



An  
Bord  
Pleanála

## Inspector's Report ABP-317318-23

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<b>Development</b>	102 dwellings, consisting of 62 houses and 40 apartments, and a creche
<b>Location</b>	Daingean Road, Cappancur, Tullamore, Offaly
<b>Planning Authority</b>	Offaly County Council
<b>Planning Authority Reg. Ref.</b>	22/523
<b>Applicant</b>	Daingean Road Residential Ltd.
<b>Type of Application</b>	Permission for Large Scale Residential Development
<b>Planning Authority Decision</b>	Grant permission subject to conditions
<b>Type of Appeal</b>	Third Party vs. grant
<b>Appellants</b>	Daingean Road Residents' Association
<b>Observers</b>	None
<b>Date of Site Inspection</b>	9 <sup>th</sup> August 2023
<b>Inspector</b>	Stephen J. O'Sullivan

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## 1.0 Site Location and Description

1.1. The site is on the edge of the town of Tullamore, Co. Offaly, c1.5km east of the town centre. It lies on the northern side of the Daingean Road, a main road from the town centre that runs to a roundabout on the N52 by pass road. The stated area of entire site is 4.79ha. This includes the Daingean Road in front of the main part of the site and for a distance of c380m to its west. The area of the public road included in the site is stated to be 0.66ha. The main part of the site is a grassy field bounded by hedgerows. It lies between the Daingean Road to the south, the N52 by pass road to the west and the Grand Canal to the north. It is relatively flat, with the surveyed levels at its front between 58.6m and 59.5m above datum and those at its rear up to 60.7m above datum. Two overhead power lines cross the site, one a 10kV line and the other a 3kV line. A petrol station and convenience shop occupy a plot on the Daingean Road immediately east of the site between it and the roundabout at the junction with the N52. The land to the west is occupied by the detached houses along the Daingean Road and a field behind them. There are other detached houses across the road from the main part of the site and between it and the town centre.

## 2.0 Proposed Development

2.1. It is proposed to carry out a residential development consisting of 62 houses and 40 apartments and a creche of 382m<sup>2</sup>. The housing mix would be as follows –

	1 bed	2 bed	3 bed	4 bed	Total
Houses		22	27	13	62
Apartments	14	9	17		40
Total	14	31	44	13	102

2.2. The layout of the scheme would include 13 detached houses fronting on to the Daingean Road with their own driveways on to it. A new junction would be laid out from the Daingean Road for an access road to the rest of the scheme that would serve the two-storey houses, which would be semi-detached or in short terraces, the

apartments in three-storey buildings and the creche in the western part of the site. On street parking would be provided to serve the creche and the apartments. The parking for the houses would be on their curtilage. Bicycle parking for the creche and apartments would be provided in stores to the rear of those buildings. Open space would be provided in the centre of the scheme and along its northern and western sides adjoining the lands occupied by the canal and by pass road. The existing trees and hedges on the northern, eastern and western boundaries would be retained, but the layout indicates where pedestrian access could be provided to the path along the canal to the north and where vehicular access could be provided to the undeveloped land to the east.

- 2.3. The finished floor levels of the proposed buildings would be between 58.8m and 61.2m above datum. A waste water pumping station would be situated in the centre of the site, surrounded by the open space there. An underground attenuation structure would be provided in that open space. It is also proposed to carry out works along the Daingean Road to extend the footpath, cycle path to join with the existing facilities near the west of the site and to provide a surface water sewers to with an outfall on the Corndarragh Stream (also referred to as the Barony Stream) c350m to the east.
- 2.4. The application documents state that the net density of the proposed development is 28 dwellings per hectare (dph) based on a site area of 3.66ha that excludes the part of the site that is either zoned for open space or forms part of the existing public road. Public open space of 6,482m<sup>2</sup> would be provided. Communal open space of 1,044m<sup>2</sup> would be provided to serve the proposed apartments, as would 148 bicycle spaces. The overall scheme would contain 173 car parking spaces.
- 2.5. The documents submitted with the application included-
  - Statement of Consistency with the Development Plan
  - Response to Planning Authority's Opinion
  - Schedule of Accommodation
  - Architectural Design Statement
  - Design and Access Statement
  - Engineering Report

- Traffic and Transport Assessment and Mobility Management Plan
- Road Safety Audit
- Appropriate Assessment Screening Report and Natura Impact Statement (revised by further information submitted to the council)
- Ecological Impact Assessment
- Bat Survey and Assessment
- Sustainability Report
- Lighting Impact Assessment
- Archaeological Impact Assessment
- Noise Impact Assessment
- Daylight/Sunlight Assessment

### **3.0 Planning Authority Decision**

#### **3.1. LRD Opinion**

3.1.1. The planning authority and the applicant convened a meeting under section 32C of the planning act for the proposed Large-scale Residential Development on 22<sup>nd</sup> June 2022. Further to that meeting the council issued an opinion on 19<sup>th</sup> July 2022 which stated that the submitted documentation did not form a reasonable basis for an application for permission. The following is a summary of the issues which the opinion said needed to be addressed to form a reasonable basis for an application for permission –

- The proposed uses and density are reasonable, but the layout should be revised to address a proposed house backing on to the site entrance; a statement of consistency with DMURS and a stage 2 road safety audit are required; the housing mix is satisfactory; an universal access statement is required; a complete architectural design statement is required; a statement of compliance with development management standards is required for the proposed houses as well as the apartments; further landscaping details are

required; and a plan should set out the areas of the gardens serving the proposed houses.

### **3.2. Decision**

- 3.2.1. The planning authority decided to grant permission subject to 28 conditions, none of which significantly altered the proposed development. Condition no. 1 referred to the further information submitted to the council on 8<sup>th</sup> March 2023. Condition no. 22 requires stage 2 road safety audit to be carried out and agreed with the council prior to the commencement of development, and that 3 and 4 road safety audits be carried out and agreed with the council within 6 months of the occupation of the development. If significant design changes occur as a result a further audit these shall be carried out and agreed with the council.

### **3.3. Planning Authority Reports**

#### **3.3.1. Planning Reports**

The initial report stated that the most of the site was zoned residential with open space zonings along its northern and eastern sides. The proposed development would comply with those zonings. The site area and number of dwellings is below the applicable thresholds in Schedule 5 to the planning regulations. After consideration of the criteria in Schedule 7 it is concluded that the proposed development would not be likely to have significant effects on the environment and an EIA is not required. The density of 29 dph is acceptable. The design and layout of the development is acceptable. The proposed dwellings meet the applicable development management standards. 16% of the site would be provided as public open space, which is sufficient. The Water Services section of the council have reported that they have no objection to the drainage proposals. The Roads section has stated that the access arrangements are acceptable, but its recommendation that additional car parking be provided in some of the open space is not accepted. It is noted that TII have requested additional analysis of the potential impact on the adjacent roundabout on the N52, while Uisce Eireann stated that a certificate of design acceptance has not yet been issued. An AA screening report notes that the site is hydrologically connected to the SAC at Charleville Woods sitecode 000571

and the potential impact of the proposed development on that site is uncertain, as a stage 2 appropriate assessment is required. The submitted NIS does not mention the Tullamore River Project approved under Part 8. Further information should be sought on these issues. The request should also raise the details which the reports from the Water Services and Roads Section recommended should be required by condition, as well as further landscaping details.

