



An  
Bord  
Pleanála

## Inspector's Report

### ABP-320470-24

<b>Development</b>	Construction of 43 dwellings and associated site works
<b>Location</b>	Sliabh Álainn, Brigown, Mitchelstown, Co. Cork.
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	236542
<b>Applicant</b>	MDR Developments Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Denis McGrath
<b>Observer</b>	Claire Devaney
<b>Date of Site Inspection</b>	11 <sup>th</sup> October 2024
<b>Inspector</b>	John Duffy

## **1.0 Site Location and Description**

- 1.1. Mitchelstown is located c 52 km north of Cork City at the intersection of the M8 Cork Dublin route and the N73 cross country route which links it to Mallow. Mitchelstown is one of the most northern towns in the county, located in a broad fertile valley. 2022 Census data for Mitchelstown noted it had a population of 3,744 people.
- 1.2. The appeal site, used for agricultural purposes, and with a stated area of 2.17 hectares, is located approximately 1.1 kms south-east of Mitchelstown town centre, at the edge of the town. The site adjoins the rear gardens of Brigown Cottages, and the northern boundary of the existing Sliabh Álainn residential estate. The eastern part of the site extends beyond the Mitchelstown development boundary and into the Greenbelt area which surrounds the town. The Gradoge river flows at the eastern boundary of the site. The northern and western site boundaries are undefined, while the southern boundary comprises hedgerows. The lands rise gently, approximately by 10 metres, away from the river in a westerly direction across the site.
- 1.3. The Sliabh Álainn estate, through which the site is to be accessed, is located on the northern side of the L-1418 Brigown Road, and accommodates a total of 54 no. houses comprising a mix of terraced, semi-detached and detached units.

## **2.0 Proposed Development**

- 2.1. The proposed development comprises;
  - Construction of 43 no. houses, comprising 5 no. 4 bedroom detached houses (Types A1 / A2), 4 no. 4 bedroom 4 bedroom semi-detached houses (Type B1), 26 no. 3 bedroom semi-detached houses (Types C1 / C2), 4 no. 3 bedroom terraced townhouses (Type D1) and 4 no. 2 bedroom terraced townhouses (Type D2).
  - Material finishes to the houses comprises a combination of off-white render and grey coloured natural stone for the external walls and black roof slates or tiles. Dark coloured pressed metal canopies are proposed above the front doors.
  - Central area of public open space.

- 2 no. car parking spaces per unit.
- Access is proposed via the existing Sliabh Álainn estate entrance and internal road network serving that housing development.
- Landscaping.
- Connection to the wastewater infrastructure including pumping station serving Sliabh Álainn.

2.2. The planning application was accompanied by a letter of consent from the landowner to the lodgement of the planning application on the subject lands. The application was also accompanied by the following reports/studies;

- Housing Quality Assessment.
- Architectural Design Statement.
- Landscaping Plan.
- Construction Resource Waste Management Plan.
- Construction Environmental Management Plan.
- Infrastructure Report.
- Drainage Impact Assessment.
- Site Specific Flood Risk Assessment.
- Public lighting details.
- Appropriate Assessment Screening Report.
- EIA Screening Report.
- Archaeological Assessment.
- Planning Statement.
- Statement of Housing Mix.
- Part V proposal.

## 3.0 Planning Authority Decision

### 3.1. Request for Further Information & Clarification of Further Information

Prior to the decision made to grant permission for the proposed development, the Planning Authority requested Further Information and Clarification of Further Information.

#### 3.1.1. Further Information was requested on the 20<sup>th</sup> February 2024 as follows:

- Item 1 – Submit a revised site layout plan to illustrate the following amendments:
  - (a) Units 10 to 13 inclusive to be rotated to be more aligned with the building line of units 14 to 21 inclusive.
  - (b) Western spur of Road A to be omitted and Road A to culminate in a new junction between Road B and Road D. Therefore, vehicular access to units 10 to 21 inclusive shall only be provided via a route along the north and west of the central open space area using Road B and Road F.
  - (c) Omit Road E.
  - (d) The central open space area and the smaller open space area (currently located to the north of Unit 10) to be amalgamated into a single open space.
  - (e) The corridor of trees between the rear of units 10 to 13 and the adjacent gardens of No. 37 and No. 47 of the Sliabh Álainn estate to be omitted.
  - (f) The paved surfaces of Road C, Road D and Road F to all extend to the northern site boundary.
  - (g) The boundary fence at the southern boundary shared with the Sliabh Álainn estate to the west of the site entrance to be omitted. A new footpath linkage to be provided within the site in this area to improve pedestrian permeability between the existing estate and the proposed development.
- Item 2 – Provide a drawing illustrating the position and extent of the developable (stated as 1.58 ha) and undevelopable lands (stated as 0.59 ha) within the subject site. The drawing is to also illustrate the extent of the lands at risk of flooding (Flood Zone A and Flood Zone B) and the position of the development boundary as it occurs across the eastern part of the site relative to the proposed works. Where the undevelopable lands include parts of the site which are not

at risk of flooding, the specific reason shall be detailed as to why such lands are considered undevelopable.

- Item 3 – Submit a drawing clearly identifying all public open spaces (including their areas) to be provided as part of the proposed development. Noted that the subject site includes a parcel of land (approximately 0.49 ha or 23% of overall site area) located outside the Mitchelstown Development Boundary which is zoned as Greenbelt 1 (MH-GB1-1). The submitted site layout plan and associated landscaping plan appear to indicate that this land will become open space following completion of the proposed development and will not be separated / delineated from the remainder of the site. Applicant to state how this greenbelt land to be used following completion of proposed development. Planning Authority unsupportive of inclusion of greenbelt lands as open space to the exclusive benefit of the proposed development where such is required to compensate for a shortfall of public open space on the residential zoned lands within the site. Applicant to have regard to *Objective GI 14-2* of the County Development Plan.
- Item 4 – Provide a Landscape Design Rationale.
- Item 5 – Reconsider the design of Unit Types A, B, C and D A and omit the natural stone cladding on the two storey front projections.
- Item 6 – Reposition the main entrances of units 21 and 34 onto the north-western elevation and reposition the main entrance of unit 43 onto the south-eastern elevation.
- Item 7 – Confirm bin and bicycle storage arrangements for proposed terraced units 23, 24, 31 and 32 and provide bin storage structure design drawings.
- Item 8 – Relocate the bicycle storage shelter to the north-western end of the central public open space opposite units 27 and 28.
- Item 9 – Submit a revised landscaping plan to include a comprehensive planting schedule providing for the planting of native species trees and plants.
- Item 10 – Submit a Road Safety Audit.
- Item 11 – Submit a revised boundary treatment drawing replacing proposed paladin fence along southern site boundary with a 1.8 metre high block wall.

- Item 12 – Submit a revised Flood Risk Assessment to address issues including, inter alia, proposed construction access to be provided through flood zone, and separation distance between the site and the river.
- Item 13 – Submit further detail in relation to raising a section of the entrance access road and associated works.
- Item 14 – Proposal to discharge wastewater to the adjacent Sliabh Álainn estate, where the wastewater infrastructure has not been taken in charge by Uisce Éireann (UÉ), is noted. Following information to be provided:
  - (a) Written permission from the third party owner to connect into their network.
  - (b) Details of a CCTV survey, to be submitted in report form, of the existing network within the Sliabh Álainn estate, confirming it is in a suitable condition to accept additional loading from the proposed development.
  - (c) Confirm the pump station has sufficient capacity to cater for the proposed development.
  - (d) Noted that the pump station pumps wastewater to the UÉ Pump Station at Brigown and that there is a radio link between these two pump stations which controls the flow between the two. Confirmation required that the foul pumps at Sliabh Álainn will not be cut off if Brigown Pump Station is at capacity. Assessment of Sliabh Álainn pump station to be provided.
- Item 15 – Drainage layout indicates a large proportion of the surface water generated by the proposal will be discharged to the river via a hydrocarbon interceptor, an attenuation tank and a hydro brake. Applicant to liaise with Inland Fisheries Ireland (IFI) regarding the proposed adequacy of the water protection measures and to submit details of additional water protection measures where appropriate.
- Item 16 – To confirm if any surface water is to be discharged to the public sewer as per the Construction and Environmental Management Plan (CEMP), and if so, to provide a CCTV survey of the manhole and sewer to which any connection is to be made.
- Item 17 – Drawing 6102-1000 (Proposed construction access and site facilities) does not appear to have been included with the application. Drawing to be provided to include details of the location and extent of the construction

compound, sightlines onto the public road, road lining and temporary traffic measures.

- Item 18 – There is a risk of further deterioration in the water quality of the Gradoge River as the site will be accessed along the banks of the river during the construction stage, with the CEMP referring to wheel washing facilities and damping down of site haul roads. Having regard to this and that there will be soil disturbance all within a flood zone; information identifying water quality protection measures to prevent dust, silt, sediment and other construction related pollutants from entering the river should be provided.

