



An  
Bord  
Pleanála

## Inspector's Report

### ABP-318498-23

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<b>Development</b>	245 no. residential units and a creche ( <a href="http://www.petitswood-infill-lrd.ie">www.petitswood-infill-lrd.ie</a> )
<b>Location</b>	Dublin Road, Petitswood Townland, Mullingar, Co. Westmeath.
<b>Planning Authority</b>	Westmeath County Council
<b>Planning Authority Reg. Ref.</b>	23/60192
<b>Applicant</b>	Andrews Construction Ltd.
<b>Type of Application</b>	Large-Scale Residential Development (LRD)
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Parties v Grant of Permission
<b>Appellants</b>	1. Dara & Fiona O'Shea 2. Ardmore Road Residents Association 3. David Reilly 4. Lisa Corcoran
<b>Observer(s)</b>	None

**Date of Site Inspection**

26<sup>th</sup> January 2024

**Inspector**

Anthony Kelly

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## 1.0 Site Location and Description

- 1.1. The site is located in the east side of Mullingar, approximately 450 metres south west of the Mullingar Park Hotel. The site currently comprises agricultural fields. There are roads along both the northern and southern boundaries; the Dublin Road/R156<sup>1</sup> to the north and the Ardmore Road/L1133 to the south. The Petitswood Manor housing development is adjacent to the west of the site. There is detached housing along Dublin and Ardmore Roads to the north east, east, and south east.
- 1.2. There are field boundaries/hedgerows/trees through the site. Ground levels slope downwards from the Dublin Road (approx. 111 metres) to Ardmore Road (approx. 100 metres) with considerable undulation in between.
- 1.3. The site has an area of 9.76 hectares.

## 2.0 Proposed Development

2.1. Permission is sought for:

- 245 no. residential units (70 no. 4-bed semi-detached houses, 132 no. 3-bed terraced/semi-detached/detached houses, 8 no. 2-bed duplex units in four no. three-storey units, and one no. four-storey apartment building comprising 14 no. 1-bed, 15 no. 2-bed, and 6 no. 3-bed apartments),
- a two-storey creche/childcare facility (approx. 824sqm),
- 442 no. car parking spaces, 550 no. bicycle parking spaces, 1.78 hectares of communal open space, private garden/amenity areas, landscaping, boundary treatments, roads, footpaths, cycle lanes, bin storage, 3 no. ESB sub-stations, ancillary works, and,
- accesses via the Dublin Road/R156 and Ardmore Road/L1133.

2.2. The following tables set out some key aspects of the proposed development.

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<sup>1</sup> The Dublin Road is also identified as the R392 e.g. on the applicant's public notices and the planning authority Planning Reports. However, in-situ road signage identifies the Dublin Road at this location as the R156.

**Table 1 – Key Figures**

Site Area (Gross / Net)	9.76 hectares / 8.1 hectares
Number of Units	245 no. – 202 no. houses, 8 no. duplex units, and 35 no. apartments
Building Heights	Two – three storey houses, three-storey duplex blocks, and one four-storey apartment building
Density	Approx 30.2 units per hectare (net)
Plot Ratio	0.36
Site Coverage	20.2%
Dual Aspect	All houses and duplex units have minimum dual aspect 18 no. (51.4%) apartment units are dual aspect with 17 no. (48.6%) being single aspect.
Open Space / Amenities	<u>Public open space</u> 1.78 hectares (18.29% of the gross site area) in eight open space areas and not including the ringfort <u>Amenities</u> Creche
Part V	24 no. units (applicant claims an agreement with the planning authority for 125 no. units to which Part V does not apply)
Pedestrian / Cyclist Infrastructure	Pedestrian and cyclist permeability throughout the site
Car and Bicycle Parking	<u>Car parking</u> – 442 no. spaces (40 no. apartments, 20 no. creche, 269 no. in-curtilage, 69 no. out-of-curtilage, 12 no. accessible/visitor, 32 no. visitors) <u>Bicycle</u> – 550 no. spaces (70 no. apartments, 420 no. houses, and 60 no. visitors.

**Table 2 – Unit Breakdown**

Type	Bedroom Number				Total
	1-Bed	2-Bed	3-Bed	4-Bed	
Houses	0	0	132	70	202 (82.4%)
Duplexes	0	8	0	0	8 (3.3%)
Apartments	14	15	6	0	35 (14.3%)
Total	14 (5.7%)	23 (9.4%)	138 (56.3%)	70 (28.6%)	245 (100%)

2.3. The proposed development is a standard residential housing development. There are vehicular accesses to both Dublin and Ardmore Roads. The proposed creche is located adjacent to Ardmore Road so related traffic from non-residents would not be required to enter the main body of the development. The proposed apartment building is also located in the southern area of the site. There are eight separate open space areas through the site, ranging in area from 606.72sqm (area 7) to 6,039sqm (area 2, excluding the ringfort). Two areas of land within the land ownership boundary along both roads have been omitted from the red line site boundary and indicated as ‘areas for future development’<sup>2</sup>.

2.4. In addition to standard plans and particulars the planning application was accompanied by a number of supporting documents. These include (but are not limited to):

- a ‘Planning Statement’ prepared by The Planning Partnership dated 26<sup>th</sup> June 2023,

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<sup>2</sup> Sections 3.1.1 and 3.4.1 of the ‘LRD Opinion Compliance Statement’ illustrates that the area outside of the red line site boundary along Dublin Road could accommodate a commercial development and the area along Ardmore Road could accommodate a mixed-use development. The treatment of these areas until such time as they are developed was the subject of the first item of the planning authority’s further information request.

- an 'Appropriate Assessment Screening' (AA screening report) prepared by Altemar Ltd. dated 22<sup>nd</sup> June 2023,
- an 'LRD Opinion Compliance Statement' prepared by The Planning Partnership dated May 2023,
- an 'Architectural Design Statement' (ADS) prepared by Altu Architects dated June 2023,
- 'Daylight and Sunlight Assessments' prepared by Digital Dimensions dated 20<sup>th</sup> June 2023,
- a 'Social Infrastructure Assessment' (SIA) prepared by The Planning Partnership dated March 2023,
- 'Verified Photomontages' prepared by Digital Dimensions dated 12<sup>th</sup> June 2023,
- an 'Ecological Impact Assessment' (EclA) prepared by Altemar Ltd. dated 22<sup>nd</sup> June 2023,
- a 'Landscape Strategy Report' prepared by Hayes Ryan Landscape Architecture dated 15<sup>th</sup> June 2023,
- an 'Archaeological Testing Report' prepared by Eachtra Archaeological Projects Ltd. dated April 2023,
- an 'Engineering Planning Report' prepared by Pinnacle Consulting Engineers dated 15<sup>th</sup> June 2023,
- a 'Traffic & Transport Impact Assessment' (TTIA) prepared by Pinnacle Consulting Engineers dated 20<sup>th</sup> June 2023,
- a 'Stage 1 & 2 Road Safety Audit' (RSA) prepared by Bruton Consulting Engineers dated May 2023,
- a 'Site Specific Flood Risk Assessment' prepared by Pinnacle Consulting Engineers dated June 2023,
- a 'Construction and Environmental Management Plan' (CEMP) prepared by Andrews Construction Ltd. dated 22<sup>nd</sup> June 2023, and,
- a 'Public Lighting Report' prepared by MANDE Consulting Ltd. dated 1<sup>st</sup> June 2023.

2.5. Further information was sought by the planning authority on 21<sup>st</sup> August 2023 and a response was received on 2<sup>nd</sup> October 2023. The further information response included:

- a 'Further Information Response' document prepared by The Planning Partnership dated 2<sup>nd</sup> October 2023,
- a 'Technical Note Response' prepared by Altemar Ltd. dated 28<sup>th</sup> September 2023,
- an 'Architectural Design Response' prepared by Altu Architects dated September 2023,
- a 'Further Information Response – (Landscape)' document prepared by Hayes Ryan Landscape Architects dated September 6<sup>th</sup> 2023, and,
- an 'Outline Operational Waste Management Plan' prepared by Pinnacle Consulting Engineers dated 20<sup>th</sup> September 2023.

### **3.0 Planning Authority Pre-Application Opinion**

3.1. An LRD meeting took place on 12<sup>th</sup> January 2023 between the applicant and Westmeath County Council following three earlier section 247 meetings.

3.2. In the LRD opinion issued on 8<sup>th</sup> February 2023 the planning authority was of the opinion that the documentation submitted constituted a reasonable basis on which to make an application for the proposed LRD. The planning authority specified information that should be submitted with the application. These related to planning and strategic issues, transport/traffic and road safety, service infrastructure, design and layout, social infrastructure provision, Part V, environmental impact assessment (EIA) and AA, and other matters.

3.3. The applicant submitted an 'LRD Opinion Compliance Statement' with the planning application which addresses each of the matters cited by the planning authority in the LRD Opinion.



## 4.0 Planning Authority Decision

### 4.1. Decision

- 4.1.1. Westmeath County Council granted permission for the proposed development subject to 27 no. generally standard conditions.

### 4.2. Planning Authority Reports

#### Planning Reports

- 4.2.1. Two Planning Reports were prepared, dated 21<sup>st</sup> August 2023 and 27<sup>th</sup> October 2023. The first report sought further information. Following the further information response, the second report recommended a grant of permission subject to conditions.
- 4.2.2. Both reports contain the same, inter alia, site location and description, statutory requirements of the report, site photographs, summary of proposed development, planning history and pre-application consultation, summary of third party submissions, and planning framework. The planning assessment of the reports is summarised as follows:

*Principle of development* – The proposed development is acceptable in principle.

*Phasing* – The proposed phasing plan is acceptable.

*Density and mix* – The proposed density and unit mix are acceptable.

*Design and layout* – The proposed floor areas are consistent with requirements, elevational treatments and external finishes are acceptable, and both the apartment block and creche generally have suitable design and siting. The proposed road design layout has appropriate curvature and traffic calming measures. The first report outlined a number of concerns relating to e.g. garden depths to some houses, amenity space for duplex units, overlooking, the blank side facades of houses when viewed from the public area, privacy issues to some ground floor windows and one apartment unit, boundary treatments, and inadequate overlooking of public open space area 6.

The further information response, inter alia, justified garden depths, revised the amenity space for the type J duplex units and reorientated same for four units to avoid

overlooking<sup>3</sup>, revised the first floor layout of and provided side elevation gable windows to house type C to both remove overlooking and to provide a more active frontage to the gables which face public areas, provided an opaque screen for the apartment unit to mitigate potential overlooking, justified the rigid mesh fencing, and introduced a revised house type to improve passive surveillance over public open space area 6.

*Visual impact* – Concern was expressed about the proposed heights of houses and duplex units. These were reduced by between 150mm and 450mm as part of the further information response.

*Impact on daylight and sunlight* – No concern is raised about potential impact of daylight and sunlight on adjacent properties or within the site.

*Public open space* – The cumulative area of public open space provision is acceptable. A formal playground in a more central area was considered to be appropriate and the further information response provided same in public open space area 5.

*Impact on trees/vegetation* – The retention of trees in public open space areas is welcomed.

*Community infrastructure* – The content of the applicant's SIA is noted. The 108 no. child capacity creche is to be provided in the first phase of development.

*Part V* – It is proposed to transfer 24 no. units.

*Roads and transportation* – A cycleway through the site provides a more direct route than the circuitous Link Road between both vehicular access points. Neither the District Engineer nor the Roads and Transportation Section raised any concerns.

*Fire safety* – Further information was sought relating to the creche and apartment building and, despite the further information response, concern remains in this regard<sup>4</sup>.

*Servicing* – No concerns.

*Surface water drainage* – The proposals in this regard appear to be reasonable.

*Flooding* – No concern has been raised in this regard.

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<sup>3</sup> The revised orientation is shown on the Architectural Design Response document, but it is not illustrated on the revised site layout plan, hence condition 4(a) of the planning authority decision.

<sup>4</sup> Condition 14 of the planning authority decision addresses this issue.

*Nature conservation* – Further to concerns expressed by the National Parks & Wildlife Service (NPWS), further information was sought. The applicant's response to this is set out and updated NPWS comments were received. The planning authority report concluded that the further information response suitably addressed the ecological matters, subject to specific ecological conditions.

*Archaeology* – The Department of Housing, Local Government, and Heritage raised no concern, subject to a condition.

*Appropriate assessment* – The conclusion of the AA screening report is agreed with.

*Other screening* – It is briefly stated that as the proposed development is a sub-threshold development an environmental impact assessment report (EIAR) is not required.

- 4.2.3. The second planning authority Planning Report concluded that 'Having regard to the plans and particulars submitted and internal/external referral reports received in association with the development proposal, it is considered that the development is consistent with national, regional, and local policy. As such, the proposal is in accordance with the proper planning and sustainable development of the area, and I recommend that permission is granted'.

#### **Other Technical Reports**

**District Engineer** – No objection subject to conditions.

**Environment Section** – Following the further information response conditions were recommended.

**Active Travel Department** – No objection. Conditions recommended.

**Fire Officer** – Refusal recommended for the creche and apartment building as they fail to meet technical requirements. Fire safety certificate required for duplex units.

