseded development plan was specifically in relation to another much larger development site located further down the Shanaway Road.
- The appeal refers to inadequate sanitary services in the area. The first party state that this is not correct. Darwin Trading have developed all services in the area. Additional infrastructure has already been installed to cater for the future development of the area. Furthermore, Irish Water have confirmed that the proposed development can connect to their network.
- Regarding the potential impact on the adjacent Woodstock View housing estate, it is stated in the appeal that the development "will encroach onto the existing landscaped area provided as an amenity to the home owners of Woodstock View as part of the original grant of planning permission for Woodstock View". In response the first party state that no landscaped area was provided between this proposed site and Woodstock View as an amenity in the parent permission.
- The appeal also refers to Fallow Lands which will be created to the rear of house no. 5 to no. 14. This is not the case as these lands form part of the individual sites.
- The appellant refers to the existing and established residential settlement strategy on the Shanaway Road and on satellite housing estates off the Shanaway Road which comprise single, detached houses on their own site with a density of two to four houses per acre. In response to this the first party states that the appellant does not reference the following housing developments Aisling development, Granville Court and Garran Na Coille and Ros Na Ri which are all located off the Shanaway Road.
- Due to the topography of the site and the considerably higher finished floor levels of the Woodstock View development the design of the proposed

development along with the extensive landscaping plan to be provided, there will be minimal impact on the residential amenity of the residents of Woodstock View.

- The first party consider that the appeal is not grounded in legitimate planning matters, and they request that the Board dismiss the appeal as vexatious under Section 145(b) of the Planning and Development Act 2000 (as amended).
- Darwin Trading Company Limited have developed the plan for this development in consultation with specialist designers, independent consultants and the planning department to provide much needed family homes in an area of high demand, where all infrastructure and services have already been provided by the developer and in accordance with all planning legislation and guidelines.

### **6.3. Planning Authority Response**

- The Planning Authority notes the third party appeal against the decision to grant permission in respect of planning reference number P22-263. The Planning Authority has considered the contents of the third party appeal and is satisfied that all such issues were addressed in the planner's reports pertaining to this file. In particular, the Planning Authority considers that the proposed development does not contravene the zoning objective for this site, that the density is appropriate to this "edge of town area" and that the proposed development would not result in a traffic hazard. As such the Planning Authority respectfully requests that planning permission is granted for the proposed development subject to the conditions as outlined in the notification to grant planning permission.

## **7.0 Assessment**

I consider that the issues arising the in the appeal can be addressed under the following headings:

- Policy context and zoning
- Residential amenity
- Access and traffic
- Services
- Appropriate Assessment

## 7.1. Policy context and zoning

- 7.1.1. The Clare Development Plan 2023 – 2029 was adopted by the Elected Members of Clare County Council on the 9<sup>th</sup> of March 2023 and came into effect on the 20<sup>th</sup> of April 2023. On the 3<sup>rd</sup> August 2023, Clare County Council received notification from the Minister for Housing, Local Government and Heritage of his intention to issue a Direction pursuant to Section 31 of the Planning and Development Act 2000 (as amended). Having regard to this notice from the Minister for Housing, Local Government and Heritage, I note that it refers to a number of specific zonings and that it does not refer to the subject site at Ballylannidy, Ennis, Co. Clare. Accordingly, I am satisfied that the provisions of the Clare Development Plan 2023 – 2029 apply to the subject site.
- 7.1.2. The grounds of appeal refer to the matter of the suitability of the site for the density of development proposed. It is also highlighted in the appeal that an area of the site is zoned ‘Agriculture’.
- 7.1.3. Volume 3a of the Clare County Development Plan 2023-2029 refers to Ennis Municipal District Settlement Plans. In relation to the matter of zoning the site as per the Ennis Land Use zoning map the appeal site at Ballylannidy, Ennis, Co. Clare is located within the Ennis Plan Boundary. The site is located predominately on lands zoned “Low Density Residential” which is subject to Objective LDR15 – Shanaway Road. The southern section of the site is zoned Existing Residential and a section of the western side of the site is zoned Agriculture. In relation to the proposed scheme the houses are proposed to be located on lands zoned “Low Density Residential” and “Existing Residential”. The dwelling proposed on site no. 1 is located on lands zoned “Existing Residential” the other 13 no. dwellings are located on lands zoned “Low Density Residential”. I would note that a small section of the site to the north-

west of the access road refers to lands zoned for “Agriculture”. I note that no section of the development is proposed within this area of the site apart from a short section of turning head to the western side of the access road. Furthermore, I note from the report of the Planning Officer in respect of the further information and proposed revised layout that, they considered the revised layout was acceptable.

- 7.1.4. The grounds of appeal refer to the density of the proposed development and the character of the surrounding area. It is contended in the appeal that the density is not appropriate to the site context which they stated is located at the fringe of the town boundary surrounded by agricultural lands.
- 7.1.5. In relation to the proposed density of the scheme. The development as originally proposed contained 16 no. dwellings. The site has a stated area of 1.538 hectares. The density of the scheme as originally proposed is equivalent to 10.4 dwellings per hectare. The scheme as revised in the further information response was reduced to 14 no. dwellings and the density of the revised scheme is equivalent to 9 dwellings per hectare. In relation to the provisions of the Ennis Municipal District Settlement Plans as contained within Volume 3a of the Clare County Development Plan 2023-2029 I note that it does not specify a density. A density equivalent to 9 dwellings per hectare is within a low density range.
- 7.1.6. I note that the report of the Planning Officer in respect of the application when it was submitted referenced the provisions of the Clare County Development Plan 2017-2023 which was the operative development plan at the time. The site was zoned “Low Density Residential under the provisions of the previous plan. I note that the Planning Officer considered that the proposed scheme of multiple residential units at this location would be acceptable in principle. Therefore, the Planning Authority were satisfied that the density of the scheme as originally proposed of equivalent to 10.4 dwellings per hectare. Furthermore, I note the response from the Planning Authority to the appeal which states that they consider the density is appropriate to this edge of town area.
- 7.1.7. In relation to the site context, I note that the surrounding area includes a number of housing developments in the vicinity including Woodstock View and Woodstock Drive. I would consider that the proposed development of 14 no. dwellings

comprising 6 no. detached houses and 8 no. semi-detached houses would be consistent with the character of the area.

- 7.1.8. The site is subject to Objective LDR15 Shanaway Road. This objective sets out that the future development of this site must be in compliance with the requirements of Objective CDP3.3. set out in Volume 1 of the Plan, to ensure there are no significant effects on any European sites within close proximity with specific reference to SACs designated for bats. These matters are addressed in the subsequent section of this report which refer to appropriate assessment.
- 7.1.9. Accordingly, in conclusion, I would consider that the density proposed under this scheme is acceptable and in accordance with the “Low Density Residential” zoning objective.

## **7.2. Residential amenity**

- 7.2.1. The grounds of appeal referred to potential impacts from the proposed development to the adjacent Woodstock View housing estate. The appellant stated that they considered that the proposed development would encroach onto the existing landscaped area provided as an amenity to the home owners of Woodstock View as part of the original grant of planning permission for Woodstock View. The first party in response to the matter stated that no landscaped area was provided between this proposed site and Woodstock View as an amenity in the parent permission.
- 7.2.2. The appeal referred to the proposed revised layout which it stated incorporates a buffer zone of undeveloped lands behind house no's 5 to 14. The appellant stated that this proposed layout is totally inconsistent with the development pattern in the local area. In response to the matter the first party confirmed that a buffer zone is not proposed to the east of house no's 5 to 14 and that the individual house plots extend back to the eastern boundary with the adjoining Woodstock View. The first party in their response highlighted that due to the topography of the appeal site and the considerably higher finished floor levels of the neighbouring properties in the Woodstock View housing estate and the siting and design of the proposed development including the proposed landscaping that there will be minimal impact on the residential amenity of the residents of Woodstock View.