### 3.1.2. Further information submitted on 24<sup>th</sup> May 2024.

- Item 1 – (a) Revised site layout drawing providing for the reorientation of Units 10 to 13 inclusive in line with Units 14 to 21 inclusive is provided.  
(b) Western spur of Road A is omitted from layout.  
(c) Road E is omitted as requested.  
(d) The layout now provides for a larger amalgamated central open space area as requested.  
(e) Corridor of trees to the rear of units 10 to 13 inclusive is omitted.  
(f) The paved surfaces of roads C, D and F have been extended to the northern site boundary.  
(g) The southern boundary fence has been omitted and a new internal footpath connection and crossing is provided to enhance permeability, as requested.
- Item 2 – Drawing No. 23029/P/011 is provided, and the net developable site area is 1.69 ha of the total site area of 2.17 ha. Areas omitted from the net developable site area include the eastern areas of the site within Flood Zones A and B and within the Greenbelt zoning objective MH-GB1-1. This accords with Appendix B of the Compact Settlements Guidelines 2024.
- Item 3 – The eastern area of the site within the Greenbelt 1 zoning objective will serve as an informal amenity area for existing and future residents providing an additional kickabout / grass area, meadow and additional tree planting. This area will benefit the wider recreation / amenity, drainage and biodiversity strategies of Sliabh Álainn. A central public open space area of 2,684 sqm is

proposed which equates to a total of approximately 16% usable public open space within the developable site area of 1.69 ha.

- Item 4 – A Green Infrastructure Landscape Design Report is provided.
- Item 5 – It is considered that provision of stone cladding is commonplace in the area, with reference made to the accompanying ‘Design Cues – Context Assessment’ report. Applicant’s preference is to retain the proposed finishes but would be accepting of a condition to agree finishes prior to commencement of development.
- Item 6 – Revised house type drawings demonstrate that units 21, 34 and 43 are now side-accessed double fronted units.
- Item 7 – Design matters relating to the provision of bin and bicycle facilities for proposed mid-terrace units are detailed in Drawing Nos. 23029/P/009A and 009B.
- Item 8 – Revised layout provides for the relocation of the bicycle shelter to the northwest of the central public open space area, as requested.
- Item 9 – A Landscape Masterplan is submitted which details planting of native species.
- Item 10 – A Road Safety Audit and Transport Statement is submitted which has concluded that the increased number of vehicles arising from the proposed development will not be significant or necessitate implementation of additional traffic safety measures in the Sliabh Álainn estate.
- Item 11 – Applicant considers that a 1.8m high concrete post and panel fence would represent a more appropriate southern boundary treatment, which will also ensure the protection of an existing established hedgerow. However, the applicant would be accepting of a condition to agree boundary finishes prior to commencement of development.
- Item 12 – A Revised Flood Risk Assessment is provided and states that access to the site during the construction phase will be achieved by way of an existing laneway. Hydraulic modelling was used to simulate more frequent flood events in the river and assess the likely impact on the laneway. It is considered that flooding of the laneway is not expected to have any impact on the relatively short-term construction works. The revised CEMP indicates the construction



compound will be located within the central open space area, away from the watercourse.

- Item 13 – The revised Flood Risk Assessment includes further and adequate details in relation to raising a section of the entrance access road and associated works.
- Item 14 – (a) Written consent from the owner of the wastewater infrastructure within the Sliabh Álainn estate is provided. It is stated that the Sliabh Álainn estate is in the process of being taken in charge by the Local Authority.  
(b) CCTV and drain surveys were previously provided to the Estates Department of Cork County Council within the submitted Taking in Charge application at Sliabh Álainn. The proposed development will be subject to a connection agreement with UÉ and the applicant is accepting of a condition requiring that all agreements are in place with UÉ prior to commencement of development.  
(c) It is confirmed that the existing pumping station at Sliabh Álainn has sufficient capacity to accommodate the proposed development.  
(d) The applicant has provided an assessment of the Sliabh Álainn pump station.
- Item 15 – Details of correspondence with the IFI and details relating to additional water protection measures are provided.
- Item 16 – Stormwater will discharge to the Gradoge River to the east. A revised CEMP addresses any discrepancies in this regard.
- Item 17 – Drawing 6102-1000 is provided and details the extent of the on-site construction compound, sightlines on to the L1418, road lining and temporary traffic management measures.
- Item 18 – Details of proposed environmental measures to be implemented during the construction phase of the project as well as the locations for stockpiling of materials submitted. The proposed development seeks to retain existing mature trees and established boundaries. An existing berm along the river protects it from the proposed access route and there is fencing in situ along this route.

**3.1.3. Clarification of Further Information was requested on the 20<sup>th</sup> June 2024 as follows:**

- Item 1 – Revised Drawing 6102-1000: Proposed Construction Access and Site Facilities does not include details on road lining and temporary traffic measures. Submit a revised drawing to include all relevant details.
- Item 2 – Drawing 6102-0013 shows sightlines of 49 metres to the east for what appears to be a construction access. This is acceptable as the speed limit here is 50 kph. The stated 49 metre sightlines to the east of this access are not acceptable as the speed limit of the road increases to 80 kph. Clarify and submit revised drawings.

**3.1.4. Clarification of Further information submitted on the 25<sup>th</sup> June 2024**

- Item 1 – The details as requested are shown in submitted Drawing No. 6102-1000.
- Item 2 – Sightlines to the west are 49 metres in the 50 km/hr speed zone and 160 metres to the east in the 80 km/hr speed zone as reflected in Drawing No. 6102-0013.

**3.2. Decision**

By Order dated 18<sup>th</sup> July 2024 the Planning Authority issued a decision to grant permission subject to 63 no. conditions. The following conditions are of note;

**C6** – Any stone finish to the dwellings shall be of natural stone indigenous to the vicinity. Details of the type of stone to be used shall be agreed in writing with the Planning Authority prior to commencement of development.

**C19** – Archaeological monitoring condition.

**C22** – No stockpiling to take place within 10 metres of any open drain or watercourse.

**C29** – No connection shall be made to the Sliabh Álainn foul network and pump station until such time that a site assessment has been carried out and recommendations from same completed by the applicant.

**C30** – No construction works to start until the applicant has a full connection agreement in place with Uisce Éireann.

**C50** – The recommendations outlined in the combined Stage 1/2 Road Safety Audit are to be carried out and are to be in accordance with the TII Road Safety Audit Guidelines.

### 3.3. Planning Authority Reports

#### 3.3.1. Planning Reports (Area Planning Officer)

The first report of the Area Planning Officer notes that the density of 27.2 units per hectare would be considered acceptable in this instance having regard to the character and prevailing density of existing residential development adjoining the site. The housing mix of the proposal is acceptable and there is a demand for the unit types proposed. The design of the units are considered acceptable subject to relatively modest design amendments. The units are considered to comply with the *Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes, Sustainable Communities* (2007), in terms of internal areas and widths. All rear private gardens exceed relevant minimum areas as set out in the *Sustainable Residential Development and Compact Settlements Guidelines* (2024). The report generally reflects the issues raised in the Further Information request.

#### Further Information Recommended.

The second report of the Area Planning Officer notes that, with the exception of two items, the applicant has generally addressed the issues raised in the Further Information request.

#### Clarification of Further Information Recommended.

The third report of the Planning Officer notes that the outstanding issues have been addressed and are acceptable.

The report of the Planning Officer recommends a grant of permission consistent with the Notification of Decision which issued.

#### 3.3.2. Planning Reports (Acting Senior Executive Planner)

The first report notes the Planning Authority is supportive of the proposed development subject to submission of further information (as recommended by the Area Planning Officer).

The second report notes that the response to the Further Information request is broadly acceptable but that clarification in relation to construction access and sight facilities and sightlines are required.

The third report refers to matters including density and specifically section 3.4 of the Compact Settlements Guidelines relating to refining density and Table 3.8 in terms of 'peripheral' locations. The report considers that the proposed density is acceptable in this specific instance having regard to the character and the prevailing density of the existing housing estate adjoining the site which the proposed development forms an extension of and having regard to the guidance set out in the Compact Settlement Guidelines. The report concludes by recommending a grant of permission for the proposed development.

### 3.3.3. Other Technical Reports

Public Lighting Section – No objection subject to conditions.

Estates Section: No objection subject to conditions.

Housing Officer: No objection to the Part V proposal.

Archaeologist: Recommends archaeological monitoring at construction stage.

Area Engineer (first report): Further Information recommended in relation to matters concerning transportation, surface water drainage and flooding.

Area Engineer (second report): Following receipt of Further Information, clarity is sought on (i) Drawing 6102-1000 – Proposed Construction Access and Site Facilities and (ii) Drawing 6102-0013 in relation to sightlines for the construction access.

Area Engineer (third report): Following receipt of Clarification of Further Information, there is no objection to the proposal subject to conditions.

Water Services / Wastewater Operations (first report): Further Information recommended in relation to matters concerning wastewater and wastewater infrastructure.