**Westmeath County Childcare Committee CLG** – The development of the proposed creche is welcomed.

#### 4.3. **Prescribed Bodies**

**Department of Housing, Local Government and Heritage** – Two submissions were received. In the initial submission comments were made in relation to nature

conservation issues and further information was recommended. In addition, an archaeology condition was recommended. Following the further information response the Department provided an updated submission in relation to nature conservation. Comments are provided with five recommended conditions.

**Irish Water** – No objection. A number of observations were made.

**Health Service Executive (HSE)** – Comments made.

#### **4.4. Third Party Observations**

- 4.4.1. Twenty observations were received by the planning authority from local residents. The main issues raised are largely covered by the grounds of appeal.

### **5.0 Planning History**

- 5.1. While there have been previous planning applications on site there have been none in the last twenty years.

### **6.0 Policy Context**

#### **6.1. Project Ireland 2040 National Planning Framework (NPF)**

- 6.1.1. The NPF is a high level strategic plan to shape the future growth and development of the country to 2040. It is focused on delivering 10 National Strategic Outcomes (NSOs). NSO 1 is 'Compact Growth', and it is expanded upon on page 139 of the NPF. It states, inter alia, 'From an urban development perspective, we will need to deliver a greater proportion of residential development within existing built-up areas of our cities, towns and villages ... pursuing a compact growth policy at national, regional and local level will secure a more sustainable future for our settlements and for our communities'.
- 6.1.2. Relevant National Policy Objectives (NPOs) include:

NPO 3(a) – Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.

NPO 3(c) – Deliver at least 30% of all new homes that are targeted in settlements other than the five Cities and their suburbs, within their existing built-up footprints.

NPO 4 – Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.

NPO 27 – Ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments, and integrating physical activity facilities for all ages.

NPO 33 – Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

## **6.2. Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024)**

- 6.2.1. The Guidelines set out policy and guidance in relation to the planning and development of urban and rural settlements, with a focus on sustainable residential development and the creation of compact settlements. There is a renewed focus in the Guidelines on the renewal of existing settlements and on the interaction between residential density, housing standards, and quality urban design and placemaking to support sustainable and compact growth.

## **6.3. Sustainable Urban Housing: Design Standards for New Apartments (July 2023)**

- 6.3.1. The overall purpose of these Guidelines is to strike an effective regulatory balance in setting out planning guidance to achieve both high quality apartment development and a significantly increased overall level of apartment output. They apply to all housing developments that include apartments that may be made available for sale, whether for owner occupation or for individual lease.

#### **6.4. Eastern & Midland Regional Assembly Regional Spatial & Economic Strategy 2019-2031 (RSES)**

- 6.4.1. The RSES provides for the development of nine counties / twelve local authority areas, including Westmeath County Council. It is a strategic plan which identifies regional assets, opportunities, and pressures and provides appropriate policy responses in the form of Regional Policy Objectives. It provides a framework for investment to better manage spatial planning and economic development throughout the region.
- 6.4.2. Mullingar is designated as a Key Town and it is described on pages 86 and 87 of the RSES. Under the sub-heading of 'Residential Development' it is stated 'The provision of housing plays a fundamental role in the overall economic, social and environmental success of the settlement. It is essential to ensure an effective supply of land for the provision of housing and that high quality development is secured in the right place at the right time. A range of well-designed housing types that meet the needs of a variety of households will help to sustain and enhance the settlement, contributing to the creation of a high quality place'.

#### **6.5. Westmeath County Development Plan 2021-2027 (WCDP)**

- 6.5.1. The Plan sets out the Council's proposed policies and objectives for the development of the county over the Plan period. It seeks to develop and improve, in a sustainable manner, the social, economic, environmental, and cultural assets of the county.

#### **6.6. Mullingar Local Area Plan 2014-2020 (as amended and extended) (MLAP)**

- 6.6.1. At its meeting on 25<sup>th</sup> March 2019, the members of Westmeath County Council extended the life of the Mullingar LAP 2014-2020 for a period not exceeding five years.
- 6.6.2. The site is located within the Ardmore/Marlinstown Framework Plan Area which is set out in chapter 8 of the LAP. The greater area of the site (central and northern area) is identified as being the Petitswood Infill 'character area' whereas the remainder is identified as being a 'New Neighbourhood Centre/Primary School' character area.
- 6.6.3. Map 7 (Strategic Transportation Map) of Volume 2 (Book of Maps) illustrates an 'arterial road' along the western boundary of the site between the Dublin and Ardmore

Roads and extending in a southerly direction. Link roads are also shown within the site.

- 6.6.4. Map 14 is the Land Use Zoning Map. The arterial road is also shown on this map. Apart from this there are four different land use zones. There is a small area zoned 'Open Space' which is consistent with proposed public open space area 1. The area on the opposite side of the indicated arterial road is zoned 'Commercial' and this largely corresponds with the 'area for future development' along the Dublin Road as outlined on the site layout plan. A second 'Open Space' zoned area is located in the eastern part of the site. This again is located in the public open space area 2. An area to the south/south east of the site is zoned 'Mixed Use'. As proposed, there is only residential development proposed at this location though it also includes the 'area for future development' along Ardmore Road. Dwellings are permitted in principle in mixed-use zoned areas per the land use zoning matrix in chapter 10. The remainder of the site i.e. the central and north eastern areas and the narrow sliver west of the arterial road are all zoned 'Proposed Residential'. The proposed creche is located in this area. A creche is permitted in principle in this zoning per the zoning matrix.
- 6.6.5. Table 2.6 provides a general density parameter of 30-35 units per hectare for an 'outer suburban / greenfield' location.

## **6.7. Mullingar Local Area Plan 2024-2030**

- 6.7.1. The local authority commenced the preparation of the Mullingar Local Area Plan 2024-2030 on the 10<sup>th</sup> October 2023. It is currently at pre-draft stage.

## **6.8. Natural Heritage Designations**

- 6.8.1. The nearest designated area of natural heritage to the site is Royal Canal proposed Natural Heritage Area (pNHA) (site code 002103) approx. 650 metres to the south east. The nearest European site is Wooddown Bog Special Area of Conservation (SAC) (site code 002205) approx. 2.4km to the north east.

## **6.9. Environmental Impact Assessment (EIA) Screening**

- 6.9.1. This application was received by the Board after the 1<sup>st</sup> September 2018 and therefore after the commencement of the European Union (Planning & Development)

(Environmental Impact Assessment) Regulations, 2018, which transpose the requirements of Directive 2014/52/EU into Irish planning law.

6.9.2. Paragraph 10(b) of Part 2 of Schedule 5 of the Planning & Development Regulations, 2001 (as amended), and s.172 (1)(a) of the Planning & Development Act, 2000 (as amended), provides that an EIA is required for infrastructure projects that would equal or exceed, inter alia:

- construction of more than 500 dwelling units, or,
- 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 means a district within a city or town in which the predominant land use is retail or commercial use.

6.9.3. Paragraph 15 of Part 2 provides that EIA is required for 'Any project listed in this Part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7'.

6.9.4. The proposed development of 245 no. residential units and a creche on a site of 9.76 hectares on zoned greenfield land within the built-up footprint is below both applicable unit number and site area thresholds for mandatory EIA. Article 109 2(a) of the 2001 Regulations (as amended) states that 'Where an appeal relating to a planning application for subthreshold development is not accompanied by an EIAR, the Board shall carry a preliminary examination of, at the least, the nature, size or location of the development'.

6.9.5. Having regard to the nature, size, and location of the proposed development and to the criteria set out in Schedule 7 of the 2001 Regulations (as amended), 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 appendix 1 to this inspector's report. EIA, therefore, is not required. In this regard it is noted that the proposed development is residential in nature, its site area is below the relevant area threshold, the proposed number of dwelling units is less than half of the relevant threshold, it is located on a greenfield site within the built-up footprint of the town surrounded by existing development and roads infrastructure, and it does not have any particular environmental sensitivity.



## 7.0 The Appeal

### 7.1. Grounds of Appeal

7.1.1. Four separate grounds of appeal have been received from:

- Dara and Fiona O'Shea, Meadow View, Ardmore Road (the nearest property to the east of the site along Ardmore Road),
- Ardmore Road Residents Association, c/o Derek Sheeran, Ardmore Road,
- David Reilly, Dublin Road (the property along Dublin Road backing on to proposed house nos. 37-39), and,
- Lisa Corcoran, Drumboe, Ardmore Road (adjacent to the east of the O'Shea property).

7.1.2. The grounds of appeal can be individually summarised as follows:

#### Dara & Fiona O'Shea

##### *Road safety*

- Permission was refused by the Board under PL25M.243830 on an adjacent site and issues cited i.e. the condition of Ardmore Road and Saunders Bridge, have not improved since.
- The site includes land required to build the arterial link road in line with the Mullingar LAP. There are likely to be over 1,000 residential units constructed on Ardmore Road in the next few years. It is inconceivable that the council granted permission for this and other developments given the traffic volumes generated without first building this arterial road. This traffic would be added to Ardmore Road.

##### *Pressure on existing resources – schools*

- The conclusion of the SIA that there would be capacity for the projected 162 no. primary school children is incorrect and wishful thinking. Secondary schools do not have sufficient space for children enrolled in primary schools.

### *Density*

- The proposed density of 30 no. units per hectare is far greater than any surrounding development and therefore not in line with the WCDP or MLAP. In particular, the proposed apartment block is completely out of character with the nature of the surrounding housing, would negatively impact property values, and will not contribute to placemaking. The apartments are contrary to eight specific policies of the MLAP.
- The area of the ring fort and an appropriate buffer zone should be excluded from calculations used to determine amenity areas and density. Four detention basins are included in amenity area calculations. It is highly questionable if open space requirements are met if the ring fort and detention basin areas are excluded.
- The proposed development lacks amenity areas and is not in line with CPO 7.6 of the WCDP.
- The proposed development should be redesigned to include the vacant sites on both Dublin and Ardmore Roads with the objective of providing detached housing facing the roads, and/or significantly enhance amenity areas within the development.
- Any development should have a minimum building line of 25 metres from Ardmore Road.

### *Ecological impact assessment*

- The AA screening fails to include other large developments in the area.
- There is clear evidence on a 6 inch map of water features on site which calls into question the assertion that there are no water features within the site boundary.

### *Site boundary / boundary walls and fences*

- The site boundary is shown going through the garage of Meadow View. This impacts the separation distances shown.
- The nature of the boundary along Meadow View is unclear and it is not clear if it is proposed to remove boundary trees. A 2 metres high boundary wall should be constructed along Meadow View.

### *Distance between houses/overshadowing*

- Overlooking from house nos. 151-158 as a result of above ground floor windows and minimum sized back gardens. The minimum separation distance is 21.83 metres between proposed no. 157 and Meadow View.
- The Daylight & Sunlight Assessment is irrelevant because it shows the proposed houses and Meadow View at the same finished floor level (FFL), whereas Meadow View is significantly above the FFL of the proposed houses as per site layout plan FFLs. The extent of impact of overshadowing on Meadow View is not accurately shown and it would devalue the property. Meteorological data from Dublin Airport is used even though there is a weather station in Mullingar.
- Overlooking from the apartment block to the school playground is a child safety issue.

### *Drainage*

- Historical mapping shows a drain along the common boundary with Meadow View which raises questions about the suitability of this area for development. This open drain has been neglected with ponding on the site after heavy rain. Removing this drain as proposed would affect drainage at Meadow View.
- The purpose of a line on a layout through the Meadow View property has not been explained.

### *Risk of damage to adjacent property during construction*

- Construction on peat soil increases risk of damage to adjacent properties. The Board is requested to require the installation of independently monitored sensors.

### Ardmore Road Residents Association (ARRA)

#### *Relevant planning history*

- The planning authority planning reports excludes a number of relevant decisions.

#### *Density*

- A lower density should be sought in line with circular letter NRUP 02/2021 and the Sustainable Residential Development Guidelines (2009). The development would

set a dangerous precedent for high density development in this area. It does not lead to a sustainable community. Medium/low density development is the only type of development that would suit the site and existing amenities.

- A number of relevant policies and objectives of the WCDP and MLAP are cited which the proposed development does not comply with.

#### *Unit Mix*

- There are not enough four-bed units in Mullingar to meet demand and the unit mix should be adjusted accordingly.
- The mix of property types is out of character with the area.

#### *Apartments*

- The Fire Officer twice recommended a refusal for the apartments.
- It is absurd to consider the block to be suitably sited and designed and that it would integrate well with the site context and wider area as per the planning authority planning report. It would devalue property of mature family residences.
- The apartment block should be refused as per other planning authority decisions.
- The apartment block is not in accordance with the types of location outlined in the 2020 Apartment Guidelines. It is also in breach of specific planning policy requirement (SPPR) 4.
- Permitting the apartment block would be contrary to policies and objectives of the WCDP and MLAP and would set an undesirable precedent.
- The separation distance between the apartment block and houses on Ardmore Road is inadequate, its design and finish is not satisfactory, and it will not contribute to placemaking.
- The suboptimal quality of open space and limited sunlight access would injure the amenities of future occupants of the apartment block.