The report on the further information notes that neither TII nor Uisce Eireann have raised any further objection to the development, although the latter has not yet issued a certificate of design acceptance. The revised NIS is considered acceptable and the conclusions of the appropriate assessment are that the mitigation measures that it sets out would allow adverse effects on the SAC to be ruled out. A grant of permission was recommended.

### 3.3.2. Other Technical Reports

#### Roads Section

The report on the initial application stated no objection subject to conditions, including the preparation and agreement of road safety audits

#### Water Services and Environment Section

The report on the initial application stated no objection subject to conditions.

### 3.4. Prescribed Bodies

- 3.4.1. Uisce Eireann submitted a report on the initial application stating that it had issued a confirmation of feasibility for the proposed development including the tie in to the rising wastewater sewer along Daingean Road and that there was adequate capacity in the treatment plant for the town to accommodate the proposed development. It did not submit a report on the further information submitted to the council
- 3.4.2. Transport Infrastructure Ireland submitted a report on the initial application stating that further analysis should be carried out of the potential effect on the nearby roundabout on the N52 using the ARCADY model. Its report on the further information stated that it would rely on the council to abide by national policy in relation to national roads.



- 3.4.3. The Department of Heritage submitted a report on the initial application recommended that archaeological monitoring be required by condition.

### **3.5. Third Party Observations**

- 3.5.1. Two submissions were made to the council on the application. One queried whether there was a masterplan or local area plan for the area. The other was submitted by the current appellant and objected to the proposed development on grounds similar to those raised in the appeal. It stated that there was a history of flooding on the site and along Daingean Road and questioned the capacity of the surface water sewer there. The density of the proposed development is excessive for this area. There would be a negative impact on traffic. The application did not include details of the upgrade of the wastewater sewer on the Daingean Road. The layout should not provide direct access and houses fronting on to the Daingean Road. The proposed development would have a negative impact on the ecology and environment of the site and would isolate it from the NHA along the Grand Canal. A second submission from the appellant on the further information submitted to the council reiterated these concerns. It questions whether the site is to be raised to facilitate development and where the surface water would go and what form of heating the proposed houses would use.

## **4.0 Planning History**

- 4.1. Reg. Ref. 20/335 – The council refused permission in May 2021 for 97 dwellings on the site. The five reasons for refusal referred to poor layout in relation to parking and open space, and inadequate information regarding wastewater and stormwater drainage, water supply, appropriate assessment and bats.
- 4.2. Reg. Ref. 19/249 – The council refused permission in December 2019 for 99 dwellings on the site for reasons that referring to the need for an NIS and a noise impact assessment as well as inadequate open space.
- 4.3. Reg. Ref. 05/331 – The council granted permission in March 2006 for 116 dwellings on the site. This permission expired in 2016.

## 5.0 Policy Context

### 5.1. National Policy

- 5.1.1. The Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009, states at section 5.11 that densities of 35-50 dph should be encouraged on greenfield sites on the periphery of large towns and that densities of less than 30dph should be discouraged. Circular NRUP 02/2021 clarifies that, although densities of less than 30dph are discouraged in such locations, they are not precluded at the edge of large towns by the 2009 guidelines..
- 5.1.2. The Guidelines for Planning Authorities on Urban Development and Building Heights, 2023, includes a specific planning policy requirement (SPPR 4) that, in the development of greenfield sites at the edge of towns, planning authorities must secure the minimum densities set out in the 2009 guidelines and a greater mix of building height and types.
- 5.1.3. The Guidelines for Planning Authorities on the Design of New Apartments 2023 states at section 2.4 that, in less accessible urban areas, developments at densities of less than 45dph may include some apartments. The guidelines the set standards for the amenity provided to the residents of apartments in a series of SPPRs.
- 5.1.4. The Guidelines for Planning Authorities on Flood Risk Management, 2009, categorises three levels of flood risk. Land where the annual probability of flooding from rivers or the sea is greater than 1% is zone A, where it is greater than 0.1% is zone B and where it is less than 0.1% it is zone C. Residential development is appropriate in flood zone C, but would require a justification test in the other zones. A test for plans that include such development is set out in section 4 of the guidelines, while that for development management is in section 5. Section 3 of the guidelines describes the sequential approach which is that plans would direct development to lands at low risk of flooding in the in preference to other lands. The sequential approach is application to the layout and design of a development at development management stage.

## 5.2. Development Plan

- 5.2.1. The Offaly County Development Plan 2021-2027 applies. The main part of the site is zoned residential. Its northern and eastern sides are zoned for open space, amenity and recreation.
- 5.2.2. The core strategy in section 2 of the plan allocates a housing supply target of 1,379 units to Tullamore for the plan period requiring 37ha of land to be zoned new residential in the town. 43.8ha of land has been so zoned
- 5.2.3. Section 13 of the plan contains objective DMS-02 on density which states that the appropriate density of residential development on a site shall be determined by reference to the 2009 guidelines on sustainable residential development, the 2020 guidelines on apartment design and the 2018 guidelines on urban development and building height, as well as the prevailing scale and pattern of development in the area. Objective DMS-21 states that 15% of the area of greenfield sites shall be given over to public open space. Section 13.8.3 of the plan states that the council will have regard to the 2009 guidelines on flood risk management and that all developments within or incorporating area at moderate to high risk of flooding will require the application of the justification test. Any proposal that is considered acceptable in principle shall demonstrate the use of the sequential approach to inform the site layout and design of development.
- 5.2.4. The Strategic Flood Risk Assessment for the development plan does not identify the site as being within flood risk zone A or B, although part of the Daingean Road between the site and the town centre is shown as being in Zone B. The maps appended to the assessment include a preliminary risk assessment showing the south-western part of the site at risk of fluvial flooding at 0.1% and 1% AEP and Present Day and Future Scenario CFRAM mapping showing that the site is not subject to such a flood risk.