Water Services / Wastewater Operations (second report): No objection to proposed development subject to conditions.

Ecology Section (first report): Further Information recommended in relation to, inter alia, water quality protection measures to be implemented.

Ecology Section (second report): No objections to proposed development subject to conditions.

### **3.4. Prescribed Bodies**

The following bodies were notified of the proposed development by the Planning Authority however no comments were received from them: An Taisce, The Arts Council, Failte Ireland, National Monuments Service, Gas Networks Ireland, ESB Networks, Inland Fisheries Ireland and Bus Éireann.

Uisce Éireann: No objection subject to the constraints outlined in the Confirmation of Feasibility (COF) and other standard UÉ conditions.

The UÉ COF dated November 2023 is included at Appendix A of the submitted Infrastructure Report. It notes that the existing wastewater and water supply networks in the Sliabh Álainn estate are not taken in charge by UÉ, but that water connections and wastewater connections to UÉ infrastructure are feasible without infrastructure upgrades. The COF also states the following:

‘While capacity is currently available to service the Development and comply with Urban Wastewater Treatment requirements, please note that the proposed development is in an area serviced by a constrained wastewater treatment plant (WwTP). Please also note that there are multiple developments in the Mitchelstown area and should enough of these developments progress before you make a connection application, this capacity may be utilised by others. In this case it will be necessary for you to enter into an agreement with Uisce Éireann, wherein you, the developer will fund upgrades to the wastewater treatment plant to be carried out by Uisce Éireann.’

### 3.5. Third Party Observations

12 third-party observations were received by the Planning Authority and may be summarised under the following headings:

#### Traffic safety and Access

- Existing entrance to the estate is unsafe and congested.
- Proposed development will generate additional traffic.
- Traffic safety measures needed.
- Construction access should not be through the existing estate.
- The boundary between the existing estate and the construction site should be secured for the duration of works.

#### Flooding

- Part of the subject site, near the river, is prone to flooding.
- Flood defences are needed to protect existing houses in the estate.
- No additional housing should be provided until this issue is resolved.

#### Density and Design

- Excessive number of houses proposed when compared with previous application. Potential negative impacts arise, therefore, on traffic and flooding.
- The design of the proposed houses will be out of character with the existing residential estate.

#### Services

- Uncertain if existing wastewater infrastructure has capacity to cater for the proposed development.
- The Sliabh Álainn estate and the existing wastewater infrastructure should be taken in charge by Cork County Council and UÉ respectively prior to construction of more housing.
- Concern that the proposed development would impact on services to the existing estate.

### Boundary treatments

- Preference is expressed for 1.8m high block walls as opposed to timber panel fences which are unsuitable and unsightly when broken.

### Archaeology / Heritage

- The Archaeological Assessment is limited in scope and does not include more recent archaeological information.
- There are several monument sites in the vicinity of the proposed development.
- Geophysical surveys of the lands should have been submitted with the application.

### Other

- Developer should provide a walkway along the river bank.
- Should permission be granted, the development of additional housing on adjoining lands should be restricted.
- Landspreading should not be permitted within 100 metres of houses.
- Concern raised in relation to the numbering of proposed houses.

## **4.0 Planning History**

### RZLT Appeal:

ABP Ref. 316947-23 / Planning Authority Ref. DRZLT-473451017 refers to an October 2023 decision to confirm the local authority's decision to include the subject lands on the RZLT map.

### Other applications on subject lands:

Planning Authority Ref. 16/6142 refers to an August 2017 decision to grant permission for construction of 24 no. dwellinghouses, (3 no. with attached garages), 4 no. serviced sites for dwellinghouses and all associated site works.

Planning Authority Ref. 13/5480 refers to a September 2013 decision to refuse permission for an Extension of Duration of Reg. Ref. 08/7516 comprising the extension to existing Sliabh Álainn residential development to include 30 no.

dwellinghouses, 3 no. garages, provision of 2 no. neighbourhood play areas on Site A, local play area in existing development (Site B) and provision of back-up generator at existing effluent pumping station (Site C) and site works to include relocation of existing stormwater attenuation tank.

Planning Authority Ref. 08/7516 refers to a September 2008 decision to grant permission for an extension to existing Sliabh Álainn residential development to include 30 no. dwellinghouses, 3 no. garages, provision of 2 no. neighbourhood play areas on Site A, local play area in existing development (Site B) and provision of backup generator at existing effluent pumping station (Site C) and site works to include relocation of existing stormwater attenuation tank.

#### Adjoining lands (Sliabh Álainn)

Planning Authority Ref. 19/6981 refers to a February 2020 decision to grant permission for retention and completion of the boundaries altered from the location outlined under planning ref. 14/6505 serving the two serviced sites.

Planning Authority Ref. 14/6505 refers to a November 2015 decision to grant permission for retention of the ground floor slab structure at No. 32 Sliabh Álainn (commenced under planning ref. 07/7804 now expired) and the demolishing of the ground floor slab structure at No. 32 Sliabh Álainn and to construct two new dwelling houses and detached two new garages and all associated site works.

Planning Authority Ref. 05/6307 refers to a March 2006 decision to grant permission for an extension to Sliabh Álainn development to include 27 no. dwellinghouses, pumping station and ancillary services.

Planning Authority Ref. 03/281 refers to a May 2003 decision to grant permission for 28 houses and a creche.

## **5.0 Policy Context**

### **5.1. Development Plan**

5.1.1. The Cork County Development Plan 2022 - 2028 is the current statutory plan for County Cork including Mitchelstown / the subject lands. Volume 1 provides the 'Main Policy Material' and relevant chapters to this development include Chapter 2 – Core



Strategy, Chapter 3 – Settlements and Placemaking, Chapter 4 – Housing (provides details on housing mix, density), Chapter 6 – Social and Community, Chapter 11 – Water Management and Chapter 12 – Transport and Mobility (provides details on car parking and bicycle parking etc). Chapter 14 covers Green Infrastructure and Recreation and Chapter 18 – Zoning and Land Use.

5.1.2. The Core Strategy in Chapter 2 is supported with Appendix B which provides ‘Core Strategy Tables.’ Mitchelstown is located within the ‘North Cork Strategic Planning Area.’ The following information for Mitchelstown is extracted from Appendix B.

<b>2016 Census Population</b>	<b>2028 Target Population</b>	<b>New units required for Plan period</b>
3,740	4,674	357

5.1.3. Volume 3 of the Plan covers North Cork, which includes Mitchelstown, one of the Main Towns in the County. Section 1.5 of Volume 3 specifically refers to Mitchelstown.

5.1.4. All of the appeal lands located within the Development Boundary of Mitchelstown are zoned for Residential uses – MH-R-03, which allows for the development of housing. The objective for these lands is as follows: ‘Medium B density residential development.’

Under Section 4.8.12 of the Plan, Medium Density ‘B’ it is stated: ‘An increased minimum threshold is recommended from 12 to 20 units/ha in this category and the maximum threshold from 25 to 35 units/ha which will overlap with the Medium A category. This revised density range of 20-35 units/ha would not generally be applicable in the larger settlements >5,000 population other than for limited site specific reasons relating to sites with topography/ heritage constraints or where there is a specific market requirement. This revised Medium B density category would be generally applicable to suburban and greenfield sites of the smaller towns with a

population <5000, providing for a tiered density structure and a mix of residential typologies.'

- 5.1.5. Objective HOU 4-7 of Volume 1 of the County Development Plan sets out the new density categories in the Plan and Table 4.1 sets out the new tiered density approach recommended to respond to the diverse settlement scales within the County's hierarchy. Objective HOU 4-7 sets out minimum and maximum net densities for Medium Density 'B' lands as 20 and 35 units per hectare respectively.
- 5.1.6. The subject lands are designated as a 'High Value Landscape' in the Cork County Development Plan 2022-2028. A section of the subject site, to the east, is outside of the Development Boundary of Mitchelstown and is zoned Greenbelt1. No residential development is proposed at this location. This area of the site is within Flood Zones A and B associated with the adjacent Gradoge River.
- 5.1.7. There are no Recorded Archaeological Monuments within the development site. A number of monuments are located in the general vicinity, including an excavated enclosure (CO019-165) located to the south in the Sliabh Álainn residential estate.
- 5.1.8. Section 14.5.11 of the County Development Plan notes the following in relation to public open space:
- 'Generally, at least 12% to 18% of a site for development excluding areas unsuitable for house construction should be allocated to the provision of public open space. However, the need to achieve higher qualitative standards in terms of design and layout is particularly important as it is this which helps to achieve a high quality residential environment which fulfils the expectations of the users. In exceptional circumstances where there is a high standard of private open space and where public open space is designed to a very high-quality standard a reduced minimum value of 10% may be applied.'
- 5.1.9 Objective HOU 4-6 seeks to secure a mix of house types and sizes throughout the County to meet the needs of the likely future population across all age groups and requires a Statement of Housing mix to be provided with proposals.

