



An
Bord
Pleanála

Inspector's Report

ABP-321494-24

Development

Construction of 245 residential units, a childcare facility, communal open space, amenity areas, landscaping, boundaries and all site works.
(www.petitswood-infill-lrd.ie)

Location

Dublin Road, Petitswood Townland,
Mullingar, Co. Westmeath

Planning Authority

Westmeath County Council

Planning Authority Reg. Ref.

24/60376

Applicant

Andrews Construction Limited

Type of Application

Large-Scale Residential Development

Planning Authority Decision

Grant Permission

Type of Appeal

First and Third Party

Appellants

Ardmore Road Residents Association
Dara and Fiona O'Shea
Andrews Construction Limited

Observers

None

Date of Site Inspection

14th February 2025

Inspector

John Duffy

Contents

1.0 Site Location and Description	5
2.0 Proposed Development	5
3.0 Planning Authority Pre-Application Opinion	9
4.0 Planning Authority Decision.....	9
4.2. Planning Authority Reports	10
4.3. Prescribed Bodies.....	16
4.4. Third Party Observations	16
5.0 Planning History.....	20
6.0 Policy Context.....	21
6.1. National Planning Policy	21
6.2. Regional Policy.....	25
6.3 Local / County Policy.....	26
6.4. Natural Heritage Designations	30
7.0 The Appeal	31
7.1. Grounds of Third Party Appeal.....	31
7.2. Grounds of First Party Appeal.....	36
7.3. Applicant Response	38
7.4. Planning Authority Response.....	39
7.5. Observations.....	39
7.6. Further Responses.....	39
8.0 Assessment.....	39
9.0 AA Screening.....	61
10.0 Environmental Impact Assessment	62
11.0 Recommendation	63

12.0	Reasons and Considerations.....	63
13.0	Recommended Draft Board Order.....	63

Appendix 1 – Form 1: EIA Pre-Screening

Appendix 2 – Form 2: EIA Preliminary Examination

Appendix 3 – Appropriate Assessment Screening Determination

1.0 Site Location and Description

- 1.1. The subject site, located at the eastern side of Mullingar town, approximately 1.7 km from the town centre, has a stated area of 9.72 hectares and comprises an expansive and largely undeveloped land parcel, irregular in configuration, and bounded to the north by the Dublin Road (R392) and to the south by Ardmore Road (L1133). The site is adjoined to the west by the established Petitswood Manor housing estate and by detached housing to the north east, east and south east along the Dublin Road and Ardmore Road. The Holy Family Primary School is located to the south of the site on the southern side of Ardmore Road.
- 1.2. Mature trees and hedgerow are located throughout the site and along the eastern and western site boundaries. The topography of the lands is undulating and varies significantly with ground levels sloping from a high point at Dublin Road (approximately 113 m) down to Ardmore Road (approximately 99 m).
- 1.3. Two Recorded Monuments (a Ringfort – Rath and a Souterrain) are located within the site, adjacent to the eastern site boundary, and to the rear of existing properties on Ardmore Road.

2.0 Proposed Development

- 2.1. Permission is sought for:
 - 245 residential units (70 no. 4 bed semi-detached two storey houses, 132 no. 3 bed two storey terraced / semi-detached / detached houses, 8 no. 2 bed duplex units in four no. three storey corner units and 1 no. four storey apartment block comprising 14 no. 1 bed, 15 no. 2 bed and 6 no. 3 bed apartments).
 - 1 no. two storey creche / childcare facility (c 824 sqm).
 - 442 no. car parking spaces, 550 no. bicycle parking spaces, communal open space of 1.78 ha, private garden / amenity areas, a biodiversity corridor via shared communal open spaces, landscaping, boundary treatments, roads, footpaths, cycle lanes, bin storage, 3 no. ESB sub-stations and ancillary works.

- Access to be provided from Dublin Road and Ardmore Road.

2.2. The following tables set out key elements of the proposed development on the subject lands:

Table 1 – Key Statistics

Site Area (Gross / Net)	9.72 ha / 8.05 ha
Number of Units	245 in total comprising 202 houses, 8 no. duplex units and 35 no. apartments
Building Heights	Two storey houses, three storey duplex units and a four storey apartment block
Density	Approximately 30.4 units per hectare (net)
Plot Ratio	0.36
Open Space	1.78 ha (18.3% of the gross site area) in 8 open space areas across the site excluding areas accommodating the Recorded Monuments
Part V	24 units
Pedestrian / Cyclist Infrastructure	Throughout the site
Car and Bicycle Parking	Car parking - 442 spaces in total: 40 at apartments, 20 at the creche, 269 in-curtilage, 69 out of curtilage, 32 for visitors, 12 accessible spaces. Bicycle parking – 550 spaces in total: 420 for houses (2 no. secured spaces per house), 70 for apartments (2 no. secured spaces per unit), 60 no. visitor spaces.
Childcare Provision	Two storey creche building (824 sqm) to accommodate 108 child places

Table 2 – Unit Mix (Houses)

Bedrooms / Persons	Type	Total
4 bedroom / 7 Person	Semi-detached (Types A and B)	70
3 bedroom / 5 Person	Semi-detached, terraced and detached (Types C, D, E, F, G and G1)	132
Total		202

Table 3 – Unit Mix (Apartments and Duplex)

Bedroom Number	Type	Total
1-Bed	Apartment	14
2-Bed	Apartment – 15 Duplex – 8	23
3-Bed	Apartment	6
Total		43

- 2.3 The proposed development is for a new residential area along with a creche within the built-up area of Mullingar. Proposed residential units are of contemporary design. The proposed creche is located at the proposed entrance proximate to Ardmore Road, opposite the primary school. One four storey apartment block is proposed in the southern part of the site, set away from existing adjoining residential development. Two adjoining areas of land indicated to be in the applicant's ownership (within the blue line boundary), one located off the Dublin Road at the northern part of the site and the second located off the Ardmore Road at the southern part of the site, are indicated as areas for future commercial and mixed-use development, respectively.
- 2.4 The planning application was accompanied by several supporting documents in addition to standard plans and particulars. These include the following:
- Planning Statement

- LRD Opinion Compliance Statement
- Architectural Design Statement (ADS)
- Appropriate Assessment Screening
- Ecological Impact Assessment (EcIA)
- Social Infrastructure Assessment (SIA)
- Daylight and Sunlight Assessments
- Verified Photomontages
- Site Specific Flood Risk Assessment (SSFRA)
- Part V Proposal
- Utilities and Telecommunications Report
- Preliminary Construction Traffic Management Plan
- Road Safety Audit (Stages 1 and 2)
- Technical Note relating to refusal reason of previous LRD application / appeal
- Traffic and Transport Impact Assessment
- DMURS Compliance Statement
- Consulting Engineer's Document concerning traffic matters
- Travel Plan / Mobility Management Plan
- Public Lighting Report
- Engineering Planning Report
- Building Lifecycle Report (BLR) for apartments
- Preliminary Energy Report
- Climate Proofing Assessment
- Archaeological Testing Report
- Arboricultural Response
- Tree, Hedgerow and Vegetation Survey

- Tree Protection Plan (TPP)
- Outline Operational Waste Management Plan
- Construction Environmental Waste Management Plan
- Waste Management Plan and Construction and Demolition Waste Management Plan

3.0 Planning Authority Pre-Application Opinion

3.1. A Section 247 pre-application consultation took place on the 15th of May 2024 and a Stage 2 – LRD Opinion Meeting took place on 31st July 2024, between representatives of the applicant and the planning authority, Westmeath County Council. A range of issues were considered including the previous LRD proposal, which was refused permission.

3.2. The planning authority issued the LRD opinion on the 27th of August 2024 which stated that the documentation submitted constitutes a reasonable basis on which to make an application for permission for the proposed LRD. A number of matters were raised that required further consideration to be submitted with the application. These related, inter alia, to planning and strategic issues, transport, traffic and road safety, service infrastructure, design / layout and climate proofing, social infrastructure provision, Part V provision, EIA and AA screening documentation, submission of specific documentation including geophysical assessments, an EcIA, a BLR and a SSFRA, and other matters.

3.3. The applicant has responded to each of these matters in the LRD Opinion Compliance Statement submitted as part of the application.

4.0 Planning Authority Decision

4.1 Decision

Westmeath County Council granted permission for the proposed development on the 2nd of December 2024 subject to 27 conditions. The conditions are generally standard, though I note the following in summary:

5(a). Submit plans and particulars for House Type C mid terraced unit.

5(b). Submit revised plans to significantly reduce the height of the creche chimney lift over-run.

8(a). Provide for a 20 m buffer zone in relation to recorded archaeological monuments.

8(b). All ground works to be monitored under licence by a suitably qualified archaeologist.

9(a). A pre-construction ecological in season inspection of the site to be carried out by a mammologist / faunal expert to confirm proposed mitigation measures for protection of badger activity are appropriate and adequate.

9(d). All mitigation measures identified in the EcIA, the badger survey, bat survey and all other reports to be implemented in full. A suitably qualified Ecological Clerk of Works to be appointed to oversee the implementation of the ecological mitigation measures and to sign off on these.

19(a). Proposed detention basins are replaced with underground water attenuation tanks.

24. Creche to be in operation upon completion of Phase 1 development unless otherwise agreed with planning authority.

26. Section 48 development contribution condition.

27. Special Development Contribution of €293,095 sought in respect of public infrastructure and facilities which benefit the proposed development, namely the provision of pedestrian and cycle infrastructure along the R392 Dublin Road and L1113 Ardmore Road which facilitates the development including the crossing of the railway line and Royal Canal.

4.2 Planning Authority Reports

4.2.1 Planning Report

The Planning Report prepared by the Executive Planner is dated the 28th of November 2024 and it reflects the decision to grant permission for the proposed development. It sets out, inter alia, the site location and description, the statutory requirements of the report, details of pre-application meetings, details of the

proposed development, planning history of the site and adjoining areas, a summary of third party observations, planning context and relevant planning policy. The planning assessment is summarised as follows:

Principle of development: Proposed development is acceptable in principle as it complies with the zoning objectives and associated policies of the Mullingar Local Area Plan 2014-2020 as extended (MLAP). As such, proposal complies with the Westmeath County Development Plan 2021-2027.

Previous planning history: Summary provided relating to the context of the refusal reason for the previous LRD application on the lands relating to the lack of provision for an arterial road through the site connecting the Dublin and Ardmore Roads (ABP-318498-23 refers).

Density / Mix and Phasing: Net density of 30 uph is consistent with the MLAP and the Sustainable Residential and Compact Settlement Guidelines (2024). Proposed phasing plan and unit mix are acceptable.

Design / Layout and Housing Quality Assessment: Proposed residential units generally meet criteria in terms of internal accommodation sizes. 1.79 ha of public open space is provided (18.3% of gross site area).

Public open space: 8 no. areas of open space are provided. The spaces integrate and protect natural features of significance and green infrastructure corridors supporting preservation of archaeological heritage and are consistent with principles of public open space requirements set out in the Sustainable Residential and Compact Settlement Guidelines (2024).

Private open space: All houses meet the standards set out in SPPR 2 of the Compact Settlement Guidelines, while all apartment / duplex units accord with the requirements of the Apartment Guidelines (2023). Separation distances between the proposed development and existing adjoining development are deemed to be acceptable.

Material finishes: These comprise a mix of buff brick, dark brick, render, metal canopy, zinc cladding and slate provide variety and interest and are acceptable. Boundary treatment as outlined in the Boundary Treatment Plan is generally acceptable, other than the proposed 1.2 m high boundary wall between the

boundary with the creche and parking area; a higher boundary to prevent potential breaches should be considered.

Bicycle storage: The quantum of bicycle spaces, and their storage facilities are acceptable.

Road layouts / Passive surveillance: The internal road design provides for landscaping including staggered tree planting creating a partly tree-lined avenue. The overall layout leads to increased passive surveillance across the majority of the scheme with habitable windows facing the public domain.

Connectivity: Proposed connectivity and permeability throughout the scheme is acceptable. Linkages are provided to public footpaths / cycleways on the Dublin Road and Ardmore Road. Proposed connectivity to Ardmore Road includes linkages to a newly constructed shared path / cycling route.

Creche: The proposed creche is appropriately located proximate to the access off Ardmore Road and near the Holy Family Primary School. It is considered that the chimney element relating to a lift over-run is excessive in height and it should be reduced.

Daylight / Sunlight: The submitted Daylight and Sunlight Assessment demonstrates no undue impacts regarding potential impact to daylight and sunlight availability on adjacent properties or quality of daylight and sunlight within the proposed development.

Impact on Trees / Vegetation: 7 tree groups recommended for removal to make way for housing. More robust documentation including tree protection / retention plans are provided in this application. The proposed layout and design allows for retention of existing trees to be incorporated into proposed open spaces and will assist in the assimilation of the proposed development within the site.

Visual Impact: Taller elements are located in a central location (see ADS) to avoid impinging on neighbouring properties. Documentation including 3D images and photomontages show how the proposed development would appear and integrate within the site context. Location of proposed creche just off Ardmore Road is an optimal location across the road from the primary school. Its two storey design is in keeping with the character of the area.

