



An  
Bord  
Pleanála

## Inspector's Report

### ABP-319102-24

|                                     |   |
|-------------------------------------|---|
| <b>Development</b>                  | Construction of 31 residential dwellings and all associated site works. |
| <b>Location</b>                     | Tulla Road, Roslevan, Ennis, Co. Clare                                  |
| <b>Planning Authority</b>           | Clare County Council  |
| <b>Planning Authority Reg. Ref.</b> | 2360027   |
| <b>Applicant(s)</b>                 | Jamire Limited  |
| <b>Type of Application</b>          | Permission  |
| <b>Planning Authority Decision</b>  | Grant with Conditions   |
| <b>Type of Appeal</b>               | Third Party   |
| <b>Appellant(s)</b>                 | Catriona and Aidan Moynihan<br>Caroline and Tom O'Keefe                 |
| <b>Observer(s)</b>                  | None  |
| <b>Date of Site Inspection</b>      | 12 <sup>th</sup> October 2024   |
| <b>Inspector</b>                    | Ciara McGuinness  |

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## **1.0 Site Location and Description**

- 1.1. The subject site is located to the northeast of Ennis, c.2.7km from the town centre, and 900m west of the N18 Limerick-Galway Motorway, in an area known as Roslevan. The site is located to the south of an existing recently built housing development known as Curates Court, which fronts onto the Tulla Road. The site is accessed through the Curates Court development. The site is adjoined to the east by a ribbon of one-off houses which address a minor public road. To the south, are further undeveloped lands and further south is a church and car park. Existing housing known as Elm Wood and Bridge Court is located to the west.
- 1.2. The site is undeveloped and greenfield in character and can be considered an infill site. The levels on the site are generally higher than those of the neighbouring residential properties. With regards to the site itself, the lands are more elevated towards the northern boundary before falling southwards towards the church.

## **2.0 Proposed Development**

- 2.1. The proposed development sought permission for 31 no. residential dwellings as follows;
- 24 no. 3-bed two-storey semi-detached units
  - 4 no. 4-bed two storey semi-detached units (with attic conversion)
  - 1 no. 3-bed two storey terrace unit
  - 2 no. 2-bed two storey terrace units
- 2.2. However, as a result of layout changes to the northern portion of the site made by way of Further Information, the overall development has reduced from 31 dwellings to 30 dwellings with the following breakdown;
- 20 no. 3-bed two-storey semi-detached units
  - 4 no. 4-bed two storey semi-detached units (with attic conversion)
  - 4 no. 3-bed two storey terrace unit
  - 2 no. 2-bed two storey terrace units

- 2.3. The proposed layout sees vehicular access being provided from Tulla Road via the existing access serving Curates Court. The initial application proposed a pedestrian access onto Millbank Road, which has now been omitted as part of Further Information revisions. The revised site area is 1.27ha.
- 2.4. A total area of 2,367sqm of open space is provided which equates which exceeds the minimum 15% requirement. The majority of the dwellings address a central area of open space within the site. Another area of open space is located off the spur road in the northern part of the site where dwellings 1-7 are located.
- 2.5. It is proposed to connect to the existing public foul sewer and existing public mains to the north of the site. Irish water has issued a Confirmation of Feasibility for wastewater connection and mains water connection. It is proposed to discharge the storm water to ground following use of an interceptor and attenuation. Two attenuation areas are proposed, one in the northern area of open space and one in the central area of open space.
- 2.6. The application is accompanied by Construction Management Plan, Appropriate Assessment Screening Report, Foul and Storm Sewers and Mains Water Report, Japanese Knotweed Management Plan and Lighting Plan.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

The Planning Authority issued a Notification of Decision to Grant Permission on 26<sup>th</sup> January 2024, subject to 24 no. of conditions. Conditions were of a standard nature.

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

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

The Planners report (dated 06/04/2023) notes that the site is zoned for 'Residential' and that the principle of residential dwellings for permanent occupancy 'will normally be acceptable in principle'. The Roslevan Neighbourhood has been identified as one where there is an existing availability of neighbourhood services, and existing and planned road infrastructure. Lands have been zoned to accommodate the expansion

of this neighbourhood in the future. The layout is considered broadly acceptable, save for 8 no. units located in the northern portion of the site, which appear congested and illegible, and which may result in overlooking. The proposed density is considered acceptable having regard to the established pattern of development in the area. The proposed development is considered broadly acceptable with respect to impact on existing residential amenities. Further Information (FI) was requested in relation to the following;

- Submit a revised AA Screening to include impact on bats, hydrology/geology, surface water impacts and impacts on the public wastewater network.
- Submit legal interest to connect to the water network and sewer network. Confirm submitted Lighting Plan accords with Best Practice in Bat Conservation Ireland's publication 'Bats & Lighting: Guidance Notes for Planners Engineers, Architects and Developers'.
- Submit a revised layout to address layout issues, landscaping, pedestrian walkway and boundary treatments
- Submit a Traffic and Transport Assessment. Address traffic and pedestrian issues.
- Submit a revised site layout plan showing all existing dwellings in the vicinity of the site, and the finished floor levels and ridge levels of existing and proposed dwellings.

3.2.2. The applicant responded to the Further Information request. It is noted that the applicant is now proposing 30 no. dwellings and that the pedestrian access to Millbank Road has been omitted. The Planners Report (26/01/2024) considers that the applicant has adequately responded to all FI items. It is recommended that permission is granted subject to conditions.

3.2.3. Other Technical Reports

- Taking in charge – FI required on details of boundaries, roads and parking. FI response considered acceptable.
- Road Design Office – Traffic and Transport Assessment to be submitted. FI required on road layout and parking details. FI response considered acceptable. A section of roadway between Houses no.10-18 appears to

exceed 70m. A speed ramp or other calming measure should be implemented.

- Environmental Assessment Officer – Lighting complies with Bat Conservation Ireland's publication Bats and Lighting: Guidance Notes. The site represents a low potential for roosting bats with no structures to support the species and overall sub-optimal conditions for Lesser Horseshoe bat which is a key species of concern given the proximity to the Newpark House roost c300-330m away. A landscape Plan should be conditioned in line with CDP Objective 5.16. In terms of Appropriate Assessment, there is no risk of significant effects of any European site.

### **3.3. Prescribed Bodies**

Department of Housing, Local Government and Heritage (DAU) - Recommends that an Archaeological Impact Assessment, including Archaeological Test Excavation, be carried out as Further Information.