- 7.2.3. In relation to the siting of the proposed dwellings relative to the neighbouring properties to the east I note that separation distances in excess of 22m are provided between the rear of proposed dwellings and the side of the closest dwellings in Woodstock View. Furthermore, I note that it is proposed to retain existing trees and hedgerows on the site where it is feasible. The retention of the existing planting along a section of the eastern site boundary will serve to screen the proposed development from Woodstock View.
- 7.2.4. Accordingly, I am satisfied that the proposed development would not unduly impact upon the residential amenities of the neighbouring properties within the Woodstock View housing estate.

### **7.3. Roads and access**

- 7.3.1. The grounds of appeal raised concerns in respect of the proposed vehicular entrance to the scheme. It is submitted in the appeal that inadequate sightlines are available. The appeal as refers to the level of traffic that the proposed development would generate.
- 7.3.2. As part of the response to the further information the applicant submitted a Road Safety Audit. The scheme as originally proposed included two dwellings at the southern end of the site with direct road access onto the Shanaway Road. The revised scheme proposed at further information stage reduced the number of dwellings proposed from 16 no. to 14 no. One detached dwelling is proposed to the southern end of the site at Shanaway Road and the road access for that property is proposed off the internal access road rather than directly onto Shanaway Road.
- 7.3.3. In relation to the proposed vehicular access to serve the scheme, it is located 30m to the west of the existing vehicular access serving the Woodstock View. The revised Site Layout Plan, Drawing No: 2023(FI)01 indicates that sightlines of 70m are available to the east and west. It is confirmed in the Road Safety Audit that the visibility assessment indicated on the site layout plan is cognisant of the vertical geometry on Shanaway Road. According, having regard to the revised proposals, the details contained in the Road Safety Audit and having inspected the site, I consider that satisfactory sightlines are proposed at the vehicular access onto Shanaway Road.

- 7.3.4. In relation to the matter of pedestrian connectivity, I note that that area is served by a public footpath which runs along the southern side of the L4601 Shanaway Road. This footpath extends east along Shanaway Road towards the junction with the N85 the Ennistimon Road. Where there is a short section where there is no footpath along the southern side of the Shanaway Road there is a footpath along the northern side of Shanaway Road.
- 7.3.5. Regarding the traffic which the proposed scheme would generate, given the relatively limited scale of the scheme with a total of 16 no. dwellings as originally proposed and revised to 14 no. dwellings that there would be a relatively modest level of traffic arising from the proposed development which will not give rise to any significant impact upon the existing road network and junctions in the vicinity of the site. In respect of the proposed vehicular access arrangements, I note that the Planning Authority in their assessment of the scheme were generally satisfied.

#### **7.4. Services**

- 7.4.1. The grounds of the appeal refer to deficiencies in the sewerage and water services in the area. The first party in response to the matter stated that there are no deficiencies. They highlighted that the Darwin Trading have developed all services in the area and that additional infrastructure has already been installed to cater for the future development of the area.
- 7.4.2. Regarding water supply, it is proposed to connect to the mains water supply. Irish Water have confirmed that the proposed development can connect to the network.
- 7.4.3. In relation to foul sewerage, it is proposed to connect the scheme to the Clonraodmore Wastewater Treatment plant. As detailed in the report of the Planning Officer the treatment plant has sufficient capacity to accommodate the additional loading that the proposed development would generate. The scheme will be connected to the wastewater treatment plant via a new pumping station. Accordingly should the Board decide to grant permission for the proposed development I would recommend the attachment of a condition requiring that prior to the commencement of the development that the applicant shall enter into water and wastewater agreements with Uisce Éireann.

## 7.5. Other issue

### Bats

- 7.5.1. The response to the further information included the submission of a Bat Survey Report which was prepared by Ecofact Environmental Consultants. The survey identified that while there were no bat roosts on the appeal site, two mature trees were identified as having low potential for bat roosting habitats. The survey identified that the main species of bats using the site were Common pipistrelle, Soprano pipistrelle and Leisler's bats. Lesser Horseshoe Bats, which are the only species in Ireland protected under Annex II of the Habitats Directive were recorded using the site. It was highlighted in the survey report that due to the presence of Lesser Horseshoe Bats on the site that a Natura Impact Statement is likely to be required. In this regard a Natura Impact Statement was submitted in response to the further information requested by the Planning Authority.
- 7.5.2. The report dated 29/4/2022 from the Development Applications unit of the Department of Housing Local Government and Heritage highlighted the location of proposed development being circa 1km from Pouladatig Cave SAC (Site Code 000037). In Conservation Objectives the proposed site is within the 2.5km Lesser Horseshoe bat foraging habitat for the SAC. They also noted in their report that a Soprano pipistrelle bat roost has been recorded adjacent to the site, and they are very likely to use the site. Accordingly, the Development Applications unit recommended the attachment of conditions requiring that existing hedges and tree lines are retained and that native hedgerow/tree line planting is included in the site design to replace those recently removed and retain connections between the bat foraging habitats mapped in the Conservation Objectives. They also recommend that measures be taken to ensure light does not impact on potential bat foraging in particular hedgerows and tree lines. Bat Conservation Ireland's guidelines for Bats and lighting: Guidance Notes for Planners, Engineers, Architects and developers.
- 7.5.3. In relation to the matters raised by the Development Applications unit, I would note the mitigation measures detailed in the Bat Survey report refer to the requirement to ascertain a derogation licence if trees identified in the survey were required to be felled. Also, it highlighted that any major site clearance should be undertaken outside the active bat season. In relation to the removal of trees it is stated under the



mitigation section that once a derogation licence has been obtained that tree removal should take place in the period from late August to late October/early November. In relation to planting on the site it is stated that native species should be utilised. Regarding the issue of lighting it is recommended that light spill should be minimised insofar as possible and that lighting should follow Bat Conservation Ireland's Bats & Lighting: Guidance Notes for Planners, Engineers, Architects and Developers (2010)

- 7.5.4. Accordingly, should the Board decide to grant permission for the proposed development then I would recommend the attachment of a condition requiring that detailed measures in relation to the protection of bats be submitted to and agreed in writing with the planning authority, prior to commencement of development and that the mitigation detailed in the Bat Survey Report prepared by Ecofact Environmental Consultants and submitted to the Planning Authority on the 16th of February 2023, be implemented as part of the development.

## **7.6. Appropriate Assessment**

### **Overview**

- 7.6.1. Accompanying this application is a Screening report for Appropriate Assessment dated 16/2/2023 and Natura Impact Statement dated 16/2/2023 prepared by Ecofact Planning and Environmental Consultants. The Screening report for Appropriate Assessment and the Natura Impact Statement were submitted to the Planning Authority on the 16/2/2023 in response to a request for further information.

### **Screening**

- 7.6.2. In accordance with the obligations under the Habitats Directive and implementing legislation, to take into consideration the possible effects a project may have, either on its own or in combination with other plans and projects, on a European site; there is a requirement on the Board, as the competent authority, to consider the possible nature conservation implications of the proposed development on the Natura 2000 network, before making a decision, by carrying out appropriate assessment. The first stage of assessment is 'screening.'
- 7.6.3. The methodology for screening for Appropriate Assessment as set out in EU Guidance and the Department of Environment, Heritage and Local Government is:

1. Description of the plan or project and local site or plan area characteristics.
2. Identification of relevant European site and compilation of information on their qualifying interests and conservation objectives.
3. Assessment of likely significant effect-direct, indirect, and cumulative, undertaken on the basis of available information.
4. Screening Statement with conclusions.