Social Infrastructure Audit: It provides, inter alia, the capacity of existing facilities and the requirement of social and community facilities to meet the future needs resulting from the proposed development. Contents are noted.

Part V: Transfer of 24 units proposed. No objection raised.

Roads and transportation: Considered that the applicant has provided a 'robust rationale' as to why a more circuitous route link street through the subject site is proposed rather than an arterial road, which was the refusal reason under the previous application.

The proposed link from the Dublin Road to Ardmore Road cannot be considered as arterial as per the DMURS definition and the MLAP includes its own definition of what is intended as an 'arterial road/ avenue;' the MLAP states that 'this avenue should be designed in accordance with the principles of DMURS.' The 'arterial road' as referred to in the MLAP is not that as defined under DMURS in that any future link at this location will not connect major centre / nodes and will not form part of any orbital or cross metropolitan route.

While the Ardmore / Marlinstown Road Network map indicates an 'arterial road,' the written text in the MLAP describes the intent of this road as having an 'urban street character' with development fronting onto both sides and suitably overlooked as opposed to a traditional estate distributor road. Section 8.13.4 of the MLAP notes that the route would be determined at development management stage in the context of a planning application.

The proposed road layout including the link road has been designed in accordance with the principles of DMURS and complies with the intent of the MLAP. The proposed link road fosters an urban street character in accordance with the MLAP, the Compact Settlement Guidelines and will deliver quality urban design and placemaking.

A designated cycleway route is proposed through the site connecting users from the north to the south of the site and linking public cycle routes along Dublin Road and Ardmore Road.

Both car parking and bicycle parking facilities are acceptable.

Active Travel and Roads and Transportation have no objections to the proposed development subject to conditions. Active Travel recommends inclusion of a Special Contribution condition for provision of pedestrian and cycle provision in the vicinity of the proposed development, with a detailed breakdown of calculations provided.

Fire safety: Fire safety concerns raised regarding the apartment block. Condition will be attached requiring all fire safety requirements to comply with the Building Regulations.

Water supply / wastewater: No concerns raised in this regard by the District Engineer and Environment Section.

Surface water drainage: Environment Section consider the proposed drainage, SuDS and catchment layouts appear reasonable. District Engineer considers proposed detention basins have potential to cause health and safety impacts and render portions of proposed open space to be unusable due to depth of the basins, up to c 15 m in depth. A positive drainage system in the south-eastern boundary of the site should be provided.

Flooding: SSFRA has been reviewed by Environment and District Engineer, no objections are raised.

CEMP: Environment Section advises that the CEMP should be updated to include all ecological mitigation measures as identified in the EclA, bat reports and badger reports and prior to commencement an updated CEMP should be provided.

Construction and Demolition and Resource Waste Management Plan: No objection to this plan. Environment Section advises that it should be updated and submitted prior to commencement.

Operational Waste Management Plan (OWMP): Plan is acceptable.

Noise: Applicant notes that the site is not within an area with noise levels in excess of assessment threshold as defined in the Westmeath Noise Action Plan 2018-2023 and as such further actions or noise reduction measures are not required. Environment Section concurs with this assessment.

Public Lighting: The public lighting proposal incorporates the proposed road design and landscape layouts and it states the design has considered the effect of lighting

on fauna such as bats. Environment Section consider the lighting proposal to be acceptable.

Ecology and EclA: Field surveys undertaken in April, May and September 2023 which fall within the periods for full species assessments of floral cover as well as bat, mammal and amphibian surveys. The badger survey was undertaken outside of optimal mammal survey season. No plant species protected under Irish or international legislation were noted on the site. No protected terrestrial mammals were noted on site. A disused burrow was noted however no badgers or badger activity was noted. In September 2023, an additional badger survey was completed where cameras were installed and it was apparent that there is badger activity although there does not appear to be a breeding sett on the lands. The EclA includes mitigation measures for badger protection. Environment Section recommends that the mitigation measures be implemented and that a condition is attached requiring that a re-survey be carried out during the optimal months of December to April.

Bats: Three bat species were noted to be foraging along treelines and hedgerows although no bat roosts were identified. Bat mitigation measures considered acceptable.

Birds: No birds of conservation importance were noted on the site.

Biodiversity impacts: Environment Section raised no concerns in relation to the the EclA which finds that no significant effects on biodiversity are likely and that residual effects are considered to be low adverse. The Department of Housing, Local Government and Heritage raise concerns of potential negative impacts (detailed in section 4.3 of this report). It recommends conditions should permission be granted.

Archaeology: The Department of Housing, Local Government and Heritage raise no concern subject to conditions.

Appropriate Assessment: Environment Section agrees with the findings and conclusions of the AA screening report.

Environmental Impact Assessment (EIA) Determination: It is noted that the proposed development is a sub-threshold development and that an EIAR is not required.

4.2.2 Other Technical Reports

- Environment Section – No objection subject to conditions.
- Fire Officer – Additional Information recommended in relation to the proposed apartment block.
- Active Travel – No objection subject to conditions.
- District Engineer – No objection subject to conditions.

4.3 Prescribed Bodies

An Taisce – Notes amount of hedgerow proposed for removal. If such removal is unavoidable, supplementary planting of native Irish species should take place. Acknowledges the amount of proposed green spaces which has potential to embed a significant degree of biodiversity. Recommends preparation of a Biodiversity Management Plan. Acknowledges the provision of the BLR and provision of low carbon measures and technologies.

Department of Housing, Local Government and Heritage – Archaeology conditions recommended. Detailed comments provided in relation to nature conservation issues. Should permission be granted, conditions are provided.

Uisce Eireann (UE) – No objection in principle. A Confirmation of Feasibility (COF) has issued to the applicant advising that water connection is feasible subject to upgrades. A COF has also issued advising that connection to wastewater is also feasible without infrastructure upgrade.

Westmeath County Childcare Committee – Welcomes the full day service provided by the proposed new creche which is of a suitable size to cater for the proposed residential development.

4.4 Third Party Observations

5 no. third party observations were received by the planning authority. Issues raised as set out in the Planning Report are as follows:

Traffic, Transport and Road Safety

- Previous refusal on this site relating to contravention to objective for arterial road within the Mullingar Local Area Plan 2014-2020 as extended (MLAP), has not been superseded.
- Concerns expressed that the proposed road within the development does not “provide access to development lands and open up potential routes for public transport and active travel routes” as per the forthcoming Mullingar Transport Plan. Furthermore, the road proposed in this application is not a link road or arterial road and no ‘robust justification’ has been provided. However, another submission considers a rationale has been put forward for local links and local streets as opposed to the arterial road.
- A submission states that “An Bord Pleanála’s reasons for refusal must be adequately noted by an independent Westmeath County Council, not a local authority working in hoc with the developers at the expense of the local community (as minutes attached to the planning statement highlight) and this development, in turn, should be sent back to the drawing board for a comprehensive rewrite, or refused planning.”
- Proposal is not consistent with DMURS.
- Impact of existing applications granted permission regarding traffic volumes on the Ardmore Road and at Saunders Bridge.
- Increase in traffic volumes and congestion.
- A road linking the Dublin Road and the N52 should be of high importance to cater for traffic.
- Concerns regarding traffic on Ardmore Road and Saunders bridge in addition to the location of the proposed entrance in proximity to Ardmore Close housing entrance and the school entrance.
- Concerns regarding accuracy of traffic counts.
- Concerns regarding an entrance to Ardmore Road.
- Concerns regarding provision of traffic lights, impact on existing pedestrian and cycle infrastructure on the Dublin Road.
- Concerns associated with construction traffic.

- Road Safety Audit recommendations have not been addressed.
- Parking concerns highlighted.
- Recommendations have also been outlined for enhanced road access (road widening with a filter lane, roundabout, ramps etc.) and the creation of two separate housing developments with no through road.

Open Space

- Open space is piecemeal and not all open space is usable. Additional open space should be provided (reference to detention basins and recorded monument being included in the open space calculations).
- Apartment block should be omitted and open space provided in its place.
- Open space areas are not usable due to the provision of detention basins and that not all open space areas have usable or safe spaces for children to play.
- Lack of playing fields in the Ardmore area highlighted.
- A development contribution in lieu of open space is required.

Siting and Design

- Concerns expressed over impact on residential amenity of adjacent properties, by way of separation distances, overlooking and impact on privacy.
- Concerns over height and visual impact of 4 storey apartment block.
- The housing mix fails to promote working from home as units are too small in size.
- Design recommendation have been recommended e.g. provision of a row of detached dwellings facing on Ardmore and Dublin Roads.
- Indicated that Daylight and Sunlight Assessment used data from Dublin Airport, when data from Mullingar weather station was available.
- The apartment block will overlook the Holy Family School and cause child safeguarding issues.
- Density should be reduced to create sustainable communities.

- The proposal (design and height) fails to respect the character, pattern and scale of the mature low-density setting and does not contribute to place making.
- Apartments are in breach and contrary to MLAP policies and Apartment Guidelines.
- Concerns expressed over number of 3-bedrooms houses proposed (need for more 4 and 5-bedroom houses).
- Concerns expressed over proposed boundary treatments.
- Design of the proposed creche is too high and industrial in style with an obtrusive chimney more in keeping with an industrial estate.

Social Infrastructure

- The Holy Family Primary School is full.
- There is a lack of primary and secondary school places in the area.
- There is a lack of community amenities to serve the increase in population.
- No meaningful community infrastructure has been provided in an area that has a lack of community infrastructure such as playing fields, courts, ball game areas playgrounds and training facilities.

Biodiversity

- Concerns expressed over loss of trees and hedgerow.
- Concerns raised that the Ecological Impact Assessment states there are “no badgers or badger activity noted on site.”
- The EclA is incorrect regarding no water features on site (indicated that water is evident to the rear of property at the Ardmore Road).
- The EclA does not adequately address concerns of NPWS on adverse effects on bats, birds, badgers and wildlife corridors.
- The existing biodiversity corridors should be retained.
- A reduced density is necessary to achieve enhanced biodiversity.

Other

- There are no changes from previous application / or minor changes.
- There has been no community engagement.
- The proposal will result in a devaluation of property.
- The fire safety matters raised by Fire Officer are still valid as no changes have been proposed.
- Concerns regarding the provision of unsightly construction compounds at Ardmore Road.
- A new Archaeological Report should be carried out, including LIDAR assessment and the ringfort should be cordoned off to protect its integrity and heritage.
- The 'mixed use' and 'commercial' pockets should be used for community purposes. Concerns over uncertainty as to what these parcels of lands will be used for in the future (should be included in the current application).
- Concerns regarding proposed drainage scheme.
- Concerns expressed regarding finish floor levels.
- Concerns regarding encroachment of development on neighbouring lands.
- Concerns regarding structural damage to neighbouring properties.

5.0 Planning History

Subject site

An Bord Pleanála Reference ABP-318498-23 / Planning Authority Ref. 23/60192 refers to a March 2024 decision to refuse permission for construction of 245 residential units, a creche and all site development works on the subject lands. The reason for refusal states the following:

'The site is located within the Ardmore/Marlinstown Framework Plan area as set out in the Mullingar Local Area Plan 2014-2020 (as amended and extended). O-FP1 states that it is an objective, inter alia, to secure the provision of appropriate infrastructure to support the phased development of Ardmore/Marlinstown. Map

Refs. MLAP 07 (Strategic Transportation Map) and MLAP 14 (Land Use Zoning Map) include an arterial road connecting Dublin and Ardmore Roads along the western boundary of the site. The Framework Plan also makes a number of references to this road. However, the proposed development makes no provision for it and the road through the site connecting the Dublin and Ardmore Roads is described as intentionally circuitous.

Having regard to the layout of the proposed development it is considered that the proposed development would materially contravene objective O-FP1 of the Mullingar Local Area Plan 2014-2020 (as amended and extended) and would, therefore, be contrary to the proper planning and sustainable development of the area.'

This matter is addressed below under section 8.3 of this report.

As set out in the Board Direction relating to the previous appeal on the lands, the Board raised concerns regarding the fragmented nature of the public open space, in particular the location and functionality of open space area 6 in the proposed development and potential impact on the quality of amenity for future residents.

The Board also raised concerns regarding permeability links throughout the proposed development and in particular the proposed pathway to the side of proposed dwelling no. 35 and an existing dwelling onto the Dublin Road, which has limited surveillance. The Board also considered that the interfaces between the residential development and the areas zoned for commercial and mixed-use development, under the ownership of the applicant, had not been given sufficient consideration.

6.0 Policy Context

6.1 National Planning Policy

6.1.1 Project Ireland 2040 National Planning Framework (NPF)

The NPF is a high level strategic plan to shape the future growth and development of the country to 2040. It is focused on delivering 10 National Strategic Outcomes

(NSOs). NSO 1 is 'Compact Growth', and it is expanded upon on page 139 of the NPF. It states, inter alia, 'From an urban development perspective, we will need to deliver a greater proportion of residential development within existing built-up areas of our cities, towns and villages ... pursuing a compact growth policy at national, regional and local level will secure a more sustainable future for our settlements and for our communities.'