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

There were 5 no. third party observations received in relation to the proposed development. A further 3 no. third party submissions were received following on from the receipt of FI. The issues raised are similar to those contained in the appeal. The main planning issues/concerns raised can generally be summarised as follows -

- Overlooking into existing dwellings
- Lack of details/inaccuracies on drawings
- Impact on bats
- Capacity of the WWTP
- A stage 2 Appropriate Assessment is required
- Boundary proposals lack detail
- Existing boundary trees and hedges should be retained
- Invasive species present on the site

- No consideration of noise impact of rock breaking
- No minutes of pre-planning meeting on file

## 4.0 Planning History

The existing Curates Court development has been permitted under the following planning permission references;

PA Reg Ref 20/8006 – Permission granted for the construction of a new housing estate development consisting of: a) 8 no. residential units comprising of: 5 No. 3-bedroom, two-storey semi-detached dwellings; 3 No. 2-bedroom single storey semi-detached dwellings; b) 17 ancillary car parking spaces within the development. c) The construction of vehicular and pedestrian access points to the site. d) Alterations to ground levels to accommodate the development. e) Varied boundary treatments and landscaping works. f) Surface water management will include hydrocarbon interceptor and soakaway. g) All ancillary site works.

PA Reg Ref 17/400 – Permission granted to construct 14 no. dwelling houses consisting of 2 no. two-storey detached dwelling houses and 12 no. semi-detached dwelling houses including ancillary site works and connections to public services.

A number of applications for minor variations of design to PA Reg Ref 17/400 are listed below;

PA Reg Ref: 19/190: Permission granted for variation of design to house no.12 "Curate's Court", to include rear extension revised floor area and revised ridge height together with associated site works.

PA Reg Ref: 20/216: Permission granted to construct a sun room extension to house nos. 3 and 11 with all associated site works and services.

PA Reg Ref: 20/560: Permission granted for variation of design to house no.12 "Curate's Court", to include revised floor area and revised design together with additional parking and associated site works.



## 5.0 Policy Context

### 5.1. Clare County Development Plan 2023-2029

- 5.1.1. The Ennis Municipal District Settlement Plans are set out in Volume 3a of the Clare County Development Plan 2023-2029. The site is predominantly zoned 'Residential' with a portion of the northern part of the site zoned 'Existing Residential'.

The zoning objective for 'Residential' use shall be taken to *"primarily include the use of land for domestic dwellings. It may also provide for a range of other uses particularly those that have the potential to foster the development of new residential communities e.g. schools, creches and open spaces"*.

The zoning objective for 'existing residential' is to *"conserve and enhance the quality and character of the areas, to protect residential amenities and to allow for small scale infill development which is appropriate to the character and pattern of development in the immediate area and for uses that enhance existing residential communities. Existing residential zoned land may also provide for small-scale home-based employment uses where the primary residential use will be maintained."*

- 5.1.2. The site is in Roslevan Neighbourhood. Section 2.3.1 (vol 3a) refers to the aims for new housing in this area and focus on the existing availability of services and infrastructure and consolidating development in an appropriate manner.

- 5.1.3. The following objectives/policies are considered relevant;

**Ennis CDP 4.1** sets out a number of measures to support Ennis in its role as a 'key town' including part m), which states that it is an objective of the council *'to monitor the cumulative effect of grants of planning permission on available wastewater capacity where connection to a public wastewater treatment plant is included as part of a development proposal.'*

**Planned Growth of Settlements CDP 4.13** seeks to ensure that new developments are of a scale and character that is appropriate to the area in which they are planned; to restrict single and/or multiple large scale developments which would lead to rapid completion of any settlement within its development boundary, and in excess of its capacity to absorb development in terms of physical infrastructure (i.e. water,

wastewater, surface water, lighting, footpaths, access and similar) and social infrastructure (such as schools, community facilities and similar).

**Housing Mix CDP 5.8** seeks to secure the development of a mix of house types and sizes throughout the County and to require new housing developments to incorporate a variety of plot sizes to meet the current and future needs of residents.

**Biodiversity and Habitat Protection CDP 15.12** seeks to promote the conservation of biodiversity and to ensure there is no net loss of potential Lesser Horseshoe Bat feeding habitats, treelines and hedgerows within 2.5km of known roosts.

- 5.1.4. Development Management Guidelines are set out Appendix 1 of Volume 1 of the Development Plan. Section A1.4.2 relates to Urban Residential Development. In relation to boundary treatments the following is stated;

*Generally, boundary walls shall be between 1.8 metres and 2 metres high and shall be provided along the rear garden boundary of each dwelling and along both side boundaries extending from the rear boundary to the front building line of the dwelling. The finish of the walls shall be consistent with the external finishes of the dwelling house or of a sympathetic material. Proposals for alternative boundary treatments such as planting combined with appropriate fencing will also be considered favourably if it can be demonstrated that it will enhance the development.*

## 5.2. National Policy

- 5.2.1. The National Planning Framework 'Project Ireland 2040' addresses the issue of 'making stronger urban places' and sets out a range of objectives to support the creation of high quality urban places and increased residential densities in appropriate locations while improving quality of life and place. Relevant Policy Objectives include:

- National Policy Objective 3c: 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<sup>19</sup>
- National Policy Objective 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

- National Policy Objective 35: Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

### 5.3. Regional Spatial & Economic Strategy for the Southern Region (RSES)

- 5.3.1. The RSES identifies Ennis as a key town. Section 3.5 of the RSES deals specifically with Key Towns and states-

*“They each play a critical role in underpinning the RSES and ensuring a consolidated spread of growth beyond the cities to the sub-regional level. It is envisaged that the Key Towns will be a focus for significant growth (more than 30%). The nature, scale and phasing of this growth will be determined by local authorities depending on a capacity analysis of each town.”*

Regional Policy Objective 13 deals specifically with Ennis and seeks-

*“a. To support Ennis as a self-sustaining, regional economic driver and as a key location for investment choice in the Region, to support its enhanced development based on its strategic location relative to Limerick and Galway Cities and Shannon International Airport, as well as its role as a centre of employment and economic activity within the Region.....”*

### 5.4. Section 28 & Other Guidelines

Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024)

- 5.4.1. Section 3.3 of the guidelines contains Table 3.5 which defines categories of urban areas within ‘Key Towns’. ‘Key Town – Suburban/ Urban Extension’ describes suburban areas as comprising low density car orientated residential areas constructed at the edge of the town, while urban extension refers to greenfield lands at the edge of the existing built-up footprint that are zoned for mixed-use (including residential) development. For such locations, the guidelines state that densities in the range of 30dph-50dph should be applied and that densities up to 80dph are to be open for consideration at ‘accessible’ Key Towns – Suburban/ Urban Extension

locations. Section 3.3.6 addresses exceptional circumstances in the context of density requirements.

5.4.2. Section 4 of the Guidelines deals with Quality Urban Design and Placemaking. Section 5 of the Guidelines deals with Development Standards for Housing and includes a number of specific planning policy requirements (SPPRs) as follows:

- SPPR 1 – Separation Distances which requires a minimum of 16m between opposing windows serving habitable rooms at the rear or sides of houses above ground floor level.
- SPPR 2 – Minimum Private Open Space for houses; 1 bed -20sqm, 2 bed - 30sqm, 3bed -40sqm and 4 bed+ -50sqm.
- SPPR 3 – Car Parking which restricts the maximum rate of car parking provision for residential development in ‘intermediate and peripheral’ locations to 2 no. spaces per dwelling (exclusive of visitor spaces).
- SPPR 4 – Cycle Parking and Storage which requires a general minimum standard of 1 no. cycle storage space per bedroom (plus visitor spaces), where residential units do not have a ground level open space or have smaller terrace.