### **Projection Description and Site Characteristics**

- 7.6.4. The project description is given as a residential development at the site, to consist of 16 no. dwelling houses in total consisting of 2 no. detached two-storey dwelling houses and 14 no. semi-detached two-storey dwelling houses and all ancillary site development works and connections to public services.
- 7.6.5. It is proposed to connect to the existing mains water supply and wastewater from the scheme will discharge to the public sewer. It is proposed that surface water from the scheme will be discharge to the through Sustainable Urban Drainage Systems (SUDS) features and via an attenuation tank and hydrobrake before discharging to the existing public storm sewer to the south-east of the site.
- 7.6.6. The screening report identified the following European sites located within 15km of the appeal site:
- Pouladatig Cave SAC (Site Code 000037) circa 1km from the site.
  - Lower River Shannon SAC (Site Code 002165) circa 2.5km to the east of the appeal site.
  - Newhall and Edenvale Complex SAC (Site Code 002091) circa 3.7km south of the appeal site.
  - Ballyallia Lough SPA (Site Code 004041) circa 3.4km north-east of the appeal site.
  - Ballyallia Lake SAC (Site Code 000014) circa 3.4km north-east of the appeal site.

- Toonagh Estate SAC (Site Code 002247) circa 4.4km north of the appeal site.
- River Shannon and River Fergus Estuaries SPA (Site Code 004077) circa 5.3km south-east of the site.
- Knockanira House SAC (Site Code 002318) circa 6.8km south of the site.
- Dromroe Woods and Loughs SAC (Site Code 000032) circa 7.3km north-east of the site at its closest point.
- Ballycullinan Old Domestic Building SAC (Site Code 002246) located circa 7.9km north of the site at the closest point.
- Old Farm Ballymacrogan SAC (Site Code 002245) located circa 9km north of the appeal site.
- East Burren Complex SAC (Site Code 001926) located circa 9.3km north of the site.
- Old Domestic Building (Keevagh) SAC (Site Code 002010) located 9.5km east of the site.
- Corofin Wetlands SPA (Site Code 004220) located 10.1km north of the site.
- Slieve Aughty Mountains SPA (Site Code 004168) located 11.5km north-east of site.
- Poulmagordon Cave (Quin) SAC (Site Code 000064) located 11.9km east of the site.
- Moyree River System SAC (Site Code 000057) located 11km to the north of the appeal site.
- Lough Gash Turlogh SAC (Site Code 000051) located 12.3km south-east of the appeal site.
- Ballyogan Lough SAC (Site Code 000019) located 13km north-east of the site at its closest point.
- Old Domestic Buildings Rylane SAC (Site Code 002314) located 13.5km north-east of the appeal site.

- Newgrove House SAC (Site Code 002157) located 13.8km east of the appeal site.

7.6.7. The following European sites were determined to be located outside the zone of influence in terms a number of factors including the separation distance provided, the absence of a downstream hydrological connection with the designated sites and that the sites were located outside the Core Sustenance Zone for the Lesser Horseshoe bat. Ballyallia Lough SPA, Ballyallia Lake SAC, Toonagh Estate SAC, Knockanira House SAC, Dromroe Woods and Loughs SAC, Ballycullinan Old Domestic Building SAC, Old Farm Ballymacrogan SAC, East Burren Complex SAC, Old Domestic Building (Keevagh) SAC, Corofin Wetlands SPA, Slieve Aughty Mountains SPA, Poulmagordon Cave (Quin) SAC, Moyree River System SAC, Lough Gash Turlogh SAC, Ballyogan Lough SAC, Old Domestic Buildings Rylane SAC and Newgrove House SAC.

**Table 1: European Sites within the Zone of Influence of the Appeal Site**

Site Name & Code	Distance	Qualifying Interests	Conservation Objectives
Lower River Shannon SAC (Site Code 002165)	2.5km	Sandbanks which are slightly covered by sea water all the time [1110]  Estuaries [1130]  Mudflats and sandflats not covered by	To maintain and/or restore the favourable conservation condition of the Annex I habitats and/or the Annex II species for which the SAC has been

		<p>seawater at low tide [1140]</p> <p>Coastal lagoons [1150]</p> <p>Large shallow inlets and bays [1160]</p> <p>Reefs [1170]</p> <p>Perennial vegetation of stony banks [1220]</p> <p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330]</p> <p>Mediterranean salt meadows (Juncetalia maritimi) [1410]</p> <p>Water courses of plain to montane levels with the</p>	<p>selected which are defined by lists of attributes and targets</p>
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		<p>Ranunculion fluitantis and Callitricho- Batrachion vegetation [3260]</p> <p>Molinia meadows on calcareous, peaty or clayey- silt-laden soils (Molinion caeruleae) [6410]</p> <p>Alluvial forests with <i>Alnus</i> <i>glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, Alnion incanae, Salicion albae) [91E0]</p> <p>Margaritifera margaritifera (Freshwater Pearl Mussel) [1029]</p> <p>Petromyzon marinus (Sea Lamprey) [1095]</p> <p>Lampetra planeri (Brook Lamprey) [1096]</p>	
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		<p>Lampetra fluviatilis (River Lamprey) [1099]</p> <p>Salmo salar (Salmon) [1106]</p> <p>Tursiops truncatus (Common Bottlenose Dolphin) [1349]</p> <p>Lutra lutra (Otter) [1355]</p>	
<p>River Shannon and River Fergus Estuaries SPA (Site Code 004077)</p>		<p>Cormorant (Phalacrocorax carbo) [A017]</p> <p>Whooper Swan (Cygnus cygnus) [A038]</p> <p>Light-bellied Brent Goose (Branta bernicla hrota) [A046]</p> <p>Shelduck (Tadorna tadorna) [A048]</p> <p>Wigeon (Anas penelope) [A050]</p> <p>Teal (Anas crecca) [A052]</p> <p>Pintail (Anas acuta) [A054]</p>	<p>To maintain and/or restore the favourable conservation condition of the Annex I habitats and/or the Annex II species for which the SPA has been selected which are defined by lists of attributes and targets</p>

		<p>Shoveler (<i>Anas clypeata</i>) [A056]</p> <p>Scaup (<i>Aythya marila</i>) [A062]</p> <p>Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Lapwing (<i>Vanellus vanellus</i>) [A142]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Curlew (<i>Numenius arquata</i>) [A160]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p>	
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		<p>Greenshank (<i>Tringa nebularia</i>) [A164]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Wetland and Waterbirds [A999]</p>	
Pouladatig Cave SAC (Site Code 000037)	1km	<p>Caves not open to the public [8310]</p> <p>Rhinolophus hipposideros (Lesser Horseshoe Bat) [1303]</p>	To maintain the favourable conservation condition of Lesser Horseshow Bat in Cave SAC, which is defined by a list of attributes and targets
Newhall and Edenvale Complex SAC (Site Code 002091)	3.7km	<p>Caves not open to the public [8310]</p> <p>Rhinolophus hipposideros (Lesser Horseshoe Bat) [1303]</p>	To maintain the favourable conservation condition of Lesser Horseshoe Bat in Newhall and Edenvale Complex SAC, which is defined by a list of attributes and targets

7.6.8. An assessment of the significance of potential impact upon the European Sites within the zone of influence of the proposed development is determined on the basis of the following indicators;

- Habitat loss or alteration;
- Habitat/species fragmentation;
- Disturbance and/or displacement of species;
- Change in population density; and
- Changes in water quality and resources.

7.6.9. In relation to the Lesser Horseshoe Bat which is a qualifying interest of the Pouladattig Cave SAC regarding the matter of habitat loss or alteration the proposed development site is not located directly adjacent to the European sites and therefore there will be no direct loss or alteration of the habitat. Regarding the issue of habitat/species fragmentation the Lesser Horseshoe Bat have been recorded using the proposed development site as per the standalone bat report prepared by Ecofact in 2022. Accordingly, as bats use the site for foraging and commuting there is potential for disturbance, habitat loss/fragmentation and lighting impacts.