In November 2024 and in the context of progressing amendments to the Draft Revision of the NPF, the government approved revised housing targets for the period 2025 to 2030, aiming to deliver an average of 50,500 homes per year and scaling up to 60,000 homes in 2030 and that level maintained thereafter.

Relevant National Policy Objectives (NPOs) include:

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

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

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

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

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

6.1.2 **Section 28 Ministerial Guidelines**

The following is a list of Section 28 Ministerial Guidelines considered to be of relevance to the proposed development.

- Sustainable Residential Development and Compact Settlements – Guidelines for Planning Authorities (DoHLGH, 2024)

- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (DoHLGH, 2023).
- Development Contributions – Guidelines for Planning Authorities (DECLG, 2013).
- Quality Housing for Sustainable Communities (DoEHLG, 2007).
- The Planning System and Flood Risk Management including the associated Technical Appendices (DEHLG/ OPW, 2009).
- Childcare Facilities Guidelines for Planning Authorities (2001).

6.1.3 **Other Relevant Policy Documents include:**

- Climate Action Plan 2024 – Government of Ireland: Outlines measures and actions by which the national climate objective of transitioning to a climate resilient, biodiversity rich, environmentally sustainable and climate neutral economy by 2050 is to be achieved. These include the delivery of carbon budgets and reduction of emissions across sectors of the economy. Of relevance to the proposed development, is that of the built environment sector. The Board must be consistent with the Plan in its decision making.
- National Biodiversity Plan 2023-2030: Includes five objectives by which the current national biodiversity agenda is to be set and the transformative changes required to ensure nature is valued and protected is delivered. Of relevance to the proposed development, are the targets and actions associated with Objective 2 on achieving the conservation and restoration needs of environmental designations. Section 59B(1) of the Wildlife (Amendment) Act 2000, as amended, requires the Board to have regard to the objectives and targets of the Plan in the performance of its functions.
- Design Manual for Urban Roads and Streets (DMURS) 2019
- Permeability Best Practice Guide – National Transport Authority

6.1.4 **Policy Context relating to contribution conditions**

The following Section 28 Guidelines are pertinent to the first party appeal.

Development Contributions, Guidelines for Planning Authorities (Department of the Environment, Community and Local Government 2013)

The Guidelines advise that a special development contribution may be imposed under section 48(2)(c) of the Act where specific exceptional costs, which are not covered by the general contribution scheme, are incurred by a local authority in the provision of public infrastructure or facilities which benefit very specific requirements for the proposed development, such as a new road junction or the relocation of piped services. The particular works should be specified in the condition. Only developments that will benefit from the public infrastructure or facility in question should be liable to pay the development contribution.

The Guidelines note that the ‘practice of “double charging” is inconsistent with both the primary objective of levying development contributions and with the spirit of capturing “planning gain” in an equitable manner. Authorities are reminded that any development contribution already levied and paid in respect of a given development should be deducted from the subsequent charge so as to reflect that this development had already made a contribution.’

Development Management Guidelines (Department of the Environment, Community and Local Government 2013)

Section 7.12 refers to conditions requiring development contributions (sections 48 and 49 of the Planning Act), advising that Development contribution conditions may only be attached if they accord with the provisions of either section 48 or section 49 of the Planning Act and these are based on the application of the terms of one or more development contribution schemes which have been formulated and adopted in accordance with those sections of the Act, or on the need for a special financial contribution. The Guidelines also advise a requirement for a special contribution may be imposed under Section 48(2)(c), where specific exceptional costs not covered by a scheme are incurred by a local authority in the provision of public infrastructure and facilities which benefit the proposed development. Section 7.12 of the Guidelines states, in respect of special contribution conditions: -

‘A condition requiring a special contribution must be amenable to implementation under the terms of section 48(12) of the Planning Act; therefore it is essential that the basis for the calculation of the contribution should be explained in the planning decision. This means that it will be necessary to identify the nature/scope of works,

the expenditure involved and the basis for the calculation, including how it is apportioned to the particular development.'

6.1.5 Legislative Provision

Planning and Development Act, 2000, as amended:

S. 48 (1) – provides for a Planning Authority to include conditions requiring the payment of a contribution in respect of public infrastructure and facilities.

S. 48 (2) (a) – provides that the basis for the determination of a contribution under subsection (1) shall be set out in a development contribution scheme.

S. 48 (2) (c) – provides that a Planning Authority may, in addition to the terms of a scheme, require the payment of a special contribution in respect of a particular development where specific exceptional costs not covered by a scheme are incurred by any local authority in respect of public infrastructure and facilities which benefit the proposed development.

S. 48 (10) (a) – no appeal shall lie to the Board in relation to a condition requiring a contribution to be paid in accordance with a scheme.

S. 48 (10) (b) – an appeal may be brought to the Board where an applicant for permission under *section 34* considers that the terms of the scheme have not been properly applied.

S. 48 (12) (a) where payment of a special contribution is required, the condition shall specify the particular works carried out, or proposed to be carried out, by any local authority to which the contribution relates.

S. 49 (1) (a) – provides for a Planning Authority to include conditions requiring the payment of a supplementary development contribution.

S. 49 (3) (a) – provides for an appeal to the Board in relation to a supplementary development contribution where the applicant considers that the service or project will not benefit the development.

S. 49 (5) – the payment of a supplementary development contribution will not be required where the person concerned has made a contribution under Section 48.

6.2 Regional Policy

6.2.1 Eastern & Midland Regional Assembly Regional Spatial & Economic Strategy 2019-2031 (RSES)

The RSES provides for the development of nine counties / twelve local authority areas, including Westmeath County Council. It is a strategic plan which identifies regional assets, opportunities, and pressures and provides appropriate policy responses in the form of Regional Policy Objectives. It provides a framework for investment to better manage spatial planning and economic development throughout the region.

Mullingar is designated as a Key Town and it is described on pages 86 and 87 of the RSES. Under the sub-heading of 'Residential Development' it is stated 'The provision of housing plays a fundamental role in the overall economic, social and environmental success of the settlement. It is essential to ensure an effective supply of land for the provision of housing and that high quality development is secured in the right place at the right time. A range of well-designed housing types that meet the needs of a variety of households will help to sustain and enhance the settlement, contributing to the creation of a high quality place.'

6.3 Local / County Policy

6.3.1 Westmeath County Development Plan 2021 - 2027

The County Development Plan identifies Mullingar as a 'Key town' and 'Gateway Region' where the main function is as follows: 'Large economically active service and/or county towns that provide employment for their surrounding areas and with high-quality transport links and the capacity to act as growth drivers to complement the Regional Growth Centres.'

It is an objective of the plan to focus development on the Key Town of Mullingar. The core strategy for Mullingar is to: 'Support the continued growth and sustainable development of Mullingar to act as a growth driver in the region and to fulfil its role as a Key Town in accordance with the principles and policies of the RSES.'

In the Core Strategy Policy Objectives, it is a policy objective (CPO 2.5) of Westmeath County Council to 'support the continued growth and sustainable development of Mullingar to act as a growth driver in the region and to fulfil its role as a Key Town in accordance with the principles and policies of the RSES.'

Policy objective CPO 2.6 states that it is an objective to prepare a Local Area Plan (LAP) for Mullingar to align with the RSES and the Core Strategy of the Development Plan.

In relation to housing mix it is an objective for: 'Residential schemes to provide a range of dwelling sizes and typologies to accommodate emerging demographic trends in line with the Westmeath Housing Strategy and Housing Needs Demand Assessment or other evidence supported methodology. Proposals for residential schemes which are proposed on infill or smaller sites should demonstrate the ability of the proposal to provide a mix of dwelling types within the locality as opposed to within the scheme itself.'

In terms of residential density, it is an objective of the plan to promote increased densities in appropriate locations. CPO 16.24 states that 'increased residential density with Athlone Regional Centre and Mullingar (key towns) is acceptable in principle where the subject lands are (i) within walking distance of the town centre, or (ii) are adequately serviced by necessary social infrastructure and public transport and/or (iii) designated regeneration sites and development lands which comprise in excess of 0.5ha, subject to quality design and planning merit in ensuring company growth and the creation of good urban places and attractive neighbourhoods.'

In relation to car parking, Table 16.2 of the County Development Plan outlines the car parking requirements for new developments. It is stated that in the case of residential developments 1 no. space per dwelling is acceptable county wide.

Policies relevant to this appeal are as follows:

- **CPO 2** - Support the continued growth and sustainable development of Mullingar to act as a growth driver in the region and to fulfil its role as a Key Town in accordance with the principles and policies of the RSES.
- **CPO 2.14** - Implement all land use planning policy and objectives in a manner which takes account of and is consistent with the Core Strategy in order to accelerate a transition to a greener, low carbon and climate resilient County with a focus on reduced travel demand through the promotion of sustainable settlement patterns.

- **CPO 2.15** - In the assessment of development proposals, to take account of transport corridors, environmental carrying capacity, availability and/or capacity to provide waste water and water supply services, potential to conflict with Water Framework Directive objectives, potential to impact on the integrity of European sites and Annexe Habitats and species, features of biodiversity value including ecological networks, impact on landscape and visual characteristics, education and other socioeconomic objectives.
- **CPO 2.16** - Promote the integration of land use and transportation policies and to prioritise provision for cycling and walking travel modes and the strengthening of public transport.
- **CPO 3.5** - Ensure that a suitable variety and mix of dwelling types and sizes is provided in developments to meet different needs, having regard to demographic and social changes.
- **CPO 3.15** - To support the development of quality residential schemes with a range of housing options having regard to the standards, principles and any specific planning policy requirements (SPPRs) set out in the 'Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities' (2009); 'Urban Development and Building Heights Guidelines for Planning Authorities' (2018) and the 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' (2018)
- **CPO 12.24** - Protect and where possible enhance biodiversity and ecological connectivity, including woodlands, trees, hedgerows, semi-natural grasslands, rivers, streams, natural springs, wetlands, geological and geo-morphological systems, other landscape features, natural lighting conditions, and associated wildlife where these form part of the ecological network and/or may be considered as ecological corridors or stepping stones in the context of Article 10 of the Habitats Directive. Appropriate mitigation and/or compensation to conserve biodiversity, landscape character and green infrastructure networks will be required where habitats are at risk or lost as part of a development.

6.3.2 Mullingar Local Area Plan 2014-2020 (as amended and extended) (MLAP)

At its meeting on 25th March 2019, the members of Westmeath County Council extended the life of the Mullingar LAP 2014-2020 for a period not exceeding five years.

The site is located within the Ardmore/Marlinstown Framework Plan Area which is set out in Chapter 8 of the MLAP. Map 8.4 Character Area Map shows that the greater area of the site (central and northern area) is identified as being the Petitswood Infill 'character area' whereas the remainder is identified as being a 'New Neighbourhood Centre/Primary School' character area.

Section 8.13.4 notes that development of this area 'shall involve the construction of an avenue from the Dublin Road to Area 5 that ultimately will link to Ardmore Road. This avenue shall have an urban street character, with development fronting onto both sides and suitably overlooked, as opposed to a traditional estate distributor road. The precise alignment of this north south avenue shall be determined at Development Management stage.'

Map 8.5 contains an indicative layout of the built form in the Ardmore / Marlinstown Framework Plan.

Chapter 10 of the MLAP sets out the general land use and zoning policies and objectives of the plan.

Map 7 of Volume 2 relates to the Strategic Transportation Map and indicates an arterial road proximate to the western boundary of the site running in a north to south direction between the Dublin Road and Ardmore Road.

Map 14 of Volume 2 relates to the Land-Use Zoning map for Mullingar including the subject site. There are four different land use zones indicated pertaining to the site.

There is a small area zoned 'Open Space' in the north-western corner of the site which is consistent with proposed public open space area 2. A second 'Open Space' zoned area is located in the eastern part of the site which would appear to relate to the area containing the Recorded Monuments.

The area adjoining the Dublin Road zoned 'Commercial' largely corresponds with the 'area for future development' along the Dublin Road as outlined on the site layout plan.

An area to the south/south east of the site is zoned 'Mixed Use' and it includes an 'area for future development' along Ardmore Road as per the site layout plan. It is proposed that part of this area will also accommodate residential development, which is permitted in principle on lands zoned mixed-use, having regard to the land use zoning matrix in Chapter 10.

The remainder of the site, specifically the central and north eastern areas and the narrow tract of land west of the proposed arterial road are all zoned 'Proposed Residential.' The proposed creche is located in this area, which is permissible in principle, in this zoning objective having regard to the zoning matrix.

Table 2.6 of the MLAP sets out residential densities for Mullingar and indicates a general density range of 30-35 units per hectare for Outer suburban / Greenfield locations.

6.3.3 Mullingar Local Area Plan 2024 - 2030

The Local Authority commenced the preparation of the Mullingar Local Area Plan 2024 – 2030 on the 10th October 2023. The Chief Executive Report has been prepared on the 'Pre-Draft' Consultation Stage and submitted to the Elected Members of Westmeath County Council for their consideration. The new LAP remains at the pre-draft stage.