#### *Boundary*

- There is a lack of information about the site boundary throughout the application. There are wildlife implications. There is overlooking of mature family homes to the

north east/east/south east. There are unresolved questions in relation to the boundaries with some of these properties.

#### *Access/road safety*

- It is astonishing that the planning authority planning report fails to mention obvious concerns about Ardmore Road which were raised in multiple submissions.
- Signalised junctions are proposed at both Dublin and Ardmore Road junctions. The Ardmore Road junction raises serious safety concerns. No residential development in Mullingar has dual entrance/exits and it will create a rat run. That stage 1 and 2 RSAs found serious problems is reason enough to refuse the Ardmore Road entrance.
- The development will cause serious traffic conflict on the already oversubscribed and narrow Ardmore Road, particularly during school term. The additional traffic would pose a serious danger to school children on the opposite side of the road to the south and is contrary to the WCDP.
- Concern is expressed about the junction, sightlines, pedestrian crossing, speed ramp, visibility, and the layout.
- Only one entry/exit should be permitted, on to Dublin Road. Ardmore Road is too narrow.
- Possible solutions are set out e.g. a pedestrian/cycle exit at Ardmore Road, create two separate developments, widen the road at the developer's cost.
- Reasons for refusal in cases from 2015 and 2006 remain valid relating to Ardmore Road and Saunders Bridge. The proposed development will worsen an already dangerous situation. The entrance is too close to the Ardmore Close entrance.
- Additional lights on Dublin Road will mean traffic avoids using this road (five lights and four pedestrian crossings between the hotel and town centre) and use Ardmore Road.

#### *Traffic/road safety*

- The traffic report is flawed. There would be a serious traffic uplift, not a slight uplift as described. There is no public transport along Ardmore Road, and none possible. The choice of comparative sites in the report is poor. Predicted trip rates

are not realistic. Classified count times are flawed. It did not consider traffic flows at Saunders Bridge.

- Traffic lights will cause serious conflict at key times. The junction design means accidents are inevitable. The creche will see further cars parked along Ardmore Road and on the access road.
- Ardmore Road is not safe for pedestrians. It is too heavily trafficked. There are too many access points onto the road.
- All high density must be refused/paused until a replacement Saunders Bridge is built and other features installed.
- Too much construction traffic is to enter the site from Ardmore Road. No construction traffic data has been provided. Construction traffic should not be allowed on Ardmore Road.
- The development is not consistent with DMURS.
- No development should be permitted on Ardmore Road until a new link road to the N52 is constructed.
- Health/climate impacts from additional vehicles and an absence of public transport.
- Investment/work to Ardmore Road is endangered by additional traffic.

#### *Creche/childcare facility*

- Inadequate parking/drop off space.
- The creche was deemed unsafe by the Fire Officer.

#### *Visual impact*

- The development fails to enhance the character of the area. The majority of woodland and trees are to be removed. Biodiversity is decimated rather than enhanced by the development.
- The development does not fit in with the area or provide the optimal design solution for a large rural site.

### *Open space*

- The undeveloped parcels of land for future use should be given to the local communities as open space and community green area. There is an absence of pitches/courts/significant green area locally.
- Poor open space provision on site. Footpaths, drainage pits, the ringfort etc. should not count as open space. It is contrary to policies and objectives of the WCDP and MLAP.
- The future use area should be removed, the creche relocated, and the Ardmore Road junction redefined and make this a linear park/recreation area for use by the wider community, including the school.

### *Community infrastructure*

- There is a deficiency of community infrastructure and facilities in the area. The developer has already built 520 no. units in the area but not provided any community infrastructure. There has been no public space developed or delivered in the locality in decades. The proposed development contributes nothing to the public realm.
- Schools are at capacity. Creche places, GPs, the Primary Care Centre, and the hospital are referenced.

### *Car parking*

- EV charging point promises will not be kept.
- There is inadequate disabled, age-friendly, EV points, and wider space car parking provided.
- Though the further information request on bicycle parking is commended there is no safe, connected cycle network in Mullingar or from the site to the train station.

### *Fire safety*

- The Fire Officer recommended a refusal of both the creche and apartment block.

### *Construction Environmental Management Plan (CEMP)*

- Concern is expressed in relation to Ardmore Road, the designated 5 tonne limit and absence of estimated traffic movements. Construction traffic should not be allowed use Ardmore Road.

### *Biodiversity and nature*

- Significant permanent adverse impact on protected species and birds cannot be excluded. Altamar Environmental was only on site for very limited times and the results cannot be trusted as there was no consultation with locals.
- Nature has been pushed out by development in the area. NPWS concerns are very real, and the application should be refused on this basis.
- Vegetation removal and lighting will be a disaster for local biodiversity. Concern is expressed about impact on badgers/mammals, amphibians, birds, and bats. An environmental clerk of works should be appointed by the planning authority at the developer's expense, not by the developer.
- A full and proper EclA was not submitted. The proposed development is biodiversity unfriendly.
- The watercourse along Ardmore Road has been piped which will have a negative impact on biodiversity. Sustainable urban drainage systems (SuDS) measures are troubling from environmental, biodiversity, and safety viewpoints.
- The development fails a number of policy objectives of the WCDP and MLAP.

### *Appropriate Assessment (AA)*

- Concern about the cumulative impact of residential development in relation to AA.

### *Archaeology*

- The archaeological report leaves more questions than answers.

### *Local Area Plans*

- The Ardmore Road area is at maximum capacity because the road infrastructure is not there. Alternative serviced land such as between Robinstown Link Road and the town centre, and public land, should be developed.



### *Further information*

- The undeveloped areas will likely remain a compound/boneyard for many years. The further information response relating to fire safety is deeply troubling.

### *Planners report picks*

- The planning authority planning officer and applicant hand-picked a selection of objectives and left out a significant amount. The grounds of appeal challenge the proposed development's consistency with a number of the land use zoning objectives, housing policies, housing type policies, sustainable residential development policies, residential layout and design policies, transport and movement policies, and open space and recreation policies of the MLAP.

### David Reilly

#### *Boundary*

- The boundary proposed along the appellant's property is cited as 2 metres high concrete post & timber slat boards. The rear gardens of proposed nos. 35-42 are 2-3 metres below the garden levels of existing houses. The proposed boundary is not sufficient and there is insufficient information regarding boundary treatments.

#### *Proposed laneway*

- The pedestrian/cycle laneway adjacent to the appellant's neighbour should be removed.

#### *Density and design*

- Inadequate active public open space provision. The cited 18.3% public open space includes footpaths and SuDs features, and it is unclear if the ringfort area is included in the calculation. It is contrary to policies and objectives of the WCDP and MLAP.

#### *Biodiversity*

- The proposed development will have a devastating impact on local biodiversity. The claim that the proposed development will not have significant detrimental effect is not accurate or acceptable. Tree removal is contrary to policies and

objectives of the WCDP. The proposed biodiversity corridor is inadequate. Existing hedgerows and tree groups should be retained. More open space is required. Wildlife corridors, habitats, and permeability should be conserved.

#### *Fire safety*

- The Fire Officer recommended a refusal of the creche and apartment block.

#### Lisa Corcoran

The appellant is relying on the submission to the planning authority as the grounds of appeal. This can be summarised as follows:

#### *Wildlife habitat*

- Contrary to the EclA there are badgers and pine martens on site. The Council should commission its own expert to test the applicant's findings.

#### *Overlooking/loss of light*

- 14 no. three-storey houses overlook the appellant's site, impacting light and privacy. A smaller number of two storey houses would less the light and privacy impact.

#### *High density/lack of amenities*

- Inadequate space on site for football/hurling compared to the adjacent Petitswood Manor previously developed by the applicant. Local primary schools are at full capacity. The apartment block is out of character with the surrounding housing and would devalue property. The vacant sites should be included in the application and used for detached houses facing Ardmore Road keeping with the character of existing housing.

#### *Unsuitable road infrastructure*

- The width of Ardmore Road is too narrow for the volume of existing traffic. The MLAP provides for a new arterial road on site. The legitimate expectation of the neighbourhood will be entirely compromised if permission is granted without provision of the arterial road.

The appellant also makes four additional points, referring to:

- the high density proposed,
- insufficient infrastructure in the area i.e. Ardmore Road,
- lack of amenities (playgrounds, open spaces) in both the proposed development and the surrounding area, and,
- impact on wildlife.

## 7.2. Applicant's Response

7.2.1. The applicant considers that matters raised in the grounds of appeal have been robustly considered by the planning authority. Many issues are appellants opinions which are not refuted by an evidence base or are issues outside the applicant's control related to broader frustrations with the county council. The response comprises a brief cover letter and two appendices. Appendix A tabulates the matters raised in the grounds of appeal and appendix B tabulates the applicant's response. The applicant identifies 30 no. matters set out in alphabetical order. The applicant's response can be summarised as follows under the headings contained in the response.

*Active travel* – Necessary infrastructure is provided to encourage active travel.

*Adaptability* – The proposed dwellings are capable of adaptation to meet changing needs of residents. Private open space meets the minimum area required.

*Appropriate assessment (AA)* – In-combination proposals are examined.

*Archaeology* – The inability to survey some areas has not affected the overall interpretation of the results. Appellants appear to have referred to preliminary conclusions rather than subsequent test trenching.

Condition 7 of the planning authority decision requires a 20 metres buffer zone. The ringfort has not been included in the calculations of open space.

*Boundary treatment / encroachment* – A prior to commencement boundary treatment condition could be applied. Use of rigid mesh fence is only for the biodiversity corridor and around the creche to allow movement of wildlife and allow links to open space areas.

Full boundary treatment details have been provided. Trees to the rear of nos. 145-149 are to be retained as was clearly presented. A retaining wall is commonly used to

transition between level changes. The applicant refers to the removal of a hedgerow from the appellants property along proposed nos. 150-158.

In terms of the boundary line the applicant has no intention of building outside their ownership line. Section 34(13) of the Planning & Development Act, 2000 (amended) applies.

*Capacity of receiving infrastructure / traffic impact* – The evidence base was to the satisfaction of the District Engineer. Investment on Ardmore Road is associated with an anticipated transition towards sustainable modal options.

The site is within the built-up footprint , a benefit of which is that it reduces urban sprawl as is associated with increased car usage. Signalised junctions were required by the planning authority and will potentially provide a safer access/egress than the individual driveways along Ardmore Road.

The proposed creche is required for large schemes and is in an appropriate location opposite the school and adjacent to active travel corridors. An in/out route is provided but it is hoped active travel and trips linked with the school would occur.

The proposed development may alleviate some pressure on Ardmore Road as there would be an active travel dominated alternative route through the proposed development to the school from Dublin Road/town centre.

*Construction/operational impact* – The majority of the site will be developed under phases one and two with all construction traffic via Dublin Road apart from the creche. The remaining comparatively smaller area is to be developed via Ardmore Road. There would be no reason for construction traffic to travel towards Saunders Bridge. Conditions 16 and 17 of the planning authority decision require final CEMP and Resource Waste Management Plans to be agreed.

A methodology for root protection is clearly outlined. While a layer of peat is present it would not affect the stability of the site, reflecting extensive development locally.

*Climate* – The development contributes to compact growth and encourages sustainable modal choice.

*Density* – The medium density accords with all policies and objectives and is consistent with the framework plan. The provision of apartments should be considered on a case-by-case basis. Apartments at this location are appropriate having regard to

the 2023 Apartment Guidelines. There are public transport bus stops on Dublin Road. Additional housing would also contribute towards attaining a critical mass required to support additional public transport e.g. Mullingar town bus service. The development achieves an appropriate increase in density to reflect the best use of land while respecting neighbouring amenities and densities.

*Ecological impact / biodiversity / habitat / arboriculture* – The applicant strongly challenges any insinuation that the site was not appropriately interrogated. Condition 8 of the planning authority decision relates to ecology and, inter alia, a pre-construction ecological inspection is required. Existing green infrastructure has been retained where practicable and possible. The biodiversity corridor retains existing hedgerow where possible. Landscaping and ecological conditions were imposed by the local authority. The planning authority Environment Section raised no objection.

*Fire safety* – The applicant disputes the contention that the further information response does not address the Fire Officer's concerns. The buildings require the statutory approval of the fire authority and condition 14 of the planning authority decision requires any design modifications to be approved by the planning authority.

*Housing mix and tenure* – The housing mix has sought to positively contribute to the surrounding area and the planning authority indicated no issue with the mix.

*ICT* – It is unclear what the concern is.

*Layout / design* – It is considered the second access point to Dublin Road presents a range of benefits. Bin storage was addressed through further information to the planning authority's satisfaction. Apartment private open space and EV charging is compliant with requirements. The overall scheme complies with development management standards, policy objectives, and Urban Design Manual criteria, and the apartments comply with relevant guidance.

*Levels* – In relation to proposed nos. 153-158 the daylight/sunlight zone of influence clearly does not impact on any apertures of neighbouring properties. In relation to proposed nos. 35-42 a prior to commencement boundary treatment condition could be applied.

*Lighting* – No bats or evidence of same was found in on-site trees. Sensitive lighting and landscape strategies have been prepared for local wildlife.