#### Other Guidelines

5.4.3. The following Section 28 - Ministerial Guidelines and other policy documents are also considered of relevance to the proposed development.

- Urban Development and Building Heights - Guidelines for Planning Authorities (2018).
- Delivering Homes, Sustaining Communities (2007) and the accompanying Best Practice Guidelines - Quality Housing for Sustainable Communities.
- Regulation of Commercial Institutional Investment in Housing, Guidelines for Planning Authorities, 2021, updated 2023 (Commercial Institutional Investment Guidelines).
- Design Manual for Urban Roads and Streets (DMURS) (2019).
- Cycle Design Manual (2023).

- Lesser Horseshoe Bat Species Action Plan 2022-2026, Government of Ireland and Vincent Wildlife Trust.

## 5.5. **Natural Heritage Designations**

Newpark House (Ennis) Proposed Natural Heritage Areas (000061) – c.300m to the west of the site

Lower River Shannon SAC (Site Code: 002165) – c.350m to the south of the site.

Ballyallia Lake SAC (Site Code: 000014) – c.1.3km to the northwest of the site.

Ballyallia Lake Proposed Natural Heritage Areas (site code:000014) – c.1.3km to the northwest of the site.

Ballyallia Lough SPA (004041) – c.2.1km to the northwest of the site.

River Shannon and River Fergus Estuaries SPA (004077) – c.4.2km to the south of the site

## 5.6. **EIA Screening**

See completed Form 2 on file in Appendix 2. Having regard to the nature, size and location of the proposed development, and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, or EIA determination, therefore, is not required.

## 6.0 **The Appeal**

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

6.1.1. The appeal is a third-party appeal by Catriona & Aidan Moynihan, and Caroline & Tom O’Keefe (the adjoining landowners) against Limerick City and County Council’s decision to grant permission. The grounds of appeal are summarised as follows;

- The Board must fully address the requirements for EIA and/or AA.
- There is a case to be made for a sub-threshold EIA given the invasive species on the site and the proximate location of a bat roost, outside a designated site.

- There is hydraulic connectivity to European Sites from both wastewater and stormwater.
- The likely significant impact on the Lower River Shannon SAC and the River Shannon and River Fergus Estuaries SPA from a dysfunctional WWTP and associated network would warrant a full stage 2 Appropriate Assessment.
- The Discharge License for Ennis North WWTP D0048-01 issued in September 2009 states that capacity of the WWTP located at Clonroadmore was 17,000 population equivalent (P.E.), the organic load entering the WWTP at is estimated at 27,650 P.E. The plant is operating over its treatment capacity.
- There have been 4 amendments to this license since it was first issued. None of the amendments increased the P.E. of the plant. There has been no review of this license.
- There is no evidence of planning permission for upgrade works to the WWTP.
- The appeal includes extracts from an WWTP EPA Site Visit Report carried out on 13<sup>th</sup> July 2023 and the actions required by Uisce Eireann.
- The last annual Environment Report (AER 2021) on the EPA Leap Portal, provides a treatment capacity summary in Section 2.1.4.2. The unsubstantiated organic design capacity is stated as 31,500 P.E. There is no supporting evidence for this. The daily hydraulic load is stated as 10,652sqm, which equates to a plant loading of 47,342 P.E.
- The pre-connection feasibility from Uisce Eireann lacks commitment to a capacity or connection.
- Condition No. 6 is ambiguous about the ultimate destination of the stormwater. Condition No. 14 is ambiguous in how it relates to stormwater.
- The Council neglected to comply with Development Plan Objective: Ennis CDP 4.1 which states it is an objective of the Council to 'm) monitor the cumulative effect of grants of planning permission on available wastewater capacity where connection to a public wastewater treatment plant is included as part of a development proposal'.

- The northern boundary of O’Keefe’s property consists of a traditional loose limestone field boundary wall. There is a section of approx. 5m which has no foliage and provides for overlooking into the O’Keefe rear garden from the subject site.
- The new proposals are ambiguous. Existing trees and foliage should be retained. The existing boundary along the northern boundary should be raised to 1.8m or a new 1.8m stone wall constructed along the new footpath.
- The Moynihan’s had to reduce their site level on average by 1.5m in order to comply with their conditioned first floor level(FFL). There was no consideration of overlooking given the differing site levels. There was no attempt to reduce FFL or consider single storey alternatives for houses 12-18.
- Due to the further Information revisions, it is not clear what is proposed in the space beside the Moynihan’s home where the allotment area was indicated.

## **6.2. Applicant Response**

The applicant considers that the points raised in the appeal were fully considered by Clare County Council through a rigorous request for further information.

## **6.3. Planning Authority Response**

The Planning Authority response is summarised as follows;

- The PA refutes the appellants claims that no further AA Screening was undertaken after the response to the FI request. AA Screening was carried out as part of the assessment of this development.
- The issue of invasive species was considered by the Planning Authority and is addressed in Condition 22.
- Uisce Eireann indicated that there is sufficient capacity for the proposed development.
- The Environmental Assessments associated with the Clare County Development Plan 2023-2029 determined that the growth targets and the core strategy requirements could be met by the Ennis North WWTP having regard

to the operational improvements works which have taken place at the plant over the past number of years which have led to an increase in sludge production by allowing 24 hour operation of the system together with increased capacity.

- The additional loading to the plant will not represent a significant risk to water quality in the River Fergus and will not lead to any significant effects on the Conservation Objectives of the Lower River Shannon SAC or River Shannon and River Fergus Estuaries SPA.
- The SID application for the upgrade works, referred to in the appeal, relates to ABP Reference: 58.PA0021.
- The Planner's Report considered the proposed stormwater drainage system.
- All third-party submissions and observations were considered in the assessment of the application. The boundary treatments are adequate in assisting the reduction of any potential overlooking concerns. It was also considered that there are adequate separation distances between the existing and proposed dwellings.
- The omission of the proposed pedestrian access onto Milbank Road and the proposed allotment area is noted and reflected on the revised site layout plan.

#### **6.4. Observations**

None.

### **7.0 Assessment**

7.1. Having examined the application details and all other documentation on file, including the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows;

- Principle of Development
- Residential Amenity
- Water



- Impact on Bats
- Invasive Species

## 7.2. Principle of Development

### Zoning

- 7.2.1. At the time the application was submitted, the appeal site was zoned 'Residential' under the Clare County Development Plan 2017-2023. Between the time the Planning Authority requested further information and the time the applicant submitted a response; the new Clare County Development Plan 2023-2029 became effective on the 20<sup>th</sup> April 2023. Under Volume 3a – Ennis Municipal District – of the new Development Plan, the subject site is now largely zoned for 'Residential' use and is labelled as R19 on the Ennis and Environs Zoning Map. The portion of the site towards the north is zoned for Existing Residential'. Section 2.3.1 of Volume 3a of the CDP deals with 'New Housing in the Roslevan Neighbourhood' and details these lands have been zoned to accommodate the expansion of the neighbourhood in the future and to accommodate residential growth in close proximity to existing facilities which will assist in the consolidation and appropriate expansion of the neighbourhood. I am satisfied that the principle of residential development is acceptable on this site and that the proposal would aid in achieving targets for residential development within the town.