## 5.3. Natural Heritage Designations

- 5.3.1. The northern part of the site lies within the proposed Natural Heritage Area at the Grand Canal, sitecode 002104

5.3.2. The Special Area of Conservation at Charleville Wood, sitecode 000571, lies c2.5km west of the appeal site.

## 6.0 The Appeal

6.1. The grounds of appeal can be summarised as follows -

- Insufficient details were submitted of the proposed foundations and substructures for the development, given the low soil permeability and bearing capacity, variations in grounds water levels and flood risk on the site. The application was not accompanied by a report of ground investigations. There are alluvium deposits on the northern part of the site according the Land and Soil Map issued by the EPA. This type of soil has limited bearing capacity and requires special foundations. The groundwater recharge rate would be 50-100mm per annum. The maps included in the Flood Risk Assessment for the development plan indicates that the part of the site is subject to annual equivalent flood risk of 0.1% to 1%.. This is contrary to the law as set out by the High Court in the cases IEHC 2020 586 Balscadden Residents Association v ABP and IEHC 2021 662 Sweetman vs. ABP. It would also be contrary to the Public Procurement Directive 2004/18/EC which requires to state to apply Eurocode standards including EN1997/2. The need for piling in the development and its consequent environmental effects cannot be ruled out. There was no ground investigation of the land along the Daingean Road where the footpath and foul sewer is to be extended.
- The OPW's flood maps for the area are under review. Flood relief works have been carried out in the locality but the site is not part of the protected area. There is a risk that flooding on the Daingean Road would isolate the proposed development from the town. The site is surrounded by flood risk zones. Building on this site in preference to in preference to sequentially advantaged lands would require further flood protection works contrary to the principles of sustainable development as set out in the county development plan and the National Planning Framework. There is no gauging station at the location of the proposed stormwater outfall from the proposed development that would allow the predictions of the submitted hydraulic modelling to be tested.

Drawings of the proposed attenuation structures have not been provided and there is a risk of pluvial flooding due to the poor permeability of the soil.

- Daingean Road has a rural character and the site is close to the roundabout on the N52. The southern side of the road lacks a footpath. The proposed development would introduce 13 accesses onto the road and from houses set back 16-18m from that road contrary to the advice in DMURS. The 1.8m wide footpath also fails to meet the requirements of DMURS. Condition 22 of the council's decision makes issues of road safety subject to a post consent audit procedure with no allowance for public consultation. This audit needs to be carried out before a grant of permission is considered.
- Uisce Eireann has not confirmed its acceptance of the design of the proposed wastewater sewerage so a grant of permission would be contrary to the Water Framework and Habitats Directive.
- The Natura Impact Assessment is defective as no bat or winter bird surveys were submitted. Neither were drawings of the silt fences and other structures which are cited as mitigation measures. So a conclusion on the impact of the development cannot be made on the basis of the best scientific information as required by the law stated in Kelly vs ABP IEHC 2014 400.
- The planning authority failed to assess the development for EIA under the criteria set out in Schedule 7.
- The baseline noise environment of the site and at sensitive receptors was not established in the application documentation.

## **6.2. Planning Authority Response**

- 6.2.1. The planning authority's response stated that it had no further comments.

## **6.3. Applicant's response**

- 6.3.1. The applicant's response can be summarised as follows-

- The application is valid and was accepted as such by the planning authority. The nature of the proposed development is fundamentally different from those which the cited Balcadden and Sweetman judgements addressed. The

former required 15m high sheet piling while the latter was a large energy infrastructure project requiring EIA. The published description of the development was sufficient and the drawings and other details complied with Articles 22, 22A and 23 of the planning regulations.

- The presence of alluvial soils does not render a site unsuitable for development`. Ground investigations are not usually required in advance of planning permission. Legislation on public procurement is not relevant to the proposed private development.
- The flood risk assessment for the proposed development and that for the county development plan both identified the site not being at risk of flooding and so in flood risk zone C under the 2009 flood risk management guidelines where residential development is acceptable in principle. The preliminary map from the assessment for the development plan submitted with the appeal was superseded by the final maps for that assessment which showed no elevated risk of flooding on the site. The proposed development would not be isolated by flooding to the west on the Daingean Road as it would still have access to the town in such an event along the N52 ring road.
- The appeal's comments on road safety are baseless. DMURS allows for flexibility in building setbacks. In this case an established building line is being followed. All proposed footpaths are 2m wide.
- Uisce Eireann issued a confirmation of feasibility for the proposed development with the proposed wastewater infrastructure upgrades, including a rising main on the Daingean Road, which establishes the acceptability of the proposed development. Minor technical details can be addressed with Uisce Eireann to allow the confirmation of design acceptance to be issued.
- Adequate proposals have been made for stormwater drainage. The capacity and location of the proposed attenuation structure specified in the application documentation. The capacity of the system was designed in accordance with industry standards with due regard to climate change and without a requirement for infiltration to the soil.
- The proposed development is in keeping with the principles of compact growth and sustainable development. It is within the built up area of the town

contiguous to existing residential areas. It has pedestrian access and is within 1km of a range of social and economic facilities.

- Adequate ecological assessments were submitted with the application, including bat surveys. The surveys demonstrate that the site does not contain suitable roosts for bats. The proposed development will maintain the trees and hedges on the northern and western boundaries that provide foraging and commuting routes. 8
- The planning authority adequately addressed the issue of EIA. The proposed development is will below the threshold for the submission of an EIAR.
- Noise assessment was undertaken with due regard to baseline levels and the proposed mitigation measures in the proposed housing.

## 7.0 Screening

### 7.1. Environmental Impact Assessment

7.2. This application was submitted to the Board after the 1st of September 2018 and therefore after the commencement of the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018 which transpose the requirements of Directive 2014/52/EU into Irish planning law.

7.3. Item 10(b) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001 as amended, and section 172(1)(a) of the Planning and Development Act 2000 as amended provides that an EIA is required for infrastructure developments comprising of urban development which would exceed:

- 500 dwellings
- Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere. A business district is defined as 'a district within a city or town in which the predominant land use is retail or commercial use'.

7.4. The proposed development of 102 dwellings and a creche on a site of 4.79ha at the edge of a town is therefore below the applicable threshold. Article 109 of the planning regulations, as amended, states that where an appeal relating to the sub-

threshold development is not accompanied by an EIAR the Board shall carry out a preliminary examination of, at the least, the nature, size and location of the development. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development as set out in the appendix to this report. EIA, therefore, is not required. In this regard it is noted that the proposed development is residential in nature, its size well below the applicable thresholds and its location on the edge of an urban area on improved grassland with available infrastructure does not give particular environmental sensitivity, as set out in section 8.8 of this report below.

## **7.5. Appropriate Assessment**

- 7.5.1. A description of the proposed development is given in section 2 of this report.
- 7.5.2. The appeal site is not in or immediately adjacent to any Natura 2000 site. The Special Area of Conservation for the Charleville Wood, site code 000571 is c2.5km to the west of the site. There is a hydrological connection between the appeal site and that SAC via the Corndarragh Stream and the Tullamore River. The proposed development would have a stormwater outfall to the Corndarragh Stream c290m from its confluence with the Tullamore River which is c2.65km from the SAC so the distance of flow from the proposed development to the SAC is c2.94km , as set out in the appropriate assessment screening report submitted with the application. The conservation objectives for the SAC are
- To restore the favourable conservation condition of Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*)\*, which is a priority habitat, in Charleville Wood, and
  - To maintain the favourable conservation condition of Desmoulin's Whorl Snail (*Vertigo moulinsiana*) in Charleville Wood SAC,
- 7.5.3. The conservation objectives for the SAC include attributes, measures and targets. . In relation to the first objective they include the maintenance of the appropriate hydrological regime necessary for the maintenance of alluvial vegetation, noting that the water level of Charleville Lake is controlled by a sluice. The maintenance of the



hydrological regime is also a target relation to the second objective, which again notes that the lake is controlled by a sluice/weir that should be maintained to keep water levels as close as possible to current levels. Maps are appended to the conservation objectives which indicate that the alluvial forests and the *Veritigo moulisiana* are recorded in the southern part of the SAC around the lake. The Tullamore River flows through the part of the SAC to the north of the N52 national road.