6.3.4 Westmeath County Council Development Contribution Scheme, adopted February 2022

The Westmeath County Council Development Contribution Scheme 2022 is the applicable development contribution scheme. Adjustments to rates for indexation were subsequently made and apply from the 1st of January 2025. Page 4 of the Contribution Scheme sets out development types to which reduced rates or waivers apply. Page 5 relates to, inter alia, special development contributions. Section 7 (from page 11) relates to categories of development which will be exempted from the requirement to pay development contributions or will pay a reduced rate.

6.4 Natural Heritage Designations

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

7.0 The Appeals

7.1 Grounds of Third Party Appeals

A first party appeal and two separate third party appeals have been received in relation to the proposed development. The third party appellants are:

- Dara and Fiona O' Shea, Meadow View, Ardmore Road (the nearest property to the east of the site along Ardmore Road), and
- Ardmore Road Residents Association (ARRA), c/o Derek Sheeran, Ardmore Road.

7.1.1 The third party grounds of appeal may be summarised as follows:

Dara and Fiona O'Shea

Planning history

- The proposed development is virtually identical to the previous proposal, which was refused permission, and therefore the refusal reason should stand.
- The need for the proposed arterial road has increased, given the greater number of houses in the area, plans for new housing and the general increase in traffic.

Road safety

- Permission was refused by the Board under PL25M.243830 on an adjacent site on grounds of traffic hazard. The condition of Ardmore Road and Saunders Bridge have not improved since and there was a serious traffic accident on the bridge involving an e-scooter last year.

Pressure on resources / schools

- The two nearest primary schools to the site are struggling to meet demand
- Mullingar does not have sufficient secondary school capacity to cater for demand.
- There will not be sufficient school places for children living in the proposed development.

Density of development / Other

- Proposed density of 30 uph is far greater than any surrounding development and is not in line with the County Development Plan and LAP.
- The proposed four storey apartment building is completely out of character and negatively impacts property values in the area.
- The proposed development is lacking in amenity areas, compared to the adjoining Petitswood Manor development.
- The vacant sites on the Dublin and Ardmore Roads should be used for detached housing or to enhance amenity areas.

Drainage

- Concern that back gardens of houses 151-158 will be developed on a watercourse. A 6 inch map indicates water features on site.
- Concern that the drainage of their garden will be negatively impacted by the proposed development. This was acknowledged in the most recent decision made by the Council which included a condition for a drainage system to be installed along the eastern boundary.

Site boundary

- The site boundary is shown going through the garage of Meadow View. If permission is granted the site layout should be revised.

Risk of damage to property during construction

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

Ardmore Road Residents Association (ARRA)

Design and Density

- Proposed development has not changed significantly from the previous proposal and therefore the refusal reason still applies.
- The proposal does not consider the character, patterns, low density setting and scales of Ardmore and Dublin Roads and does not protect existing residential communities.
- Densities of less than 30 uph are not precluded in large towns.
- The four storey apartment block is not in keeping with the character of the area; it would be c 30% higher than any surrounding building and it will tower above the local area.
- The creche has a ridge height significantly higher than adjacent family houses in Ardmore Close
- The overall design creates a disjointed urban fabric in the area.

Open space

- Small open space areas do not create usable space.
- Open space areas 2 and 3 contain water detention ponds and should not be taken into consideration as open space.
- Open spaces 4 – 8 are small and do not provide usable play spaces for children.
- The ringfort on the lands is included in the open space. It should be cordoned off in order to protect it. No machinery should encroach on the ringfort and this should be conditioned.
- It is questionable if public open space of 18% is being provided.
- Lands reserved for future development should be rezoned for community purposes. Sporting amenities should be provided in the development for teenagers and children.
- With the exception of playing area in Petitswood Manor, there are no playing field or parkland areas in Ardmore. This should be considered by the Council in terms of future planning.

Unit Mix

- Larger families are not catered for in the proposed development.
- Working from home facilities are not catered for.
- No play spaces within houses and minimal play areas outside.

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

Traffic

- Permission was refused by the Board under PL25M.243830 on an adjacent site. The width of Ardmore Road has not increased significantly to mitigate the refusal reason relating to that proposed development.
- The traffic survey does not consider increased traffic levels from recently permitted developments in the area.
- The junction serving the primary school on Ardmore Road is already very congested at peak times. An additional access / entrance to the proposed development on Ardmore Road will exacerbate the situation.
- The proposed development does not include an arterial road and therefore it contravenes the LAP.

Overlooking / Boundary treatment

- Houses 145 - 158 and 36 – 60 all overlook existing homes. In some cases the proposed development would be less than 18 m from existing houses. This is unacceptable, impedes privacy and would devalue properties.
- Boundary issues / questions between existing houses and proposed units are unresolved.

Biodiversity

- A significant number of trees are proposed for removal.
- Concerns raised in relation to wildlife.

Archaeology

- Archaeological features should be investigated further before any decision is made.
- A full LIDAR assessment is required before any development occurs.

7.2 Grounds of First Party Appeal

7.2.1 The first party grounds of appeal submitted on behalf of the applicant, Andrews Construction Limited, concerning the imposition of Condition 27 which relates to a special contribution, are as follows:

- The validity of condition 27 by the terms of its reference and citing is questionable. It is termed a 'Special Development Contribution' and inappropriately cited as a 'Supplementary Contribution' under Section 49, which renders the condition invalid and removable.
- The condition constitutes 'double-counting' of supporting pedestrian and cycle infrastructure already charged and accounted for under the Westmeath General Development Contribution Scheme at condition no. 26.
- The condition fails to reflect lands already transferred, acquired and dedicated to the immediate cycle and pedestrian network by legal undertaking and agreement as bounds the subject lands where no monetary benefit or exchange value to the applicant is recognised.
- The condition fails to recognise the dedicated and segregated cycle and pedestrian linkages provided by the subject proposals, which offsets the requirement of the Council to deliver additional extensive cycle / pedestrian infrastructure on the Ardmore Road.
- The condition is not consistent with recent decisions locally including the previous grant associated with the subject lands for the same development, without necessitating Special Development Contributions.
- The Board have the ability to use Section 146A to remove the condition under the guise of a clerical or technical error rather than having to contemplate the financial contribution only appeal in its entirety.

The following appendices are attached to this first party appeal:

- Appendix A - Notification of Decision to Grant Permission (24/60376)
- Appendix B - Notification of Decision to Grant Permission (23/60192)
- Appendix C – Legal undertaking / Agreement between applicant and Westmeath County Council - land dedications dated September 2020 and March 2023.

7.3 Applicant Response

7.3.1 The applicant considers that matters raised in the third party grounds of appeal have been robustly considered by the applicant's design team and the planning authority. Many issues were raised previously in the context of the previous appeals relating to the lands (ABP-318498-23 refers). Some matters referred to are outside the control of the applicant and the development management process e.g. the rezoning of parts of the lands. The applicant's response may be summarised as follows:

- Section 2 of the Planning Statement sets out how the application has been revised. It is noted that the considerations of the Board and its inspector did not confirm the unsuitability of the site layout but sought further consideration of issues and further justification of the design and layout which has been presented. A detailed rationale for the road design and layout as proposed is provided and it is considered that it does not constitute a material contravention of the MLAP.
- In terms of the alleged precedent case mentioned (PL.25M.243830), each planning application must be assessed on a case-by-case basis.
- An updated TTIA was provided in support of the application and notes that the proposed development would not prejudice local traffic conditions or result in significant traffic safety concerns. Growth factors were included in the analysis, with a high growth assumption allowing for future growth in car ownership and taking into account developments that may be built in the future.
- Proposed density of 30.4 aligns with the Sustainable Residential Development and Compact Settlements Guidelines. Indeed the Guidelines note that densities in the range of 30-50 would be appropriate. The proposed density is also consistent with the Ardmore / Marlinstown Framework Plan of the MLAP.
- The proposed unit typology and sizes are suitable. The use of apartments in any urban location is supported by the Apartment Guidelines as they allow for greater diversity and flexibility in a residential scheme, and also increase overall density.
- The proposed development would achieve a high quality urban design and fully complies with key indicators of good urban design and placemaking in the Sustainable Residential Development and Compact Settlements Guidelines.
- Proposed creche design would not impact unduly on neighbours, with distance and orientation respecting neighbouring amenity.

- Public open spaces are universally accessible and have play areas for children. A playground area with secure boundary treatment is provided in Open Space No. 4.
- The design consists of a series of complementary, multifunctional and interconnected open spaces within walking distances of all proposed houses which are passively overlooked from the public realm and adjacent properties. They promote active travel through their provision of cycle / foot paths, play areas, walking routes.
- The planning authority's recommendation that the proposed detention basins are replaced with underground water attenuation tanks is acknowledged, with condition 19(a) applicable in this regard.
- Public Open Space 6 serves as a key node along the proposed biodiversity corridor that runs north-south along the western site boundary and it has been designed to incorporate the retention of several trees of amenity value that are in this location. It provides a high quality functional space for all ages. It serves as part of an east-west necklace of open spaces and is appropriately overlooked.
- Potential impacts on surrounding properties is mitigated through layout and design. Standard separation distances are achieved as set out in CPO 16.14 and SPPR 1 of the Development Plan and Sustainable Residential Development and Compact Settlements Guidelines, respectively.
- The applicant has no intention to build on lands outside their boundary and in this regards section 34(13) of the Planning and Development Act 2000 protects the rights of neighbouring landowners.
- The ringfort is not included in or relied upon for calculations of public open space.
- The ringfort is protected by an open space buffer and conditions 8 (a) and (b) ensure the protection of the monument from potential impacts.
- Page 4 of the Archaeological Testing Report confirms that further testing of areas took place and that no archaeology was recorded.
- In terms of biodiversity, existing green infrastructure is retained where possible. A range of surveys and plans including a Tree, Hedgerow and Vegetation Survey, a Tree Protection Plan have informed the design development process. A supplementary Arboricultural Impact Report is provided in addition to an EcIA and bat survey to consider the impact of the proposal on wildlife. The technical advice note incorporating badger survey identifies mitigation measures during construction.

The EclA and CEMP also contain mitigation measures. It is considered that the proposed development would not have an unacceptable impact on biodiversity.

- In terms of rezoning adjacent lands reserved for future development, it is not within the appellant's or applicant's power to do this by way of the development application process.
- In terms of school capacity the submitted Social Infrastructure Assessment incorporates a review of childcare and education services in the area. The local authority have no concern with the planning application in terms of school capacity. It would not be reasonable to refuse permission on the basis of inadequate educational infrastructure.
- In relation to drainage, the presence of field drains on the site is acknowledged and this has been incorporated into the drainage strategy. The proposed engineered and nature-based solutions and increased planting will improve the drainage regime in the locality Condition 19(b) relates to provision of a suitable drainage system along the eastern site boundary next to properties along Ardmore Road.
- In terms of potential construction impacts on adjoining properties, it is not anticipated that the layer of peat would impact the stability of the site or neighbouring sites.

7.4 Planning Authority Response

The planning authority responded to the first party appeal. This response is summarised as follows:

- The approach in applying a special contribution for the works is consistent with that applied in similar permitted developments in the area such as PA Reg. Ref. 11/5036 / ABP Ref. PL25M.239612, PA Reg. Ref. 14/6134 / ABP Ref. PL25M.245270, PA Reg. Refs. 16/6062 and 22/547.
- Details as to how the special contribution was calculated and apportioned to the development in question are set out in the memo provided by Active Travel Department in association with this application (extract included).
- Westmeath County Council will incur specific exceptional costs not covered in the general contribution scheme. A special contribution is necessary to cover these exceptional costs over and above active travel measures included under

the Council's wider programme for this area. All such works benefit the proposed development.

- Provision of pedestrian and cycle infrastructure along the R392 Dublin Road and the L1113 Ardmore Road, including the crossing of the railway line and Royal Canal will facilitate the proposal.
- The inclusion of Condition 27 accords with the Special Development Contribution requirements as detailed in in the Development Contributions Guidelines for Planning Authorities.

7.5 Observations

None.

7.6 Further Responses

None.

8.0 Assessment

8.1 Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the local authority, and having inspected the site, and having regard to the relevant local, regional and national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Land-use and nature of proposed development
- Recent planning history
- Density
- Design and Unit Mix / Impact on amenities of surrounding areas
- Road Safety / Traffic
- Biodiversity
- Open space
- Archaeology

- Other issues
- Special contribution condition (Condition No. 27)
- Appropriate Assessment

8.2 **Land-use and nature of proposed development - New issue**

8.2.1 The Mullingar Local Area Plan 2014-2020 was made on 21st January 2014 and it was extended by resolution of the Council on the 25th of March 2019. I am advising the Board that the Mullingar Local Area Plan 2014-2020 expired on the 20th of January 2025 and as such I consider the subject lands do not have the benefit of specific zonings at present. The Westmeath County Development Plan 2021 – 2027 does not provide land-use zonings for Mullingar. I note that work commenced in late 2023 on the preparation of a new LAP for Mullingar, and this is presently at pre-draft stage.