7.6.10. In relation to the Lesser Horseshoe Bat which is a qualifying interest of the Newhall and Edenvale Complex SAC regarding the matter of habitat loss or alteration the proposed development site is not located directly adjacent to the European sites and therefore there will be no direct loss or alteration of the habitat. Regarding the issue of habitat/species fragmentation the Lesser Horseshoe Bat have been recorded using the proposed development site as per the standalone bat report prepared by Ecofact in 2022. Accordingly, as bats use the site for foraging and commuting there is potential for disturbance, habitat loss/fragmentation and lighting impacts.

7.6.11. In relation to the Lower River Shannon SAC regarding the matter of habitat loss or alteration the proposed development site is not located directly adjacent to the European sites and therefore there will be no direct loss or alteration of the habitat. In relation to the species of qualifying interest of the Lower River Shannon SAC the following eight were identified as having a potential pathway in terms of water quality impacts Estuaries [1130], Mudflats and sandflats not covered by seawater at low tide [1140], Atlantic salt meadows [1330], Mediterranean salt meadow [1410], Sea

Lamprey [1095], Brook Lamprey [1096], Common Bottle Nose Dolphin [1349] and Otter [1355]. Potential water quality impacts have been identified in terms of indirect and cumulative impacts arising from insufficient wastewater treatment.

- 7.6.12. In relation to the River Shannon and River Fergus Estuaries SPA regarding the matter of habitat loss or alteration the proposed development site is not located directly adjacent to the European sites and therefore there will be no direct loss or alteration of the habitat. In relation to the species of qualifying interest of the River Shannon and River Fergus Estuaries SPA all the birds of qualifying interest were identified along with the Wetland and Waterbirds [A999] as having a potential pathway in terms of water quality impacts. Potential water quality impacts have been identified in terms of indirect and cumulative impacts arising from insufficient wastewater treatment.

### **Assessment of likely Effect**

- 7.6.13. Having regard to the 'source-pathway-receptor' model the submitted screening report identified potential effects on the Lower River Shannon SAC (Site Code 002165) and the River Shannon and River Fergus Estuaries SPA (Site Code 004077). The aquatic habitats/species in the Lower River Shannon SAC and the River Shannon and River Fergus Estuaries SPA would be sensitive to any deterioration of water quality. Having regard to the identification of the use of the appeal site by Lesser Horseshoe Bat from Pouladatig Cave SAC (Site Code 000037) and Newhall and Edenvale Complex SAC (Site Code 002091) for foraging and commuting there is the potential for significant impacts to this species of qualifying interest. In the absence of appropriate controls and mitigation measures the potential for significant adverse effects on the conservation status of the Lower River Shannon SAC, River Shannon and River Fergus Estuaries SPA, Pouladatig Cave SAC and Newhall and Edenvale Complex SAC cannot be ruled out.

### **Screening Statement and Conclusions**

- 7.6.14. The screening assessment concludes that significant effects cannot be ruled out on the Lower River Shannon SAC (Site Code 002165), the River Shannon and River Fergus Estuaries SPA (Site Code 004077), Pouladatig Cave SAC (Site Code 000037) and Newhall and Edenvale Complex SAC (Site Code 002091) and that a

Stage 2 Appropriate Assessment is required. In conclusion having regard to the foregoing, it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that significant effects cannot be ruled out and a Stage 2 Appropriate Assessment is therefore required.

### **Stage 2 – Natura Impact Statement (NIS)**

7.6.15. I propose to consider the requirements of Article 6(3) with regards to appropriate assessment of a project under Part XAB, Sections 177U and 177V of the Planning & Development Act, 2000, as amended, in this section of my report. In particular, the following matters:

- Compliance with Article 6(3) of the EU Habitats Directive.
- Screening the need for Appropriate Assessment.
- The Natura Impact Statement; and,
- An Appropriate Assessment of the implications of the proposed development on the integrity of each Natura site set out under Section 7.6.14 as detailed above.

7.6.16. On the matter of screening the need for ‘Appropriate Assessment’, this I have set out under Section 7.6.15 to Section 7.6.16 of my report above and in this case ‘Appropriate Assessment’ is required as it cannot be excluded on the basis of the information available to the Board that the proposed development individually or in combination with other plans or projects in its vicinity would have a significant effect on the following Natura sites:

- Lower River Shannon SAC (Site Code 002165)
- River Shannon and River Fergus Estuaries SPA (Site Code 004077)
- Pouladatig Cave SAC (Site Code 000037)
- Newhall and Edenvale Complex SAC (Site Code 002091)

7.6.17. A description of the site and their Conservation and Qualifying Interests/Special Conservation Interests, including any relevant attributes and targets for these sites, are set out in the NIS and summarised in tables no.1 of this report as part of my assessment. I have also examined the Natura 2000 data forms as relevant and the

Conservation Objectives supporting documents for these sites available through the NPWS website ([www.npws.ie](http://www.npws.ie)).

### **Potential for direct and indirect effects – Lower River Shannon SAC and River Shannon and the River Fergus Estuaries SPA**

- 7.6.18. There would be no direct effects upon Lower River Shannon SAC (Site Code 002165), and the River Shannon and the River Fergus Estuaries SPA (Site Code 004077) as there would be no direct habitat loss or fragmentation as a result of the proposed development.
- 7.6.19. There is the potential for indirect effects on the Lower River Shannon SAC and the River Shannon and the River Fergus Estuaries SPA. The proposed development will increase the loading to the Clonraodmore Wastewater Treatment plant which discharges into the Lower River Shannon SAC and which discharges into the Fergus estuary which is part of the River Shannon and River Fergus Estuaries SPA. This provides a potential pathway for significant effects to the water quality dependent Qualifying Interests of the SAC and SPA. It is noted that there are no watercourses drainage the site providing a pathway for effects to this SAC and SPA.
- 7.6.20. The potential for cumulative impacts arising from the proposed development relate to water quality impacts. The potential water quality impacts of the proposed development may also act in combination with other discharge and pollution pressures identified for the Fergus catchment such as siltation, agricultural run-off/discharges, urban wastewater and sewage discharge pressures.

**Table 2 – AA summary matrix for Lower River Shannon SAC**

**Lower River Shannon SAC: (Site Code 002165)**

**Summary of Key issues that could give rise to adverse effects**

- **Potential water pollution - Water Quality and water dependant habitats**

**Conservation Objectives:**

**1110 – Sandbanks which are slightly covered by sea water all the time:** To maintain the favourable conservation condition of Sandbanks which are slightly covered by sea water all the time in the Lower River Shannon SAC, which is defined by a list of attributes and targets.

**1130 – Estuaries:** To maintain the favourable conservation condition of Estuaries which are slightly covered by sea water all the time in the Lower River Shannon SAC, which is defined by a list of attributes and targets.

**1140 – Mudflats and sandflats not covered by seawater at low tide:** – To maintain the favourable conservation condition of Mudflats and sandflats not covered by seawater at low tide in the Lower River Shannon SAC, which is defined by a list of attributes and targets.

**1150 – Coastal Lagoons:** To restore the favourable conservation condition of Coastal lagoons in the Lower River Shannon

SAC, which is defined by a list of attributes and targets.

**1160 – Large shallow inlets and bays:** To maintain the favourable conservation condition of Large shallow inlets and bays in the Lower

River Shannon SAC, which is defined by a list of attributes and targets.

**1170 – Reef:** To maintain the favourable conservation condition of Reefs in the Lower River Shannon SAC, which is defined by a list of attributes and targets.

**1220 – Perennial vegetation of stony banks:** To maintain the favourable conservation condition of Perennial vegetation of stony banks in the

Lower River Shannon SAC, which is defined by a list of attributes and targets.

**1230 – Vegetated Sea cliffs of the Atlantic and Baltic coasts:** To maintain the favourable conservation condition of Vegetated sea cliffs in the Lower River Shannon SAC, which is defined by a list of attributes and targets.