### Density

- 7.2.2. The scheme as revised in the FI response proposes 30 houses on a site area of 1.27ha, at a density of 24 units per ha. Table 2.4 of the CDP sets out the Core Strategy targets for County Clare and for Ennis. I am satisfied the proposed development is consistent with the core strategy targets and population increase projections for Ennis, with a housing target of 2,160 units identified. The core strategy outlines a number of assumptions including a density of 35/15 to the hectare for residentially zoned land for Ennis.
- 7.2.3. While the proposed density is in line with the density range requirements in the County Development Plan, I acknowledge that the density is somewhat below what is envisaged within the Compact Settlement Guidelines 2024. As Ennis town is designated as a Key Town, the site is identified (as per Table 3.5) as being located

within the category of 'Key Town – Suburban/ Urban Extension'. I consider the site to most accurately align with the description of this category as '*suburban areas are the low density car-orientated residential areas constructed at the edge of the town, while urban extension refers to greenfield lands at the edge of the existing built-up footprint that are zoned for residential or mixed-use (including residential) development*'. The site is located c.3km northeast of Ennis town centre, is greenfield in nature, adjacent to suburban residential development, and is zoned for residential development. For such locations, the guidelines state that densities in the range of 30dph-50dph shall generally be applied, and that densities up to 80dph shall be open for consideration at 'accessible locations' (as per Table 3.8). However, Section 3.3.6 of the Guidelines sets out a number of exceptions to the required density ranges. In this regard, it is stated that '*In the case of very small infill sites that are not of sufficient scale to define their own character and density, the need to respond to the scale and form of surrounding development, to protect the amenities of surrounding properties and to protect biodiversity may take precedence over the densities set out in this chapter*'.

- 7.2.4. I consider the subject site to be an in-fill site. The site is surrounded to the west, north and east by existing residential development, with the area to the south comprising a church and lands for community uses. The appeal site is in essence an extension to the Curates Court development, with the proposed development dependent on the access roads and infrastructure associated with Curates Court. As such I do not consider that the site can define its own character and density. In terms of the pattern of development in the wider area, I note that to the north the existing developments consists of single and two-storey, detached and semi-detached houses. The detached residential development of Elm Wood and the semi-detached development of Bridge Court are located to the west of the site. To the east, are a number of detached houses facing onto Millbank Road. I note that the ground levels on the appeal site are generally higher than those of the neighbouring residential properties to the east. The existence of the development on Millbank Road has to be considered in terms of achieving adequate separation distances and protecting residential amenity. Therefore, whilst low, I consider the density is acceptable having regard to the established pattern of development in the vicinity and the infill nature of the site.

7.2.5. I consider a residential density of c.24 units per hectare as is proposed, to be appropriate for the appeal site. Having considered all of the above I am satisfied the proposed development is acceptable in principle, complies with the requirements of the County Development Plan and can be considered as an appropriate exception (as per Section 3.3.6) to the range of densities as set out in the Compact Settlement Guidelines.

### **7.3. Residential Amenity**

7.3.1. I note the content of the appeal and submissions received by the Planning Authority from the neighbouring residents in relation to lack of clarity in relation to boundary treatments, overlooking and adverse impact on their residential amenity.

7.3.2. The proposed development borders the O'Keefe property to its west and partially to its northern boundary. The northern boundary of the O'Keefe's property consists of a traditional loose limestone field boundary wall, while all boundaries of the property are screened by mature vegetation. As part of the Further information Response the applicant has submitted a Revised Boundary Type Site Layout Drawing (Drawing No. 217). In relation to the northern boundary, it is indicated that the O'Keefe's existing boundary wall and existing vegetation will be retained, with some additional planting proposed on the applicant's side of the wall (as per the submitted landscape plan, drawing no. 23\_568-PD-001). The drawing also indicates that a 'Type 1' boundary is proposed between the proposed development and the western boundary of the O'Keefe property. Drawing No. 215-1 'Existing Boundaries', shows sections and elevations of the this 'Type 1' boundary. The drawing shows that the existing boundary comprising a timber fence and planting will be retained, along with the erection of a proposed mesh fence and proposed new hedgerow on the applicant's side of the boundary.

7.3.3. The other appellants, the Moynihan's, have recently completed construction of their home under PA Reg Ref 21/992. It is stated in the appeal that a temporary boundary fence is erected at the boundary of the properties. The revised boundary drawing (Drawing no. 217) indicates Boundary 'Type 5' adjoins the western boundary of the Moynihan's House. The details of this boundary are shown on Drawing no. 215-2. The existing fence is shown to be retained, with a proposed new mesh fence and proposed new hedgerow on the applicant's side of the boundary.

- 7.3.4. I consider that the proposed boundary treatments are well considered and have been clearly indicated in the further information documentation. The appellants existing boundaries will be retained, and the applicant has proposed additional boundary and screening measures within their site to augment the existing boundary treatments. I consider that the details of the proposals are in accordance with the Development Management Guidelines (Section A1.4.2., Appendix 1 of the Volume 1 of the Development Plan) which states that *'Proposals for alternative boundary treatments such as planting combined with appropriate fencing will also be considered favourably if it can be demonstrated that it will enhance the development'*. The Planners Report notes that concerns in relation to the boundary treatments have been addressed by the Further Information submitted and are considered acceptable. The Planning Authority have reiterated their satisfaction with the proposed boundary proposals in their submission to the Board. Overall, I have no concerns with regards to the boundary proposals.
- 7.3.5. The Moynihan's have raised concerns with regard to overlooking given the differing site levels. I note that the ground levels on the appeal site are generally higher than those of the neighbouring residential properties to the east. However, the separation distances are well in excess of the 16m separation distance recommended to be achieved by SPPR 1 of the Compact Settlement Guidelines between sides/ rears of residences to prevent overlooking. The applicant has also submitted a revised site plan showing the first-floor level and ridge level of all existing dwellings in the vicinity of the site. The drawing was considered acceptable by the Planning Authority. I have reviewed the same and have no issues with the proposed first floor levels and ridge levels indicated. Overall, I consider that there are adequate separation distances between the existing and proposed dwellings to avoid overlooking issues. The boundary treatments will also assist in the reduction of any potential overlooking concerns.
- 7.3.6. The Moynihan's have also raised concern over the lack of detail over what is proposed for the space beside their property where the pedestrian access to Millbank Road and proposed allotment area were initially indicated. I note that this pedestrian access and allotment space has been omitted from the proposal, and the area in question removed from the red line boundary at Further Information stage.