#### 7.5.4. *Screening report and Natura Impact Statement*

7.5.5. The application was accompanied by an appropriate assessment screening report and an NIS that were amended by the further information submitted to the council to include a reference to the Tullamore River project approved under the Part VIII procedure. The screening report concluded that, apart from the SAC at Charleville Wood, there are no other Natura 2000 sites with any ecological connection with the appeal site that would give rise to a potential for significant effects from the proposed development. As there is a pathway between the appeal site and that SAC at Charleville Wood through a hydrological connection, the screening report states that further consideration is given to the potential for effects upon it from the proposed development. The report concludes that the construction and operation of the proposed housing on the main part of the site would not be likely to have any significant direct or indirect effect on the SAC, as it would involve works within the field boundary of improved grassland at some remove from the SAC and the completed development would be served by urban drainage systems. The proposed development would maintain the existing character of the lands at the northern end of the site within Grand Canal Natural Heritage Area and provide a buffer of open space between that area and the proposed housing, so it would not have the potential to interfere with that area's role as an ecological corridor that might support the network of Natura 2000 sites. The construction of a new outfall to the Corndarragh Stream would be unlikely to have significant effects on the Tullamore River at Charleville Wood but the best practice measures to control pollution of the watercourse there are considered to be mitigation and so require a stage 2 appropriate assessment. It cannot be excluded on the basis of objective information, therefore, that the proposed development would have a significant effect on a European site either individually or in combination with other plans or projects.

7.5.6. The Natura Impact Statement states that there would be no direct effects on Charleville Wood SAC and no habitat loss or fragmentation. Potential impacts on the SAC relate to hydrological connectivity via the Tullamore River which bisects two portions of native Oak/Ash/Hazel woodland. The river drains rather than feeds this woodland. A worst case scenario may arise were the proposed development to result in a significant detrimental change in the quality of the Tullamore River that would affect the habitat and species for which the SAC is designated. The NIS therefore addresses indirect impacts on surface water. The likelihood of impacts on hydrologically connected environmental sites is low and will be avoided by best practice construction management. Section 3.6 of the NIS sets out mitigation measures. Ground disturbance is unlikely to have indirect impacts on the SAC. However as a precaution best practice construction methods are proposed to include standard site management to prevent local impact. Standard best practices also provide methods for the prevention of chemical pollution. The measures include staff training, site boundary markings, installing the outfall to the Corndarragh Stream in dry conditions, installing temporary fences with silt curtains along the Stream for 10m either side of the outfall during works, storage of chemicals in sealed containers, storage of fuels in bunded areas, and other standard measures in the handling of cement and concrete. These measures will be set out in the construction and environmental management plan for the development. There is no potential for in combination effects with other permitted developments, including the Tullamore River Project that was approved under the Part 8 procedure after the need for appropriate assessment was screened out. The NIS concludes that the significant effects on the integrity of Charleville Wood SAC can be ruled out with the implementation of appropriate mitigation measures with regard to surface water.

#### 7.5.7. *Consultations*

7.5.8. The Department of Housing, Local Government and Heritage made a submission to the council on the application. It provided recommendations in relation to archaeology but did not comment on ecology or appropriate assessment. The grounds of appeal stated that the natura impact assessment was defective as it did not include surveys of bats or wintering birds. It also failed to provide details of the silt fences and other structures described as mitigation measures.

#### 7.5.9. *Stage 1 Appropriate Assessment Screening*

- 7.5.10. The proposed development does not have the potential to have any direct effect on any Natura 2000 site due to its physical separation from them. I agree with the conclusions of the submitted screening report that the only Natura 2000 site that the development would have the potential to indirectly affect is the SAC at Charleville Wood, sitecode 000571, due to the lack of any potential ecological connection with any other Natura 2000 site. The habitats on the site consist of improved grassland and field boundaries on the main and made ground along the Daingean Road. It does not provide ex situ habitats that support the species that is the subject of the conservation objectives of the SAC. Those objectives do not refer to bat or bird species. Therefore, while the application the application documentation does include a bat survey and assessment as well as a ecological impact assessment that refers to birds, the adequacy or otherwise of that information is not an issue for appropriate assessment screening. The proposed development would not result in the loss or fragmentation of habitats that are the subject of the conservation objectives of the SAC (and would maintain the character of the lands within and adjoining the NHA along the Grand Canal). It would not have the potential to cause disturbance to species in the SAC. So the proposed development does not have the potential to have likely significant indirect effects on the SAC in those ways either.
- 7.5.11. Therefore the potential for the proposed development to have likely significant effects on the SAC relates only to the potential release of pollutants to surface water that could be transmitted to the SAC via the Corndarragh Stream and Tullamore River and affect the quality of waters there. The emissions from the occupation of the proposed development would not be likely to have significant effects in this regard. The wastewater would be directed to the treatment plant for Tullamore that has sufficient capacity to cater for it. The surface water runoff from a housing estate would not be likely to contain pollutants likely to affect the quality of waters in the SAC. Nor would the quantity of the surface water runoff from a scheme of the proposed scale be likely to affect the hydrological regime in the SAC at a distance of 2.94km along the flow path. The quality of the runoff would be further controlled by a hydrocarbon interceptor provided in the propose development, while its volume would be controlled by the attenuation structures and a hydrobrake. However these are standard features of drainage systems for housing developments in urban areas

and are not proposed in this case as to address any likely significant effect on the SAC.

7.5.12. The construction of the housing and ancillary features on the field which forms the main part of the site would involve ground works that could release sediments and the use of hydrocarbons and cements. However this part of the proposed development would not be likely to have significant effects on the SAC either, given that this part of the site is setback from watercourses that could provide a vector to the SAC. The NIS sets out various measures to control the release of sediments, hydrocarbons and cement during construction. However these consist of best practice in buildings works and would be implemented in any properly managed building operation. They are not proposed in this case to mitigate a potential for significant effects on the SAC. Even if such best practice was not followed on this part of the site, the amount of pollutants that would escape from this relatively flat site would be limited; the drainage features around the field on the site would not be likely to convey significant amounts of them to the Corndarragh Stream; and the distance of 2.94km from the nearest point on that stream to the SAC would further vitiate that potential for an effect on the SAC in that regard. It is evident from these circumstances that the construction on the main part of the site would not be likely to have significant effects on the SAC.