*Masterplan / wider landholding* – The masterplan provides for future commercial development. These would be subject of planning applications which would be the appropriate opportunity for submissions in this regard. The area on Dublin Road will be used as a site compound but it will be closed/removed. The applicant cannot rezone land through a development application process. The application represents an efficient and sustainable use of serviced zoned land.

*Open space provision / layout / design* – The ringfort has not been included in open space calculations. Paths, landscaping, multifunction nature-based solutions, benches etc. not associated with ‘play’ should not be considered inappropriate for public open space. All such features are integral to multifunctional public open space. The applicant strongly challenges the allegation that the proposed development utterly lacks amenity areas. The design and layout are consistent with best practice. A hurling ground should not be provided in the centre of a residential estate.

*Parking / EV chargers* – The scheme complies with development management standards in terms of car parking and EV chargers are far in excess of that required.

*Political promises* – This is directed at the local authority.

*Privacy and overlooking* – Visibility and overlooking of play areas is a positive quality. Related issues such as overlooking, overshadowing, and boundary treatment have been rigorously examined. Rear private garden depths are sufficient to avoid overlooking.

*Property value* – There is little evidence that the use of land for residential development would negatively affect nearby property values. The development of appropriately zoned land should be encouraged.

*Refusal precedent / planning history* – A planning history is specific to a subject site. The local authority is well aware of previous decisions. Schemes referred to date back to the 2000s and local infrastructure and services have changed considerably. Each planning application must be assessed on a case-by-case basis and are context specific.

*Robinstown* – These issues are directed at the local authority. There is extensive zoned land in the area subject of this planning application.

*Road layout / access / safety* – The layout is highly accessible and permeable. Active travel modes are prioritised.

Each application must be assessed individually. Applications referred to in submissions are context-specific. Infrastructure and services have changed considerably e.g. active travel road on Ardmore Road. The District Engineer raised no objection. Planning authority conditions include road infrastructure to be completed prior to first occupation and submission of a stage 3 RSA. It is understood planned improvement work to Saunders Bridge will commence in 2024 and would be scheduled to complete in advance of the subject development.

The access point at Ardmore Road was given particular attention. A signalised junction will be of benefit to all users. The appellants do not appear to have considered the RSA Review document which incorporated identified design changes to address problems. Again, the District Engineers raises no objection.

Speeding concerns on Ardmore Road are directed at the local authority. In relation to 'rat-run' concerns, active travel is prioritised and the road layout is intentionally circuitous for vehicles.

The matter of the arterial route was discussed at a section 247 meeting. The planning authority dictated this road be a neighbourhood road as opposed to an arterial connection to the N52.

*School capacity* – The submissions appear to be directed at the local authority.

*Social and community infrastructure* – The SIA indicates that the site is advantageously located to avail of a range of services.

*SuDS / drainage* – The piped watercourse was undertaken by the planning authority under a part 8. Ponding may have become more pronounced in the drain to the rear of proposed nos. 153-158 since the appellants removed a boundary hedgerow, as well as heavier rainfalls. Proposed engineering and nature-based solutions, and increased planting, will significantly improve the drainage regime at this location.

The line through the Meadow View property is AutoCAD related and has no drainage infrastructure or works bearing on Meadow View.

SuDS is required as part of new developments. There is a misconception that it is unsafe. Suitably shallow slopes are proposed.

*Sunlight / daylight impact* – The appellants appear to be misrepresenting the accuracy of the assessment provided.

*Visual / amenity / character impact* – Appellants consider the proposed duplexes to be out of character. The appellants are referring to pre-further information request comments in the planning authority Planning Report. The overall scheme is considered to be compliant with development management standards, policy objectives, and the Urban Design Manual. The apartments comply with the 2023 Apartment Guidelines. The design and layout positively respond to the constraints and character of surrounding areas while achieving an appropriate increase in density. Apartment refusal referenced are site-specific and applications must be considered on a case-by-case basis.

The planning authority considered the green infrastructure would enhance biodiversity and help the development assimilate to a certain extent.

### **7.3. Planning Authority Response**

7.3.1. None received.

### **7.4. Observations**

7.4.1. None received.

### **7.5. Further Responses**

7.5.1. Further responses have been received as summarised below:

Lisa & Conor Corcoran

7.5.2. The appellants wish to support the points raised by Dara and Fiona O’Shea, in particular regarding the locations of house nos. 151-158. This location has been flooded for a week and photographs are attached to the further response. The area floods regularly and is a flood risk. Proposed drainage will not address these flooding problems.



### Dara & Fiona O'Shea

- 7.5.3. In the first correspondence the appellants state that they wish to support the points raised by David Reilly, in particular the boundary wall issue which also applies to the O'Shea property.
- 7.5.4. In the second correspondence the appellants state they wish to support the points raised by Lisa Corcoran, in particular regarding overlooking of both the Corcoran and O'Shea properties.
- 7.5.5. In the third correspondence the appellants state they wish to support the points made in the ARRA grounds of appeal, in particular the concerns about density/apartment block, traffic issues (reference to the link road as per the MLAP), lack of joined-up thinking in relation to schools and sports facilities, and the Fire Officer's comments.

## **8.0 Planning Assessment**

Having examined the application details and all other documentation on file, including the grounds of appeal and the applicant's response to same, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal, other than those set out in detail within the EIA Screening and AA sections, are as follows:

- Zoning
- Density
- Arterial Road Through the Site
- Road Safety and Traffic
- Site Layout and Residential Amenity for Future Occupants
- Impact on Adjacent Residential Amenity
- Fire Safety
- Biodiversity
- Archaeology

- Drainage
- School Capacity

## 8.1. Zoning

8.1.1. Map 14 of volume 2 (Book of Maps) of the Mullingar Local Area Plan 2014-2020 (as amended and extended) (MLAP) illustrates the land use zoning for the town. The subject site area contains a proposed arterial road connecting Dublin Road to Ardmore Road along the western side of the subject site (as illustrated on map 7 (Strategic Transportation Map) and as considered in section 8.3 of this inspector's report) and four different land use zonings. The land use zonings and objectives are:

- Open space – O-LZ7, 'To provide for, protect and improve the provision, attractiveness, accessibility and amenity value of public open space and amenity areas, including public open spaces'.

The two relevant open space areas on map 14 correlate with open space area 1 and the ringfort/adjacent open space area proposed.

- Commercial – O-LZ4, 'To provide for commercial development which does not need to be located in the Town Centre or retail warehousing zone'.

The commercial zoning correlates with the area along Dublin Road which is excluded from the site boundary and described as an area for future development.

- Mixed-use – O-LZ2, 'To provide for, protect and strengthen the vitality and viability of the town centre, through consolidating development, encouraging a mix of uses and maximising the use of land, to ensure the efficient use of infrastructure and services'.

The mixed-use zoning is along Ardmore Road to the east of the indicated arterial road and includes both the area excluded from the site boundary described as an area for future development and an area where some residential development, including the proposed apartment block, is proposed. The MLAP land use zoning matrix indicates that dwellings are permitted in principle in this zoning.

- Proposed Residential – O-LZ1, 'To provide for residential development, associated services and to protect and improve residential amenity'.

The remainder of the site is zoned for residential development. The proposed creche is located within this zoning. The land use zoning matrix indicates that a creche/nursery is permitted in principal in this zoning.

- 8.1.2. Having regard to the foregoing, I consider that the proposed development is consistent with the zonings in the MLAP.

## 8.2. Density

- 8.2.1. The appellants consider that the proposed development comprises a high density development that would be out of character with adjacent development and the existing pattern of development in the area.
- 8.2.2. It is proposed to provide 245 no. units. The site area is 9.76 hectares with a net site area of 8.1 hectares. The net site density is approx. 30.2 units per hectare. The applicant states that the net site area excludes the land zoned open space, the creche site, and the link road.
- 8.2.3. CPO 16.24 of the Westmeath County Development Plan 2021-2027 (WCDP) states that increased residential density within Mullingar would be appropriate in principle where the subject lands are, inter alia, designated development lands which comprise in excess of 0.5 hectares, subject to quality design and planning merit in ensuring compact growth and the creation of good urban places and attractive neighbourhoods.
- 8.2.4. Having regard to table 2.6 of the MLAP I consider that the subject site is in an 'outer suburban/greenfield' location. This provides a general density parameter of 30-35 units per hectare. The proposed density of approx. 30.2 units per hectare is at the lower end of this scale but it is consistent with it.
- 8.2.5. Of particular relevance to this application are the section 28 'Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities' (2024). These have replaced the 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (2009), which were in place at the time the planning application was prepared and the planning authority made its decision. Section 3.3.3 of the 2024 guidelines refers to key towns. Mullingar is designated as a key town in the RSES. I consider the subject site to be at an 'urban extension' location in the town as set out in table 3.5 i.e. 'greenfield lands at the edge of the existing built-up footprint area that are zoned for residential or mixed-use (including residential)

development'. The Guidelines state 'It is a policy and objective of these Guidelines that residential densities in the range 30 dph to 50 dph (net) shall generally be applied at suburban and urban extension locations of Key Towns and Large Towns'.

- 8.2.6. Having regard to the foregoing, the proposed density is at the very lower end of what can be considered acceptable and appropriate at this location and could not, in the context of the existing planning framework, be considered to be high density development. I consider the proposed density to be consistent with the MLAP and Compact Settlements Guidelines (2024).

### **8.3. Arterial Road Through the Site**

- 8.3.1. Map 7 (Strategic Transportation Map) of the MLAP shows an arterial road running along the western boundary of the subject site linking the Dublin and Ardmore Roads and continuing through Ardmore Road. South of Holy Family Primary School, the arterial road continues in a south westerly direction across the Royal Canal and there is another section of this arterial road that travels in a south easterly direction to connect to the N52. The arterial road is also illustrated on the land use zoning map. Map 7 also shows 'link roads' within the subject site to the east of the arterial road. In effect, the site layout plan does not reflect the strategic transportation map in the MLAP. Though not forming one of the more significant elements of the various grounds of appeal in terms of the amount of reference to it, it is commented on both by appellants and the applicant, and therefore I do not consider that it would comprise a 'new issue' in terms of the application.

- 8.3.2. Section 8 of the MLAP contains three framework plans, one of which is Ardmore/Marlinstown, within which the subject site is located. The framework plans seek to guide and secure the sustainable urban expansion of individual areas of the town providing a movement and open space structure around which more integrated patterns of development can take place. Policy P-FP2 of the MLAP states it is a policy of the Council 'To ensure that development of the urban expansion areas of ... Ardmore/Marlinstown ... is guided by Framework Plans for these areas'. Section 8.2 states that the framework plan represents an integrated strategy for the physical development of Ardmore/Marlinstown and that basic road infrastructure is inadequate to cater for any further significant development in the area. The arterial roads are

referenced in section 8.5.2, 'The backbone of the area will be formed by two new avenues running from north to south and from east to the centre of the Framework lands ... The new north south road will link the old Dublin Road with the Russellstown Road at Boardstown and the second one will link the N-52 bypass to the east with the new north-south avenue'. Map 8.2 also shows the framework plan road network. It is stated that 'The plan identifies a clear framework of roads, services, open space, and specific uses in each area, which should be followed'.

8.3.3. Two 'framework requirements' are of interest:

- The Transportation and Movement network shall be developed in accordance with the Masterplan and a hierarchy of avenues and internal connected streets...
- Any new development within the area shall have to open up and provide linkages to surrounding developments as described in this Framework Plan.

8.3.4. Map 8.4 of the MLAP identifies fifteen separate character areas within the Ardmore/Marlinstown area. The majority of the subject site area (central and northern sections) is area 4 (Petitswood Infill) while the southern area of the site and an area on the opposite side of Ardmore Road is area 5 (new neighbourhood centre/primary school). Referring to area 4 in section 8.3.14 the MLAP states 'The development of this area shall involve the construction of an avenue from the Dublin Road to Area 5 that ultimately will link to the Ardmore Road. This avenue shall have an urban street character, with development fronting onto both sides and suitably overlooked, as opposed to a traditional estate distributor road. The precise alignment of this north south avenue shall be determined at Development Management stage'. An indicative layout of the built form of the site is illustrated on map 8.5. Notwithstanding that it is 'indicative', the proposed development layout could not be considered to be consistent with it.

8.3.5. The applicant's Planning Statement stated that the proposed development will be in accordance with the policies and objectives in the WCDP and MLAP 'also taking account of the subject site's position in relation to the Ardmore/Marlinstown Framework Plan' (section 3.1). However, despite the proposed road network being significantly different from that illustrated on the MLAP there is no direct reference to this in the Planning Statement. While section 4.5.1 (Traffic, Transport, Accessibility and Mobility) provides a rationale for the internal road network as proposed, it does

not address the reason why the arterial road in the framework plan has been ignored. While both the Dublin Road and Ardmore Road junction locations are consistent with the framework plan the internal road arrangement is not. Figure 4.2 shows the roads hierarchy, a 'link road' being the dominant road rather than an 'arterial' road or avenue.