7.3.7. In conclusion, I am satisfied that the proposed development can be adequately accommodated on the subject site without undue impacts arising in terms of existing residential amenity.

#### **7.4. Water**

##### Wastewater

7.4.1. The application proposes connecting to the existing public sewer to the north of the site. Volume 3a of the CDP, Section 1.14.5 details that the northern Ennis area is served by a treatment plant at Clonroadmore.

7.4.2. The appellant contends that the North Ennis WWTP at Clonroadmore is operating over its treatment capacity. Discharge License for Ennis North WWTP D0048-01 issued in September 2009 states that capacity of the WWTP located at Clonroadmore was 17,000 population equivalent (P.E.). The appellant contends that there have been no amendments to the license increase the P.E. of the plant and that there is no evidence of planning permission for upgrade works to the WWTP.

7.4.3. I note Volume 3a of the CDP, Section 1.14.5 also explicitly states that the existing wastewater treatment plant at Clonroadmore has recently been upgraded from 17,000PE to 31,500PE. The upgrade works were granted permission by the Board in November 2011 under ABP Ref:PA0021. Details of a pre-connection enquiry from Irish Water have been submitted with the application which confirm that there is sufficient capacity for the proposed development. In their submission to the Board, the Planning Authority have outlined that the Environmental Assessments associated with the Clare County Development Plan 2023-2029 determined that the growth targets and the core strategy requirements could be met by the Ennis North WWTP having regard to the operational improvements works which have taken place at the plant over the past number of years. The appellants have made reference to the Annual Environmental Reports on the EPA Leap Portal. I have also reviewed the most recent annual report dated 2024. The report does not indicate any capacity issues, and I have no concerns with regard to the content therein. Similarly, the Irish Water capacity register published in December 2024 indicates the space capacity is available for the Ennis North WWTP. Overall, I am satisfied that there is sufficient capacity for the proposed development.

##### Stormwater

7.4.4. The applicant has also raised concerns regarding what they consider to be ambiguity in relation Condition 6 and 14 attached by the Planning Authority in relation to the discharge of stormwater. Condition 6(a) requires that storm sewers, hydrocarbon interceptors, attenuation area and hydro break units are inspected and certified by a suitably qualified person with certification submitted to the Planning Authority. Condition 6(b) requires that no surface water shall be discharged onto the public road and that the site access is provided with adequately size pipes and ducts to ensure no interference with roadside drainage. Condition 14(a) requires all foul sewage and soiled water to be discharged to the public foul sewer and condition 14(b) requires only uncontaminated storm water shall be discharged to surface water system and that no surface water shall be discharged to the foul sewerage system. I consider that these are standard conditions frequently used by Planning Authorities. The conditions are clearly worded, and I do not consider there to be any ambiguity with regards to their content. Stormwater drainage proposals will accord with the information submitted. In this regard the applicant is proposing to discharge the storm water to ground following the use of an interceptor and attenuation. Two attenuation areas are proposed, one in the northern area of open space and one in the southern area of open space. Accordingly, I consider subject to standard conditions, the proposed stormwater proposals are acceptable.

## **7.5. Impact on Bats**

- 7.5.1. The nearest known roost for Lesser Horseshoe bat is c.330m southwest at Newpark Houses. Newpark House, while a proposed natural heritage area (pNHA), is not designated as a European site (SAC or SPA) and therefore consideration of the impacts on this species is in the context of general biodiversity or ecological impacts rather than through the Appropriate Assessment process which specifically focuses on the impacts associated with the Conservation Objectives of European Sites.
- 7.5.2. I note the initial site survey by the ecologist as outlined in the Appropriate Assessment Screening submitted with the application, did not identify any roosting opportunities for Lesser Horseshoe bats with the project site. Trees along the boundary of the site was described as having a low roost potential for bats and would not provide suitable roosting habitat for Lesser Horseshoe bats. Similarly, habitats were not considered suitable foraging habitats for Lesser Horseshoe bats.

- 7.5.3. Following a request for Further Information the applicants have submitted a Bat Survey/Report carried out by Minogue Environmental Consulting Ltd, and an updated AA Screening Report incorporating the findings of the Bat Survey/Report. The survey undertaken consisted of a desktop study and the erection of static detectors over two periods. Based on the survey results over a total period of 10 nights in early June and late June/early July, bat activity recorded in the linear woodland features on the project site is confined to Common pipistrelles, Soprano pipistrelles and a low number of Leisler bats. No evidence of Lesser Horseshoe bat activity was recorded over the survey period. The site is considered to have sub-optimal conditions for Lesser Horseshoe bat. The Bat Report highlights the presence of residential housing to the west and south which also contributes to increased disturbance through removal of woodland features and increased illumination, both of which the Lesser Horseshoe Bat is very sensitive to. The report concludes that the existing site represents sub optimal conditions for Lesser Horseshoe Bat foraging and no structures on site are present to support roosting Lesser Horseshoe Bats.
- 7.5.4. The applicant has also confirmed that lighting design complies with Best Practice in Bat Conservation Ireland's publication 'Bats & Lighting: Guidance Notes as per the letter prepared by Moloney Fox Consulting Engineers'. The lighting layout plan indicates the installation of lights predominantly to the centre of the site away from the linear forging features of the site. Light fittings will also be dimmable to 67% from 12:00am to 6:00am, which is also in line with the various Bats and Lighting Guidance. The Clare County Council Environmental Assessment Officer has reviewed the submission considers it acceptable.
- 7.5.5. Whilst I acknowledge the appellants concerns in relation to the impact on Lesser Horseshoe bat, I am satisfied that the applicant has demonstrated that there is no significant risk to this species at this location. The Planning Authority has recommended that a condition is attached requiring adherence to a landscape plan to ensure biodiversity enhancement and to offset the loss (albeit of low potential foraging features) the fragmented hedgerow. I recommend that a similarly worded condition should be attached to any grant of permission.

## 7.6. Invasive Species

7.6.1. The appellants have also raised the issue of possible significant effects arising from the presence of Japanese Knotweed on the site. A Japanese Knotweed Management Plan was submitted with the application. The report notes that an area of Japanese Knotweed (c.1,500sqm) was confirmed on site. The Management Plan outlines the course of action that needs to be taken to eradicate the species and prevent any further spread on or off the site. The plan notes that a licence (under Section 49 of the Birds and Natural Habitats Regulations) is being sought for the removal of Japanese knotweed from the proposed site. I consider that the measures outlined in the Management Plan are appropriate means to address any significant issues in respect of threats to habitat from Japanese Knotweed. I am satisfied that the management and removal of the Japanese Knotweed can be addressed by way of a Management Plan. However, I note that the submitted plan is dated for 2022-2024. I recommend that a condition is attached requiring the submission of an updated Management Plan prior to the commencement of development.