**1310 – Salicornia and other annuals colonising mud and sand:** To maintain the favourable conservation condition of Salicornia and other annuals colonizing mud and sand in the Lower River Shannon SAC, which is defined by a list of attributes and targets.

**1330 – Atlantic salt meadows:** To restore the favourable conservation condition of Atlantic salt meadows in the Lower River Shannon SAC, which is defined by the following list of attributes and targets.

**1410 – Mediterranean salt meadows:** To restore the favourable conservation condition of Mediterranean salt meadows in the Lower River Shannon SAC, which is defined by the following list of attributes and targets.

**3260 – Water courses of plain to montane levels with the Ranunculus fluitantis and Callitriche-Batrachion vegetation:** To maintain the favourable conservation condition of Water courses of plain to montane levels with the Ranunculus fluitantis and Callitriche-Batrachion vegetation in the Lower River Shannon SAC, which is defined by a list of attributes and targets.

**6410 – Molinia meadows on calcareous, peaty or clayey-silt-laden soils:** To maintain the favourable conservation condition of Molinia meadows on calcareous, peaty or clayey-silt laden soils (Molinion caeruleae) in the Lower River Shannon SAC, which is defined by a list of attributes and targets.

**91E0 – Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae):** To maintain the favourable conservation condition of Molinia meadows on calcareous, peaty or

clayey-silt laden soils (*Molinia caerulea*) in the Lower River Shannon SAC, which is defined by a list of attributes and targets.

**1029 – *Margaritifera margaritifera* (Freshwater Pearl Mussel):** To restore the favourable conservation condition of Freshwater Pearl Mussel in the Lower River Shannon SAC, which is defined by a list of attributes and targets.

**1095 – Sea Lamprey:** To restore the favourable conservation condition of Sea Lamprey in the Lower River Shannon SAC, which is defined by a list of attributes and targets.

**1096 – Brook Lamprey:** To restore the favourable conservation condition of Brook Lamprey in the Lower River Shannon

SAC, which is defined by a list of attributes and targets.

**1099 – River Lamprey:** To maintain the favourable conservation condition of River Lamprey in the Lower River Shannon

SAC, which is defined by a list of attributes and targets.

**1106 – Atlantic Salmon:** To restore the favourable conservation condition of Salmon in the Lower River Shannon SAC, which is defined by a list of attributes and targets.

**1130 – Estuaries:** To maintain the favourable conservation condition of Estuaries in the Lower River Shannon SAC, which is defined by a list of attributes and targets.

**1349 – Bottlenose Dolphin:** To maintain the favourable conservation condition of Bottlenose Dolphin in the Lower River Shannon SAC, which is defined by a list of attributes and targets.

**1355 – Otter:** To restore the favourable conservation condition of Otter in the Lower River Shannon SAC, which is defined by a list of attributes and targets.

Qualifying Interest feature	Conservation Objectives  Targets and attributes	Summary of Appropriate Assessment			Can adverse effects on integrity be excluded?
		Potential adverse effects	Mitigation measures	In-combination effects	
Sandbanks which are slightly covered by sea water all the time	The distribution of sandbanks is stable, subject to natural processes. The permanent habitat area is stable or increasing, subject to	None	-	None	Yes

	natural processes and conserve subtidal sand.				
Estuaries	<p>The permanent habitat area is stable or increasing, subject to natural processes;</p> <p>Conserve the following</p> <p>community types in a natural condition:</p> <p>Intertidal sand to mixed sediment with</p> <p>polychaetes, molluscs and</p> <p>crustaceans community complex;</p> <p>Estuarine subtidal muddy sand to mixed sediment with</p> <p>gammarids community complex; Subtidal sand to mixed sediment with</p> <p>Nucula nucleus community complex; Subtidal sand to mixed sediment with</p> <p>Nephtys spp. community complex;</p>	Potential water pollution	Mitigation measures required and detailed in full in Section 7 of the NIS	yes	Yes



	<p>Fucoid-dominated intertidal reef community complex;</p> <p>Faunal turf-dominated subtidal reef community; and</p> <p>Anemone-dominated subtidal reef community</p>				
Mudflats and sandflats not covered by seawater at low tide	The permanent habitat area is stable or increasing. Conserve the community types listed in a natural Condition.	Potential water pollution	Mitigation measures required and detailed in full in Section 7 of the NIS	yes	Yes
Coastal Lagoons	Area stable or increasing subject to natural processes, no decline in habitat subject to natural processes, salinity within natural range & specified water quality parameters.	None	-	None	Yes
Large shallow inlets and bays	Permanent habitat area stable or increasing, conserve listed community types in a natural Condition.	None	-	None	Yes
Reef	Distribution of reefs is stable, permanent	None	-	None	Yes

	habitat is stable and conserve listed community types in a natural Condition.				
Perennial vegetation of stony banks	Area stable or increasing, subject to natural processes, including erosion and succession, No decline, or change in habitat distribution	None	None	None	Yes
Vegetated Sea cliffs of the Atlantic and Baltic coasts	Area stable or increasing, subject to natural processes, including erosion.	None	None	None	Yes
Salicornia and other annuals colonising mud and sand	Area stable or increasing, subject to natural processes, including erosion and succession. No decline, or change in habitat distribution, subject to natural processes.	None	-	None	Yes
Atlantic salt meadows	Area stable or increasing, subject to natural processes, including erosion and	Potential water pollution	Mitigation measures required and detailed in full in Section 7 of the NIS	yes	Yes

	succession and no decline or change in habitat distribution.				
Mediterranean salt meadows	Area increasing, subject to natural processes, including erosion and succession & No decline, or change in habitat distribution	Potential water pollution	Mitigation measures required and detailed in full in Section 7 of the NIS	yes	Yes
Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation	Habitat area stable or increasing, subject to natural processes;  No decline in habitat distribution subject to natural Processes;  Hydrological regime: river flow maintain appropriate hydrological regimes;  Maintain natural tidal regime;  Maintain appropriate freshwater seepage regimes;  The substratum should be dominated by the particle size	none	-	None	Yes

	ranges, appropriate to the habitat sub-type (frequently sands, gravels and cobbles)				
Molinia meadows on calcareous, peaty or clayey-silt-laden soils	Area stable or increasing,  subject to natural processes and No decline, subject to natural processes.	None	None	None	Yes
Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae	Area stable or increasing,  subject to natural processes. No decline in habitat.	None	-	None	Yes
Margaritifera margaritifera (Freshwater Pearl Mussel)	Maintain at 7km. Restore to 10,000 adult mussels	None	None	None	Yes
Sea Lamprey Petromyzon marinus	Greater than 75% of main  stem length of rivers  accessible from estuary;  At least three age/size groups present;  Juvenile density at least 1/m <sup>2</sup> ;  No decline in extent and  distribution of spawning beds;  More than 50% of sample sites positive;	Potential water pollution	Mitigation measures required and detailed in full in Section 7 of the NIS	Yes	Yes

Brook Lamprey	<p>Access to all water courses down to first order streams;</p> <p>At least three age/size groups of brook/river lamprey present;</p> <p>Mean catchment juvenile density of brook/river lamprey at least 2/m<sup>2</sup>;</p> <p>No decline in extent and distribution of spawning beds;</p> <p>More than 50% of sample sites positive</p>	Potential water pollution	Mitigation measures required and detailed in full in Section 7 of the NIS	yes	Yes
River Lamprey	<p>Access to all water courses down to first order streams;</p> <p>At least three age/size groups of river/brook lamprey present;</p> <p>Mean catchment juvenile density of river/brook</p>	Potential water pollution	Mitigation measures required and detailed in full in Section 7 of the NIS	yes	Yes