7.5.13. The other part of the proposed development is the laying of a 450mm diameter surface water sewer along the Daingean Road for a distance of c380m to a new outfall at the Corndarragh Stream. Section 5.1 of the submitted screening report states that significant effects on the SAC are unlikely to arise from this element of the development but that the use of best practice management to avoid pollution of the watercourse is considered to be mitigation which triggers stage 2 AA. This management is described in more detail in section 3.6 of the NIS. It consists of the erection of a silt fence along either side of the outfall point for a distance of 10m. A detailed description and a diagram of the fence is provided in this section of the NIS. This description is adequate for the purposes of AA screening and stage 2 appropriate assessment if the board decides to complete one. The assertion to the contrary in the grounds of appeal is not accepted. Nevertheless I do not consider that this element of the proposed development would be likely to have significant effects on the SAC. The works involve laying of a sewer in a public road in an urban

area which is a commonplace operation. The erection of a silt fence around such works in the immediate proximity of a watercourse is a standard feature of such works and the proposal to do so in this case is not an indication that the works are necessarily likely to have a significant effect on downstream habitats. A fence would render it less likely that sediments or other pollutants would be released to the watercourse. However the limited nature of the works involved in this case – the removal of the road surface, excavation of a trench, laying of the pipe with an outfall, filling of the trench and reinstatement of the road – and the restricted extent of the works that would be in the vicinity of Corndarragh Stream, means that even if the fence were not erected or an erected fence failed, the amount of sediments or other pollutants that could potentially enter the watercourse would not be likely to have a significant effect on water quality in the SAC c2.95km downstream. I am therefore satisfied on the basis of the objective information before me, that this element of the proposed development would not be likely to have a significant effect on the SAC at Charleville Wood.

7.5.14. As no element of the proposed development would be likely to have significant effects on the SAC, it is concluded that the proposed development would not be likely to have significant effects on the SAC at Charleville Wood or upon any other Natura 2000 site. This conclusion is in keeping with the ecological conclusions stated in section 5.1 of the screening report submitted to the council as further information. My different conclusion as to the need to proceed to a stage 2 appropriate assessment is because I do not consider that a proposal to provide a silt fence in the vicinity of Corndarragh Stream is an indication that the proposed works there would be likely to have significant effects on the SAC. Rather the nature and extent of the works in that location and its separation distance from the SAC support the opposite conclusion. However if the board disagree with this conclusion, the submitted NIS provides adequate information on what it terms mitigation measures, which are all standard practice for this kind of development, to allow a stage 2 appropriate assessment to conclude beyond reasonable scientific doubt that the proposed development would not adversely affect the integrity of the SAC.

7.5.15. There are no potential effects on the SAC or any other Natura 2000 site arising from the proposed development could be rendered significant in combination with any other plan or project, including the Tullamore River Project.

### 7.5.16. Conclusion

7.5.17. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment, it has been concluded that the proposed development either individually or in combination with other plans or projects would not be likely to have a significant effect on European Site Nos 000571 Charleville Wood, or any other European site, in view of the sites' Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required. This screening determination is not reliant on any measures intended to avoid or reduce potentially harmful effects of the project on a European Site.

## 8.0 Assessment

8.1. The planning issues arising from the submitted development can be addressed under the following headings-

- The documentation submitted with the application
- The location, nature and quantum of the proposed development
- Impact on the character of the area
- Residential amenity
- Access and parking
- Drainage
- Ecology

### 8.2. The documentation submitted with the application

8.2.1. The appeal argues that the drawings and details submitted with the application were inadequate and fail to meet the standards required under judgments of the High Court. This argument is not well founded and is not accepted. The application was accompanied by drawings of the proposed buildings in plan, section and elevation and information on the proposed wastewater pumping station, attenuation features, wastewater sewers, stormwater sewers and water supply that are keeping with the requirements of Article 22(4) of the planning regulations to a level of detail that is

entirely normal for applications for housing development. The site and the proposed development do not exhibit features that would support an argument that an exceptional level of detail should be required in this case. As is evident from the submitted site survey and the inspection of the site, it is relatively flat. There is nothing unusual about the presence of alluvial soils on development sites and this would not justify a conclusion that the carrying out of works would give rise to extraordinary risks that would require the submission of surveys or engineering details over and above those required by the planning regulations. There are no such details that would alter my assessment of the proposed development or my advice to the board as to whether or not the proposed development is in keeping with the proper planning and sustainable development of the area. This LRD application included the confirmation of feasibility from Uisce Eireann required by article 22(2A)(a) of the regulations. The regulations do not require a certificate of design acceptance to be submitted with planning applications and I do not see any reason for one to be required in this case. The planning authority made a determination under article 26 that the application complied with the requirements of the regulations and the grounds of appeal do not provide a justification to reverse that determination. I therefore advise the board that the information submitted in the course of the application is adequate to enable it to consider whether or not to grant permission for the proposed development.

### **8.3. Location, Nature and Quantum of the Proposed Development**

- 8.3.1. The larger part of the site is zoned for residential development under the county development plan. The proposed housing and creche would be located on these lands. The proposed development would provide open space on the part of the site which is zoned for open space, amenity and recreation. The extension of the surface water sewer and footpath to connect the proposed housing would occur on the existing public road and would not change its use. The location and nature of the proposed development is therefore in keeping with the zoning objectives of the development plan and as such is acceptable. The zoning objectives are not contingent on the completion of any further plan for the area.
- 8.3.2. In relation to the density (and therefore the quantum) of the proposed development, it is noted that it would provide 102 dwellings. The applicant's calculation of the net

site area upon which the density should be based, including the land zoned for residential development but excluding that zoned for open space and the existing public road, is reasonable and is accepted. It provides a net site area of 3.66ha and therefore a density of 28dph. The site is a greenfield one on the edge of a large town. The density recommended for such sites under section 5.11 of the 2009 sustainable residential guidelines, which is cited in the relevant section of the development plan, is between 35 and 50 dph with densities of less than 30dph discouraged. SPPR 4 of the 2023 guidelines on building height require the achievement of the minimum densities on greenfield sites set out in the 2009 guidelines. The quantum of the proposed development therefore falls somewhat short of the minimum densities sought by national and local planning policy on such sites. However Circular NRUP 02/2021 clarifies the densities of less than 30dph are not precluded on the edge of large towns by the 2009 guidelines, so therefore they would not be precluded by the provisions of the development plan or by SPPR 4 of the 2023 building height guidelines. Tullamore had a population of 15,598 at the 2022 census and is our 33<sup>rd</sup> largest settlement. In this circumstance the minor shortfall in the amount of development proposed on the site compared to that explicitly recommended would not contravene the provisions of the 2009 guidelines as clarified by the circular. Neither would it contravene the provisions of the development plan or SPPR4 of the building height guidelines . The amount of housing proposed on the site is therefore acceptable.

- 8.3.3. While most of the proposed development be individual houses, similar to the predominant form in the area, a substantial proportion would be apartments in 3-storey buildings. Given the site's circumstances on the edge of a county town, this would meet the requirement of SPPR 4 of the building height guidelines to provide a greater mix of building heights and types.