8.2.3 Having regard to the foregoing, and to the specific legislative preconditions which apply to Large Scale Residential Development (LRD) as set out in Section 32A(1) of the Planning and Development Act 2000, as amended, and to the nature of the appeals which comprise first and third party LRD appeals that relate to an application for permission to which section 32A(1) applies, it is apparent that no statutory zoning currently applies to the subject site. In this context, the proposed development is not consistent with the legislative preconditions for an LRD application, on the basis that it is not on land the zoning of which facilitates its use for the purposes proposed in the application. Therefore, the Board is precluded from granting permission for the proposed development. This is a new issue, and the Board may wish to seek the views of the parties.

8.3 **Recent planning history**

8.3.1 The previous application on the site was refused on appeal for the reason set out in Section 5 of this report (An Bord Pleanála Reference ABP-318498-23 refers). In summary, permission was refused as no provision was made for an arterial road connecting the Dublin and Ardmore Roads and, as such, it was considered the layout of the proposed development would materially contravene objective O-FP1 of the Mullingar LAP.

- 8.3.2 The third party appellants contend that the layout of the current proposal is virtually identical to that of the previous proposal, and therefore, the refusal reason relating to contravention of the LAP still applies. The first party maintains that the application has in fact been revised, primarily by way of elaboration of design rationale.
- 8.3.3 As identified in section 8.2 of this report, the Mullingar Local Area Plan 2014-2020 expired on the 20th of January 2025 and, therefore, its provisions no longer pertain to the appeal site. Having regard to this, I consider that the issues raised by the third parties which suggest that the layout of the proposed development would contravene the MLAP 2014-2020 as extended are moot.
- 8.3.4 Notwithstanding, I note the documentation provided by the applicant which seeks to justify the layout of the proposed development, particularly the provision of a circuitous link road through the site rather than a more direct arterial road linking the Dublin and Ardmore Roads.
- 8.3.5 The Technical Note submitted with the application by the applicant's Consulting Engineers provides a rationale and reasoning for the proposed road layout, detailing the various options put forward for consideration by the planning authority. The DMURS Statement of Compliance concludes that the proposed development is compliant with the design principles outlined in DMURS, while the Street Design Audit considers the proposed development is designed to ensure that pedestrians and cyclists can move safely internally and transition to external networks safely. Further, the cover letter submitted with the application from the Consulting Engineers notes that the proposed site layout facilitates high levels of pedestrian and cyclist permeability without creating negative impacts, such as a high speed environment and higher traffic volumes.
- 8.3.6 I also note the inputs of the planning authority on this issue, specifically in terms of its written opinion on the LRD and the report of the Transport Section which informs the written opinion. These are appended to the planner's report.
- 8.3.7 In this context, the planning authority's written opinion notes that any future link at the location of the proposed development will not connect major centres / nodes and will not form part of any orbital or cross metropolitan route. The associated report from the Transportation Section advises that the updated designation of the road

through the subject site in the Draft Mullingar Local Transportation Plan, which is to inform the Draft Mullingar LAP 2024-2030, is an 'Indicative Access Link.'

- 8.3.8 Having regard to the foregoing, I concur with the third party appellants that the proposed layout of the development is very similar to the previous proposal which was refused permission under An Bord Pleanála Reference ABP-318498-23.
- 8.3.9 Noting, however, that the Mullingar Local Area Plan 2014-2020 expired in January 2025, and having regard to the aforementioned rationale and supporting information provided with the application, along with the assessment of the planning authority and the Transport Section, I consider that the layout of the proposed development incorporating the proposed link road and associated cycle and pedestrian path would facilitate high levels of pedestrian and cyclist permeability through the development without generating negative effects such as higher traffic volumes and higher speeds. In my opinion, therefore, the proposed layout incorporating the connection of the Dublin and Ardmore Roads would be acceptable in principle. However, I note the proposed development is not consistent with the legislative preconditions for an LRD application, insofar as it is not on land the zoning of which facilitates its use for the purposes proposed in the application.

8.4 Density

- 8.4.1 The third party appellants raise concerns relating to the proposed density of the development and they consider it to be higher than adjoining residential developments.
- 8.4.2 The proposed development is for the construction of 245 residential units on a net site area of c 8.05 ha, equating to a net density of approximately 30.4 units per hectare. Local planning policy as set out in section 3.7 of the Westmeath County Development Plan 2021-2027 states, inter alia, that higher densities will be applied to Athlone and Mullingar to align with their roles as Regional Growth Centres and Key Towns, subject to good design and development management standards being met.
- 8.4.3 I note that Section 3.3.3 of the 'Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities' (2024) refers to Key Towns and large towns (5,000+ population). Table 3.5 provides information relating to density

ranges in these areas. Mullingar is designated a Key Town in the RSES. In my view the subject site, located on greenfield lands outside the town centre, would fit into the 'urban extension' area, as set out in Table 3.5 if it were appropriately zoned, where residential densities in the range of 30 to 50 uph (net) shall generally be applied.

- 8.4.4 The proposed density of c 30.4 is at the very lower end of what would be acceptable on the subject lands, and I do not consider it to be excessive in any respect. This proposed density complies with the Compact Settlements Guidelines (2024).

8.5 Design and Unit Mix / Impact on the amenities of surrounding areas

- 8.5.1 The third party appeal grounds consider that the overall design of the proposed development creates a disjointed urban fabric in the area and there is criticism of the absence larger houses to cater for larger families and home-working. Specific concerns are raised in relation to the proposed four storey design of the apartment block and the height of the creche, in addition to the proposed overall unit mix. Further, there is concern relating to impacts from the proposed development on existing residential communities.

Design and Unit Mix

- 8.5.2 The proposed development would provide a total of 245 no. residential units. A wide range of unit typologies comprising terraced and semi-detached housing (7 types) along with duplex and apartments units are proposed in this proposed new residential area. As such, a mixture of tenures are offered ranging from 1 to 4 bedroom units.
- 8.5.3 The Architectural Design Statement (ADS) details the proposed external materials to be used for the proposed housing / apartments and creche. A wide variety of materials are proposed and include slates, zinc cladding, metal canopies, render, buff brick, dark brick, powder coated window frames and doors, and metal slats. The materials are of high quality and would contribute to the creation of a sense of place and community for future residents.
- 8.5.4 Having examined the ADS I note that 70 of the proposed housing units (equating to c 35% of total number of houses) comprise large 4 bedroom 7 person units (with attic conversion) of at least 180 sqm in size. In my opinion, the proposed development provides a suitable variety and mix of dwelling types and sizes which

would meet different needs, and as such, would accord with policy objective CPO 3.5 of the County Development Plan relating to variety of unit types.

- 8.5.5 While I note the concerns raised by third parties relating to the proposed apartment block, in my view it is appropriately located to the south of the site and away from adjoining residential development, thereby not impacting on the residential amenities of existing housing. This proposed block also offers prospective occupiers an option of a 1 or 2 bedroom apartment should they not require a larger unit. Furthermore, provision of the apartment block serves to increase the density of the development; without it the density on the site would be unacceptably low.
- 8.5.6 There is third party concern in relation to the height of the proposed creche, located at the most southern part of the site, compared with the heights of housing at Ardmore Close. The pitched roof height of the creche is c 11.7 m. I note that this proposed building is set away from the south-western boundary with Ardmore Close, with car parking and an internal carriageway in between. The separation distance between the creche and the nearest house is c 18 m. Having regard to the foregoing, I do not anticipate any negative impacts arising from the height of the proposed creche.
- 8.5.7 Reference is also made in the third party appeal from ARRA that the proposed units fail to provide sufficient indoor and outdoor garden space for children to play and that there is insufficient space internally to allow occupants to work from home. In relation to this latter matter, I note that Section 5 of the ADS includes a comprehensive Housing Quality Assessment and Schedule of Accommodation. Having reviewed this information, I am satisfied that the floor areas of all proposed houses, duplexes and apartments are sufficient to facilitate an appropriate level of residential amenity which accords with the Quality Housing for Sustainable Communities Guidelines (2007) and the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2023). I note also from the floor plans provided that House Type C has the benefit of a dedicated home office.
- 8.5.8 In terms of private open space provision, SPPR 2 of the Compact Settlements Guidelines requires private open space of 40 sqm and 50 sqm for a 3 and 4 bedroom house, respectively. All proposed houses meet these standards at a

minimum. Adequate private open space is also achieved for all duplex unit and apartments.

Impact on amenities of surrounding areas

8.5.9 Having regard to the third party grounds of appeal, these issues are assessed below under the subheadings of visual amenity, overlooking, daylight and sunlight impacts and the potential for damage to occur during the construction phase.

8.5.10 *Visual amenity*

The verified photomontages contained in the architectural visualisation along with the images in the ADS demonstrate that the proposed development would not unduly impact on the visual amenity of the area and would be acceptable on the subject site. In this regard, I do not concur with the appellant's view that the proposed development would create a disjointed urban fabric at this location. Rather, in my opinion, the proposed development is of contemporary high quality design which would be appropriate at this location within the key town of Mullingar.

8.5.11 As set out in the ADS, the majority of proposed units are of two storey design, similar to adjoining residential development. Proximate to the centre of the proposed development, four no. three storey duplexes are proposed marking the entrance to the linear park, and having no impact on surrounding residential development, due to their central location on the site and significant separation distances to the eastern and western boundaries. Similarly, the proposed four storey apartment block would have no impact on adjoining areas, given its central position at the southern part of the site, away from neighbouring residential areas to the east and west.

8.5.12 *Overlooking*

Concern is raised in the third party appeals that proposed houses 145 to 158 and 36 to 60 all overlook existing properties. In terms of this issue, I note that SPPR 1 of the Compact Settlements Guidelines (2024) requires a separation distance of at least 16 m between opposing windows serving habitable rooms at the rear or side of houses.

8.5.13 Nos. 145 to 158 comprise seven pairs of two storey houses located at the eastern part of the site. Their back gardens, which range in depth from c 11.4 m to c 14.5 m adjoin those of three detached houses along Ardmore Road. The minimum separation distance

between this row of new houses and existing houses at Ardmore Road is c 21.8m, between unit no. 157 and 'Meadow View' located along Ardmore Road. Separation distances between proposed units no.150 and no.146 and existing houses on adjoining properties to the east are given as c 39 m and c 48.5 m, respectively.

- 8.5.14 Proposed units Nos. 35 to 50 are located at the north eastern corner of the lands and comprise six pairs of two storey semi-detached houses and one terrace block of four two-storey units. Rear garden depths for these units range between c 9.4 m and c 12 m. Their rear gardens back on to those of five detached houses fronting onto Dublin Road. The minimum separation distance on the site layout plan is c 22 m between proposed House No. 37 and an existing house to the north-east.
- 8.5.15 Proposed unit nos. 51 to 60 are also located at the eastern side of the site. They comprise two pairs of semi-detached units and two terraced blocks of three two-storey units. Rear garden depths equate to approximately 11 m and the rear gardens back on to those of two existing dwellings accessed from Ardmore Road. The separation distance between proposed unit no.60 and the existing house to the east is given as in excess of 38 m, while the separation distance between proposed unit no. 53 and the existing adjoining house to the east is in excess of 41 m.
- 8.5.16 Having regard to the above analysis of rear garden depths and separation distances between proposed units 145 to 158 and 35 to 50 relative to adjoining existing housing on Ardmore Road and Dublin Road, I consider that separation distances to common boundaries and between proposed and existing housing meet and exceed the standards set out in the 2024 Guidelines. I therefore conclude that no undue overlooking impacts leading to a loss of privacy would occur. I am also satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that would adversely affect the value of property in the vicinity.
- 8.5.17 *Potential Daylight / Sunlight impacts on adjoining properties / amenity spaces*
- Sections 3 to 5 inclusive of the Daylight and Sunlight Assessments (based on the architectural drawings) provided with the application analyse the impact of the proposed development on the neighbouring buildings and amenity spaces.
- 8.5.18 The assessment finds that none of the existing adjacent properties have potential to experience a significant reduction in daylight when the proposed development is in place, and therefore any impact would be negligible.

- 8.5.19 In terms of the impact of the proposed development on sunlight to adjoining properties, the assessment indicates that the windows to the surrounding buildings are at a distance that will not affect sunlight levels to existing buildings to a perceptible level. Furthermore, the report notes that mature tree growth at the eastern and western boundaries would negate any potential loss of sunlight.
- 8.5.20 Section 5 examines sunlight to the amenity spaces associated with neighbouring properties. It concludes that these garden areas will not perceive a reduction in sunlight below current sunlight levels on the 21st March. All gardens will exceed sunlight over 50% of the amenity space or if less will not be reduced below 80% of the current value. Therefore, it is stated that the proposed development meets the recommendations of the BRE guidelines for gardens and open spaces.
- 8.5.21 Having regard to the findings of the assessments, the separation distances between proposed new buildings on the appeal site and existing dwellings adjoining the site, and the generally low-rise nature of the proposed development, I consider there would be no undue daylight or sunlight impacts on any adjoining houses and their associated amenity spaces.
- 8.5.22 *Potential for damage during construction phase*

The appeal from the O'Shea family requests that sensors be installed to alert if construction activities impact on adjoining properties. Given the standard nature of the proposed project which involves development of housing on a site within the Mullingar town boundary and having regard to the separation distances to adjoining houses, I do not consider installation of monitors as sought would be necessary.