	<p>lamprey at least 2/m<sup>2</sup>;</p> <p>No decline in extent and distribution of spawning beds;</p> <p>More than 50% of sample sites positive</p>				
Atlantic Salmon	<p>100% of river channels down to second order accessible from estuary;</p> <p>Conservation Limit (CL) for each system consistently exceeded;</p> <p>Maintain or exceed 0+ fry mean catchment-wide abundance threshold value.</p> <p>Currently set at 17 salmon fry/5 min sampling;</p> <p>No significant decline;</p> <p>No decline in number and distribution of spawning redds due to anthropogenic causes</p>	Potential water pollution	Mitigation measures required and detailed in full in Section 7 of the NIS	yes	Yes

Bottlenose Dolphin <i>Tursiops truncatus</i>	<p>Species range within the site should not be restricted by artificial barriers to site use.</p> <p>Critical areas, representing habitat used preferentially by bottlenose dolphin, should be maintained in a natural condition.</p> <p>Human activities should occur at levels that do not adversely affect the bottlenose dolphin population at the site</p>	Potential water pollution	Mitigation measures required and detailed in full in Section 7 of the NIS	yes	Yes
Otter <i>Lutra lutra</i>	<p>No significant decline in distribution;</p> <p>No significant decline in extent of terrestrial Habitat;</p> <p>No significant decline extent of marine habitat;</p> <p>No significant decline extent of freshwater (river) habitat;</p>	Potential water pollution	Mitigation measures required and detailed in full in Section 7 of the NIS	yes	Yes

	<p>No significant decline in extent of freshwater (lake/lagoon) habitat;</p> <p>No significant decline in couching sites and holts;</p> <p>No significant decline in fish biomass available;</p> <p>No significant increase in barriers to connectivity</p>				
<p><b>Overall conclusion: Integrity test</b></p> <p>Following the implementation of mitigation, the construction and operation of this proposed development will not adversely affect the integrity of this European site and no reasonable doubt remains as to the absence of such effects.</p>					



**Table 3 – AA summary matrix for River Shannon and River Fergus Estuaries SPA**

**River Shannon and River Fergus Estuaries SPA: (Site Code 004077)**

**Summary of Key issues that could give rise to adverse effects**

- **Potential water pollution - Water Quality and water dependant habitats**

**Conservation Objectives:**

**A017 – Cormorant *Phalacrocorax carbo* : To maintain the favourable conservation condition of Cormorant in the River Shannon and River**

**Fergus Estuaries SPA, which is defined by a list of attributes and targets.**

**A038 Whooper Swan *Cygnus cygnus* – : To maintain the favourable conservation condition of Whooper Swan in the River Shannon and**

**River Fergus Estuaries SPA, which is defined by a list of attributes and targets.**

**A046 – Light-bellied Brent Goose *Branta bernicla hrota*: To maintain the favourable conservation condition of Light-bellied Brent Goose in the River Shannon and River Fergus Estuaries SPA, which is defined by a list of attributes and targets.**

**A048 – Shelduck *Tadorna tadorna*: To maintain the favourable conservation condition of Shelduck in the River Shannon and River**

**Fergus Estuaries SPA, which is defined by a list of attributes and targets.**

**A050 – Wigeon *Anas penelope*: To maintain the favourable conservation condition of Wigeon in the River Shannon and River**

**Fergus Estuaries SPA, which is defined by a list of attributes and targets.**

**A052 – Teal *Anas crecca*: To maintain the favourable conservation condition of Teal in the River Shannon and River Fergus**

**Estuaries SPA, which is defined by a list of attributes and targets.**

**A054 – Pintail *Anas acuta*: To maintain the favourable conservation condition of Pintail in the River Shannon and River**

**Fergus Estuaries SPA, which is defined by a list of attributes and targets.**

**A056 – Shoveler *Anas clypeata*: To maintain the favourable conservation condition of Shoveler in the River Shannon and River**

**Fergus Estuaries SPA, which is defined by a list of attributes and targets.**

**A062 – Scaup *Aythya marila*: To maintain the favourable conservation condition of Scaup in the River Shannon and River Fergus**

**Estuaries SPA, which is defined by a list of attributes and targets.**

**A137 – Ringed Plover *Charadrius hiaticula*: To maintain the favourable conservation condition of Ringed Plover in the River Shannon and**

**River Fergus Estuaries SPA, which is defined by a list of attributes and targets.**

**A140 – Golden Plover *Pluvialis apricaria*: To maintain the favourable conservation condition of Golden Plover in the River Shannon and**

**River Fergus Estuaries SPA, which is defined by a list of attributes and targets.**

**A141 – Grey Plover *Pluvialis squatarola*: To maintain the favourable conservation condition of Grey Plover in the River Shannon and River**

**Fergus Estuaries SPA, which is defined by a list of attributes and targets.**

**A142 – Lapwing *Vanellus vanellus*: To maintain the favourable conservation condition of Lapwing in the River Shannon and River**

**Fergus Estuaries SPA, which is defined by a list of attributes and targets.**

**A143 – Knot *Calidris canutus*: To maintain the favourable conservation condition of Knot in the River Shannon and River Fergus**

**Estuaries SPA, which is defined by a list of attributes and targets.**

**A149 – Dunlin *Calidris alpina*: To maintain the favourable conservation condition of Dunlin in the River Shannon and River**

**Fergus Estuaries SPA, which is defined by a list of attributes and targets.**

**A156 – Black-tailed Godwit *Limosa limosa*: To maintain the favourable conservation condition of Black-tailed Godwit in the River Shannon**

**and River Fergus Estuaries SPA, which is defined by a list of attributes and targets.**

**A160 – Curlew *Numenius arquata*: To maintain the favourable conservation condition of Curlew in the River Shannon and River**

**Fergus Estuaries SPA, which is defined by a list of attributes and targets.**

**A162 – Redshank *Tringa totanus*: To maintain the favourable conservation condition of Redshank in the River Shannon and River**

**Fergus Estuaries SPA, which is defined by a list of attributes and targets.**

**A164 – Greenshank *Tringa nebularia*: To maintain the favourable conservation condition of Greenshank in the River Shannon and River**

**Fergus Estuaries SPA, which is defined by a list of attributes and targets.**

**A179 – Black-headed Gull *Chroicocephalus ridibundus*: To maintain the favourable conservation condition of Black-headed Gull in the River Shannon and River Fergus Estuaries SPA, which is defined by a list of attributes and targets.**

**A999 – Wetlands and Waterbirds: To maintain the favourable conservation condition of wetland habitat in the River Shannon**

**and River Fergus Estuaries SPA, which is defined by a list of attributes and targets.**

		Summary of Appropriate Assessment			
Qualifying Interest feature	Conservation Objectives  Targets and attributes	Potential adverse effects	Mitigation measures	In-combination effects	Can adverse effects on integrity be excluded?
Cormorant	<p>No significant decline in breeding population abundance: apparently occupied nests;</p> <p>No significant decline in productivity rate;</p> <p>No significant decline in Distribution: breeding colonies;</p> <p>No significant decline in Prey biomass Available;</p> <p>No significant increase Barriers to connectivity;</p> <p>Human activities should occur</p>	Potential water pollution	Mitigation measures required and detailed in full in Section 7 of the NIS	Yes	Yes

	<p>at levels that do not adversely affect the breeding population;</p> <p>Long term population trend stable or increasing;</p>				
Whooper Swan	<p>Long term population trend stable or increasing;</p> <p>There should be no significant decrease in the range, timing or intensity of use of areas by this bird species of qualifying interest other than that occurring from natural patterns of variation</p>	As detailed above	As detailed above	yes	Yes
Light-bellied Brent Goose	As detailed above	As detailed above	As detailed above	yes	Yes
Shelduck	As detailed above	As detailed above	As detailed above	yes	Yes