#### **8.4. Impact on the character of the area**

- 8.4.1. The proposed development would extend the built up area of the town of Tullamore, replacing a field on the periphery of the town with a suburban residential estate. This change is in keeping with the planned growth of the town set out in the development plan. In visual terms, it would not impinge on the rural environs of the town as the site is severed from them by the N52 by pass road. The Grand Canal to the north of



the site is a significant visual and recreational amenity. The proposed housing is properly set back from that amenity and would not detract from it. The provision of detached houses along the Daingean Road would provide suitable frontage along that road while having due regard to the character of the existing housing along it. It would respect an established building line. The internal layout of the proposed estate properly defines streets and spaces, including the central and peripheral amenity open spaces, while the detailed design of the proposed buildings achieves an acceptable architectural standard. The proposed wastewater pumping station would be properly screened. The overall impact of the proposed development on the character of the area would therefore be positive.

## **8.5. Residential Amenity**

- 8.5.1. The proposed development would provide 6,482m<sup>2</sup> of public open space which would comply with the requirement of the development plan that 15% of the site area be provided as such. The application was accompanied by a schedule of accommodation that demonstrates that the proposed development would provide adequate internal habitable accommodation as well as private and communal open space in accordance with the requirements of the development plan and, in relation to the proposed apartments, in accordance with the standards set out in 2023 apartment design guidelines including its SPPRs. The submitted daylight and sunlight assessment shows that adequate natural light would be provided for the proposed dwellings and open spaces without the need for compensatory measures, as would be expected in a relatively low density scheme with building heights of two and three storeys.
- 8.5.2. The application was accompanied by an inward noise assessment. Contrary to the assertion in the grounds of appeal, the assessment did include the results of a baseline noise survey. The submitted assessment is based on adequate information and an appropriate set of standards (BS8233:2014). It identifies a need for mitigation of inward noise from roads and the adjoining petrol station in relation to facades facing the busy roads on the southern and eastern sides of the site. It specifies the glazing and ventilation needed on those facades to achieve the required level of noise within the affected buildings. It also identified the need for acoustic screens 4m high to achieve the required level of noise mitigation in relation

to the external amenity spaces serving house no. 62 and apartments nos. 40-43. Subject to the implementation of the specified measures, the assessment concludes that the noise standards set out in BS8233:2014. I am satisfied that the submitted noise assessment was carried out in accordance with an acceptable technical methodology and that its conclusions are reliable and robust. It is therefore concluded that the occupants of the proposed development would not be exposed to an unacceptable level of noise.

- 8.5.3. Having regard to the above, it is concluded that the proposed development would provide an acceptable level of residential amenity for its residents.

## **8.6. Access and parking**

- 8.6.1. The site has frontage onto an existing road. The proposed development would provide one new junction on that road for an access road that would serve 89 of the proposed houses and the creche, as well as 13 driveways to serve 13 houses along the site frontage. It would also extend an existing footpath and cycle lane that would link the development to the town centre. The existing road is relatively straight and level and there are no particular constraints on the visibility that could be provided to the proposed junction and driveways onto it. The site is within the 50kph speed limit for the town. The roundabout on the N52 to the east of the site provides a clear physical and psychological distinction between the national road network for the area around the town and the local urban nature of the Daingean Road in front of the site. This is reinforced by the presence of a filling station and shop between the site and the roundabout and the frequent traffic movements to and from it. The local function of the Daingean Road would be further emphasised by the provision in the proposed development of houses fronting onto it with their own driveways, which would extend the established pattern of development and access that exists along the road closer to the town centre. In the particular context of the site at the edge of a county town, the proposed extension of a row of detached houses with their own driveways along the Daingean Road is an appropriate way to implement the advice in DMURS regarding the use of frontage development and frequent junctions along urban roads to change their character to a street and to lower traffic speeds and promote safety upon it. The provision of a parallel road at the front of the site would not meet the requirements of DMURS in this regard and would not promote road safety along the

Daingean Road. The layout and geometry of the proposed internal street network and the footpath extension along the Daingean Road would meet the specifications of DMURS and would provide a safe residential environment in the proposed scheme. Residents of the scheme would have the benefit of safe walking routes to the town centre. The arguments in the appeal that the proposed development would give rise to a traffic hazard and fail to comply with DMURS are therefore not accepted.

- 8.6.2. The acceptability of the proposed development from a road safety perspective is evident from the documents submitted with the application. A further road safety audit is not required to determine this issue. The wording of condition 22 of the council's decision is unclear in this regard as it could be taken to imply that significant changes might be required after a post-consent submission to render the proposed development safe. This is not the case. Therefore it is not recommended that the board would attach a similar condition to any grant of permission it might make, although it might be appropriate to allow minor details to be agreed between a developer and the council.
- 8.6.3. As discussed above, the site is zoned for residential development at the scale proposed. There are no grounds on which to conclude that traffic congestion in the area indicates that the site should be not developed in the manner provided for in the development plan.
- 8.6.4. The proposed development would provide an adequate amount of car parking for the proposed dwellings and the creche, as well as bicycle parking facilities for the proposed apartments, in line with the standards outlined in the county development plan.

## 8.7. **Water and Drainage**

- 8.7.1. The application was accompanied by a Confirmation of Feasibility from Uisce Eireann stating the proposed development could be provided with adequate water supply and foul drainage from its networks subject to upgrades of infrastructure located on the site (including a wastewater pumping station) or in the public road. This is adequate to demonstrate that the proposed development would be properly serviced in those regards. The determination of minor design details in regard to the

connections and the finalization of a certificate of design acceptance can be properly made the subject to a condition attached to a permission as it would not affect the principle of development or prejudice the position of third parties.

8.7.2. In relation to flooding, the Flood Risk Assessment that forms part of the development plan indicates that the site is in flood risk zone C under the categories set out in the 2009 guidelines on flood risk management. The grounds of appeal refer to a preliminary map reproduced in the development plan that shows part of the site with a fluvial flood risk of between 0.1 and 1% AEP which would be equivalent to flood zone B. However the contents of the flood risk assessment in the development, including its text and several other maps, make it clear that the preliminary map was superseded and that the site is in flood zone C. The details submitted with the appeal, including a reference to a review of the OPW's flood maps for the area, would not support a conclusion that the development plan is incorrect in this regard or that the site is not within flood zone C. As the site is within flood zone C, according to the 2009 guidelines, which are cited in the relevant section of the development plan, residential development is acceptable in principle there and a justification test is not required for it. The proposed housing would not be isolated if flooding were to occur within zone B to the east along the Daingean Road, as alternative access to the town and wider area would be available via the N52 by-pass road which has footpaths along it. It is therefore evident that the proposed housing would not be at an elevated or unacceptable risk of flooding from fluvial sources and a grant of permission upon it would not breach any sequential approach required under the proper planning and sustainable development of the area.