- 8.3.6. Section 2.4.1 of the applicant's LRD Opinion Compliance Statement illustrates five different site layout plans ranging from one dated September 2021 to the layout presented at the LRD meeting in January 2023. In my opinion the two layouts dated September and October 2021 would arguably be consistent with the framework plan layout in terms of a direct connection between Dublin and Ardmore Roads with an urban street character, development fronting onto both sides, and suitably overlooked.
- 8.3.7. The arterial road issue is addressed in the applicant's response to the grounds of appeal. It is stated that different road design and layout options were considered throughout the process. Specifically it is stated on page 20 of appendix B in the applicant's response to the grounds of appeal that,

'The matter of the arterial road was discussed in the March 2021 S247 Meeting (Pre-Application Reference Number LRD PP6132) as is clearly described in the WCC Planners Report (p. 104):

*"It was confirmed that the delivery of a future road which bisects the subject lands to be designed as being a neighbourhood road as opposed to being an arterial connection to the N52".*

The October 2021 design presented a 'link road' option that was considered by the WCC to not be DMURS compliant. As such, this ultimately led to the proposed layout which focuses entirely on the proposed residential land use of the lands'.

- 8.3.8. Page 104 as referenced refers to the section 247 meeting that took place on 25<sup>th</sup> March 2021. The quote is taken from the discussion about 'planning and strategic issues'.
- 8.3.9. It therefore appears that the planning authority, at a pre-planning meeting, advised the applicant that the arterial road, clearly illustrated in the LAP and described in the framework plan for the area, was unnecessary. It is unclear who 'confirmed' that the arterial road was no longer required. I note that the proposed road layout is designed

to be 'intentionally circuitous' (also as per page 20 of appendix B of the applicant's response to the grounds of appeal), which directly contradicts the purpose of the arterial road/avenue illustrated in the MLAP.

8.3.10. I refer at this point to a comment in the appeal submitted by Lisa Corcoran, or more accurately in the submission to the planning authority which is being relied on as the appeal. It is stated, inter alia, that 'Prior to purchasing our home in 2014 we reviewed the Local Area Plan and noted the provision of the new arterial road. We are disappointed to learn that the site of the proposed development includes the land required to build the arterial road linking the Dublin Road to the N52 in line with the Mullingar Local Area Plan 2014-2020. Our legitimate expectation of our neighbourhood will be entirely compromised if the council grant permission for this development without provision of the long planned for arterial road'.

8.3.11. The arterial road, in the context of the MLAP, is a significant element of the transportation and movement strategy for the Ardmore/Marlinstown area and local residents are entitled to expect that an arterial road would form part of a development taking place on the subject site, specifically because the MLAP states this. The change from an arterial road as envisaged to an intentionally circuitous road layout as proposed is a significant change. The MLAP clearly envisages two arterial routes/avenues backboning the Ardmore/Marlinstown area. A substantial, approximately 500 metres long, section of that would no longer be possible should permission be granted. Objective O-FP1 states it is an objective 'To secure the provision of appropriate infrastructure ... to support the phased development of ... Ardmore/Marlinstown ...' While I acknowledge that other aspects of the framework plan are not being adhered to, for example section 8.13.5 of the framework plan states the maximum height in area 5 would be three storeys but the apartment block is four storeys, I am satisfied this is reasonable on density grounds. Policy P-FP16 states that it is policy to achieve sustainable densities. However, I consider the abandoning of the arterial route in the absence of any robust rationale or amendment to the MLAP to be a significant issue.

8.3.12. It should be noted that my comments in this section do not relate to the various merits of arterial routes, link roads, or neighbourhood roads and which is the most appropriate road type for the area. The comments are solely restricted to the fact that an arterial road/avenue is identified at this location in the MLAP, and an arterial road/avenue has

not been provided. Arterial streets are defined in the Design Manual for Urban Roads and Streets (DMURS) as ‘major routes via which major centres/nodes are connected. They may also include orbital or cross metropolitan routes within cities and larger towns’. The link proposed in the development between Dublin and Ardmore Roads cannot be considered an arterial road.

- 8.3.13. I concur with the appellant that residents are entitled to expect that when development does occur, it occurs in a manner that is consistent with the development plan or local area plan in place for the area. In my opinion, the layout of the site in terms of the road connection through it is entirely inconsistent with the adopted MLAP, would materially contravene the provisions of objective O-FP1 and I recommend that permission is refused on this basis.

#### **8.4. Road Safety and Traffic**

- 8.4.1. The impact of the proposed development on the road network in the area is an issue raised by the appellants. Reference is made to, among other issues, previous planning application refusals, the condition and width of Ardmore Road and Saunders Bridge (which is approximately 950 metres west of the subject site and which crosses the Royal Canal and railway line), safety concerns at the proposed Ardmore Road junction, increased traffic congestion on Ardmore Road, and the use of the proposed development as a rat-run. These concerns are refuted by the applicant.

##### *Planning history*

- 8.4.2. Appellants refer to two previous Board refusals (PL 25M.213102 for 64 no. houses and apartments approx. 700 metres to the west of the subject site on Ardmore Road, and PL 25M.243830 for 27 no. houses on the same site) and claim the reasons for refusal remain valid. These decisions were made by the Board in 2006 and 2015 respectively. I am unclear as to why PL 25M.213102 is referenced as none of the three reasons for refusal relate to any specific road-related issue. However, one of the two reasons for refusal of PL 25M.243830 states ‘that the proposed development would endanger public safety by reason of traffic hazard because the site is accessed via the Ardmore Road and Saunders Bridge, which are substandard in terms of width and alignment’ as well as references to the lack of appropriate pedestrian and cycle connectivity to the town centre and land to the east.



- 8.4.3. While I acknowledge the reason for refusal under PL 25M.243830, I also note a more recent Board decision under PL 25M.245270. This is a 2016 grant of permission to amend a previous permission increasing the number of houses from 56 no. to 72 no. and providing a creche at Ardmore Hills. This was granted by both the planning authority and the Board on appeal and the access point is on to Ardmore Road approx. 330 metres east of the proposed signalised junction.
- 8.4.4. I would also draw the Board's attention to two appeals that are currently with the Board. ABP-317280-23 (WCC Reg. Ref. 23/60058), on the same site as the applications referred to in paragraph 8.4.2 of this inspector's report, was refused by the planning authority for two reasons relating to (i) its design and layout and (ii) to AA. ABP-318123-23 (WCC Reg. Ref. 22/60036) is a further extension to the Ardmore Hills housing development referred to in the previous paragraph. 65 no. houses are proposed and permission was granted by the planning authority.
- 8.4.5. Planning applications are specific to their site location, layout, proposal, and time. Many issues change over time such as applicable policies and objectives and physical changes in the locality. Therefore, while references to planning histories may be of some interest, they cannot be relied upon to justify applications being considered at a different time on a different site. The more recent pattern of decisions has not cited concern with the road infrastructure. Each application must be assessed on its own merits.

*Ardmore Road and Saunders Bridge*

- 8.4.6. While Ardmore Road and Saunders Bridge are relatively narrow, they are nonetheless capable of accommodating two-way traffic. On my site inspection I met a HGV on the bridge while travelling westbound and an SUV on the bridge while travelling eastbound without any particular difficulty. The road is typical of a road which may have originally served a more rural area but, as the town expanded, has become much more urbanised. There is a recently constructed shared footpath/cycle lane along the roadside boundary to the south of the subject site, which I measured at 3.0-3.1 metres wide. The footpath continues in both directions and there is a dedicated cycle path further to the west of the subject site. This infrastructure provides a defined edge to the road at this location, has significantly improved Ardmore Road, and provides

facilities for vulnerable road users which do not appear to have been in place until recently.

- 8.4.7. I acknowledge that facilities for vulnerable road users across Saunders Bridge are currently very limited. Notwithstanding, there is Part VIII approval for a dedicated pedestrian and cycle bridge north of the existing bridge. The November 2023 municipal district meeting was informed that construction is anticipated to commence in the second half of 2024 and would last approximately nine months. I consider that this would be a hugely significant improvement on the current situation.
- 8.4.8. In my opinion there is no compelling reason to recommend a refusal of permission on the basis of any particular traffic hazard or safety issue on Ardmore Road or Saunders Bridge. The road is typical of a road that is being developed in a manner consistent with the emerging pattern of development and increased pressure for residential development. A shared footpath/cycle path has recently been provided to increase vulnerable road user facilities and it can be reasonably expected that a dedicated bridge for same would be in place by the time the proposed development is occupied, should permission be granted and it be developed.

*Proposed Ardmore Road junction*

- 8.4.9. It is proposed to provide a signalised junction at the junction of the proposed development access and Ardmore Road. The fourth arm of this junction is already in place directly south of the proposed development access serving Holy Family Primary School and the overall junction would comprise a signalised crossroads. I note that this junction is consistent with the provisions of maps 7 and 14 of volume 2 of the MLAP.
- 8.4.10. The appellants consider that the proposed access point junction is of poor design, is cluttered, poses serious safety concerns and would cause serious conflict at key times, would add to traffic congestion, has very poor visibility, that it should be removed from the proposal or made pedestrian/cyclist access only and that there is insufficient space on Ardmore Road. The planning authority Planning Report does not directly reference the proposed junction other than stating that all roads and transportation issues were considered by the District Engineer who raised no objection, subject to conditions.
- 8.4.11. A 'Stage 1 & 2 Road Safety Audit' was submitted as part of the application. An audit of this type is carried out on completion of a detailed design and prior to construction.

Nine problems were identified and addressed through this exercise. A stage 3 RSA is included as a condition by the planning authority. A stage 3 audit is carried out on completion of construction and generally prior to opening to traffic. I consider a similar condition should be applied should permission be granted by the Board.

- 8.4.12. The appellants refer to a number of potential problems with the proposed junction. I do not concur with these. While Ardmore Road may be relatively narrow, it is a straight road at this location with reasonable facilities for vulnerable road users. Though the proposed development access road may be slightly skewed in its orientation in relation to the other three arms, the RSA did not identify this as a concern. Condition 13(a) of the planning authority decision requires, inter alia, the submission of full design detail of the proposed junction for the written approval of the planning authority prior to the commencement of development, and I consider that this is an appropriate condition.
- 8.4.13. It is stated that the proposed signalised junction will cause serious conflict at key school times or rush hours. It is a common problem in areas around schools that congestion can occur at particular times. However, I am not of the opinion that this issue would be so problematic at this location that a refusal of permission is warranted. I refer to the fact that a junction at this location is envisaged in the LAP maps and this proposal is consistent with this. It is likely that a signalised junction, rather than causing serious conflict as stated, may bring more order to traffic movements at key school times and be more vulnerable road user friendly. It is also quite possible, given the proximity of the school to the proposed development, that in the future traffic associated with the school may reduce because there would be more students living locally so they could walk or cycle to school rather than being driven.
- 8.4.14. It is suggested that the Ardmore Road access point should be removed or made accessible only to pedestrians or cyclists with the Dublin Road entrance being the only vehicular junction. It is stated that this would be the only development in the town with dual entrances and exits. This may be true but just because there may not be another example does not mean there is any policy or objective against it. Dual entrances can be of benefit. For example motorists have a choice of entrance therefore removing all traffic going through one area of site and, in the event of a blockage at one entrance point, residents can access the development through the other entrance. It is stated that this could result in a 'rat run'. While I accept that this could occur the route through the site, described as 'intentionally circuitous' by the applicant, is not likely to have any

time saving benefit given the lower speed nature of a residential development and the overall road length that it is required to travel. In my view there is no compelling reason for removing vehicular access to Ardmore Road.

*Traffic & Transport Assessment (TTIA)*

8.4.15. Concern is expressed at the TTIA submitted by the applicant and the results are not agreed with, particularly the claim that ‘The results in terms of flows and movements can be accommodated by the neighbouring junctions with an anticipated slight uplift in congestion and delays at these locations’, whereas ARRA consider there would be a ‘serious traffic uplift’. Other issues identified relate to the choice of comparative sites, predicted trip rates, classified count hours, and the omission of Saunders Bridge traffic flows. Construction phase traffic is also cited as a concern, and it is stated that such traffic should not be allowed on Ardmore Road.

8.4.16. It is obvious that the proposed development would have an impact on traffic conditions locally. However, I do not consider that it would be such that there would be an unacceptably adverse impact. The proposed signalised junctions would create a traffic calming measure and a more formal junction to accommodate the two crossroads that would be created on both roads. The generation of construction and operational phase traffic is unavoidable for large residential developments. The site is located in an urban area, and I consider the road network to be capable of accommodating traffic activity associated with it. A construction management plan should be submitted for agreement with the planning authority prior to commencement of development should permission be granted. This should address issues such as detail of the timing and routing of construction traffic and measures to obviate queuing on the adjoining road network, as is standard.

*Miscellaneous*

8.4.17. A number of other relevant issues are referenced and can be briefly addressed as follows:

- It is stated that existing road safety features on Ardmore Road are not working, are inadequate for the amount of traffic and size of vehicles, that traffic speeds, and HGVs break the 5 tonne limit. I consider that this is a matter for the local authority and gardaí.