5.1.10 Objective ZU 18-2: Development and Land Use zoning – ‘Ensure that development, during the lifetime of this Plan, proceeds in accordance with the general land use objectives and any specific zoning objectives that apply to particular areas as set out in this Plan.’

Objective ZU 18-3: Development Boundaries – ‘For any settlement, it is a general objective to locate new development within the development boundary, identified in this Plan that defines the extent to which the settlement may grow during the lifetime of the Plan.’

5.1.11 Development Plan Objective GI 14-2: Green Infrastructure Objectives for Main Towns and Settlements

a) Ensure that all main towns have an adequate level of quality green and recreational infrastructure (active and passive) taking account of existing deficits, planned population growth as well as the need to serve their surrounding hinterlands. To ensure where possible that this green and blue infrastructure maximises its multifunctional capacity (ecosystem services).

b) Promote the corridor concept, in particular using rivers and streams as one of the natural foundations for multi-functional green and blue infrastructure corridors.

c) Seek to create new and improved connections (physical/ecological corridors) between open spaces/ green infrastructure and other important destinations as part of the enhancement of the overall network.

d) Where other statutory plans/masterplans are being prepared it will be a requirement that they include detailed and integrated green and blue infrastructure proposals with a particular focus on nature based solutions to significant infrastructure and climate change challenges

5.1.12. General objectives set out in Volume 3 for Mitchelstown include:

MH-GO-01: Plan for development to enable Mitchelstown to achieve its target population of 4,674 persons. Provide a balance between the provision of housing and employment uses in the town, to support Mitchelstown’s development as an integrated live/work destination.

MH-GO-05: All development should contribute to improved, safe pedestrian and cyclist connectivity and should include proposals for the provision of improved pedestrian / cycle access routes, provision of new footpaths or improvement of existing footpaths and provision of facilities for cyclists, as appropriate.

MH-GO-12: The green infrastructure, biodiversity and landscape assets of Mitchelstown include the Gradoge River corridor, mature trees, pockets of woodland and areas of unimproved grassland habitat as well as other open spaces. New development should be sensitively designed and planned to provide for the protection of these features and will only be permitted where it is shown that it is compatible with the requirements of nature conservation directives and with environmental, biodiversity and landscape protection policies as set out in Volume One Main Policy Material and Volume Two Heritage and Amenity

## **5.2 National Policy**

### **5.2.1 National Planning Framework 'Project Ireland 2040'**

Chapter 4 of the National Planning Framework (NPF) is entitled 'Making Stronger Urban Places' and it sets out to enhance the experience of people who live, work and visit the urban places of Ireland.

A number of key policy objectives are noted as follows:

- National Policy Objective 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.
- National Policy Objective 11: Provides that 'In meeting urban development requirements, there be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing

cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.'

- National Policy Objective 13: In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.
- 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.

Chapter 6 of the NPF is entitled 'People, Homes and Communities' and it sets out that place is intrinsic to achieving a good quality of life. A number of key policy objectives are noted as follows:

- National Policy Objective 27 seeks to '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'.
- 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.'

#### 5.2.2 Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities (2024).

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, inter alia, the interaction between residential density, housing standards, and quality urban design and placemaking to support sustainable and compact growth.

The site is in an urban extension area of a Metropolitan Town. As such, as per table 3.3, residential densities in the range 35dph to 50dph (net) shall generally be applied.

**SPPR 3** relates to car parking; Part (iii) states the following: *In intermediate and peripheral locations, defined in Chapter 3 (Table 3.8) the maximum rate of car parking provision for residential development, where such provision is justified to the satisfaction of the planning authority, shall be 2 no. spaces per dwelling.*

**SPPR 4** relates to cycle parking and notes that safe and secure storage facilities should be provided in a dedicated facility of permanent construction.

### 5.3 Ministerial Guidelines

5.3.1 Having regard to the nature of the proposed development and to the location of the appeal site, I consider the following Guidelines to be pertinent to the assessment of the proposal.

- Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities (2024).
- Regulation of Commercial Institutional Investment in Housing, Guidelines for Planning Authorities (2021).
- Design Manual for Urban Roads and Streets (2019).
- Appropriate Assessment of Plans and Projects in Ireland, Guidelines for Planning Authorities, 2010.
- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009).

- Quality Housing for Sustainable Communities - Best Practice Guidelines for Delivering Homes Sustaining Communities (2007).

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

The proposed development is not located within or immediately adjacent to any European site. The nearest designated areas of natural heritage are the Blackwater River (Cork/Waterford) SAC c 7 km to the south-east, the Lower River Suir SAC, c 7.8 km east, and the Galtee Mountains SAC, c 8.5 km north.

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

An Environmental Impact Assessment Screening accompanied the planning application and concluded that the proposed development is not considered to have likely significant effects on the environment.

See Forms 1 and 2 below. Having regard to the nature of the proposed development comprising the construction of 43 dwellings and associated site on a greenfield site, adjoining an existing residential estate where infrastructural services are available, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

### 6.0 **The Appeal**

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

This is a third-party appeal against the decision to grant permission submitted by Denis McGrath of 29 Sliabh Álainn, Brigown, Mitchelstown. The grounds of appeal are summarised under the following headings:

##### Traffic and Access

- A number of patrons of the childcare facility, 'Bright Sparks,' in the Sliabh Álainn estate continue to park at the entrance to the estate and make U-turns where children are at play. Reference is made to the letter from the childcare facility used as a response to Item 10 of the further information request; this suggests

that parking issues are resolved and that the situation is being monitored, however this is untrue. These traffic issues will be exacerbated when approximately 100 cars from the proposed development are taken into consideration.

- A number of staff from 'Bright Sparks' park their cars along the main road running through the Sliabh Álainn estate, which is proposed as the main access road leading to the proposed new residential development of 43 houses.
- Concern that there will be significant risks to children and residents arising from traffic in the event that permission is granted.
- Irresponsible that the Planning Authority are aware that the childcare facility has been extended into No. 1 Sliabh Álainn without the benefit of planning permission. This is exacerbating the traffic situation in the area.
- Construction traffic should not travel through the existing estate to reach the site. There is an alternative route as denoted at Appendix 23.

#### Flooding

- In the Flood Risk Assessment provided with the planning application, the pumping station is shown clearly within the flood risk zone (see pages 7, 8 and 21 of the report). As such there is a significant risk of sewage spillage / leakage in terms of the existing housing estate. If an additional 43 houses are constructed this risk is significantly greater.
- A significant flood barrier should be constructed around the pumping compound and the existing houses constructed in a flood zone.

#### Other

- The pump station / compound is in a derelict state (reference made to photographs at Appendices 11, 12, 13, 14, 15, 16 and 17). Residents have cut back hedges in front of the gates and at other locations near the pump station and have also engaged a contractor in this regard. Residents have also cleaned the drains without support from the owner (reference made to photographs at Appendices 19, 20 and 21) .



- Referring to Item 14 of the Further Information request, written permission was requested from the third party owner of the wastewater infrastructure, Mr. Michael Devaney, and this was provided. However, this person is not a third party, as he is the owner and director of MDR Developments. Reference is made to the separation of powers and the integrity of the planning process is questioned.
- A maintenance programme to manage and control vegetation should be implemented before permission is granted.
- The owner should make a financial contribution to the residents committee of the housing estate for monies spent maintaining the estate.

The following Appendices are included with the appeal:

Appendix 1 – Notification of Decision.

Appendices 2 and 3 – Copies of the appellant's observations to the Planning Authority.

Appendix 3A – Copy of acknowledgement (dated 19<sup>th</sup> January 2024) of appellant's submission to the Planning Authority in relation to the planning application.

Appendix 4 – Copy of page 7 of applicant's response to the Further Information request received by the Planning Authority on 24<sup>th</sup> May 2024.

Appendix 5 – Copy of letter from 'Bright Sparks' childcare centre parents dated 8<sup>th</sup> May 2024 and received by the Planning Authority on 24<sup>th</sup> May 2024 as part of the Further Information response.

Appendices 5A and 5B – Photographs.

Appendix 6 – Copy of page 9 of applicant's response to the Further Information request received by the Planning Authority on 24<sup>th</sup> May 2024.

Appendix 7 – Copy of letter from Michael Devaney dated 8<sup>th</sup> May 2023 and received by the Planning Authority on 24<sup>th</sup> May 2024.

Appendices 8 and 9 – Print outs of company details / company summary relating to MDR Developments Limited.

Appendix 10 – Copy of FRA received by Planning Authority on 19<sup>th</sup> December 2023.

Appendices 11 to 21 – Photographs.

Appendix 22 – Extract from newspaper relating to proposed development.

Appendix 23 – Eircode map indicating construction route to subject site.

## **6.2. Applicant Response**

The applicant has submitted a response to the third party grounds of appeal which may be summarised as follows:

### General

- The Planning Authority's decision was reached following two separate comprehensive requests for Further Information which resolved all planning considerations raised.
- The proposed development represents a natural extension and the next sequential phase to the Sliabh Álainn residential estate.
- Due to previous constraints at the Mitchelstown Waste Water Treatment Plant (MWWTP) the applicants were unable to implement Reg. Ref. 16/6142, which has resulted in lands remaining undeveloped. Upgrades have since taken place increasing the capacity of the MWWTP to accommodate the additional loading generated by the proposed development.