8.6 Road Safety / Traffic

- 8.6.1 The third party appellants raise concerns relating to the impact the proposed development would have on road safety and traffic in the area. Specific matters raised include refusal of a previous application in the area on traffic safety grounds, the condition of Ardmore Road and Saunders Bridge (located c 950 m west of the subject site and which crosses the Royal Canal and railway line), the findings of the submitted traffic survey, and traffic safety concerns relating to the proposed new entrance from Ardmore Road to the subject site. The matters raised are refuted by the applicant

Previous planning decision on lands west of subject site

- 8.6.2 Both third parties note that permission was refused for a proposed development of 27 no. houses to the west of the subject site on Ardmore Road under ABP Ref. PL.25M.243830 on the grounds of traffic safety. Having reviewed the Board Order for this case, I note that permission was refused for two reasons. The first reason states that ‘the proposed development would endanger public safety by reason of traffic hazard because the site is accessed via the Ardmore Road and Saunders Bridge, which are substandard in terms of width and alignment.’ Reference is also made to the ‘lack of continuous, safe, pedestrian and cycle-path connectivity.’
- 8.6.3 It is important to note that each application must be assessed on its own merits. A significant time period in excess of 10 years has elapsed since the above-mentioned decision and significant changes have taken place in the interim period, including changes in planning policy and developments in the wider area and in the immediate locality at Ardmore Road. In this context and on foot of examination of more recent proposals for residential development in the Ardmore Road area, I note that permission was granted in November 2024 for construction of 71 no. residential units (ABP-317280-23 / Reg. Ref. 23/60058 refers) on the same site at Ardmore Road referred to by the third parties in their appeals.

Ardmore Road / Saunders Bridge

- 8.6.4 I note the relatively recent provision of active travel infrastructure in the area comprising a shared footpath and cycle lane along the southern roadside boundary of the subject site, which would contribute to facilitating safe pedestrian and cycle journeys in the area. The footpath continues in both directions and there is a dedicated cycle path further west of the subject site.
- 8.6.5 While I accept that facilities for pedestrians and cyclists across Saunders Bridge are limited, I note that Part VIII approval is in place for provision of a pedestrian and cycle bridge over the Royal Canal and Dublin to Sligo Railway, at Saunders Bridge adjacent to Ardmore Road. The proposed scheme includes a suspended bridge deck and landing, bridge support structure, approach walkways / cycle ways, revised landscape area, cycle balustrades and ancillary works. The bridge will have a span of 40m and will be 3m wide. The construction duration is 9 months and the project is intended to commence shortly. As such, it is very likely this infrastructure would be in place prior to the occupation of the proposed development.

- 8.6.6 In my opinion, there is no basis to recommend refusal of permission on the grounds of any traffic hazard or safety issue relating to the road network in the vicinity of the proposed development.

Traffic survey / Ardmore Road entrance

- 8.6.7 The appeal from ARRA questions the findings of the traffic survey and considers that it does not factor in increased traffic levels arising from both recently permitted and future residential developments at Ardmore Road. This is refuted by the applicant.
- 8.6.8 A Traffic and Transport Impact Assessment was provided in support of the planning application. It finds that traffic generated by the proposed development would have no material adverse impact on the operation of the modelled junctions. The Assessment concludes that there would be a slight increase in traffic levels and the distribution of resultant flows around the adjacent roads, however it is considered that this can be accommodated by the neighbouring junctions with a slight uplift in congestion and delays at these junctions. Section 5.3 of the Assessment incorporates factors to forecast traffic growth rates in the area, which allows for future growth and takes into account future developments which may be constructed.
- 8.6.9 The findings of the Traffic and Transport Impact Assessment are based on counts carried out on 11th of May 2022 at four appropriate sites around the proposed development and are representative of a day when normal school and employment activity occurred. I have no reason to question the results of the survey. I note that the planning authority raised no concerns in relation to the traffic impact arising from the proposed development.
- 8.6.10 Concerns are also raised in relation to the additional access to the proposed development from Ardmore Road on the basis that it would negatively impact the already congested junction which serves the primary school on Ardmore Road. A Stage 1 & 2 Road Safety Audit was submitted in support of the application. Two problems were identified and addressed.
- 8.6.11 A fourth arm is proposed from the existing junction at Ardmore Road to facilitate access to and egress from the proposed development. This junction would be signalled controlled and as such will, in my view, provide for orderly traffic

movements so that the potential for conflict is minimised and it would also benefit vulnerable road users by ensuring stoppage of traffic.

- 8.6.12 I am satisfied that the proposed development would not have such an undue adverse impact on traffic on the road network in the vicinity of the proposed development that would warrant a refusal of permission. I concur with the planning authority's decision to condition the submission of a Stage 3 post construction Road Safety Audit (Condition 13(f) refers).

8.7 Biodiversity

- 8.7.1 There are third party concerns relating to the impact of the proposed development on trees and wildlife.

Tree removal

- 8.7.2 To support the planning application the applicants have submitted a Tree, Hedgerow and Vegetation Assessment, Management and Protection Measures prepared by Austen Associates, a Tree Survey, a Tree Protection Plan, and a note from CMK Hort and Arb Ltd. All retained trees are shown on the landscape drawings (Sheets 1 – 6).
- 8.7.3 10 tree groups (TG) are identified in the submitted documentation and the Table included in the report of the document from CMK Hort and Arb Ltd. summarises and specifies the impact of the proposed development on tree groups TG01 to TG10 inclusive. Ash trees within TG01, TG02, TG03, TG04, TG07 and TG09 will be removed mainly due to ash dieback disease. Four sycamore trees within the open space area at the north-western boundary (TG01) will be retained. Internal hedgerows and trees on an east west axis within the site (TG05 and TG06 refer) are to be removed to facilitate the development. Existing trees in rear gardens of adjoining houses will not be impacted by the proposed development (TG09 and TG10 refer).
- 8.7.4 It is clear from the submitted documentation and drawings provided that the proposed development would necessitate the removal of a high number of trees and hedgerows. While this is unfortunate, I note the proposed comprehensive landscaping scheme as set out in the Landscape Design Strategy report and Landscape Masterplan, which I consider to be appropriate. I have no objection to the proposed landscaping scheme and removal of vegetation, hedgerows and trees

as set out in the submitted documentation, subject to inclusion of standard landscaping and tree protection conditions.

Ecological Impact Assessment (EclA)

- 8.7.5 The applicant engaged Altamar Ltd. to prepare an EclA and this was included in support of the application. It provides details, inter alia, relating to the subject site, the nature of the proposed development, ecological assessment methodology, habitats and species, potential impacts and mitigation measures. Appendix 1 provides a bat fauna survey. Appendix 2 provides a badger survey prepared by Ecological Solutions. The EclA is supported with a number of plans, aerial images, tables and supporting information.
- 8.7.6 Surveys and assessments of the subject site were made for flora and fauna in January, April, May and September 2023. No protected plant species were noted on site. Site clearance will negatively impact on flora including hedgerows. Landscaping will increase flora diversity on the site.
- 8.7.7 In terms of fauna, no badgers or otters were noted on site. No protected terrestrial mammals were noted on site or in the vicinity of the site. A disused burrow was noted in scrub habitat. A further badger survey undertaken in September 2023 used trail cameras and it was discovered that while there is badger activity on site, there does not appear to be a breeding sett on the lands.
- 8.7.8 The bat survey noted three bat species foraging within the site, with activity concentrated along the treelines and hedgerows. No bats were observed emerging from onsite trees on or proximate to the subject site. It is anticipated that bat species will persist on site. Sensitive lighting is proposed as per the lighting strategy and ecological supervision is planned during the landscaping phase to develop bat foraging corridors.
- 8.7.9 A range of bird species were noted in the vicinity of the proposed development and trees and hedgerows on the lands have both nesting and foraging potential for birds. No bird species of conservation importance were noted. No site clearance during nesting season should occur. It is anticipated that the proposed development and associated landscaping may provide additional nesting and foraging potential for garden bird species.

- 8.7.10 Table 5 of the EclA sets out the sensitive receptors (i.e. biodiversity, birds, bats and mammals), potential impacts arising and associated mitigation measures. The Conclusions section states that no significant effects on biodiversity are likely and that residual effects on biodiversity are considered to be Low adverse / site / Negative Impact / Not significant / short term.
- 8.7.11 The submitted report and details are noted and from the site visit it is evident that this greenfield site previously used for agricultural purposes is otherwise relatively undisturbed, with habitats comprising improved agricultural grasslands, treelines forming prominent features at the eastern and western site boundaries, mixed broadleaved woodland, scrub and hedgerows within the site. However the site is located within an urban area with a significant amount of pedestrian footfall and vehicular traffic passing along Dublin Road to the north and Ardmore Road to the south. The site is also adjoined by existing housing development along its eastern, western and north-eastern boundaries.
- 8.7.12 I note the report received from the Development Applications Unit (DAU) of the Department of Housing, Local Government and Heritage which does not object to the proposed development and recommends five conditions to be included should permission be granted for the proposed development. These relate to badger protection measures, the appointment of an ecological clerk of works, and hedgerow, tree and scrub removal to take place outside of the bird breeding season.
- 8.7.13 In my view, the proposed development comprising a large housing estate on this predominantly greenfield site would have an inevitable impact on biodiversity. Notwithstanding, the EclA along with the CEMP contain appropriate mitigation measures which are designed to limit and reduce such impacts to ensure that the development would not give rise to unacceptable impacts on biodiversity. The inclusion of the conditions as specified by the report of the DAU would also be important in the context of biodiversity protection on the site.

8.8 Open space

- 8.8.1 The appeal from ARRA raises concerns regarding the proposed quantum and quality of public open space, the absence of suitable play areas therein, and that the area accommodating the ringfort is included in the open space calculations for the proposed development.

- 8.8.2 The quantity of public open space is given as 1.78 ha (18.3% of the gross site area) and comprises eight open space areas as detailed in the Landscape Plans and associated reports provided with the planning application. The submitted documentation confirms that the lands containing the Recorded Monuments at the eastern part of the site are not included in the open space calculations for the proposed development.
- 8.8.3 A north – south green infrastructure link (linear park) is proposed through the site connecting Open Spaces 1, 2, 4, 7 and 8, and it corresponds with the proposed north – south cycleway network and pedestrian paths. The Landscape Design Strategy provides for an east-west open space ‘necklace’ with Open Space 6 at the eastern extremity, Open Space 3 at the western extremity and Open Space 5 in between.
- 8.8.4 The Landscape Report includes a drawing relating to key functions within each open space area. The vast majority of open spaces include seating, while all open spaces have kick about areas / informal play areas. A formal children’s playground with secure boundary treatment is proposed at Open Space 4, which is centrally located within the proposed development. A play zone is also located in Open Space 6 at the eastern side of the site. In my opinion there are sufficient suitable play areas for children throughout the proposed development. I note also that a privately run playground is also proposed proximate to the creche at the south of the site.
- 8.8.5 Concern was expressed by the planning authority that inclusion of detention basins would not provide for optimal provision of open space within the development. This matter is appropriately addressed in Condition 19 (a) of the permission which requires replacement of all detention basins with appropriately sized attenuation tanks.
- 8.8.6 In my view, all future residents would have access to multi-functional public open spaces within walking distances from their homes. These spaces are appropriately designed to facilitate play and physical activity and are easily accessed by active travel means.
- 8.8.7 All proposed open spaces are significantly overlooked which facilitates passive surveillance, with the exception of Open Space 6, located at the western side of the proposed development.

- 8.8.8 This open space area adjoins the proposed biodiversity corridor which runs along the western site boundary. The area is overlooked by two houses (Type G1 units) and seating is proposed at its access point. The applicant notes that the open space area is designed with regard to the retention of several trees of amenity value at this location and emphasises the ecological benefits of the space given its position adjoining the biodiversity corridor.
- 8.8.9 On balance, I consider the location of this area of open space to be acceptable. It would provide good amenity value to future residents as it contains natural assets of amenity value and adjoins the proposed biodiversity corridor. In this context it accords with section 4.4 (iv) 'Public Open Space' of the Compact Settlements Guidelines. I note also that the planning authority are satisfied with proposed open space provision on foot of the comprehensive landscape strategy and plans provided.
- 8.8.10 To conclude, I consider the provision of public open space for the proposed development to be acceptable in terms of quantity and quality. All future residents would have access to multi-functional open spaces within walking distance of their homes. The proposed areas of open spaces would cater for a range of active and passive recreational needs including play and physical activity.