Wigeon	As detailed above	As detailed above	As detailed above	yes	Yes
Teal	As detailed above	As detailed above	As detailed above	Yes	Yes
Pintail	As detailed above	As detailed above	As detailed above	yes	Yes
Shoveler	As detailed above	As detailed above	As detailed above	yes	Yes
Scaup	As detailed above	As detailed above	As detailed above	yes	Yes
Ringed Plover	As detailed above	As detailed above	As detailed above	yes	Yes
Golden Plover	As detailed above	As detailed above	As detailed above	yes	Yes
Grey Plover	As detailed above	As detailed above	As detailed above	yes	Yes
Lapwing	As detailed above	As detailed above	As detailed above	yes	Yes
Knot	As detailed above	As detailed above	As detailed above	yes	Yes
Dunlin	As detailed above	As detailed above	As detailed above	yes	Yes
Black-tailed Godwit	As detailed above	As detailed above	As detailed above	yes	Yes

Bar-tailed Godwit	As detailed above	As detailed above	As detailed above	yes	Yes
Curlew	As detailed above	As detailed above	As detailed above	yes	Yes
Redshank	As detailed above	As detailed above	As detailed above	yes	Yes
Greenshank	As detailed above	As detailed above	As detailed above	yes	Yes
Black-headed Gull	As detailed above	As detailed above	As detailed above	yes	Yes
Wetlands and Waterbirds	The permanent area occupied by the wetland habitat should be stable and not significantly less than the area of 32,261ha, other than that occurring from natural patterns of variation	Potential water pollution	Mitigation measures required and detailed in full in Section 7 of the NIS	yes	Yes
<b>Overall conclusion: Integrity test</b>  Following the implementation of mitigation, the construction and operation of this proposed development will not adversely affect the integrity of this European site and no reasonable doubt remains as to the absence of such effects.					

### Potential for direct and indirect effects – Pouladatig Cave SAC and Newhall and Edenvale Complex SAC

7.6.21. In relation to Pouladatig Cave SAC and Newhall and Edenvale Complex SAC the Lesser Horseshoe Bat is the species of qualifying interest in both of these European sites. The appeal site at Ballylannidy, Ennis is located within the Core Sustainance

Zone (CSZ) of the Lesser Horseshoe Bat. As detailed in the Bat Survey Report prepared by Ecofact in 2022 which was submitted as part of the further information response Lesser Horseshoe Bats have been recorded using the appeal site and the surrounding areas for foraging and commuting and therefore there is potential for significant indirect and cumulative impacts. Potential to disturb the Lesser Horseshoe Bat would arise during both the construction and operation phases of the scheme. In relation to the matter of direct habitat loss as the appeal site is used by Lesser Horseshoe Bat lighting could indirectly affect an important foraging and commuting route. In relation to the matter of habitat fragmentation this could be caused by the presence of the proposed development and also indirect effects arising from light spill. Accordingly, mitigation will be required to address these potential impacts.

**Table 4 AA Summary matrix for Pouladatig Cave SAC**

<p><b>Pouladatig SAC: (Site Code 002122)</b></p> <p><b>Summary of Key issues that could give rise to adverse effects</b></p> <ul style="list-style-type: none"> <li>• Disturbance, habitat loss/fragmentation and light impacts</li> </ul> <p><b>Conservation Objectives:</b></p> <p><b>1303 – Rhinolophus hipposideros (Lesser Horseshoe Bat): To maintain the favourable conservation condition of Lesser Horseshoe Bat in Pouladatig Cave SAC, which is defined by a list of attributes and targets.</b></p>					
		<b>Summary of Appropriate Assessment</b>			
<b>Qualifying Interest feature</b>	<b>Conservation Objectives  Targets and attributes</b>	<b>Potential adverse effects</b>	<b>Mitigation measures</b>	<b>In-combination effects</b>	<b>Can adverse effects on integrity be excluded?</b>
Lesser Horseshoe Bat	Minimum number of 322 bats for the winter roost;	Disturbance, habitat loss/fragmentation & light impacts	Mitigation measures required and detailed in full in Section	yes	Yes

	<p>No decline in winter roosts;</p> <p>No decline of auxiliary roosts;</p> <p>No significant decline of foraging habitat within 2.5km of qualifying roost;</p> <p>No significant loss of linear features within 2.5km of qualifying roost;</p> <p>No significant increase in artificial light intensity adjacent to named roost or along commuting routes</p>		7 of the revised NIS		
<p><b>Overall conclusion: Integrity test</b></p> <p>Following the implementation of mitigation, the construction and operation of this proposed development will not adversely affect the integrity of this European site with specific reference to the species of Qualifying Lesser Horseshoe Bat and no reasonable doubt remains as to the absence of such effects.</p>					

**Table 5 AA Summary matrix for Newhall and Edenvale Complex SAC**

<p><b>Newhall and Edenvale Complex SAC: (Site Code 002091)</b></p> <p><b>Summary of Key issues that could give rise to adverse effects</b></p> <ul style="list-style-type: none"> <li>• Disturbance, habitat loss/fragmentation and light impacts</li> </ul> <p><b>Conservation Objectives:</b></p> <p><b>1303 – Rhinolophus hipposideros (Lesser Horseshoe Bat):</b> To maintain the favourable conservation condition of Lesser Horseshoe Bat in Newhall and Edenvale Complex SAC, which is defined by a list of attributes and targets.</p>
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		Summary of Appropriate Assessment			
Qualifying Interest feature	Conservation Objectives  Targets and attributes	Potential adverse effects	Mitigation measures	In-combination effects	Can adverse effects on integrity be excluded?
Lesser Horseshoe Bat	<p>Minimum number of 212 bats for the summer roost; minimum of 298 bats for the winter roost.</p> <p>No decline in winter roosts;</p> <p>No decline in summer roosts</p> <p>No decline of auxiliary roosts;</p> <p>No significant decline of foraging habitat within 2.5km of qualifying roost;</p> <p>No significant loss of linear features within 2.5km of qualifying roost;</p> <p>No significant increase in artificial light intensity adjacent to named roost or along commuting routes</p>	Disturbance, habitat loss/fragmentation & light impacts	Mitigation measures required and detailed in full in Section 7 of the revised NIS	yes	Yes
Overall conclusion: Integrity test					

Following the implementation of mitigation, the construction and operation of this proposed development will not adversely affect the integrity of this European site with specific reference to the species of Qualifying Lesser Horseshoe Bat and no reasonable doubt remains as to the absence of such effects.

## **Mitigation Measures**

- 7.6.22. Section 7 of the Natura Impact Statement sets out the mitigation measures in respect of the proposed development. In relation to mitigation measures for water quality the proposed development will increase the loading to the Clonraodmore Wastewater Treatment plant. Therefore, it is recommended that the mitigation measures include that a connection agreement for the scheme to connect to the Clonraodmore Wastewater Treatment plant be obtained prior to construction and that the treatment plant shall be operated within capacity.
- 7.6.23. In relation to mitigation measures for the Lesser Horseshoe Bat, it is detailed in the NIS that Lesser Horseshoe Bat use the subject site and that it is within the Core Sustenance Zone of Pouladatig Cave SAC. While no roosts were recorded on the appeal site the proposed development would result in a loss of foraging and commuting habitat and further habitat fragmentation of the area. In order to address these matters, it is recommended that the mitigation measures include the following;
- A generous landscaping plan with native planting be provided to provide a buffer area around the proposed development. The landscaping should be integrated into the area where the bat night roost will be provided. Night scented plants and additional landscaping should be considered around the area of the proposed night roost location. The landscaping plan shall be drawn up with a licenced bat ecologist.
  - A suitable night roost for Lesser Horseshoe Bats shall be provided. The night roost will be designed and its location shall be decided by a suitably qualified ecologist and integrated into the landscaping plan.
  - Lighting should follow Bat Conservation Ireland's Bats & Lighting: Guidance Notes for Planners, Engineers, Architects and Developers (2010). Light columns should be kept as low as possible. Light spill should be minimised by using shields, masking or louvres. There should be no light spill on the

proposed location of the landscaping and night roost for Lesser Horseshoe bats.