### Traffic, Parking and Access

- A Road Safety Audit and Transport Statement was provided at Further Information stage and concludes that the increase in the number of vehicles arising from the proposed development would not be significant or necessitate implementation of additional traffic safety measures in the Sliabh Álainn estate. Drawing No. 6102-0010 demonstrates the internal road network with all recommendations of the Road Safety Audit reflected.
- The 'Bright Sparks' childcare facility and the Sliabh Álainn estate have separate vehicular entrances from the public road and the delivery of the proposed development will not result in any impacts on the operations of the existing traffic management and parking arrangements of this facility.

- Due to the proximity of the childcare facility to the subject site, it is envisaged that any children residing in the proposed development and who attend the creche would either walk or cycle to the facility with their parents.
- Reference made to letter which issued from the childcare facility to parents (submitted as part of the Further Information response) advising that turning vehicles at the entrance to the Sliabh Álainn estate and haphazard parking are prohibited. Referring to correspondence from the creche dated 29<sup>th</sup> August 2024, attached to the applicant's response to the appeal, it is noted that traffic and parking arrangements have significantly improved in recent times.
- The proposed development will not result in any negative traffic impacts in the area.
- Car parking for the proposed development is in accordance with the County Development Plan standards.
- Construction traffic will not utilise the existing access at Sliabh Álainn or its internal road network. Instead, an existing access track east of the estate will be used as reflected on Drawing No. 6102-1000.

#### Procedural issue

- In terms of the procedural matter raised, specifically the granting of consent by the owner of the existing wastewater infrastructure and pumping station in Sliabh Álainn to facilitate connection into that infrastructure, it is contended that the planning application was submitted in accordance with requirements as set out in the Planning and Development Act 2000 as amended and the Planning and Development Regulations 2001, as amended. Mr. Devaney is the owner of the infrastructure and the applicant, MDR Developments, was required to obtain consent to connect to the infrastructure from the owner.

#### Flooding

- None of the proposed houses or service infrastructure are located within an area of flood risk. The eastern part of the site is included in the County Development Plan's flood risk mapping and will be utilised as an amenity area.

- The Strategic Flood Risk Assessment of the County Development Plan identifies the eastern area of the existing Sliabh Álainn development within Flood Zone B, which includes the subject pumping station. The SSFRA provides a flood profile through the area of the site near the existing pumping station which confirms that the Finished Floor Levels of existing dwellings, road levels and the pumping station are not at risk of flooding in a 1 in 100 year flood event. Furthermore, the hydraulic modelling did not factor in the presence of existing block walls to the rear of dwellings at Sliabh Álainn, which would offer even greater flood protection to the existing development and the pumping station.
- The proposed development will not result in any impact on flood risk.

#### Existing and future maintenance of Sliabh Álainn estate

- The Sliabh Álainn estate is currently in the process of being taken in charge by Cork County Council. A Taking in Charge drawing is attached (Enclosure 4 refers).
- Enclosure 1 (summarised below) is a response to items raised in the appeal relating to maintenance issues in Sliabh Álainn.

The applicant's response to the appeal included the following Enclosures:

Enclosure 1 - Response from Michael Devaney, Director of MDR Developments Ltd., summarised as follows:

- Planning and development history of the subject lands are outlined.
- Rebuttal of points raised relating to the maintenance of the estate.
- Construction access will be from an access track located east of the estate and construction machinery will not utilise the internal road network of the estate.

Enclosure 2 – Copy of letter from the owner/manager of 'Bright Sparks' childcare facility to parents in relation to access, traffic management and parking arrangements. This correspondence formed part of the applicant's Further Information response received by the Planning Authority on 24<sup>th</sup> May 2024.

Enclosure 3 – Letter to MDR Developments from the owner / manager of ‘Bright Sparks’ childcare facility dated 29<sup>th</sup> August 2024 which indicates, inter alia, that traffic management at the facility is working well.

Enclosure 4 – A ‘Taking in Charge’ drawing for the Sliabh Álainn estate.

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

None on file.

### **6.4. Observation**

Claire Devaney of Sliabh Álainn, Brigown, Mitchelstown has submitted an observation on the third party appeal. The grounds of the observation, as they relate to planning matters, are summarised as follows:

- Bright Sparks Childcare Centre has been in operation for over 20 years. Parents of children who attend the creche are very supportive and co-operative in relation to any safety issues.
- The ‘stop, drop and go’ system works well and is efficient. No one parks on the roadway and parents have been requested not to turn at Sliabh Álainn entrance, and it is considered they would have no reason to do this.
- The observer states she is supportive of any ideas that would make life easier and safer for everyone.

## **7.0 Assessment**

7.1. Having examined the application details and all other documentation on file, including the appeal, including the reports of the local authority, and having inspected the site, and having regard to the relevant national and local policy and guidance, I consider the substantive issues in this appeal to be considered are as follows:

- Land-use and nature of the proposed development
- Traffic and Access
- Flood Risk

- Other Issues
- Matters Arising
- Appropriate Assessment

## 7.2. Land use and nature of the proposed development

- 7.2.1. The appeal lands are subject to two zoning objectives. All of the lands located within the Development Boundary of Mitchelstown are zoned for Residential uses under Objective No. MH-R-03 of the Cork County Development Plan 2022-2028. The proposed development of housing on these lands is therefore acceptable in principle. A section of the appeal lands at the eastern side of the site is located outside of the Development Boundary and is zoned Greenbelt. No residential development is proposed on these Greenbelt lands, which are within Flood Zones A and B associated with the adjoining Gradoge River. The area will serve as an informal amenity and biodiversity / meadow area for residents, which is considered to be acceptable.
- 7.2.2. The applicant was requested by way of a further information request (Item 2) to provide a drawing illustrating the position and extent of both the developable area and undevelopable area of the lands. Drawing No. 23029/P/011/P2, submitted in response to the request, provides clarity in this regard. The net developable area is calculated as being 1.69 ha of the total site area of 2.17 ha. The undevelopable area of the lands (0.48 ha) comprise the eastern areas of the lands within Flood Zones A and B and also the aforementioned Greenbelt lands. In terms of public open space, Drawing No. 23029/011/P2 confirms that approximately 2,684 sqm of such space (c 15.8% of net developable area) is provided in a central area of the development which is overlooked by the majority of the proposed houses. The quantum and location of the public open space is acceptable.
- 7.2.3 The proposed development primarily provides for a mix of detached, semi-detached and terraced houses on lands to the south-east of Mitchelstown that are currently in agricultural use and are under grass. The adjoining area to the south consists of similar type housing. I am therefore satisfied that that the proposed development will integrate with the existing form and character of development that is established in the area. As already indicated, the subject lands where housing is proposed are

zoned for residential development and the submitted proposal is in accordance with this.

7.2.4. A Statement on Housing Mix was provided with the planning application. The proposed development provides for a mix of houses, and I consider this mix to be acceptable as it would meet a range of tenure types. The submitted Housing Quality Assessment provides a breakdown of the floor areas for each unit. All units meet or exceed the minimum requirements. Good sized private amenity space is proposed for each dwelling. Approximately 62 sqm is allocated to two-bedroom townhouses, while the larger houses comprising 3 and 4 bedroom units have access to private amenity space ranging in size from c 84 sqm to c 140 sqm.

7.2.5. The proposal which comprises 43 units on a developable site area of 1.69 ha yields a density of approximately 25.4 units per hectare, which, while within the density envisaged for the lands according to the applicable zoning objective (MH-R-03) in the County Development Plan, falls below the recommended residential density ranges (35 – 50) set out in Section 3.3 of the Compact Settlement Guidelines. However, the Planning Authority has set out a detailed rationale in terms of why the proposed density is considered to be acceptable in this specific instance, with reference to the Compact Settlement Guidelines and considering matters relating to, inter alia, the ‘peripheral’ location of the site, and the prevailing character and density of adjoining development. I concur with the analysis as presented by the Planning Authority and my opinion is that the proposed density is acceptable in this specific instance.

### **7.3. Traffic and Access**

7.3.1. Concerns are expressed by the appellant that there are existing traffic problems caused by cars associated with the existing childcare facility ‘Bright Sparks,’ on account of purported illegal and haphazard parking and particular traffic manoeuvres at the entrance to the Sliabh Álainn estate. There is concern that the vehicles generated by the proposed additional houses will exacerbate the situation and pose safety risks to residents and children in the area. I note that the childcare facility and Nos.1 and 2 Sliabh Álainn are accessed by a separate and independent vehicular access from the public road (L-1418), which is located west of the entrance to the Sliabh Álainn estate. From documentation on the file I note the childcare operator

has taken steps to remedy the aforementioned issues and that parking and set-down arrangements are closely monitored on an on-going basis. While I acknowledge the appellant's concerns, issues relating to traffic management and illegal parking are dealt with under road traffic legislation and are not matters for consideration in this appeal. Given the close proximity of the proposed development to the childcare facility, I consider that any children attending the facility from the proposed development will most likely walk to it with their parent / guardian. I also note the findings of the Transport Statement (detailed below), which considers that traffic from the proposed development will have a minimal impact on the road network in the immediate area.