8.9 **Archaeology**

- 8.9.1 The appeal site contains two archaeological sites, located at the eastern boundary, comprising a ringfort ((WM019-077) and a souterrain (WM019-077001). Detached housing off Ardmore Road is located immediately east of these recorded monuments.
- 8.9.2 An Archaeology Testing Report was submitted in support of the planning application. A total of 16 trenches were excavated across the overall site and no artefacts or features were discovered. Some evidence of plough furrows were recorded in trenches 1 – 5 (fields 1 and 2). The testing results summary notes that none of the geophysical anomalies recorded during the geophysical survey were found to be archaeological in nature. The Geophysical Survey Report is appended to the Archaeology Testing Report.
- 8.9.3 The submission from the DAU of the Department of Housing, Local Government and Heritage notes that the proposed development could potentially impact on sub-

surface archaeological remains and it recommends a number of archaeological conditions to be included including provision of a fenced-off 20 m buffer around the recorded monuments, that all groundworks to be monitored by a suitably qualified archaeologist and finally, that all work on site be halted should archaeological material be found, pending a decision as to how best to deal with the situation.

- 8.9.4 While I note the appeal by ARRA recommends that a LIDAR assessment should be undertaken, I do not concur, given that no artefacts or features were discovered during the testing process, and that the geophysical anomalies recorded during the geophysical survey were discovered not to relate to archaeology. In this regard I note also that the DAU has not recommended a LIDAR assessment of the site.
- 8.9.5 Having regard to the foregoing I am satisfied that the proposed development would not impact on the known archaeology within the appeal site.

8.10 Other issues

Drainage

- 8.10.1 The appeal from the O'Shea family raises concerns that the rear gardens of proposed units 151-158 would be developed on a watercourse, with reference made to a 6 inch map which indicates water features at the south-eastern part of the site. As such, concern is raised that the drainage of their rear garden would be impacted by the proposed development.
- 8.10.2 I note that the Archaeology Testing Report refers to a dried or drained watercourse on the lands. It is not considered that the rear gardens of units 151-58 would be impacted negatively by such a feature. I note that condition 19 (b) of the permission requires a suitable drainage system to be installed along the eastern boundary next to the appellant's property, and other properties along Ardmore Road. Inclusion of such a condition would alleviate the appellant's concerns in relation to this matter.
- 8.10.3 The applicant has prepared a Site Specific Flood Risk Assessment (SSFRA) for the proposed development which notes that the site is located in Flood Zone C. The conclusion of the SSFRA notes that there are no rivers flowing through the site, with the nearest river (River Brosna) located c 1.6 km to the west. The conclusion of the SSFRA notes that the site will be positively drained and surface water will be contained within the overall site's drainage network.'

Social Infrastructure Assessment (SIA)

- 8.10.4 The SIA prepared in support of the application sets out a demographic profile of Mullingar as recorded between 2011 and 2022. It includes an audit of social infrastructure in terms of, inter alia, childcare provision, primary and post-primary schools, third level education facilities, health services, sports and fitness clubs, retail offerings, etc. Detailed information is provided in the form of maps that identify different types of infrastructure in the area, and a detailed list of these is also provided.
- 8.10.5 I am satisfied that the SIA demonstrates that the area is well served by social, community, educational and sporting infrastructure. The Assessment anticipates that there would be capacity in the vicinity for the projected number of primary (163) and post-primary (162) school children generated by the proposed development. The planning authority raised no issue concerning school capacity during its assessment of the planning application. It would not be reasonable to refuse permission on the basis of inadequate educational infrastructure in the area.

Boundary Treatment

- 8.10.6 The O'Shea appeal raises concern that the boundary of the proposed development impinges on the boundary of their property / garage at Meadow View, Ardmore Road. This appears to be the case when the site layout plan is examined; the rear garden of proposed unit 157 is impinging on the rear boundary and garage of Meadow View. The applicant considers this to be a mapping issue / error. I consider this matter could be resolved by inclusion of a condition requiring the applicant to provide an amended / corrected site layout plan prior to commencement of development.
- 8.10.7 Proposed boundary treatments relating to the new residential development are depicted on Drawing No. P118. Proposed back garden boundary treatment adjoining existing residential development to the west and east mainly comprises 2 m high concrete post and timber slat boards, which is an acceptable boundary type.
- 8.10.8 I agree with the planning authority's view that the boundary type between the creche and its car park should be examined and potentially increased in height to prevent breaches and in the interest of safety.

Third party requests

8.10.9 The requests from the third parties that the lack of playing fields / parkland areas in Ardmore should be addressed in terms of future planning and that the vacant sites adjoining the proposed development should be rezoned for community purposes / used to enhance amenity areas or for future housing, are outside the scope of this appeal and are matters for consideration by the Council. The Board has no role in the rezoning of lands.

Appeal from Ardmore Road Residents Association

8.10.10 The applicant has questioned the veracity of the appeal lodged on behalf of Ardmore Road Residents Association given that it does not include the names and signatures of members of that residents association. I note that this appeal was submitted care of Derek Sheeran of Ardmore Road in Mullingar.

8.10.11 Having examined this third party appeal, I am satisfied that it complies with the appropriate provisions for planning appeals as set out in Section 127 of the Planning and Development Act 2000, as amended, and that it is valid.

8.11 Special Contribution Condition (Condition No. 27)

8.11.1 The first party appeal is against Condition No. 27 which requires payment of a special contribution in respect of public infrastructure and facilities which benefit the proposed development, namely the provision of pedestrian and cycle infrastructure along the R392 Dublin Road and L1113 Ardmore Road including the crossing of the railway line and Royal Canal.

8.11.2 The first party contends that the condition is invalid on account of its incorrect reference to section 49 of the 2000 Act within the text of the condition. While I note the text of the condition refers to section 49 (which relates to a Supplementary Development Contribution Scheme), it is clear from the heading of Condition No. 27 stating 'Special Development Contribution' in bold print, that it is a Special Contribution Condition.

8.11.3 Furthermore, I note from the Westmeath Development Contribution Scheme (adopted in February 2022) that there is only one Supplementary Development Contribution Scheme specified therein, which is the Clonmore Link Road and Robinstown Link Road, Mullingar. The Development Contribution Scheme states that *'Levies collected under this Supplementary Scheme, together with Government grants and levies collected prior to April 2007 mean that there is no longer a*

requirement for this Supplementary Contribution Scheme. I am therefore satisfied that Condition No. 27 does not relate to a Supplementary Contribution Condition.

8.11.4 Having regard to the foregoing, in my view it is clear that Condition No. 27 relates to a special contribution and I do not agree with the first party that the condition is invalid on account of its incorrect reference to section 49 which appears to be a typographical error.

8.11.5 Condition no. 27 requires the payment of €293,095 as a special contribution to the planning authority in respect of the provision of pedestrian and cycle infrastructure along the R392 Dublin Road and L1113 Ardmore Road including the crossing of the railway line and Royal Canal. The reason given for the condition is stated as follows:

'It is considered reasonable that the developer should contribute towards the expenditure incurred or proposed to be incurred by Westmeath County Council in respect of the provision/improvement of public services/infrastructure benefiting development in the area.'

8.11.6 The first party appellant's grounds of appeal are summarised in section 7.1.2 of this report. The crux of the appeal is that imposition of the special contribution constitutes double counting of pedestrian and cycle infrastructure already charged under the Development Contribution Scheme (in Condition No. 26), that the condition fails to recognise lands bounding the site transferred from the applicant to the local authority to facilitate such infrastructure, and that there has been inconsistent application of this special contribution condition in respect of recent decisions in the locality.

8.11.7 On this latter point, I note the planning authority in its response cites a number of planning decisions in the area between 2012 and 2023 whereby this special contribution condition type was applied. The response also considers that provision of pedestrian and cycle infrastructure along the R392 Dublin Road and the L1113 Ardmore Road, including the crossing of the railway line and Royal Canal will facilitate the proposal and that a special contribution is necessary to cover these exceptional costs over and above active travel measures included under the Council's wider programme for this area.

- 8.11.8 Section 48 (2) I of the Planning and Development Act, 2000, as amended, provides that a planning authority may, in addition to the terms of a scheme, require the payment of a special contribution in respect of a particular development where specific exceptional costs not covered by a scheme are incurred by any local authority in respect of public infrastructure and facilities which benefit the proposed development. Section 48 (12) (a) of the Planning and Development Act, 2000, as amended, further provides that the condition shall specify the particular works carried out, or proposed to be carried out, by any local authority to which the contribution relates.
- 8.11.9 Accordingly, three essential requirements or characteristics are necessary to justify attachment of a 'special contribution' condition. Under this subsection of the Act, the payment must be required **(a)** in respect of a particular development, **(b)** specific exceptional costs must be incurred as a result of or in order to facilitate it and, **(c)** such costs cannot be covered by a Development Contribution Scheme made under Section 48 (2) of the Act.
- 8.11.10 Further guidance is contained in the Development Management Guidelines for Planning Authorities (DoEHLG, 2007) which states it is essential that the basis for the calculation of the special contribution should be explained in the planning decision. This means that it will be necessary to identify the nature/scope of works, the expenditure involved and the basis for the calculation, including how it is apportioned to the particular development. Circumstances which might warrant the attachment of a special contribution condition would include where the costs are incurred directly as a result of, or in order to facilitate, the development in question and are properly attributable to it.
- 8.11.11 Under Appendix I of the 2022 Westmeath Development Contribution Scheme I note that 'cycle and pedestrian facilities,' 'Walking and cycling links throughout the county,' 'Cycleways,' 'Footpaths,' and 'Active Travel and Smarter Travel Projects' are listed under the 'Transport and Drainage Infrastructure' heading. The total estimated expenditure over five years under this category is given as €30 million; this figure is not broken down further.
- 8.11.12 In terms of the special contribution sought for the provision of pedestrian and cycle infrastructure along the R392 Dublin Road and the L1113 Ardmore Road, but

excluding the crossing of the railway line and Royal Canal, there appears to be an element of double charging, given that the Westmeath Development Contribution Scheme includes this infrastructure type under the Transport and Drainage Infrastructure category as referenced in section 8.11.9 above. While I note that the planning authority contends the special contribution is necessary to cover costs over and above active travel measures for this area, no calculations or figures are provided to substantiate this contention.

- 8.11.13 As such, in my view, it has not been satisfactorily demonstrated that the costs for the provision of pedestrian and cycle infrastructure along the R392 Dublin Road and the L1113 Ardmore Road (but excluding the crossing of the railway line and Royal Canal) cannot be covered by the Westmeath Development Contribution Scheme made under Section 48 (2) of the Act.
- 8.11.14 I am satisfied that the provision of pedestrian and cycle infrastructure over the Royal Canal and Dublin to Sligo Railway at Saunders Bridge adjacent to Ardmore Road is not covered by the Westmeath Development Contribution Scheme 2022. The bridge received Part 8 planning approval in 2019.
- 8.11.15 In my view the proposed pedestrian and cycle bridge would meet the three essential requirements referred to in section 8.11.9 above, to justify attachment of a special contribution condition. In this context, the payment would be required in respect of a particular development which would incur specific exceptional costs, and the Westmeath Development Contribution Scheme would not cover the costs. The proposed development would be used by future occupants of the proposed residential scheme.
- 8.11.16 The calculation of the special contribution is set out in the report of the Active Travel Department. An aggregate figure of €1,568,000 is given for the provision of pedestrian and cycle infrastructure along the R392 Dublin Road and the L1113 Ardmore Road including the crossing of the railway line and Royal Canal. This figure is not broken down further in the application documentation.
- 8.11.17 Having regard to the above, I recommend that the special contribution condition should be amended so that it is applicable to the proposed bridge and associated structures only.

8.11.18 In conclusion, while I note the first party appeal indicates that the applicant dedicated lands to the local authority at no cost along both the Dublin and Ardmore Roads, I consider this to be a matter between the first party and the planning authority.

9.0 Appropriate Assessment

9.1 Stage 1 – Screening Determination for Appropriate Assessment

9.1.1 In accordance with section 177U(4) of the Planning and Development Act 2000, as amended (2000 Act), and on the basis of objective information, I conclude that the proposed development (project) would not have a likely significant effect on any European site either alone or in combination with other plans or projects. It is therefore determined that Appropriate Assessment (Stage 2) under section 177V of the 2000 Act is not required.

9.1.2 This conclusion is based on:

- Objective information presented in the Appropriate Assessment Screening Report.
- Standard pollution controls that would be employed regardless of proximity to a European site and the effectiveness of same.
- Qualifying interests, special conservation interests, and conservation objectives of the European sites.
- Distances from European sites.
- Absence of any meaningful pathways to any European site.
- The discharge of surface water to the public surface water system after appropriate SuDS treatment.
- The disposal of foul water to the public foul sewer system for treatment.
- The unsuitability of the site for use by ex-situ conservation objective bird species of SPAs in the wider area.

9.1.3 No measures intended to avoid or reduce harmful effects on European sites were taken into account in reaching this conclusion.