7.6.24. In relation to in combination effects I note that the Clare County Development Plan 2023-2029 was adopted by the elected members on the 9th of March 2023 and came into effect on the 20th of April 2023. The Plan includes a Natura Impact Statement. The mitigation measures identified in the Stage 2 Appropriate Assessment (Natura Impact Statement) have been incorporated into the Plan. Accordingly, the implementation of this plan will not lead to any cumulative impacts when considered in-combination with the development proposed under this application. I would note that all other projects within the wider area which may influence the conditions of Lower River Shannon SAC and River Shannon and River Fergus Estuaries SPA via surface water features are also subject to AA.

7.6.25. It was set out in the NIS that with the mitigation measures carried out and incorporated into the design of the proposed development that there would be no in-combination effects from the proposed development.

### **Appropriate Assessment Conclusions**

7.6.26. I consider on the basis of the information on file that the applicant in this case has demonstrated in the submitted Natura Impact Statement that with the implementation of mitigation measures including construction management and also operational measures that are to the required standards, that the proposed development, individually or in combination with other plans and projects would not adversely affect the integrity of the Lower River Shannon SAC (Site Code 002165), the River Shannon and River Fergus Estuaries SPA (Site Code 004077), Pouladatig Cave SAC (Site Code 000037) and Newhall and Edenvale Complex SAC (Site Code 002091) or any other such designated European, in view of their Conservation Objectives.

## **8.0 Recommendation**

8.1. I recommend that planning permission is granted for the proposed development in accordance with the following reasons and considerations:

## 9.0 Reasons and Considerations

- 9.1.1. Having regard to the provisions of the Clare County Development Plan 2023-2029, including the residential zoning objective of the site, and having regard to the pattern of existing development in the area and the design, scale and layout of the proposed development, it is considered that, subject to compliance with the conditions set out below, that the proposed development would not seriously injure the residential or visual amenities of the area and would be acceptable in terms of pedestrian and traffic safety and would constitute an acceptable form of residential development at this zone and serviced location. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted to the planning authority on the 16th day of February 2023, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to the commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. Prior to the commencement of development, the developer shall enter into water and/or waste water agreement(s) with Uisce Éireann.

**Reason:** In the interest of public health.

3. Prior to the commencement of any house or duplex unit in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all houses and duplex units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

**Reason:** To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

4. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

5. All the mitigation measures indicated in the Natura Impact Statement shall be implemented in full.

**Reason:** To ensure the protection of the integrity of European Sites.

6. Detailed measures in relation to the protection of bats shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. The mitigation detailed in the Bat Survey Report prepared by Ecofact Environmental Consultants and submitted to the Planning Authority

on the 16<sup>th</sup> of February 2023, shall be implemented as part of the development.

**Reason:** In the interest of wildlife protection.

7. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

8. The internal road and vehicular circulation network serving the proposed development, including turning bays, junctions, parking areas, footpaths, and kerbs shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in the Design Manual for Urban Roads and Streets. Drawings and particulars showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interests of amenity and of traffic and pedestrian safety.

9. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. All existing ground cables shall be relocated underground as part of the site development works.

**Reason:** In the interest of visual and residential amenity.

10. Each proposed house shall be used and occupied as a single dwelling unit for residential purposes and shall not be sub-divided or used for any commercial

purposes (including short-term letting) without a separate planning permission.

**Reason:** In the interest of clarity and to ensure the maintenance of a residential community.

11. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. All existing ground cables shall be relocated underground as part of the site development works.

**Reason:** In the interest of visual and residential amenity.

12. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

13. The construction of the development shall be managed in accordance with a site-specific detailed Construction Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall incorporate all mitigation measures indicated in the Natura Impact Statement and shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interests of public safety and residential amenity.

14. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials within each house plot shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

**Reason:** To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

15. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall –

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operations (including hydrological and geotechnical investigations) relating to the proposed development,
- (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.



**Reason:** In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

16. The development, including all roads, footpaths, verges, public lighting, open space, foul, water and surface water drains, attenuation infrastructure and all other services, as permitted under this development, shall be carried out and completed in accordance with the “taking-in-charge” standards of the planning authority.

**Reason:** In the interest of proper development and in order to comply with national policy in relation to the maintenance and management of residential estates.

17. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any unit.

**Reason:** In the interests of amenity and public safety.

18. Proposals for an estate/street name, house/apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house/apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority’s written agreement to the proposed name(s).

**Reason:** In the interest of urban legibility.

19. A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following:-

- (a) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development.
- (b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;
- (c) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes.
- (d) The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

**Reason:** In the interest of visual amenity.

20. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

**Reason:** To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

21. Prior to the commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of streets, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of security shall be as agreed between the planning authority and the developer, or in default of an agreement shall be determined by An Bord Pleanála.

**Reason:** To ensure the satisfactory completion of the development.

22. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Siobhan Carroll  
Planning Inspector

29<sup>th</sup> February 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	317090-23			
<b>Proposed Development Summary</b>	Construction of 16 houses and all ancillary site development works and connections to public services			
<b>Development Address</b>	Ballylannidy, Ennis, Co. Clare.			
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	✓	
		<b>No</b>	No further action required	
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>				
<b>Yes</b>		N/A	EIA Mandatory EIAR required	
<b>No</b>	✓	Class 10(b)(i), Schedule 5 Part 2	Proceed to Q.3	
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>				
		<b>Threshold</b>	<b>Comment (if relevant)</b>	<b>Conclusion</b>
<b>No</b>		N/A		No EIAR or Preliminary Examination required
<b>Yes</b>	✓	Class 10(b)(i), Schedule 5 Part 2		Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No	✓	Preliminary Examination required
Yes		Screening Determination required

Inspector: \_\_\_\_\_ Date: \_\_\_\_\_

## Appendix 2 - Form 2

### EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP 317090-23	
Proposed Development Summary	Construction of 16 houses and all ancillary site development works and connections to public services	
Development Address	Ballylannidy, Ennis, Co. Clare.	
The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.		
	Examination	Yes/No/ Uncertain
Nature of the Development Is the nature of the proposed development	The proposed development is a residential scheme of 16 no. dwellings. The site at Ballylannidy, Ennis is a greenfield site which is situated to the west of	No

<p>exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>the Woodstock View housing estate. There are other housing developments to the south-west. Therefore, the proposal is not exceptional in this context.</p> <p>No significant emissions resultant.</p>	
<p><b>Size of the Development</b></p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	<p>No, the proposed development entails the construction of 16 no. dwellings. The proposal is at a greater density than the surrounding development but would be described as exceptional.</p> <p>No significant emissions resultant of this project combined with any exiting or permitted.</p>	No
<p><b>Location of the Development</b></p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>It is located over 1.1km to any ecologically sensitive sites. Having regard to the topography of the area it does not provide a direct pathway to the closest ecologically sensitive site.</p> <p>Having regard to the nature and scale of the proposal which comprises a residential scheme of 16 no. dwellings to connect to the foul sewer with attenuation of surface on site, it does not have the potential to significantly affect other significant environmental sensitivities in the area.</p>	No
<p style="text-align: center;"><b>Conclusion</b></p>		

<p><b>There is no real likelihood of significant effects on the environment.</b></p> <p>EIA not required</p>	<p><b>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</b></p> <p><del>Schedule 7A information required to enable Screening Determination to be carried out</del></p>	<p><b>There is a real likelihood of significant effects on the environment.</b></p> <p><del>EIA not required</del></p>
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**Inspector:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**DP/ADP:** \_\_\_\_\_ **Date:** \_\_\_\_\_

(only where Schedule 7A information or EIAR required)