- Reference is made to the inadequacy of the cycling infrastructure in the wider area. I consider that this is a matter for the planning authority.
- It is stated that Ardmore Road is too narrow for public transport infrastructure such as bus stops. Not every road necessarily requires public transport infrastructure. I note that many urban bus stops do not have pull-in bays and require traffic to stay behind the bus if there is oncoming traffic. There are bus stops on the single-lane one-way Main Street in Dundrum, Co. Dublin where buses at stops take up the entire width of the road. Therefore, future bus stops are not necessarily precluded on Ardmore Road.
- It is stated that residential roads such as Ardmore Road should be protected from unnecessary and excessive individual access/egress points. The proposed development would serve 245 no. residential units and a creche. Many access points along Ardmore Road serve only one house so the proposed development is significantly more beneficial to the free flow of traffic on this road.
- It is claimed that the creche only has five public spaces. However, 20 are proposed. I consider that the location of the proposed creche in proximity to the school would facilitate linked trips.
- It is claimed that residents on Ardmore Road cannot get their cars out of their houses due to traffic volumes. I consider to be an overstatement of the situation.
- It is suggested that Ardmore Road could be made a local access or one-way road. This is a matter for the local authority.

### *Conclusion*

8.4.18. Having regard to the foregoing, I do not consider that any undue road safety or traffic hazard would result from the proposed development. Ardmore Road is a road typical of an originally rural road that has been incorporated into an urban area with infrastructure such as shared surfaces for vulnerable road users being put in place retrospectively rather than concurrent with development. While there would clearly be an increase in traffic movement as a result of the proposed development's construction and operational phases, I am satisfied that the proposed development would not have such an undue adverse impact on traffic on the road network that permission should be refused. Not all traffic generated by the proposed development would use Ardmore

Road, many users would choose to use Dublin Road. The site is an appropriately zoned area within the footprint of a key town as designated by the RSES and therefore it would contribute to compact growth. In addition, I note that the planning authority's District Engineer had no objection to the proposed development.

8.4.19. Should permission be granted conditions requiring final junction details to be agreed with the planning authority should be required as well as a stage 3 RSA.

8.4.20. I consider the proposed development to be acceptable in terms of road safety and traffic.

## **8.5. Site Layout and Residential Amenity for Future Occupants**

8.5.1. This section summarises relevant aspects and standards of the proposed development that would affect the amenity of residents. Some of these issues were raised in the grounds of appeal e.g. tree/hedgerow removal, open space, and housing mix. I have outlined a fundamental concern with the application layout under section 8.3 of this inspector's report so this section should be read independent of my conclusion to that specific issue.

### Site Layout

8.5.2. The site layout reflects a normal, large residential scheme. The internal road layout between the Dublin and Ardmore Roads is circuitous, slowing vehicular traffic, but permeability for pedestrians and cyclists follows desire lines along roads and through public open space areas.

8.5.3. The Architectural Design Statement (ADS) states that key areas are marked by taller buildings providing direction and a focal point e.g. duplexes at the start and end of the linear park with the apartment block ending the linear park vista. These taller structures are in the centre of the scheme. The ADS contains a number of 3D images showing the proposed development in some detail and these aid in visualising the proposed development.

8.5.4. In my opinion the ability to accommodate future permeability links is limited given the proposed layout, the nature of the existing development to the west, and the detached housing along Ardmore Road to the east. The additional pedestrian/cycle link to Dublin Road is welcome in this regard and I consider that, should permission be granted, the

road between proposed nos. 50 and 51 should be extended to the site boundary to facilitate permeability to any adjacent development that may occur in future. That location apart, the potential for future permeability is very limited.

8.5.5. Overall I consider that the layout is acceptable in terms of layout and design.

#### Open Space

8.5.6. I note initially that the open space areas are generally very well overlooked by proposed houses. Open space area 6 along the western boundary is an exception to this though I note that the two adjacent houses have been reoriented as part of the further information response so their front doors are to the open space sides.

8.5.7. Three of the larger open space areas (4 and 5 (linear park), 2 (ring fort meadow), and 3 (crescent lawn)) are linked. There are planted detention basins throughout the open space areas. One of the issues raised by appellants is the placing of this type of infrastructure within open space areas. In this regard, the 2024 Compact Settlements Guidelines state 'For the purposes of calculating public open space provision, it can include areas used for Nature-based Urban Drainage and other attenuation areas where they form part of an integrated open space network. It ... may include smaller retention basins that are integrated into and form part of the open space and landscaping scheme'.

8.5.8. The eight identified open space areas have a combined area of 1.7866 hectares, approx. 18.3% of the gross site area. These are illustrated on page 53 of the ADS. The applicant has clarified that the 1.7866 hectares does not include the ring fort. Section 9.9.12 of the MLAP states 'Open space in housing estate areas shall normally be based on a standard of 15% minimum of gross site area'.

8.5.9. I consider that the public open space provision is acceptable.

#### Landscaping / Tree/Hedgerow Removal

8.5.10. The removal of trees and hedgerows, both along boundaries and through the site as individual field boundaries, is a matter of concern raised in the grounds of appeal.

8.5.11. I note that the only tree line (TL01) identified on the applicant's Tree Survey layout along Ardmore Road has already been removed, presumably during the recent road improvement works. Other areas of trees are identified as tree groups TG01-TG10. The applicant's 'Tree, Hedgerow, and Vegetation Survey' discusses the tree line and

all tree groups. The document concludes that 'The trees on site are mostly categorized as low quality ... The proposed design allows for good selective tree retention and removal through all of the tree groups. Many areas of the proposed design are favourable for the tree groups and will allow for retention in public open spaces ...' It is also stated that ash dieback was observed in the ash trees, they are not expected to survive beyond the next ten years and will continue to deteriorate in quality.

8.5.12. The ADS states that 'The natural woodlands were kept intact as much as possible. With key character areas such as the Linear Park utilising these features'. [sic] The Tree Protection Plan layout shows the existing tree groups in the context of the proposed development. I do not consider that it is particularly robust. While it is clear where tree groups will be removed to accommodate the proposed development I consider that the layout is quite vague otherwise e.g. retain sycamore boundary within TG03 'where possible', retain TG06 'where possible', and retain trees 'where possible' in public open spaces in TG07. I consider that this is unduly vague and, should the Board consider a grant of permission, I recommend that a more robust tree protection/retention plan should be submitted for agreement with the planning authority prior to commencement of development to provide certainty as to what trees or tree groups are to be retained in open space or rear garden areas.

8.5.13. I note map 8 (Natural Heritage Map) in volume 2 of the MLAP. This map identifies 'trees of amenity value' (MT10) on the western boundary of the site. Policy P-TWH1 of the MLAP states it is a policy 'To protect, preserve and ensure the effective management of trees and groups of trees of merit in the town, including those considered to be of special amenity value listed in Appendix 3 of this plan'. However, appendix 3 (Trees and Woodland of Special Amenity Value) does not contain 'MT10', only MT1-MT9. It appears there may be an error in the MLAP in this regard and MT9 of the appendix may be applicable ('Mature trees along eastern boundary to Petitswood'). As a tree survey has been carried out, while the removal of trees would be regrettable I consider it to be acceptable.

8.5.14. I have no concern in relation to the overall proposed landscaping of the site and, subject to my recommended condition as per paragraph 8.5.12, in conjunction with standard landscaping and tree protection conditions, I have no objection to the proposed landscaping or tree and hedgerow removal.



### Architectural and Visual Impact

- 8.5.15. The proposed houses and duplexes are contemporary in terms of their architectural style with external finishes of light toned brick and render with metal entrance canopies, zinc cladding to the 3 storey houses, and a dark grey roof slate.
- 8.5.16. Both a buff and darker brick are proposed to the apartment building as well as some render and metal framing. This structure is of contemporary design and is visually interesting. The proposed creche is also visually interesting and has a contemporary design with similar finishes to the proposed houses but with an individual design approach.
- 8.5.17. Both the 'Verified Photomontages' document and the images contained within the ADS are very beneficial in demonstrating both the impact of the proposed development in the wider area and anticipated views and layouts within the subject site. I consider the proposed structures to be of high quality contemporary design and external finish which would be acceptable at this location within the footprint of a key town as designated by the RSES.

### Housing Mix

- 8.5.18. The ARRA grounds of appeal state that the housing mix should be adjusted to provide more four bed houses and detached houses. It is proposed to provide 245 no. residential units in the mix of 14 no. one-beds, 23 no. two-beds, 138 no. three-beds, and 70 no. four-beds in houses, duplex units, and apartments in structure heights of two, three, and four storeys. I consider this to be a good housing mix consistent with one of the Ardmore/Marlinstown framework requirements for Area 4 that 'Housing types shall comprise a mix of typologies and dwelling sizes to accommodate a broad range of household compositions' and policy P-H9 of the MLAP; 'To require diversity in the form, size and type of dwellings within residential schemes'. The apartment building is a concern raised in the grounds of appeal. I have no objection to it in principle and I consider that it is an appropriate location in the context of sections 2.4 (3) and 2.5 of the 2023 Apartment Guidelines i.e. peripheral and/or less accessible urban locations, and, without it, the density would likely drop below an acceptable level.

### Floor Areas and Private Open Space

- 8.5.19. The applicant submitted a housing quality assessment as section 5 of the ADS, as amended by the further information response. I am satisfied that the various floor areas set out for the proposed houses, duplexes, and apartments are adequate to ensure an appropriate level of residential amenity in line with the Quality Housing for Sustainable Communities Guidelines (2007) and the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2023).
- 8.5.20. Under the 2023 Apartment Guidelines the required communal amenity space is 229sqm. 192.3sqm is provided externally on the third floor. The deficiency at this location is made up by an additional 40sqm at 'Ground Floor Amenity (Part of Open Space 6)', according to page 53 of the ADS. I assume the applicant means open space area 8. The 40sqm area does not appear to be specifically identified but, having regard to the third floor communal space and the structure location adjacent to an open space area I do not consider the communal amenity space to be a particular concern.
- 8.5.21. SPPR 4 of the 2023 Apartment Guidelines states that the minimum number of dual aspect apartments that may be provided in any single apartment scheme in suburban or intermediate locations shall generally be a minimum of 50%. I consider this to be a suburban/intermediate location in the context of the Guidelines. There is a contradiction in information provided in the ADS. The Housing Quality Assessment (page 52) indicates that there are 14 no. dual aspect apartments out of the 35 no. proposed (40%). However, the 'Schedule of Accommodation and Statistics' on page 53 state that there are 18 no. dual aspect units (51.4%). I have looked at the apartment floor plans and I consider that there are 18 no. dual aspect apartments. In my opinion proposed nos. 212, 220, 230, and 240 should have been identified as dual aspect units on page 52. Therefore, I consider the proposed development achieves SPPR 4's objective.
- 8.5.22. In terms of private open space the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024) have been introduced since the grounds of appeal were received. Inter alia, SPPR 2 reduces private open space requirements for houses to 40sqm for a three-bed and 50sqm for a four-bed. All proposed houses achieve these. I am also satisfied that adequate private open space for the duplex units and apartments are provided.

8.5.23. I consider proposed floor and private open spaces to be acceptable and the required number of dual aspect apartments are proposed.

#### Daylight and Sunlight

8.5.24. In relation to this issue I note the provisions of section 5.3.7 (Daylight) of the Compact Settlement Guidelines (2024). It states, inter alia, 'Planning authorities do not need to undertake a detailed technical assessment in relation to daylight performance in all cases. It should be clear from the assessment of architectural drawings (including sections) in the case of low-rise housing with good separation from existing and proposed buildings that undue impact would not arise, and planning authorities may apply a level of discretion in this regard'. The proposed apartment building has a significant separation distance from other proposed buildings and has a somewhat isolated footprint in the context of it being surrounded by the road network, surface car parking, and public open space area 8. The sun path is not blocked to any orientation and the required number of dual aspect units are provided.

8.5.25. Notwithstanding, 'Daylight and Sunlight Assessments' were submitted as part of the application. The conclusion in relation to daylight to the proposed apartment building and duplexes is that every living/kitchen/dining room and bedroom achieves 'the target values set out in BS EN 17037:2018+A1:2021 section NA1'. For sunlight hours 79.1% of living spaces achieves the minimum recommended 1 ½ direct sunlight hours, meeting the recommendation of the BRE guidelines (2022).

8.5.26. Having regard to the conclusions of the assessments and the relatively low-rise nature of proposed development, I do not consider there would be any undue daylight or sunlight impact on future residents.

### **8.6. Impact on Adjacent Residential Amenity**

8.6.1. The impact of the proposed development on adjoining properties is an issue raised in the grounds of appeal. I consider that the issues raised can be assessed under subheadings of overlooking, daylight and sunlight, boundaries, permeability link, devaluation of property, and risk of damage during construction.