8.7.3. In relation to pluvial flooding, the proposed development includes a surface water drainage system designed to attenuate the mean annual maximum flow rate from the main part of the site (other than from the detached houses on the Daingean Road) to 28.2l/s using SUDS measures, attenuation structures and a hydrobrake but not soil infiltration. The application includes design details demonstrating the adequacy of the system in that regard using an established and accepted model, with a contingency for climate change. The achievement of the designed level of attenuation of the runoff would be adequate to ensure that the proposed development did not give rise to flooding onsite or downstream (along the Daingean Road, Corndarragh Stream or Tullamore River) in a 1 in 100 year storm event, and

thus to ensure the proposed development was not itself at an undue risk of flooding or that it would give rise to an undue risk of flooding elsewhere. The design approach was accepted by the relevant technical department of the council. The appeal did not include grounds that would give rise to a reasonable doubt as to the proposals by the applicant in this regard or the council's conclusions upon them. In particular, as the design details of the proposed storm water drainage system provide a reasonable basis on which to conclude that the proposed development would maintain a runoff from the site similar to its current greenfield status including adequate quantitative details on the attenuation cells, the absence of results from a gauging station on the stream would not support a conclusion that the proposed development would give rise to an undue risk of flooding elsewhere.

- 8.7.4. It is therefore concluded that the proposed development would have adequate water supply and drainage services and, having regard to the provisions of the development plan and the 2009 flood risk guidelines, that it would not be at undue risk of flooding and would not give rise to an undue risk of flooding on other lands.

## 8.8. Ecology

- 8.8.1. The application was accompanied by adequate documentation, including an ecological impact assessment and a bat survey and assessment, to allow its likely impact on natural heritage to be assessed. The assertion to the contrary in the appeal is not well founded. The site has been surveyed and protected species of flora or fauna were not found to be there. Bat commuting and foraging along the edges of the site are likely, but there are no bat roosts. The main part of the site is currently improved grassland of low ecological value. The hedgerow along the Daingean Road at the south of the site has been managed for road safety while the one to the east is on the embankment of the N52 by pass road constructed in the early 2000s. They were assessed as of low ecological importance. The hedgerow along the north of the site by the proposed Natural Heritage Area at the Grand Canal is assessed as of high ecological importance, as is the relatively intact hedgerow along its western side.
- 8.8.2. The proposed works would replace the grassland in the centre and the hedgerow at the front of the site. The loss of these habitats would not be significant in terms of natural heritage. The proposed development would maintain the hedgerows of

higher ecological importance along the west and northern side of the site. This would also protect bat foraging and commuting routes along the edges of the site. The proposed development would not impinge on the proposed Natural Heritage Area at the Grand Canal and would provide a buffer of open space between that area and the proposed housing. The proposed development would not, therefore, have a significant impact on natural heritage or ecology in the immediate vicinity of the site. As discussed at section 7 of this report, the proposed development would not be likely to have a significant impact on habitats downstream of the site or elsewhere.

## 9.0 Recommendation

9.1. I recommend that permission be granted subject to the conditions set out below.

### Recommended Order

#### **Planning and Development Acts 2000 to 2020 as amended**

**Planning Authority:** Offaly County Council

**Planning Register Reference Number:** 22523

Appeal by Daingean Road Residents' Association c/o Tony McCormack. Barony Way, Daingean Road, Tullamore, Co Offaly R35F430 against the decision made on the 16<sup>th</sup> day of May, 2023, by Offaly County Council to grant permission to Daingean Road Residential Limited for a proposed Large-Scale Residential Development application subject to conditions.

#### **Proposed Development:**

The Large Scale Residential development will consist of:

102 no. dwellings in a mix of houses, duplex and apartment dwellings. A total of 62no. houses are proposed in detached, semi-detached and terraced format all 2 storey in height and ranging in size from 2 – 4 bedrooms. The balance of the dwellings ie 40 no. comprise a mix of apartment/duplex dwellings that are accommodated in 4 separate 3 storey buildings located the northern and western

part of the site. Apartment/duplex dwellings range in size from 1 no. to 3 no. bedrooms, with balconies provided at upper floor level.

The proposed development will also provides public open space areas to serve the development.

A creche is also proposed to serve the development itself and the wider area. The creche is accommodated in a single storey L-shaped building with a stated gross floor area of 382 sq.m. with associated outdoor amenity/play area.

A total of 173 surface car parking spaces in addition to enclosed bicycle stands serving the apartment/duplex buildings are also prosed.

A new vehicular access to the site is proposed off the Daingean Road and the development also provides for the construction of a section of new footpath and cycle path along the site frontage (approximately 300m) to tie in with existing pedestrian and cycle infrastructure to the west.

The proposed development also includes the provision of a new wastewater pumping station in the centre of the site and the construction of new surface water and wastewater infrastructure along a section of Daingean Road to the west of the application site.

The proposed development also provides for all landscaping and boundary treatments; public lighting; an ESB substation; undergrounding of ESB powerlines and the repositioning of a 38kv pylon within the site. and all site development work including alterations to site levels.

At a site on the Daingean Road, Cappancur, Tullamore. Co. Offaly

## **Decision**

**GRANT permission for the above proposed development, in accordance with the said plans and particulars, based on the reasons and considerations under and subject to the conditions set out below.**

## **Reasons and Considerations**

In coming to its decision, the Board had regard to the following:

- a) The location of the site adjoining the established urban area of Tullamore on lands zoned for residential use as well as for amenity, recreation and open space under the Dublin County Development Plan 2021-2027;
- b) the policies and objectives of the Offaly County Development Plan 2021-2027;
- c) the nature, scale and design of the proposed development and the availability in the area of infrastructure;
- d) the pattern of existing and permitted development in the area;
- e) the provisions of the Urban Development and Building Heights Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in December 2018;
- f) the provisions of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in March 2023;
- g) the provisions of Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, including the associated Urban Design Manual (2009) issued by the Department of Environment, Heritage and Local Government in May 2009;
- h) the provisions of the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of Environment, Community and Local Government in 2019;
- i) the provisions of the Planning System and Flood Risk Management Guidelines for Planning Authorities (including the associated Technical Appendices) issued by the Department of Environment, Heritage and Local Government in 2009;
- j) the submissions and observations received; and
- k) the report of the Planning Inspector.

### **Appropriate Assessment Screening**

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on European Sites, taking into



account the nature and scale of the proposed development on serviced lands, the nature of the receiving environment, which comprises a built-up urban area, the distances to the nearest European sites and the hydrological pathway considerations, submissions and observations on file, the information submitted as part of the subject application Appropriate Assessment Screening Report and application documentation, and the Planning Inspector's report. In completing the screening exercise, the Board agreed with and adopted the screening assessment and conclusion in report the Planning Inspector and concluded that, by itself or in combination with other development, plans and projects in the vicinity, the proposed development would not be likely to have a significant effect on the Special Area of Conservation at Charleville Wood, sitecode 000571, or any other European Site in view of the Conservation Objectives of such sites, either individually or in combination with any other plan or project. This screening determination is based on the following

- The residential nature of the proposed development
- Its location on serviced land contiguous to the existing built up area of Tullamore
- The absence of hydrological links from the main part of the site to the SAC that could provide an ecological pathway that could give rise to a potential for an effect on the SAC
- The limited scale and nature of the proposed works in the vicinity of the Corndarragh Stream which would not give rise to likely significant effects on the SAC.