7.3.2. The applicant has provided both a Transport Statement and a Stage 1 / 2 Road Safety Audit (RSA) relating to the proposed internal road network, in support of the proposal. The RSA makes nine recommendations in respect of features of the detailed design considered to have road safety implications. All of the recommendations were accepted and are incorporated into the scheme as reflected on Drawing No. 6102-0010 submitted at Further Information stage. Should the Board be minded to grant permission, I recommend inclusion of a condition requiring the recommendations of the RSA to be implemented.

7.3.3 The Transport Statement envisages that 23 outbound vehicular trips and 9 inbound vehicular trips will occur in the AM peak hour (i.e. a total of 32 vehicle trips in the morning peak hour). A total of 32 vehicular trips in the PM peak hour is envisaged (i.e. 15 outbound and 21 inbound). The report states this equates to approximately one additional vehicle every two minutes in the peak period either entering or exiting the junction at the L-1418. Having regard to the above, Table 4.4 of the Transport Statement sets out that the percentage increase in traffic using the Sliabh Álainn estate and the L-1418 Brigown Road junction would increase by between 27.5% and 29%. The Statement concludes that the transport implications associated with the proposed development would be minimal and would have an insignificant impact on the adjoining road network.

Having regard to the findings of the Transport Statement as set out above, and having inspected the site and the surrounding road network I am satisfied that there is sufficient capacity to cater for the quantum of traffic likely to be generated by the proposed development. The internal estate roads and the access junction with the L-



1418 are more than adequate to accommodate traffic associated with the proposal. Full occupation of the proposed development will have a minimal impact upon the operation of the adjacent road network and the junction with the L-1418 Brigown Road.

- 7.3.4. The appellant considers that construction traffic associated with the proposed development should not use the access or internal road network associated with Sliabh Álainn and recommends an alternative route, located further east of the entrance to Sliabh Álainn. This alternative route, comprising an existing access track, is to be used for construction traffic as confirmed in the appellant's responses to the Further Information requests, and as set out on Drawing No. 6012-1000-C submitted as part of the Clarification of Further Information response on 25<sup>th</sup> June 2024.

#### **7.4 Flood Risk**

- 7.4.1. The issue of flood risk is raised by the appellant in the context of the existing pumping station's location within an area of flood risk, as identified in the Site Specific Flood Risk Assessment (SSFRA) submitted with the planning application. An updated SSFRA was provided in response to Item 12 of the Further Information request. It notes that the Strategic Flood Risk Assessment prepared in support of the Cork County Development Plan 2022-2028 indicates areas at the eastern side of the existing Sliabh Álainn estate, including the pumping station, are located within Flood Zone B. By its very nature, the SSFRA is more accurate than the Strategic Flood Risk Assessment prepared for the Cork County Development Plan and it has modelled a flood profile through the area of the site proximate to the pumping station. In this regard, Figures 2.6 to 2.12 inclusive in the SSFRA are relevant. It is apparent from the information presented that the Finished Floor Levels of the existing dwellings, road levels and pumping station are not at risk of flooding in a 1 in 100 year flood event. This is also confirmed in the applicant's response to the appeal. I note that the Local Authority's Engineering Reports have not raised concerns regarding this matter. The SSFRA considers the impact that climate change has on future flood risk by including a 20% allowance for flood risk. Based on the information submitted in support of the planning application and the appeal, I consider that the proposed development is acceptable in terms of flood risk and that it would not impact any other properties or pose a public health risk. The proposed

development accords with the Planning System and Flood Risk Management Guidelines, 2009.

7.4.2. Turning to the appellant's suggestion that a significant flood barrier should be constructed around existing structures at the eastern side of Sliabh Álainn, the hydraulic modelling undertaken to inform the SSFRA did not factor in the existing rear block walls to the houses on the eastern side of Sliabh Álainn, which would afford further flood protection to these properties. In my view provision of a flood barrier as suggested is not warranted based on the findings of the submitted SSFRA and in my view such a development would likely have adverse impacts on the visual amenity of the area.

## **7.5 Other issues**

### **7.5.1. Maintenance of the existing Sliabh Álainn estate**

Matters raised in the appeal relating to, inter alia, the implementation of a maintenance programme in the existing estate and that the developer / owner should financially contribute to the resident's association on account of maintenance undertaken by residents are not planning matters and therefore are not for consideration in this appeal. I note however that the applicant has confirmed that Cork County Council is in the process of taking the Sliabh Álainn housing estate in charge.

### **7.5.2 Existing childcare facility**

The appellant refers to a purported planning issue relating to the extension of the existing childcare facility in the Sliabh Álainn estate. This matter is not for the consideration of the Board. Such matters fall under the remit of the Enforcement Section of the Planning Authority.

### **7.5.3. Procedural matter**

I note the issue raised by the appellant in relation to Item 14 of the Further Information request, whereby the owner of the wastewater infrastructure, Michael Devaney, consented to the applicants (MDR Developments) connecting to the existing wastewater infrastructure / pumping station at Sliabh Álainn to facilitate the proposed development. Noting that Michael Devaney is a Director of MDR Developments, I do not consider that the integrity of the planning process was

compromised in any way. Such consent was appropriately sought by the Planning Authority and it was subsequently provided on foot of the Further Information request.

## **7.6 Matters Arising**

### **7.6.1. Measures to protect Gradoge River**

The report from the Ecology Section noted the proposed construction access route near the Gradoge River and raised concerns regarding impacts to the water quality of the river, which is presently at Poor WFD status, and noted that developments should not lead to further deterioration of water quality. The applicant was requested, under Further Information Item 18, to, inter alia, identify water quality protection measures to prevent dust, silt sediment and other construction related pollutants from entering the Gradoge River. In response, a revised Construction Environmental Management Plan (CEMP) was submitted which notes that there is an existing earth berm along the full length of the construction site access track which will provide protection to the river and that provision of a silt fence will be installed along the length of the access track in accordance with appropriate guidelines and Inland Fisheries Ireland's requirements. I consider implementation of this proposed measure to be appropriate to prevent further deterioration to the water quality of the river. I also note that Drawing No. 6012-1000-C confirms that waste storage, the site compound and site parking are located well away from the eastern site boundary proximate to the proposed open space area, which will significantly reduce the risk of pollutants entering the watercourse.

I do not consider that the aforementioned proposed measures, comprising the provision of a silt fence along the length of the access track and the location of the site compound and waste storage away from the eastern site boundary, to be mitigation measures for the purpose of avoiding or preventing impacts to any European Site. These measures are specifically to prevent deterioration to the water quality of the watercourse arising from the proposed development. I do not consider that the proposed development would lead to a deterioration in the water quality of the Gradoge river.

### **7.6.2 Boundary Treatment**

The submitted proposed site layout plan indicates potential future connections from the proposed development to adjoining lands to the north. There are no extant permissions relating to these adjoining lands and no development is presently proposed within the wider landbank. In this context, I note that no boundary treatments are indicated on the revised Landscape Plan at the interface where two of the proposed estate roads terminate at the northern boundary. I consider that an appropriate boundary treatment is warranted at these interfaces and, as such, I recommend inclusion of a condition requiring the agreement of same with the Planning Authority, prior to commencement of development, should the Board be minded to grant permission.

#### 7.6.3 Conditions

I note that the Planning Authority has attached a significant number of conditions (63) in respect of the proposed development. Conditions 9 to 12 inclusive relate to public lighting. I consider that one condition is sufficient to deal with this matter. Condition 22 relates to the prohibition of stockpiling within 10 m of the watercourse. Should the Board be minded to grant permission, I recommend inclusion of a similarly worded condition. Condition 50 refers to recommendations of the Road Safety Audit (RSA). If permission is granted, I consider that a condition be included requiring recommendations of the submitted RSA to be implemented and incorporated into the proposed development.

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

7.7.1 I have considered the proposed development of the construction of 43 houses and all associated works including landscaping, development of public open space and servicing proposals in light of the requirements of S 177S and 177U of the Planning and Development Act 2000 as amended.

A screening report for Appropriate Assessment was submitted with the planning application and it concluded that the proposed residential development at Brigown, Mitchelstown, Co. Cork, either alone or in-combination with other plans and / or projects, does not have the potential to significantly affect any European site in light of their conservation objectives, and therefore, a Stage 2 Appropriate Assessment is deemed not to be required. The Ecology Section of the Local Authority considered

that given the remote hydrological distance of the lands from the Blackwater River SAC and the assimilative capacity of the Gradoge and Funshion Rivers, there will be no significant impacts to the SAC or any designated site as a result of the development. The Ecology report noted that the submitted AA Screening Report does not take the entire red line boundary of the site into account and does not consider the proposed construction access route. It states that while the foregoing matters would not change the assessment of the AA implications, concern is expressed regarding the impacts to the water quality of the Gradoge River.