## **8.0 AA Screening**

8.1.1. See Appendix 3 of this report for Appropriate Assessment Screening Determination. In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the proposed development would not result in likely significant effects on any European Site, (namely the Lower River Shannon SAC, the River Shannon and River Fergus Estuaries SPA, Ballyallia Lake SAC, and Ballyallia Lake SPA) and is therefore excluded from further consideration. Appropriate Assessment is not required.

This determination is based on:

- The relatively minor scale of the development and lack of impact mechanisms that could significantly affect a European Site.
- Location-distance from nearest European site and lack of connections
- Taking into account screening determination by LPA



## 9.0 Recommendation

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

## 10.0 Reasons and Considerations

Having regard to the pattern of development in the area and the sites residential/ existing residential zoning under the Clare County Development Plan 2023-2029, it is considered that, subject to compliance with conditions below, the proposed development would provide a high-quality residential development, at an acceptable density on an infill site, would not seriously injure the character of the area or the amenities of property in the vicinity and would provide an adequate standard of residential amenity to future occupiers. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority, on the 13<sup>th</sup> day of December 2023 as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

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

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

**Reason:** In the interest of visual amenity and to ensure an appropriate high standard of development.

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

**Reason:** In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.

4. Prior to the commencement of development, the developer shall enter into a Connection Agreement(s) with Uisce Éireann (Irish Water) to provide for a service connection(s) to the public water supply and/or wastewater collection network.

**Reason:** In the interest of public health and to ensure adequate water/wastewater facilities.

5. The disposal of surface water shall comply with the requirements of the planning authority for such works and services.

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

6. (a) All foul sewage and soiled water shall be discharged to the public foul sewer.

(b) Only clean, uncontaminated storm water shall be discharged to the surface water drainage system.

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

7. The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths, and kerbs shall comply with the detailed construction standards of the planning authority for such works and design standards outlined in Design Manual for Urban Roads and Streets (DMURS).

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

8. Site development and building works shall be carried out only between the hours of 0800 to 1800 Mondays to Friday inclusive, between 0800 to 1300 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

9. The development hereby permitted shall be carried out and completed at least to the construction standards as set out in the planning authority's Taking In Charge Standards. In the absence of specific local standards, the standards as set out in the 'Recommendations for Site Development Works for Housing Areas' issued by the Department of the Environment and Local Government in November 1998. Following completion, the development shall be maintained by the developer, in compliance with these standards, until taken in charge by the planning authority.

**Reason:** To ensure that the development is carried out and completed to an acceptable standard of construction.

10. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:
- (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
  - (b) Location of areas for construction site offices and staff facilities;
  - (c) Details of site security fencing and hoardings;
  - (d) Details of on-site car parking facilities for site workers during the course of construction;
  - (e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;

- (f) Measures to obviate queuing of construction traffic on the adjoining road network;
- (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- (i) Provision of parking/access for existing adjoining properties during the construction period;
- (j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (k) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- (l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- (n) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be available for inspection by the planning authority;

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

11. Prior to commencement of development, a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) shall be prepared and submitted to the planning authority for written agreement. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness. All records (including for waste and all resources) pursuant to the agreed RWMP

shall be made available for inspection at the site office at all times.

**Reason:** In the interest of reducing waste and encouraging recycling.

12. The landscaping scheme shown on drawing no. 23\_586-PD-001, as submitted to the planning authority on the 13th day of December 2023 shall be carried out within the first planting season following substantial completion of external construction works. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

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

13. Prior to the commencement of development on site, an updated invasive species management plan which shall include details of a programme for the control, monitoring and eradication of Japanese Knotweed on the site, shall be submitted to, and agreed in writing, with the planning authority.

**Reason:** In the interest of the proper planning and sustainable development of the area.

14. All the communal parking areas serving the residential units shall be provided with functional electric vehicle charging points, and all of the in-curtilage car parking spaces serving residential units shall be provided with electric connections to the exterior of the houses to allow for the provision of future electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of sustainable transportation.

15. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

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

16. (a) Prior to the commencement of the development, a revised site layout plan shall be submitted to the Planning Authority, for written agreement providing for 2 no. additional speed ramps/traffic calming measures outside dwellings no. 12/13 and no. 24/25.

(b) The western leg of the access road shall be extended to the southern boundary of the site.

**Reason:** In the interest of traffic safety, to reduce speeding through and within the housing development to facilitate future access to the zoned lands to the south of the site.

17. (a) All ground works associated with the proposed development shall be monitored by a suitably qualified archaeologist.

(b) Should archaeological material be found during the course of works, the work on the site shall cease pending a decision as to how to deal with any archaeological findings. The development shall be prepared to be advised by the Department of Housing, Local Government and Heritage with regard to any necessary mitigation action (e.g., preservation in situ or excavation) and shall facilitate the archaeologist in recording any material found.

(c) The Planning Authority and the National Monuments Service of the Department of Housing, Local Government and Heritage shall be furnished with a report describing the results of the monitoring.

**Reason:** To ensure continued reservation (either in situ or by record) of places, caves, site features or other objects of archaeologist interest.

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

An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each specified housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each of the residential units for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.

(c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified housing units, in which case the planning authority shall confirm in writing to the applicant or any person with an interest in the land that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

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

19. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority [in relation to the transfer of a percentage of the land, to be agreed with the planning authority, in accordance with the requirements of section 94(4) and section 96(2) and 96(3)(a), (Part V) of the Planning and Development Act 2000, as amended, and/or the provision of housing on lands in accordance with the requirements of section 94(4) and section 96(2) and 96(3) (b), (Part V) of the Planning and Development Act 2000, as amended], unless an exemption certificate has been granted under section 97 of the Act, as amended. Where such an agreement cannot be reached between the parties, the matter in dispute (other than a matter to which section 96(7) applies) shall be referred by the planning authority or any other prospective party to the agreement, to An Bord Pleanála for determination.

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

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

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

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

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



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.