### **Preliminary Examination for Environmental Impact Assessment**

The Board completed preliminary examination for environmental impact assessment of the proposed development and concluded that it would not have the potential to have significant effects on the environment, having regard to:

- the nature and scale of the proposed development, which is below the threshold in respect of classes 10(b)(i), 10(b)(iv) and 14 of Part 2 to Schedule 5 of the Planning and Development Regulations 2001, as amended;

- the location of the proposed housing and creche on lands zoned within the Offaly County Development Plan 2021-2027 as for residential use, and the results of the Strategic Environmental Assessment of the Development Plan;
- the separation between the proposed housing and the proposed Natural Heritage Area at the Grand Canal
- the nature of the existing site and the pattern of development in the surrounding area;
- the availability of mains water and wastewater services to serve the proposed development;
- the criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended, and;

It is considered that the proposed development would not have the potential to have likely to have significant effects on the environment and that the preparation and submission of the information set out in Schedule 7A of the regulations or an environmental impact assessment report would not, therefore, be required.

### **Conclusions on Proper Planning and Sustainable Development**

The Board considered that, having regard to the zoning of the site and the other provisions of the Offaly County Development Plan 2021-2027 and to the established pattern of development in the area, the proposed development would, subject to compliance with the conditions set out below, provide housing of an acceptable scale and form at a suitable location. The proposed development would provide its residents with an adequate level of residential amenity and would not seriously injure the residential amenities of property in the vicinity. It would make a positive contribution to the character and visual amenities of the area. It would not injure the natural heritage or ecology of the area. It would not give rise to traffic hazard. It would not be an undue risk of flooding and would not give rise to an undue risk of flooding on other land. It would be adequately served by wastewater and water supply networks.

The Board considered that the proposed development would comply with the provisions of the Offaly County Development Plan 2021-2027, and would in keeping with the proper planning and sustainable development of the area.

## 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 information submitted to the planning authority as further information on 8<sup>th</sup> March 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 commencement of development, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matters in dispute shall be referred to An Bord Pleanála for determination.

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

2. All mitigation measures set out in the submitted Noise Impact Assessment, Ecological Impact Assessment and Bat Survey and Assessment shall be implemented in full in the carrying out and occupation of the permitted development

**Reason:** To protect residential amenity and natural heritage.

3. The development shall be carried out in accordance with the phasing set out in drawing 2123-PA-012. No dwelling shall be erected on the second or subsequent phase until the written agreement of the planning authority has been given. No dwelling shall be occupied anywhere in the permitted scheme until all necessary services have been provided for it to the satisfaction of the planning authority.

**Reason:** To protect residential amenity

4. The materials, colours and textures of all the external finishes to the proposed building shall be as submitted with the application, unless otherwise agreed in writing with the Planning Authority prior to commencement of development.  
**Reason:** In the interest of visual amenity.
  
5. The permitted development shall be landscaped and boundary treatments provided in accordance with the detailed comprehensive scheme of landscaping which accompanied the application, unless otherwise agreed in writing with, the Planning Authority prior to commencement of development.  
**Reason:** In the interest of residential and visual amenity.
  
6. Proposals for a development name and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme.  
**Reason:** In the interest of urban legibility.
  
7. Public lighting shall be provided in accordance with the scheme submitted with the application to the satisfaction of the planning authority.  
**Reason:** In the interests of amenity and public safety.
  
8. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.  
**Reason:** In the interests of visual and residential amenity.
  
9. The road network serving the proposed development, including the footpaths, kerbs, cycleways, driveways and parking areas shall be in accordance with the requirements of DMURS and the detailed construction standards of the

Planning Authority for such works. In particular the proposed cycleway along the Daingean Road shall be laid out to provide priority for cyclists proceeding along that road over vehicles exiting or turning right in to the permitted housing scheme. In default of agreement on any these matters, they shall be referred to An Bord Pleanála for determination.

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

- 10 The boundary wall of unit 13 and of the proposed creche shall be built to facilitate maintenance of the ESB wayleave in accordance with the details submitted to the planning authority as further information.

**Reason:** In the interests of orderly development

11. A minimum of 10% of all car parking spaces should be provided with functioning EV charging stations/ points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the Planning Authority prior to the occupation of the development.

**Reason:** To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.

12. 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 and surface water management.

13. The developer shall enter into water and waste water connection agreements with Irish Water, prior to commencement of development.

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

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 and for the ongoing operation of these facilities for each apartment unit shall be submitted to, and agreed in writing with, the Planning Authority not later than 6 months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.

**Reason:** In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

15. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

**Reason:** In the interest of sustainable waste management.

16. The construction of the development shall be managed in accordance with a 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 provide details of intended construction practice for the development with measures to reflect mitigation described in the submitted draft Construction Environmental Management Plan, Ecological Impact Assessment and Tree Survey, in addition to the following:
- a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
  - b) Location of access points to the site for any construction related activity;
  - c) Location of areas for construction site offices and staff facilities;
  - d) Details of site security fencing and hoardings;
  - e) Details of on-site car parking facilities for site workers during the course of construction;
  - f) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
  - g) Measures to obviate queuing of construction traffic on the adjoining road network;
  - h) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network and for the cleaning of the same;
  - i) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;

- j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- k) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- n) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority. Reason: In the interest of amenities, public health and safety.

**Reason:** In the interest of amenities, public health and safety.

17. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Saturdays inclusive, 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.

18. 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 operation (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. .

19. 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 Act 2000, as amended, and of the housing strategy in the development plan of the area.

20. 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, 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.

21. Prior to 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 and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the Planning Authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory completion and maintenance of the development until taken in charge.

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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Stephen J. O'Sullivan  
Planning Inspector

1<sup>st</sup> September 2023

## Appendix

### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	ABP-317218-23	
<b>Proposed Development Summary</b>	102 dwellings and a creche	
<b>Development Address</b>	Daingean Road, Cappancur, Tullamore, Offaly	
<p><b>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.</b></p>		
	<b>Examination</b>	<b>Yes/No/ Uncertain</b>
<p><b>Nature of the Development</b></p> <p>Is the nature of the proposed development 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>This is a residential development at the periphery of a town and will not result in the production of significant waste, emissions or pollutants</p>	No
<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</p>	<p>Well below the applicable threshold and not an integral part of any larger project. Development of the town as a whole managed by development plan.</p>	No

projects?		
<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>The development adjoins an NHA but does not impinge upon it and provides a buffer of open space between it and the proposed housing. The majority of the site is improved grassland of limited ecological value and the submitted information demonstrates that it is not a significant habitat for protected species. The development will not remove the hedgerows to the side and rear of the site and so maintains corridors for wildlife.</p>	<p>No</p>
<b>Conclusion</b>		
<p><b>There is no real likelihood of significant effects on the environment.</b></p> <p>EIA not required.</p>		

**Inspector:** \_\_\_\_\_

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