A description of the proposed development is presented in Section 2.0 of my report. In summary, the proposed development site is a greenfield site adjoining an existing residential estate, other housing and agricultural fields at the edge of Mitchelstown. The development will comprise construction of 43 houses and associated site works on a site with a net developable area of 1.69 ha. The proposed development will be connected to the local water, surface water and foul sewer network. The proposed construction access route during the construction phase will be located along an existing laneway proximate to the eastern bank of the Gradoge river. Attenuated surface water will outfall from the proposed development to the Gradoge river which flows to the east of the development site. This river is at poor WFD status. The Gradoge river joins the River Funshion, located approximately 3.2 km north-west of the site (as the crow flies), which itself flows into the River Blackwater (Cork/Waterford).

The Gradoge River flows to the east of the proposed development and joins the River Funshion, a tributary of the Munster Blackwater, approximately 3.2 kilometres north-west of the appeal lands.

#### European Sites

The proposed development site is not located within or immediately adjacent to any site designated as a European Site, comprising a Special Area of Conservation (SAC) or Special Protection Area (SPA). Four European sites are potentially within a zone of influence of the proposed development (see Table 1 below) located within 11.5 kilometres (as the crow flies) of the potential development site, as follows;

- Blackwater River (Cork/Waterford) SAC [002170] located c 7 km from the site.
- Blackwater Callows SPA [004094] located c 11.4 km from the site.

- Lower River Suir SAC [002137] located c 7.8 km from the site.
- Galtee Mountains SAC [00646] located c 8.5 km from the site.

While the Appropriate Assessment Screening screened out the Blackwater River (Cork/Waterford) SAC on the basis of no connectivity via surface water or groundwater, I note there is a potential pathway to the Blackwater River (Cork/Waterford) SAC (002170) via the Gradoge River, flowing east of the subject lands, which joins the River Funshion, a tributary of the Munster Blackwater, approximately 3.2 kilometres north-west (as the crow flies) of the appeal lands. Furthermore, the SAC site overlaps with the Blackwater Callows SPA, located approximately 11.4 kilometres to the south.

No other viable pathways are identified between the appeal site and all other sites including the Lower River Suir SAC (002137) and the Galtee Mountains SAC (000646) can be screened out at preliminary stage due to the lack of hydrological connections.

The Blackwater River (Cork/Waterford) SAC is one of the largest rivers in Ireland, draining a major part of Co. Cork and five ranges of mountains. The River Blackwater is of considerable conservation significance for the occurrence of good examples of habitats and populations of plant and animal species that are listed on Annexes I and II of the E.U. Habitats Directive respectively. Furthermore it is of high conservation value for the populations of bird species that use it.

Blackwater Callows Special Protection Areas, designated under the E.U. Birds Directive, is also located within the SAC site. It is of special conservation interest for the following species: Whooper Swan, Wigeon, Teal and Black-tailed Godwit. The E.U. Birds Directive pays particular attention to wetlands and, as these form part of this SPA, the site and its associated waterbirds are of special conservation interest for Wetland & Waterbirds.

European Site	Qualifying Interests	Distance	Connections
Blackwater River (Cork/Waterford) SAC (002170)	Estuaries [1130]	7 km (as the crow flies)	Yes.

	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Perennial vegetation of stony banks [1220]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330]</p> <p>Mediterranean salt meadows (Juncetalia maritimi) [1410]</p> <p>Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation [3260]</p> <p>Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</p> <p>Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0]</p> <p>Margaritifera margaritifera (Freshwater Pearl Mussel) [1029]</p> <p>Austropotamobius pallipes (White-clawed Crayfish) [1092]</p> <p>Petromyzon marinus (Sea Lamprey) [1095]</p> <p>Lampetra planeri (Brook Lamprey) [1096]</p> <p>Lampetra fluviatilis (River Lamprey) [1099]</p> <p>Alosa fallax fallax (Twaite Shad) [1103]</p>		<p>Stormwater discharging to Gradoge River, which flows into River Funshion, a tributary of River Blackwater.</p> <p>Wastewater from the site would be treated in Mitchelstown WWTP, which discharges to River Funshion.</p>
--	---	--	--

	Salmo salar (Salmon) [1106]  Lutra lutra (Otter) [1355]  Trichomanes speciosum (Killarney Fern) [1421]		
Blackwater Callows SPA (004094)	Whooper Swan (Cygnus cygnus) [A038]  Wigeon (Anas penelope) [A050]  Teal (Anas crecca) [A052]  Black-tailed Godwit (Limosa limosa) [A156]  Wetland and Waterbirds [A999]		Yes.  Stormwater discharging to Gradoge River, which flows into River Funshion, a tributary of River Blackwater.  Wastewater from the site would be treated in Mitchelstown WWTP, which discharges to River Funshion.

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. Furthermore, the site does not contain any habitats of conservation value and does not have habitat to support any of the Special Conservation Interests of any Special Protection Area.

During the construction phase, standard pollution control measures would be put in place. These measures are standard practices for urban sites and would be required for a development on any urban site in order to protect local receiving waters, irrespective of any potential hydrological connection to Natura 2000 sites.

With regard to indirect impacts, in relation to construction pollutants, in a worst-case scenario (e.g. a period of very high rainfall) it is possible that surface water runoff from the construction site or the construction access route could carry pollutants to the Gradoge river, which would provide a potential indirect hydrological pathway to



the Blackwater River (Cork/Waterford) SAC. However, there are a number of factors that would prevent 'likely significant effects' on the SAC. Any runoff from the construction site would have to flow over at least 100 m of land to reach the Gradoge river, which would provide a high degree of filtration. Any runoff from the construction access route reaching the Gradoge river would dilute, attenuate or settle given the flow distance to the SAC with which there is indirect hydrological connectivity, by way of the River Funshion, at distances of over 30 km.

#### Likely significant effects on the European site in view of the conservation objectives

I have also considered operational impacts and potential of pollutants entering the surface water network. Having regard to the nature and extent of the proposed development (construction of 43 houses and associated works), the flow distance to the nearest European site with which there is hydrological connectivity at a distance of over 30 km, and the dilution factor associated with the relevant waterbodies before connectivity with the distant European site, it is not likely that there would be any significant effects on habitats at the Blackwater River (Cork/Waterford) SAC and the Blackwater Callows SPA. It is reasonable to determine that any potential pollutants from this site would dilute, attenuate or settle out before any connectivity with these distant European sites. I consider that there would be no likely adverse significant effects for European sites arising from the proposed development.

The proposed development includes connection to the wastewater infrastructure including the pumping station servicing Sliabh Alainn. The discharge of wastewater to the municipal wastewater treatment plant at the Mitchelstown WWTP provides a pathway for potential impacts to the European sites. I note that Uisce Éireann has outlined that capacity for the proposed development to connect into the WWTP is available. Foul drainage generated at the site would discharge to the River Funshion through Mitchelstown WWTP in excess of 30 km upstream of the River Blackwater River (Cork/Waterford) SAC and the Blackwater Callows SPA.

On the basis of the information submitted in support of the application and appeal I consider that the additional loading to the Mitchelstown WWTP arising from the proposed development is acceptable and is not likely to give rise to significant indirect impacts on European sites.

Having regard to the foregoing, I conclude that the proposed development would not impact the overall water quality status of the River Blackwater and that there is no possibility of the proposed development undermining the conservation objectives of any of the qualifying interests or special conservation interests of European sites within or associated with the River Blackwater including the Blackwater River (Cork / Waterford SAC (002170) and Blackwater Callows SPA (004094).

#### In combination effects

The development is not associated with any loss of semi-natural habitat or pollution that could act in a cumulative manner to result in significant negative effects to any European site. I am satisfied that there are no projects which can act in combination with the development that could give rise to significant effects to European sites within the zone of influence.

No mitigation measures are required to come to these conclusions. I consider the provision of the surface water drainage system a standard measure and not a mitigation measure for the purpose of avoiding or preventing impacts to the SAC.

#### Overall Conclusion

##### Screening Determination

Having carried out Screening for Appropriate Assessment of the project in accordance with Section 177U of the Planning and Development Act 2000 (as amended), I conclude that that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on the Blackwater River (Cork/Waterford) SAC and the Blackwater Callows SPA, or any other European site, in view of the Conservation Objectives of those sites, and Appropriate Assessment (and submission of a NIS) is not therefore required.

This determination is based on:

- The flow distance to the River Blackwater Blackwater (Cork/Waterford) SAC and the Blackwater Callows SPA with which there is hydrological connectivity being at distances of over 30 km.
- The dilution factor associated with the relevant waterbodies before connectivity with the European Sites.