## Overlooking

- 8.6.2. There is existing residential development to the western boundary of the site (Petitswood Manor) and individual detached houses to the north east, east, and south east boundaries. In relation to overlooking I note initially that SPPR 1 of the Compact Settlements Guidelines (2024) states, inter alia, 'When considering a planning application for residential development, a separation distance of at least 16 metres between opposing windows serving habitable rooms at the rear or side of houses, duplex units and apartment units, above ground floor level shall be maintained' i.e. the former 22-metre separation distance has been reduced.
- 8.6.3. There are two house type B houses (proposed nos. 1 and 103) in the north west corner of the site. These are three-storey semi-detached houses with two first floor side elevation bedroom windows overlooking the rear of houses in The Close. These are subsidiary windows with the main bedroom windows to the front and rear elevations. Other above ground floor side elevation windows serve stairs. The separation distance to the side boundaries are approx. 10.5 metres and 6.7 metres respectively with separation distances to the adjacent houses to the west of approx. 29.6 metres and 21.5 metres. I consider that undue overlooking would not occur.
- 8.6.4. House type C (proposed no. 104) is a two-storey detached house with one first floor side elevation bedroom window also overlooking a house in The Close. A second, high level, window serves an en-suite. The separation distance to the side boundary is approx. 8 metres with a separation distance of approx. 30.6 metres to the closest existing house. I consider that undue overlooking would not occur.
- 8.6.5. Six terraced houses (proposed nos. 108, 110, 112, 114, 116, and 118) are two-storey terraced houses. The separation distances to the rear boundary overlooking houses in The Close and The Green range between 18.93 metres and 20.194 metres. No undue overlooking would occur from these proposed houses.
- 8.6.6. Proposed house type G1 (proposed no. 122) is an end-of-terrace two-storey house overlooking open space area 6. It has a separation distance of 10.95 metres to the boundary with a house on The Court to the south west and I do not consider undue overlooking would occur.
- 8.6.7. There are two more house type B houses (proposed nos. 189 and 190) adjacent to existing houses in The Court. There are two first floor side elevation bedroom windows

overlooking the rear of existing houses. These are subsidiary windows with the main bedroom windows to the front and rear elevations. Other above ground floor side elevation windows serve stairs. The separation distance to the side boundaries are approx. 11 metres and 10 metres respectively with separation distances to the adjacent houses approx. 22.2 metres and 21.9 metres. I consider that undue overlooking would not occur.

- 8.6.8. Two house type F are proposed (nos. 202 and 203) adjacent to The Court and The Walk. These are end-of-terrace units with no side elevation fenestration. Though indirect overlooking could occur to existing houses the separation distances involved are relatively significant.
- 8.6.9. House type C (proposed no. 210) is adjacent to The Walk. A separation distance to the common boundary of approx. 3.8 metres is proposed with a distance of 15 metres to the closest house. Should permission be granted I recommend that the first floor side elevation bedroom window be removed in the interest of the residential amenity of the adjoining property. Rear elevation bedroom windows would remain.
- 8.6.10. Given the approx. 18 metres separation distance between the proposed creche and existing houses to the west I do not consider any undue overlooking would occur.
- 8.6.11. There are 14 no. semi-detached houses (proposed nos. 145-158) along the south east boundary comprising 13 no. type A and a single type B house. The houses are three storeys to the front and 2 ½ storeys to the rear. There are two first floor rear elevation bedroom windows to all houses with high level rear rooflights at second floor level. Separation distances at first floor level range between approx. 14.3 metres and 11.4 metres. Therefore the required separation distances are achieved along the south western boundary.
- 8.6.12. Ten houses (proposed house nos. 51-60), are proposed to the rear of individual houses which address Ardmore Road. Two semi-detached blocks comprising house types A and B book end two terraces of three houses comprising house types D, E, and F. All houses have bedroom windows at first floor level on the rear elevation with high level rooflights to the rear of house types A and B. Separation distances of 11 metres are indicated, therefore I do not consider undue overlooking would occur.
- 8.6.13. The final line of houses that could affect third-party properties back onto houses which address Dublin Road. House type G (proposed no. 50) is also beside the boundary of

one of the adjacent houses addressing Ardmore Road. The proposed house is approx. 5.3 metres from the boundary and there are two bedroom windows serving two rooms at first floor level overlooking the adjoining property. I recommend that these bedroom windows should be omitted should the Board grant permission. Larger bedroom windows would be retained to both bedrooms. Otherwise on this line of houses, separation distances to the common boundaries with houses addressing Dublin Road range between approx. 9.4 metres and 13.8 metres which meet the standards of the 2024 Guidelines.

8.6.14. Therefore, I consider that undue overlooking would not occur as a result of the proposed development, subject to first floor bedroom windows being removed from the relevant elevations of proposed nos. 50 and 210.

#### Daylight and sunlight

8.6.15. Some concern is expressed about the impact of the proposed development on daylight and sunlight of adjoining properties to the south east. As set out in section 8.5.24 of this inspector's report in my opinion this is the type of development where a detailed technical assessment is not required.

8.6.16. Notwithstanding, 'Daylight and Sunlight Assessments' were submitted as part of the application. The conclusion in relation to daylight to adjacent buildings is that none of the adjacent properties 'have the potential to experience a significant reduction in daylight due to the proposed development. The proposed development meets the recommendations of the BRE guidelines'. In relation to sunlight to adjacent private amenity spaces the conclusion is that 'The amenity spaces to the gardens of the adjacent houses will not perceive a reduction below the current sunlight levels on the 21st of march [sic]. All the gardens will exceed 2 hours sunlight over 50% of the amenity space or if less will not be reduced below 80% of the current value. Any impact would be minimal perceivable to the amenity to the adjacent properties. The proposed development meets the recommendations of the BRE guidelines for gardens and open spaces'.

8.6.17. Having regard to the conclusions of the assessments, the low-rise nature of developments along site boundaries, and the separation distances achieved to site boundaries, I do not consider there would be any undue daylight or sunlight impact on any adjoining properties.

### Boundaries

- 8.6.18. The issue of boundaries is raised in the O'Shea, ARRA, and Reilly grounds of appeal. The issues raised include technicalities in the boundary lines, variation in ground levels either side of the boundary line, and the nature of the boundary type.
- 8.6.19. The applicant's response to the grounds of appeal considers that a prior to commencement boundary treatment condition could be applied, if necessary. It is stated that trees to the rear of proposed nos. 145-149 are to be retained, that the applicant has no intention to build outside of their ownership boundary and in any case section 34(13) would apply (section 34(13) of the Planning & Development Act, 2000 (as amended) states that 'A person shall not be entitled solely by reason of a permission under this section to carry out any development').
- 8.6.20. From my site inspection the existing site boundaries generally comprise timber post and rail fences to both Dublin and Ardmore Roads and a concrete panel fence along the western boundary. Boundaries to the eastern side of the site are less structured/defined as they are to the rear of individual houses which address Ardmore Road and there is a substantial tree line. The boundary with Meadow View, the O'Shea property, is very open and effectively comprises a post and wire fence. The applicant states that a hedgerow has been removed from the boundary. The Corcoran property, adjacent to Meadow View, has a tree line, but the Reilly property, facing onto Dublin Road, has a rear boundary relatively similar to Meadow View i.e. it is quite open.
- 8.6.21. The applicant submitted a boundary treatment layout with the application. However, I consider it appropriate, should permission be granted, that an updated boundary layout be submitted for approval by the planning authority, showing, inter alia, the exact boundary type along all boundaries of the site as well as demonstrating that there is a minimum 2 metres high rear/common boundary to each proposed individual site and existing third party property i.e. accounting for ground level differences that may exist.

### Permeability link

- 8.6.22. The Reilly grounds of appeal raises the issue of the permeability laneway to Dublin Road and considers that it should be omitted because it would attract anti-social behaviour, would be inadequately lit, and would have a detrimental impact on privacy.

- 8.6.23. The broad concept of permeability in urban areas is widely encouraged and supported. Page 187 of the RSES states ‘New development areas, including peripheral areas, should be permeable for walking and cycling ... Where possible, developments shall provide for filtered permeability’ (page 187). Section 4.4 of the Compact Settlements Guidelines (2024) outlines the key indicators of quality design and placemaking. One of these is ‘sustainable and efficient movement’ and one of the key principles to be considered in planning applications is ‘New developments should, as appropriate, include a street network (including links through open spaces) that creates a permeable and legible urban environment, optimises movement for sustainable modes (walking, cycling and public transport) and is easy to navigate’ (page 41). Another key principle is that new developments should, inter alia, connect to the wider urban street and transport networks and improve connections between communities.
- 8.6.24. CPO 16.25 of the WCDP states, inter alia, that ‘New development proposals should be fully permeable for walking and cycling ...’ It is a policy of the Council, under P-SR10 of the MLAP ‘To ensure the development of sustainable residential communities through the promotion of a high level of permeability, accessibility and connectivity to the existing built environment, services and facilities’. P-RLD9 is ‘To require permeable layouts within housing schemes and connectivity to adjoining areas and amenities’.
- 8.6.25. The applicant’s ‘Public Lighting Report’ shows two lighting poles on the link with appropriate illuminance levels.
- 8.6.26. The principle of permeability and connectivity is supported in the relevant planning framework. I consider that the pedestrian/cyclist link along the eastern boundary of the area for future development on Dublin Road is consistent with the overall concept of permeability and should be retained.

#### Devaluation of property

- 8.6.27. Devaluation of property in the vicinity has been referenced as a concern in appeals as a result of, for example, the proposed density and the presence of the apartment block.
- 8.6.28. Having regard to the relevant zonings of the subject site, the location of the site within the LAP boundary, the existing pattern of development in the vicinity, the NPF requirement to achieve compact growth within existing built-up areas, and the overall assessment contained within this inspector’s report, I am satisfied that the proposed



development would not seriously injure the amenities of the area to such an extent that it would adversely affect the value of property in the vicinity.

#### Risk of damage during construction

8.6.29. The O'Shea grounds of appeal expresses concern about the risk of damage during construction. Having regard to the standard nature of the construction project and the distances involved, I am satisfied that there is no reasonable concern in relation to the structural integrity of adjoining property during construction.

### 8.7. Fire Safety

8.7.1. The appellants express concern that the planning authority's Fire Officer was not satisfied with the applicant's further information response with regard to fire safety in the proposed creche or apartment building.

8.7.2. The Fire Officer's first report recommended a refusal for both structures because it was stated they failed to meet the required technical standards. This formed item 4 of the further information request. Despite a fire safety consultant being engaged by the applicant, the Fire Officer's second report stated that there was no improvement in the fire safety issues. The planning authority Planning Report noted the Fire Officer's comments but considered that amended plans demonstrating compliance with fire safety regulations could be secured via condition to address the matter. Condition 14 of the decision applies. This states,

*'Any design modifications to the proposed creche and apartment building required in association with compliance with Fire Safety Legislation shall be submitted for the written approval of the Planning Authority prior to commencement of development.*

*Reason: In the interests of public health and fire safety.'*

8.7.3. In the applicant's response to the grounds of appeal the contention that the fire safety concerns were not addressed is disputed.

8.7.4. In my opinion the proposed creche and apartment building are acceptable in principle on site, in terms of their land use in the context of their zonings. Section 7.8.3 (Fire conditions) of the Development Management Guidelines for Planning Authorities (2007) states, inter alia, that 'fire safety can only be considered where it is relevant to the primary purpose of the Acts, namely the proper planning and sustainable

development of the area'. Examples given include the location of proposed development in relation to existing industrial or other hazards and fire service access for proposed development. I do not consider that fire safety concerns in this application relate to the proper planning and sustainable development of the area. Rather, they are technical issues.

- 8.7.5. Regardless of planning permission, these structures also require fire safety certificates. The applicant and fire safety consultant are of the opinion that the structures as received by the planning authority will achieve compliance with the building regulations. Determining whether the proposed structures are or are not building regulation compliant is not a matter for this planning application. I consider that any further amendments that may be required to either building are likely to be limited and not of such a scale that would have any material impact on the floor plans, elevations, and section drawings received by the Board.
- 8.7.6. Further to the requirement to obtain a fire safety certificate, I note that section 34(13) of the Planning & Development Act, 2000 (as amended) would apply (as set out in section 8.6.19 of this inspector's report). I am satisfied that the concerns expressed by appellants in relation to fire safety would be appropriately addressed by the relevant procedure.
- 8.7.7. Having regard to the foregoing a refusal of permission is not warranted on the grounds of fire safety.

## **8.8. Biodiversity**

- 8.8.1. Concern is expressed in the grounds of appeal about the impact of the proposed development on wildlife. This is a common concern when development of greenfield sites is proposed.
- 8.8.2. The planning application was accompanied by an Ecological Impact Assessment' (EclA). Four field surveys were carried out to inform the EclA. Improved agricultural grassland comprises the vast majority of the site area but there are also significant areas of hedgerow, scrub, treelines, and (mixed) broadleaved woodland. No rare or threatened plant species was recorded though one plant of an invasive species (three-cornered leek) was noted. The EclA stated that no mammal activity was noted on site. Some foraging bat activity was recorded along the treelines and hedgerows and a

number of bird species were noted. Mitigation measures were proposed. No significant cumulative effects on biodiversity were identified and, overall, residential effects were considered to be not significant and short-term.