---

Ciara McGuinness  
Planning Inspector

29<sup>th</sup> January 2024

## Appendix 1 - Form 1 EIA Pre-Screening

|  |   |  |   |
|--|---|--|---|
| <b>An Bord Pleanála</b>  | 319102-24   |  |   |
| <b>Case Reference</b>  |   |  |   |
| <b>Proposed Development Summary</b>  | Construction of 31 residential dwellings and all associated site works. |  |   |
| <b>Development Address</b>   | Tulla Road, Roslevan, Ennis, Co. Clare                                  |  |   |
| <b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b><br>(that is involving construction works, demolition, or interventions in the natural surroundings) |   | <b>Yes</b>   | ✓   |
|  |   | <b>No</b>  |   |
| <b>2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?</b>  |   |  |   |
| <b>Yes</b>   | ✓   | Class 10(b)(i) & 10(b)(iv)   | Proceed to Q3.                                  |
| <b>No</b>  |   |  | Tick if relevant.<br>No further action required |
| <b>3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?</b>  |   |  |   |
| <b>Yes</b>   |   |  | EIA Mandatory<br>EIAR required                  |
| <b>No</b>  | ✓   | 10(b)(i) - Construction of more than 500 dwelling units<br>10(b)(iv) - Urban development which would involve an area greater than 2 hectares in the case of a business | Proceed to Q4                                   |

|  |   |   |   |
|--|---|---|---|
|  |   | district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.  |   |
| <b>4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?</b> |   |   |   |
| <b>Yes</b>   | ✓ | <p>The proposed development is for 30 units and does not exceed the 500 unit threshold.</p> <p>The proposed development has a site area of 1.27ha and does not exceed the 10ha threshold.</p> | Preliminary examination required (Form 2) |

|   |   |   |
|---|---|---|
| <b>5. Has Schedule 7A information been submitted?</b> |   |   |
| <b>No</b>   | ✓ | <b>Pre-screening determination conclusion remains as above (Q1 to Q4)</b> |
| <b>Yes</b>  |   | <b>Screening Determination required</b>                                   |

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

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

## Appendix 2 - Form 2 EIA Preliminary Examination

|  |  |
|--|--|
| <b>An Bord Pleanála Case Reference</b>   | <b>ABP-319102-24</b>   |
| <b>Proposed Development Summary</b>  | Construction of 31 residential dwellings and all associated site works.  |
| <b>Development Address</b>   | Tulla Road, Roslevan, Ennis, Co. Clare   |
| <p><b>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.</b></p> <p><b>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</b></p>          |  |
| <p><b>Characteristics of proposed development</b></p> <p>(In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).</p>   | <p>The nature and size of the development (30. Houses) is not exceptional in the context of the existing residential environment. The proposed development will not result in the productions of any significant waste, emissions or pollutants. Localised constructions impacts will be temporary. The development, by virtue of its type(residential), does not pose a risk of major accident and/or disaster.</p> <p>.</p>                                |
| <p><b>Location of development</b></p> <p>(The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).</p> | <p>The site is located in a suburban area and is zoned for residential development. The nearest European site is 0.3km to the south of the site. It is not considered that the proposed development would be likely to have a significant impact on the European site. Given the nature of the development and the site/surroundings, it would not have the potential to significantly affect other significant environmental sensitivities in the area.</p> |

| <p><b>Types and characteristics of potential impacts</b></p> <p>(Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).</p> | <p>There is no real likelihood of significant effects on the environment arising from the proposed development. There is no real likelihood of significant cumulative effects having regard to existing or permitted projects.</p> <p>Note: Concern is expressed in the grounds of appeal that the proposed development would have a significant environmental effect on invasive species and bats and that an EIAR should be prepared. Environmental impact assessments assess the potential for significant environmental effects. As indicated in the EIA preliminary examination there is no potential for significant environmental effects. Impacts on bats and the presence of invasive species are addressed in Section 7 of the planning assessment.</p> |                              |           |                      |     |   |  |                |  |
|---|---|------------------------------|-----------|----------------------|-----|---|--|----------------|--|
| <b>Conclusion</b>   |   |                              |           |                      |     |   |  |                |  |
| <b>Likelihood of Significant Effects</b>  | <table border="1"> <thead> <tr> <th data-bbox="659 1458 1158 1503">Conclusion in respect of EIA</th> <th data-bbox="1158 1458 1463 1503">Yes or No</th> </tr> </thead> <tbody> <tr> <td data-bbox="659 1503 1158 1610">EIA is not required.</td> <td data-bbox="1158 1503 1463 1610">Yes</td> </tr> <tr> <td data-bbox="659 1610 1158 1760">Schedule 7A Information required to enable a Screening Determination to be carried out.</td> <td data-bbox="1158 1610 1463 1760"></td> </tr> <tr> <td data-bbox="659 1760 1158 1870">EIAR required.</td> <td data-bbox="1158 1760 1463 1870"></td> </tr> </tbody> </table>  | Conclusion in respect of EIA | Yes or No | EIA is not required. | Yes | Schedule 7A Information required to enable a Screening Determination to be carried out. |  | EIAR required. |  |
| Conclusion in respect of EIA  | Yes or No   |                              |           |                      |     |   |  |                |  |
| EIA is not required.  | Yes   |                              |           |                      |     |   |  |                |  |
| Schedule 7A Information required to enable a Screening Determination to be carried out.   |   |                              |           |                      |     |   |  |                |  |
| EIAR required.  |   |                              |           |                      |     |   |  |                |  |
| There is no real likelihood of significant effects on the environment.  |   |                              |           |                      |     |   |  |                |  |
| There is significant and realistic doubt regarding the likelihood of significant effects on the environment.  |   |                              |           |                      |     |   |  |                |  |
| There is a real likelihood of significant effects on the environment.   |   |                              |           |                      |     |   |  |                |  |

**Inspector:**

**Date:**

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

(only where Schedule 7A information or EIAR required)

## Appendix 3 - Screening the need for Appropriate Assessment

### Appropriate Assessment Screening Determination (Stage 1, Article 6(3) of Habitats Directive)

I have considered the proposed residential development in light of the requirements of S177U of the Planning and Development Act 2000 as amended.

An AA Screening Report prepared by JKW Environmental was submitted with the application. A revised AA Screening Report was subsequently submitted as part of Further Information.

#### Description of the proposed development

The proposed development comprises the development of 30 no. residential dwelling houses. A detailed description is presented in Section 2 of my report and detailed specifications of the proposal are provided in the AA Screening Report and other planning documents provided by the applicant. In summary, the proposed development site is an infill site within a suburban environment, surrounded by existing residential and community uses. Water and waste will be connected to local services. Surface water will be discharged to on-site attenuation.

The habitats on site have been surveyed and are described in accordance with standard practice (Fossitt 2000) and comprise spoil and bare ground ED2, Recolonising bare ground, ED3, Improved agricultural grassland GA1 and small pockets of Dense bracken HD1. Hedgerow WL1/Treelines WL2 form the southwestern boundary of the site and the boundary of existing houses along Millbank Road. No Annex 1 habitats were recorded within the proposed development site and no habitats listed as conservation objectives for Nature 2000 sites within 15km were recorded.

No watercourses are found within the site or bounding the site. The nearest watercourse is the Gaurus River, located approximately 250m to the east

#### Consultations and submissions

Screening for Appropriate Assessment was undertaken by the Environmental Assessment Officer in Clare County Council as part of their planning assessment and a finding of no likely significant effects on a European Site was determined. Clare County Council concluded the proposed development would not require the preparation of a Natura Impact Statement and Appropriate Assessment was not carried out.

Uisce Eireann have no objection.

#### European Sites

The Appropriate Assessment Screening Report submitted with the application found that 23 European Sites occur within a 15km radius of the project site. However, the report considers that only 2 no. of European sites are located within a potential zone of influence of the proposed development. These are:

- Lower River Shannon SAC (site Code 002165) – c.0.5km to the east of the site.
- River Shannon and River Fergus Estuaries SPA (Site Code 004077) – 1km to the south of the site.