- Foul drainage generated at the site would discharge to the River Funshion through Mitchelstown WWTP in excess of 30 km upstream of the River Blackwater River (Cork/Waterford) SAC and the Blackwater Callows SPA.
- The scale of the development.

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

## 8.0 Recommendation

- 8.1. Having regard to the above it is recommended that permission is granted based on the following reasons and considerations and subject to the attached conditions.

## 9.0 Reasons and Considerations

- 9.1. The proposed housing development, located on residential zoned lands which adjoin the existing Sliabh Álainn residential estate, accords with the provisions of the Cork County Development Plan 2022-2028. It is considered that, subject to compliance with the conditions set out below, the proposed development would not have a significant impact on the operation of the adjacent road network and the junction at the Sliabh Álainn estate and the L-1418 Brigown Road, would not result in a traffic hazard, would be acceptable in terms of flood risk, would not impact other properties by reason of flood risk, and would not pose a public health risk. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 24 <sup>th</sup> day of May 2024 and the 25 <sup>th</sup> day of June 2024 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority
----	---

	<p>prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>This development hereby permitted relates to 43 no. houses.</p> <p>Reason: In the interest of clarity.</p>
3.	<p>(a) The boundaries of the proposed development shall comply with drawing numbers 23029/P/008/P2 and 24180-2-101 received by the planning authority on the 24<sup>th</sup> day of May 2024.</p> <p>(b) Details of the boundary treatment where two of the proposed estate roads terminate at the northern site boundary shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interests of clarity and visual amenity, and to ensure an appropriate high standard of development.</p>
4.	<p>The landscaping scheme shown on drawing number 24180-2-101, as submitted to the planning authority on the 24<sup>th</sup> day of May 2024 shall be carried out within the first planting season following substantial completion of external construction works.</p> <p>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.</p> <p>Reason: In the interest of residential and visual amenity.</p>

5.	<p>Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity and to ensure an appropriate high standard of development.</p>
6.	<p>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.</p> <p>Reason: To ensure that the development is carried out and completed to an acceptable standard of construction.</p>
7.	<p>(i) All recommendations of the Stage 1 / 2 Road Safety Audit received by the planning authority on the 24<sup>th</sup> day of May 2024 shall be implemented and incorporated into the proposed development, unless the planning authority approves any departure in writing.</p> <p>(ii) 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).</p> <p>(iii) Footpaths shall be dished at road junctions in accordance with the requirements of the planning authority. Details of all locations and materials to be used shall be submitted to, and agreed in writing with the planning authority prior to the commencement of development.</p> <p>Reason: In the interest of amenity and of traffic and pedestrian safety.</p>

8.	<p>Prior to the commencement of development, the developer shall enter into Connection Agreements with Uisce Éireann (Irish Water) to provide for service connections to the public water supply and wastewater collection network.</p> <p>Reason: In the interest of public health and to ensure adequate water/wastewater facilities.</p>
9.	<p>The attenuation and disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.</p> <p>Reason: In the interest of public health.</p>
10.	<p>No materials shall be stockpiled within 20 metres of the watercourse at the eastern boundary of the site.</p> <p>Reason: To protect the water quality of the Gradoge River.</p>
11.	<p>The developer shall engage a suitably qualified (licensed eligible) archaeologist to monitor (licensed under the National Monuments Acts) all site clearance works, topsoil stripping, groundworks, dredging and/or the implementation of agreed preservation in-situ measures associated with the development. Prior to the commencement of such works the archaeologist shall consult with and forward to the Local Authority archaeologist and the NMS as appropriate a method statement for written agreement. The use of appropriate tools and/or machinery to ensure the preservation and recording of any surviving archaeological remains shall be necessary. Should archaeological remains be identified during the course of archaeological monitoring, all works shall cease in the area of archaeological interest pending a decision of the planning authority, in consultation with the National</p>

	<p>Monuments Service, regarding appropriate mitigation [preservation in-situ/excavation].</p> <p>The developer shall facilitate the archaeologist in recording any remains identified. Any further archaeological mitigation requirements specified by the planning authority, following consultation with the</p> <p>National Monuments Service shall be complied with by the developer.</p> <p>Following the completion of all archaeological work on site and any necessary post-excavation specialist analysis, the planning authority and the National Monuments Service shall be furnished with a final archaeological report describing the results of the monitoring, and any subsequent required archaeological investigative work/excavation required. All resulting and associated archaeological costs shall be borne by the developer.</p> <p>Reason: To ensure the continued preservation, either in situ or by record, of places, caves, sites, features or other objects of archaeological interest.</p>
12.	<p>The areas of public open space shown on the lodged plans shall be reserved for such use and shall be levelled and / or contoured, as appropriate, soiled, seeded, and landscaped in accordance with the detailed requirements of the planning authority. This work shall be completed before any of the dwellings are made available for occupation unless otherwise agreed with the planning authority and shall be maintained as public open space by the developer until taken in charge by the local authority.</p> <p>Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.</p>
13.	<p>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:</p>

	<p>(a) Location of the site and materials compounds including areas identified for the storage of construction refuse;</p> <p>(b) Location of areas for construction site offices and staff facilities;</p> <p>(c) Details of site security fencing and hoardings;</p> <p>(d) Details of on-site car parking facilities for site workers during the course of construction;</p> <p>(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;</p> <p>(f) Measures to obviate queuing of construction traffic on the adjoining road network;</p> <p>(g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;</p> <p>(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;</p> <p>(i) Provision of parking for existing properties at [specify locations] during the construction period;</p> <p>(j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;</p> <p>(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;</p> <p>(l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;</p> <p>(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.</p>
--	---



	<p>(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;</p> <p>Reason: In the interest of amenities, public health and safety and environmental protection</p>
14.	<p>Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house 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).</p> <p>Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.</p>
15.	<p>Public lighting shall be provided in accordance with a scheme which shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The scheme shall include lighting along pedestrian routes through open spaces and shall take account of trees within the drawing [landscape plan drawing no. 24180-2-101]. Such lighting shall be provided prior to the making available for occupation of any residential unit.</p> <p>Reason: In the interest of amenity and public safety.</p>
16.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Friday inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation</p>

	<p>from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
17.	<p>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.</p> <p>Reason: In the interests of visual and residential amenity.</p>
18.	<p>(a) Prior to the commencement of any house or duplex unit in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all relevant houses and duplex units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.</p> <p>(b) 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 specified house or duplex unit for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.</p> <p>(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</p>

	<p>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.</p> <p>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.</p>
19.	<p>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.</p> <p>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.</p>
20.	<p>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</p>

	<p>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.</p> <p>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.</p>
21.	<p>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.</p> <p>Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.</p>

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.

---

John Duffy  
Planning Inspector

23<sup>rd</sup> October 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	ABP-320470-24		
<b>Proposed Development Summary</b>	Construction of 43 houses and ancillary site works including landscaping, public open spaces and servicing proposals.		
<b>Development Address</b>	Sliabh Álainn, Brigown, Mitchelstown, Co. Cork.		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	X
		<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) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>			
<b>Yes</b>		Class	EIA Mandatory EIAR required
<b>No</b>	X		Proceed to Q.3
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
<b>No</b>		N/A	No EIAR or Preliminary

				Examination required
<b>Yes</b>	X	Class 10 (500 DHS)		Proceed to Q.4

4. Has Schedule 7A information been submitted?		
<b>No</b>	X	<b>Preliminary Examination required</b>
<b>Yes</b>		<b>Screening Determination required</b>

## Form 2

### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	ABP-320470-24	
<b>Proposed Development Summary</b>	Construction of 43 houses and ancillary site works including landscaping, public open spaces and servicing proposals.	
<b>Development Address</b>	Sliabh Álainn, Brigown, Mitchelstown, Co. Cork.	
The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.		
	<b>Examination</b>	<b>Yes/No/ Uncertain</b>
<b>Nature of the Development</b> Is the nature of the proposed development exceptional in the context of the existing environment?  Will the development result in the production of any significant waste, emissions or pollutants?	<p>The proposed housing development is to be located on residential zoned lands. The proposed development is not exceptional in the context of the existing environment. The proposal constitutes an extension of the existing Sliabh Álainn residential estate which adjoins the subject lands to the south.</p> <p>Construction waste can be managed through standard Waste Management Planning. Localised construction impacts will be temporary.</p>	No
<b>Size of the Development</b> Is the size of the proposed development exceptional in the context of the existing environment?	<p>No. The total site area is approximately 2.17 ha. The net developable site area is 1.69 ha.</p>	No



Are there significant cumulative considerations having regard to other existing and/or permitted projects?		No.
<p><b>Location of the Development</b></p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>This greenfield site adjoins an existing housing estate.</p> <p>The Gradoge River flows at the eastern side of the site.</p> <p>The proposal includes standard best practices methodologies for the control and management of surface water on site.</p>	<p>No</p> <p>No</p>
<b>Conclusion</b>		
<p><b>There is no real likelihood of significant effects on the environment.</b></p> <p>EIA not required.</p>		