- 8.8.3. In its initial submission to the planning authority the NPWS expressed concern about the use of the site by badgers and the impact of the proposed development on other wildlife. These issues were addressed by the applicant in a further information response, including an updated badger survey report. An updated report was received from NPWS which concludes that, should permission be granted, five conditions are recommended for inclusion relating to the protection of badgers, the removal of hedgerows/trees, and appointment of an ecological clerk of works. The planning authority's second Planning Report states that the applicant's further information response suitably addresses the issues, subject to conditions.
- 8.8.4. I acknowledge the concerns expressed by the appellants in relation to biodiversity and wildlife. This is a somewhat unusual site give its urban location, in that it is a substantial site comprising fields, located between two busy roads to the north and south, a substantial housing development to the west, and a line of individual houses to the east and north east. There is inevitable impact on biodiversity when a development of this type is undertaken on previously undisturbed land. However, it must be borne in mind that the subject site is suitably zoned for residential development and, therefore, such development is permitted in principle. Notwithstanding, suitable mitigation measures must be in place to ensure that such development does not have an unacceptable impact on biodiversity and, notwithstanding, the granting of a permission does not remove any obligations on a developer under other legislation. I am satisfied that the various mitigation measures as contained within the EclA and CEMP are appropriate in this regard and similar conditions to those recommended by the NPWS could also be included.
- 8.8.5. Therefore, having regard to the zoned nature of the site and its location within the footprint of the town, and the mitigation measures proposed and conditions that can be included, I am satisfied that the proposed development would not have any undue significant adverse on biodiversity at this location.

## 8.9. Archaeology

- 8.9.1. The applicant submitted an Archaeological Testing Report with the application. The site contains a ringfort (WM019-077) and a souterrain (WM019-077001) on the eastern boundary. Sixteen trenches were excavated but no archaeological stratigraphy, features, or artefacts were recorded in any of the test trenches. A geophysical survey was also undertaken. None of the anomalies were found to have been archaeological in nature though the geophysical survey does acknowledge there is archaeological potential.
- 8.9.2. The first submission that the planning authority received from the Department of Housing, Local Government and Heritage included comments on archaeology. The Department recommended an archaeological condition be included in any grant of permission. The planning authority Planning Report noted this and condition 7 of the decision relates to a buffer zone around the ringfort and souterrain.
- 8.9.3. Having regard to the foregoing I am satisfied that there would be no undue impact on the known archaeology on site. I consider a condition similar to that in the planning authority decision would be appropriate and, given the size of the site area and the potential identified in the geophysical survey, I consider a general archaeological monitoring condition would also be appropriate.

## 8.10. Drainage

- 8.10.1. An area of waterlogging along the south east site boundary with the Meadow View property is referenced by appellants. I noted on my site inspection that a localised area in the south east of the overall site does appear to be prone to some waterlogging. However, this would not be unusual with agricultural fields and appears to be a localised issue at certain times of the year rather than a broader issue that the area is liable to flooding. In this regard I note the conclusion of the Site Specific Flood Risk Assessment which states 'the proposed development of the site ... will not pose any flooding issues ...the site will be positively drained and surface water will be contained within the overall sites drainage network ...' I also note that the planning authority's Environment Section report stated it had 'no objection to the details submitted within the Flood Risk Assessment'. I consider that the concern expressed would be

adequately addressed by the Board in a standard condition requiring drainage details to be compliant with the requirements of the planning authority.

## 8.11. School Capacity

- 8.11.1. The lack of capacity in local schools was an issue raised in the grounds of appeal. The applicant submitted a SIA. At primary school level 'it is anticipated that there would be capacity for the maximum projected 162 primary school children generated by the subject development'. It is anticipated that there would be 102 no. post-primary age children and that there would be also capacity for them. The planning authority had no concern with the school capacity issue and no concern from any official source is on file. Therefore, it would not be reasonable to refuse planning permission on the basis of inadequate educational infrastructure.

## 9.0 Appropriate Assessment (AA)

### Appropriate Assessment (AA) Screening

#### Compliance with Article 6(3) of the Habitats Directive

- 9.1. The requirements of article 6(3), as related to screening the need for AA of a project under part XAB, section 177U of the Planning & Development Act, 2000 (as amended) are considered fully in this section.

#### Background on the Application

- 9.2. The applicant submitted an AA screening report as part of the planning application. It was prepared by Altemar Ltd. and is dated 22<sup>nd</sup> June 2023.
- 9.3. It is stated that the screening report was undertaken in accordance with European methodological guidance, and Irish legislation and guidance. The proposed project is described and European sites within 15km (or beyond with a potential hydrological connection) are identified. In-combination effects are considered and conclusions reached.
- 9.4. The AA screening report concludes 'that the proposed development would not give rise to any significant effects to designated sites. The construction and operation of

the proposed development will not impact on the conservation objectives of qualifying interests of European sites’.

- 9.5. Having reviewed the documents and submissions I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development alone, or in combination with other plans and projects, on European sites.

#### Submissions and Observations

- 9.6. The planning authority’s Planning Report states that the Environment Section concurs with the conclusions of the applicant’s AA screening report.
- 9.7. The initial NPWS report referred to bats in the context of the removal of trees/hedgerow/scrub. While bat activity was noted on site, as per appendix 1 (Bat Fauna Survey) of the EclA, I note that no European site within 15km has a conservation objection including any bat species and therefore these are not likely to be ex-situ populations of any SAC. Notwithstanding, the NPWS recommends conditions to be included in any grant of permission, none of which are specific to AA.
- 9.8. AA was referenced in the ARRA grounds of appeal. Concern is expressed about the cumulative impact of the proposed development and refers to a previous Board case, ABP-316019-22. In-combination impacts are considered in section 9.21, below. ABP-316019-22 is in Co. Wexford and is unrelated to this application. All applications are assessed on their own merits.

#### Screening for AA – Test of Likely Significant Effects

- 9.9. The project is not directly connected with or necessary to the management of a European site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s).
- 9.10. The proposed development is examined in relation to any possible interaction with European sites designated SAC and SPA (special protection area) to assess whether it may give rise to significant effects on any European site(s).

#### Brief Description of the Development

- 9.11. The proposed development is described in section 2 of this inspector’s report and on page 4 of the applicant’s AA screening report. The development involves the

construction of 245 no. residential units and a creche as well as circulation roads, open space etc.

- 9.12. The site comprises agricultural fields with residential development to the west and east, and public roads to the north and south and there are other lands uses in the area.

#### European Sites

- 9.13. The development site is not located in or immediately adjacent to a European site. The nearest European site is Wooddown Bog SAC approx. 2.4km to the north east.
- 9.14. European sites within the zone of influence (Zol) of a proposed development must be evaluated on a case by case basis. The applicant's AA screening report identifies 11 no. European sites within a 15km radius (it is stated that there are none beyond this radius with a potential hydrological connection). These are set out in table 1 and all are screened out for further consideration.
- 9.15. The reason for screening out these European sites is the absence of a source-pathway-receptor link between the subject site and the respective European site, and therefore no significant effects are likely on the conservation objectives of these European sites. I agree with the applicant that there are no likely significant effects on any European site during either the construction or operational phases. It is relatively remote from European sites. I did not notice any watercourse on inspection, and none are shown on the EPA or NPWS online mapping, though there may be a piped watercourse along the Ardmore Road roadside boundary. Further, there are no watercourses in the vicinity of the site that could be affected during the construction or operational phases.
- 9.16. Notwithstanding, the applicant states that there is an indirect hydrological pathway between the subject site and Lough Ennell SAC (site code 000685). Lough Ennell is also an SPA (site code 004044). After on-site attenuation, surface water would discharge to the public surface water system on Ardmore Road. The applicant's engineers have stated this discharges to the River Brosna which runs roughly north to south through the town, and the Brosna discharges to Lough Ennell, south west of the subject site. The applicant gives a minimum distance of 3.7km between the site and the SAC, however this is as the crow flies so hydrologically it is likely to be significantly longer. The applicant references the distance involved, the scale of the proposed

development, and the use of the public system during operation where dust, pollutants, or silt would be dispersed, diluted, or settled within the drainage network or the river, to demonstrate that no potential impact is foreseen.

9.17. While I agree with the applicant that these elements would result in no likely significant effect, I would also point to measures within the proposed development. Section 4.4 of the CEMP states, in relation to the overall SuDS system, 'a petrol/oil interceptor/downstream defender will be installed to control the water quality, prior to discharging into the existing surface water network', and this is also stated within the EclA. Though mitigation measures are not permitted to be used for the purposes of avoiding or reducing any potential harmful effects to any European site I note the following policies and objectives of the MLAP with regard to SuDS:

- P-SW1 – To incorporate and promote the use of Sustainable Urban Drainage Systems (SUDS) within development proposals and infrastructural projects.
- O-GF3 – To incorporate Sustainable urban Drainage System (SUDS) measures to reduce the risk of flooding and to help to improve water quality in the plan area, in compliance with the Water Framework Directive (WFD).

9.18. This policy and objective indicates that SuDS measures are mandatory for new development other than for reasons of the protection of European sites. There are similar policies and objectives promoting the use of SuDS in the WCDP. In this regard I would draw attention to the judgement in CJEU Case C-721/21 which effectively states that SuDS measures which remove contaminants can be taken into consideration at screening stage where such features have been incorporated into that project as standard features, inherent in such a project, irrespective of any effect on the European site(s). Having regard to the fact that the wider public surface water drainage network is in situ, and the provisions of the MLAP, I am satisfied that the proposed SuDS is for appropriate surface water treatment and discharge rather than for the purpose of protecting European site(s), and therefore can be taken into consideration at screening stage.

9.19. In addition, in terms of the possibility of on-site foraging by conservation objective species of the five SPAs within 15km, I note that the relevant conservation objectives species are mainly waterbirds, or birds not typically associated with this type of urban site e.g. golden plover or kingfisher. I also note that no annex I bird species was



recorded on site as per table 1 of the EclA. Therefore, I do not consider that the site could be described as representing an ex-situ foraging site or area of any importance for any conservation objectives species.

9.20. Having regard to the foregoing, I do not consider that there is any European site relevant for AA screening.

#### In-Combination Effects

9.21. As there is no likelihood of the proposed development itself having a significant effect on any European site, it would not be likely to have a significant in-combination effect with any other plans or projects.

#### Mitigation Measures

9.22. No measures designed or intended to avoid or reduce any harmful effects of the project on a European site have been relied upon in this screening exercise.

#### Screening Determination

9.23. The proposed development was considered in light of the requirements of section 177U of the Planning & Development Act, 2000 (as amended). Having carried out screening for Appropriate Assessment of the project, it has been concluded that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on any European site, and Appropriate Assessment (and submission of a Natura Impact Statement) is not therefore required.

9.24. This determination is based on the following:

- the distance between the subject site and the nearest European site.
- the absence of any direct hydrological link between the subject site and any European site.
- the discharge of surface water to the public surface water system after appropriate SuDS treatment as required by the Mullingar Local Area Plan 2014-2020 (as extended and amended),
- the unsuitability of the subject site for use by ex-situ conservation objective bird species of SPAs in the wider vicinity, and,
- the disposal of foul water to the public foul sewer system for required treatment.

## 10.0 Recommendation

10.1. I recommend that permission be refused for the reasons and considerations set out below.

## 11.0 Reasons and Considerations

1. The site is located within the Ardmore/Marlinstown Framework Plan area as set out in the Mullingar Local Area Plan 2014-2020 (as amended and extended). O-FP1 states that it is an objective, inter alia, to secure the provision of appropriate infrastructure to support the phased development of Ardmore/Marlinstown. Map Refs. MLAP 07 (Strategic Transportation Map) and MLAP 14 (Land Use Zoning Map) include an arterial road connecting Dublin and Ardmore Roads along the western boundary of the site. The Framework Plan also makes a number of references to this road. However the proposed development makes no provision for it and the road through the site connecting the Dublin and Ardmore Roads is described as intentionally circuitous. Having regard to the layout of the proposed development the proposed development would materially contravene objective O-FP1 of the Mullingar Local Area Plan 2014-2020 (as amended and extended) and would be contrary to the proper planning and sustainable development of the area.

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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Anthony Kelly

Planning Inspector

6<sup>th</sup> February 2024

# Appendix 1

## EIA Pre-Screening

<b>An Bord Pleanála Case Reference</b>	ABP-318498-23
<b>Proposed Development Summary</b>	245 residential units and a creche
<b>Development Address</b>	Dublin Road, Petitswood Td., Mullingar, Co. Westmeath
The Board carries out a preliminary examination [Art. 109(2)(a) Planning & 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>Examination</b>	<b>Yes / No / Uncertain</b>
<p><b>Nature of the Development</b> 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 on a greenfield site within the built-up footprint of the town, typical of existing development in the vicinity.</p> <p>It would not result in the production of significant waste, emissions, or pollutants.</p>	No
<p><b>Size of the Development</b> 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>The site is below the area threshold, significantly below the unit number threshold, and is similar to existing development in the area.</p> <p>It is not an integral part of any larger project and there are no cumulative considerations.</p>	No
<p><b>Location of the Development</b> Is the proposed development located on, in, adjoining, or does it have the</p>	<p>The majority of the site is grassland of limited ecological value and the submitted information</p>	No

<p>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>demonstrates that it is not a significant habitat for any protected species.</p>	
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**Conclusion**

There is no real likelihood of significant effects on the environment and EIA is not required.

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

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