I note the report from Clare Conty Councils Environmental Assessment Officer also considers a further 2 no. of sites to be located within a potential zoned of influence of the proposed development. These are:

- Ballyallia Lake SAC (Site Code: 000014) – c1.3km to the northwest of the site.
- Ballyallia Lough SPA (004041) – c2.1km to the northwest of the site.

I do not consider it necessary to examine the potential for significant effects on any European Sites beyond those listed above.

| European Site   | Qualifying Interests (summary)  | Distance | Connections |
|---|---|----------|-------------|
| Lower River Shannon SAC (site Code 002165)                      | Sandbanks which are slightly covered by sea water all the time, Estuaries, Mudflats and sandflats not covered by seawater at low tide, Coastal lagoons, Large shallow inlets and bays, Reefs, Perennial vegetation of stony banks, Vegetated sea cliffs of the Atlantic and Baltic coasts, Salicornia and other annuals colonising mud and sand, Atlantic salt meadows ( <i>Glauco-Puccinellietalia maritimae</i> ),<br><br>Mediterranean salt meadows ( <i>Juncetalia maritimi</i> ), Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation, <i>Molinia</i> meadows on calcareous, peaty or clayey-silt-laden soils ( <i>Molinion caeruleae</i> ), Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> ( <i>Alno-Padion</i> , <i>Alnion incanae</i> , <i>Salicion albae</i> ), <i>Margaritifera margaritifera</i> (Freshwater Pearl Mussel), <i>Petromyzon marinus</i> (Sea Lamprey), <i>Lampetra planeri</i> (Brook Lamprey), <i>Lampetra fluviatilis</i> (River Lamprey), <i>Salmo salar</i> (Salmon), <i>Tursiops truncatus</i> (Common Bottlenose Dolphin), <i>Lutra lutra</i> (Otter) | 0.5km    | No direct   |
| River Shannon and River Fergus Estuaries SPA (Site Code 004077) | Cormorant ( <i>Phalacrocorax carbo</i> ), Whooper Swan ( <i>Cygnus cygnus</i> ), Light-bellied Brent Goose ( <i>Branta bernicla hrota</i> ), Shelduck ( <i>Tadorna tadorna</i> ), Wigeon ( <i>Anas penelope</i> ), Teal ( <i>Anas crecca</i> ), Pintail ( <i>Anas acuta</i> ), Shoveler ( <i>Anas clypeata</i> ), Scaup ( <i>Aythya marila</i> ), Ringed Plover ( <i>Charadrius hiaticula</i> ), Golden Plover ( <i>Pluvialis apricaria</i> ), Grey Plover ( <i>Pluvialis squatarola</i> ), Lapwing ( <i>Vanellus vanellus</i> ), Knot ( <i>Calidris canutus</i> ), Dunlin ( <i>Calidris alpina</i> ), Black-tailed Godwit ( <i>Limosa limosa</i> ), Bar-tailed Godwit ( <i>Limosa lapponica</i> ), Curlew ( <i>Numenius arquata</i> ), Redshank ( <i>Tringa totanus</i> ), Greenshank ( <i>Tringa nebularia</i> ), Black-headed Gull ( <i>Chroicocephalus ridibundus</i> ), Wetland and Waterbirds.  | 1km      | No direct   |
| Ballyallia Lake SAC (Site Code 000014)                          | Natural eutrophic lakes with <i>Magnopotamion</i> or <i>Hydrocharition</i> - type vegetation  | 1.3km    | No direct   |
| Ballyallia Lough SPA (04041)                                    | Wigeon ( <i>Anas penelope</i> ), Gadwall ( <i>Anas strepera</i> ), Teal ( <i>Anas crecca</i> ), Mallard ( <i>Anas platyrhynchos</i> ), Shoveler ( <i>Anas clypeata</i> ), Coot ( <i>Fulica atra</i> ), Black-tailed Godwit ( <i>Limosa limosa</i> ), Wetland and Waterbirds   | 2.1km    | No direct   |

#### Likely impacts of the project (alone or in combination with other plans and projects)

As the proposed application site is not located within or adjacent to a European site there will be no direct impacts and no risk of habitat loss, fragmentation or any other direct impact.



The proposed development would not have direct impacts on any European site. During site clearance and construction of the proposed houses and site works, possible impact mechanisms of a temporary nature include generation of noise, dust and construction related emissions to surface water.

The contained nature of the site (serviced, defined site boundaries, no direct ecological connections or pathways) and distance from receiving features connected to SPA and SAC make it highly unlikely that the proposed development could generate impacts of a magnitude that could affect European Sites.

During the construction phase cement-based products, hydrocarbons and other aqueous solutions will be required on-site. Given the small quantities of these materials required onsite at any one time, the risk of significant contamination to surface water generated within the footprint of the project site will be low. In the event of contamination of surface water such contaminated surface water will drain to the ground, with soils and subsoils providing effective filtration of any surface water draining to ground.

The Hydrological Assessment submitted with the application also indicates there is no risk to water quality given the absence of significant karst features underlying the site and location of the groundworks well above the groundwater table.

During the operation phase, wastewater generated will be conveyed via existing sewerage infrastructure to the local wastewater treatment plant. Irish Water have confirmed that there is sufficient capacity to treat the wastewater. Environmental Assessments associated with the County Development Plan 2023-2029 determined that growth targets and the core strategy requirements could be met by the Ennis WWTP. Surface water will be discharged to attenuation on site and includes the use of hydrocarbon interceptor. Given the nature of the development, there is no potential for the operation of the development to impact water quality.

**Likely significant effects on the European site(s) in view of the conservation objectives set out for the qualifying features including:**

The construction or operation of the proposed development will not result in impacts that could affect the conservation objectives of the SAC or SPA. Due to distance and lack of meaningful ecological connections, and the absence of any suitable foraging or nesting habitat at the site, there will be no changes in ecological functions due to any construction related emissions or disturbance. There will be no direct or ex-situ effects from disturbance on mobile species during construction or operation of the proposed development.

**In combination effects**

The proposed development will not result in any effects that could contribute to an additive effect with other developments in the area.

No mitigation measures are required to come to these conclusions. I consider the provision of the surface water attenuation and oil/petrol interceptor a standard measure to prevent ingress of pollutants from surface water during the operation phase and is not a mitigation measure for the purpose of avoiding or preventing impacts to the SAC or SPA.

**Overall Conclusion**

**Screening Determination**

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the proposed development would not result in likely significant effects on any European Site and is therefore excluded from further consideration. Appropriate Assessment is not required.

This determination is based on:

- The relatively minor scale of the development and lack of impact mechanisms that could significantly affect a European Site.
- Location-distance from nearest European site and lack of connections
- Taking into account screening determination by LPA

No mitigation measures aimed at avoiding or reducing impacts on European sites were required to be considered in reaching this conclusion.