10.0 Environmental Impact Assessment

- 10.1 Section 5.5.10 of the Planning Statement provided with the planning application considers that there is no requirement to undertake EIA. Reference is made to Parts 1 and 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended, and specifically Part 2, Class 10 Infrastructure Projects and it is submitted that the proposed development for housing provision does not fall within the assigned quantum's under Class 10(b) (i) and Class 10 b (iv).
- 10.2 Paragraph 10(b) of Part 2 of Schedule 5 of the Planning & Development Regulations, 2001 (as amended), and s.172 (1)(a) of the Planning & Development Act, 2000 (as amended), provides that an EIA is required for infrastructure projects that would equal or exceed, inter alia:
- construction of more than 500 dwelling units, or,
 - urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere. A business district means a district within a city or town in which the predominant land use is retail or commercial use.
- 10.3 The scale of the proposed development does not exceed the thresholds set out under paragraph 10(b) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended. The proposed development comprising 245 no. residential units and a creche on a stated site of 9.72 ha within the built-up area of Mullingar is below unit number and site area thresholds which would trigger mandatory EIA. I do not consider that any characteristics or locational aspects (Schedule 7) apply. Having regard to the nature, size, and location of the proposed development I conclude that the need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required. Appendix 1 and Appendix 2 of my report refers.
- 10.4 S.I. 383 of the Planning and Development (Amendment) (No. 2) Regulations 2023, Class 1 of Part 2 of Schedule 5, is amended by the insertion of the following:
- (a) Projects for the restructuring of rural land holdings, undertaken as part of a wider proposed development, and not as an agricultural activity that must comply with the European Communities (Environmental Impact Assessment)(Agriculture)

Regulations 2011, where the length of field boundary to be removed is above 4 kilometres, or where re-contouring is above 5 hectares, or where the area of lands to be restructured by removal of field boundaries is above 50 hectares.

Screening is required if the length of the field boundary to be removed is above 500 m. The site is located in an urban area and is proposed to be developed for housing. I am satisfied that the proposed development does not constitute rural restructuring in this case and that screening is not required.

11.0 Recommendation

- 11.1 Having regard to the above assessment, I recommend that permission be refused for the Large-Scale Residential Development (LRD) on a site to the south of Dublin Road, Petitswood Townland, Mullingar, Co. Westmeath, for the reasons and considerations as follows.

12.0 Reasons and Considerations

The Mullingar Local Area Plan 2014-2020 expired on the 20th of January 2025. Having regard to the specific legislative preconditions which apply to Large Scale Residential Development (LRD) as set out in Section 32A(1) of the Planning and Development Act 2000, as amended, and to the nature of the appeals which comprise first and third party LRD appeals that relate to an application for permission to which section 32A(1) applies, it is considered that no statutory zoning currently applies to the subject site. In this context, the proposed development is not consistent with the legislative preconditions for an LRD application, insofar as it is not on land the zoning of which facilitates its use for the purposes proposed in the application. In this context the Board is precluded from granting permission for the proposed development.

13.0 Recommended Draft Board Order

Planning and Development Act 2000 as amended

Planning Authority: Westmeath County Council

Planning Authority Register Reference: 2460376

APPEAL by Andrews Construction Limited care of The Planning Partnership of The Bank Building, 52 Oliver Plunkett Street, Mullingar, County Westmeath against Condition number 27 relating to a special contribution, and appeal by Dara and Fiona O'Shea of Meadow View, Ardmore Road, Mullingar, County Westmeath and by Others against the decision made on the 2nd day of December 2024 by Westmeath County Council to grant subject to conditions a permission to Andrews Construction Limited.

Proposed Development: Construction of 245 number residential units as comprises: 70 number four bedroom semi-detached houses all at two-storey height with attic accommodation; 132 number three bedroom houses comprising terraced, semi-detached and detached, all at two-storey height; eight number two bedroom duplex units in four number three-storey corner units; 1 no. four-storey apartment block (circa. 3,370 sqm) comprising, 14 no. 1-bedroom units; 15 number two bedroom apartment units and six number three bedroom apartment units, with roof mounted solar panels. The proposed development will also provide; one number two-storey creche/childcare facility (circa 824 square metres), 442 number car parking spaces across the entire site, in the form of, in curtilage and out of curtilage residential parking, creche and apartment dedicated parking, visitor and accessibility parking spaces, 550 number secure bicycle parking spaces, communal open space totalling 1.78 hectares, private garden / amenity areas as incorporates a 'biodiversity corridor' via shared communal open spaces, all associated hard and soft-landscaping, boundary treatments, roads, footpaths, cycle lanes, bin storage, three number ESB sub-stations and all other ancillary works above and below ground. Access will be provided via the R392 Dublin Road and the L1133 Ardmore Road, all on a site of circa 9.72 hectares at Dublin Road, Petitswood Townland, Mullingar, County Westmeath.

Decision

REFUSE permission for the above proposed development in accordance with the reasons and considerations set out below.

Reasons and Considerations

The Mullingar Local Area Plan 2014-2020 expired on the 20th of January 2025. Having regard to the specific legislative preconditions which apply to Large Scale

Residential Development (LRD) as set out in Section 32A(1) of the Planning and Development Act 2000, as amended, and to the nature of the appeals which comprise first and third party LRD appeals that relate to an application for permission to which section 32A(1) applies, it is considered that no statutory zoning currently applies to the subject site. In this context, the proposed development is not consistent with the legislative preconditions for an LRD application, insofar as it is not on land the zoning of which facilitates its use for the purposes proposed in the application. In this context the Board is precluded from granting permission for the proposed development.

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

5th March 2025

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-321494-24		
Proposed Development Summary	245 residential units, a childcare facility, open space, amenity area, landscaping, boundaries and all site works.		
Development Address	Dublin Road, Petitswood Townland, Mullingar, Co. Westmeath		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	✓
		No	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes		Class 10(b)(i) and / or Class 10(b)(iv)	✓ Proceed to Q3.
No			
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			EIA Mandatory EIAR required
No	✓		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	✓	Appropriate thresholds in accordance with Class 10(b): - Class 10(b)(i) – more than 500 dwelling units. - Class 10(b)(iv) – urban development in an area greater than 10 ha. - 245 residential units proposed. - Site area is stated as 9.72 ha.	Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?		
No	✓	Screening determination remains as above (Q1 to Q4)
Yes		Screening Determination required

Inspector: _____ Date: _____

Appendix 2 - Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-321494-24
Proposed Development Summary	245 residential units, a childcare facility, open space, amenity area, landscaping, boundaries and all site works.
Development Address	Dublin Road, Petitswood Townland, Mullingar, Co. Westmeath
The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations. This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
Characteristics of proposed development (In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	<p>This is a standard residential development on predominantly greenfield lands located within the built-up area of Mullingar town. The surrounding area is urban in nature primarily consisting of housing.</p> <p>The proposed development would not result in the production of significant waste, emissions of pollutants. No demolition works are proposed.</p> <p>Construction activities will require the use of potentially harmful materials, such as fuels, hydraulic oils and other such substances. Such use will be typical of construction sites. Any impacts would be local and temporary in nature and implementation of a Construction Environmental Management Plan will satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated.</p> <p>The proposed development is not an integral part of any larger project and there are no cumulative considerations.</p>
Location of development	

<p>(The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).</p>	<p>The majority of the site comprises improved agricultural grasslands of limited ecological value. The EclA demonstrates that the site is not a significant habitat for any protected species.</p> <p>The site is relatively distant from European Sites. The nearest is Wooddown Bog SAC located c 2.3 km to the north-east (site code: 002205).</p> <p>The appeal site contains two archaeological sites, located at the eastern boundary, comprising a ringfort ((WM019-077) and a souterrain (WM019-077001). The proposed development will not impact the Recorded Monuments and protective measures comprising fencing and a 20 m buffer are proposed during the construction phase.</p>
<p>Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).</p>	<p>Some cumulative traffic impacts may arise during construction and operational stages. Construction traffic would be subject to a construction traffic management plan.</p> <p>No trans-boundary effects arise as a result of the proposed development.</p>

Conclusion		
Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required.	Yes
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.	No
There is a real likelihood of significant effects on the environment.	EIAR required.	No

Inspector: _____ Date: _____

DP/ADP: _____ Date: _____

(only where Schedule 7A information or EIAR required)

Appendix 3: Appropriate Assessment – Screening Determination

Screening for Appropriate Assessment

Screening Determination

Step 1: Description of the Project

I have considered the proposed development (project) in light of the requirements of section 177U of the Planning and Development Act 2000, as amended.

Subject Site

The subject site, located at the eastern side of Mullingar town, approximately 1.7 km from the town centre, has a stated area of 9.72 hectares and comprises an expansive undeveloped land parcel, irregular in configuration, bounded to the north by the Dublin Road (R392) and to the south by the Ardmore Road (L1133). The site is adjoined to the west by the established Petitswood Manor housing estate and by detached housing to the north east, east and south east along the Dublin Road and the Ardmore Road.

Mature trees and hedgerow are located throughout the site and along the eastern and western site boundaries. The topography of the lands is undulating and varies significantly with ground levels sloping from a high point at Dublin Road (approximately 113 m) down to Ardmore Road (approximately 99 m).

Two Recorded Monuments (a Ringfort – Rath and a Souterrain) are located within the site, adjacent to the eastern site boundary, and to the rear of existing properties on the Ardmore Road.

The site is mostly greenfield in nature. Brownfield lands comprise a relatively small area of hardstanding at the southern part of the site accessed off Ardmore Road. The greenfield lands comprise improved agricultural grasslands, treelines forming prominent features at the eastern and western site boundaries, mixed broadleaved woodland, scrub and hedgerows.

The closest waterbody to the project is the Royal Canal (a man-made watercourse) located c.670m to the south of the site. The nearest river is the Brosna located c 1.6 km to the west. There are no streams or rivers within or adjacent to the site. The site is located c.2.3 km from Wooddown Bog SAC, c 3.7 km from Lough Ennell SAC, c 4.7 km from Lough Owel SAC, c 4.1 km from Lough Ennell SPA and c 4.7 from Lough Owel SPA.

Project

The project comprises the construction of 245 residential units and a childcare facility, and all associated development works including site clearance, and ground levelling. Also included are new vehicular, pedestrian, and cyclist access points, internal access and link roads, footpaths and cycle paths, car and bicycle parking spaces, public lighting, public open spaces, hard and soft

landscaping, boundary treatments, and all infrastructural works associated with water supply, wastewater drainage, surface water drainage (including connections to the public networks, SuDS features, and attenuation areas).

The project seeks connections to the public systems for wastewater drainage and surface water drainage. Existing water services networks are located both in the public roads adjacent to the site. Wastewater arising from the project will be discharged via a pipe to an existing foul sewer manhole on the Ardmore Road to the south of the site. Foul wastewater will be treated within the existing public foul network under licence.

After attenuation on-site surface water drainage will be directed to an existing public surface water drainage network located to the south of the site at Ardmore Road. This discharges to the River Brosna which in turn discharges to Lough Ennell, south west of the subject site.

Proposed SuDS features will consist of new attenuation areas with outflow restricted to Greenfield run-off rates. It is proposed to install permeable paving in the driveways of new units to accommodate run-off from all hardstanding elements of the units. Road gullies will drain all water off the road network and will be connected into the surface water network. A petrol / oil interceptor / downstream defender will be installed to control the water quality, prior to discharging into the existing surface water network.

Submissions and Observations

Uisce Eireann indicates the project can be serviced. A Confirmation of Feasibility (COF) has issued to the applicant advising that water connection is feasible subject to upgrades. A COF has also issued advising that connection to wastewater is also feasible without infrastructure upgrade.

The planning authority completed an appropriate assessment screening of the project. Regard was had to the foul and surface water drainage systems, the distance between to designated conservation sites, the lack of hydrological pathways and the dilution effect with surface runoff. It concludes that the proposed development is not likely to have a significant effect on any European sites, either alone or in combination with other plans or projects. The Environment Section of Westmeath County Council concurred with the AA Screening and raised no objections.

Step 2: Potential Impact Mechanisms from the Project

Site Surveys

Field surveys were undertaken over several months during 2023 to identify habitat types, flora species, bat, mammal and bird species at the site. The identified habitats on site are described as consisting of improved agricultural grasslands, treelines, mixed broadleaved woodland, scrub and hedgerows.

No plant species of conservation importance were noted on site.

A number of bird species were noted in the vicinity of the proposed development and trees and hedgerows on the lands have both nesting and foraging potential for birds. No bird species of conservation importance were noted. In terms of the possibility of on-site foraging by conservation objective species of the five SPAs located within 15 km of the appeal site, the relevant conservation objective species are mainly waterbirds, or birds not typically associated with this type of urban site e.g. golden plover or kingfisher. There are no Annex I bird species recorded on site as per the EclA.

The bat survey noted three bat species foraging within the site, with activity concentrated along the treelines and hedgerows. No bats were observed emerging from on-site trees on or proximate to the subject site.

While there is badger activity on site, there does not appear to be a breeding sett on the lands.

European Sites

The AA Screening Report notes considers that the Zone of Influence (Zol) would be considered to be restricted to the site outline. Despite a lack of direct hydrological connection to European Sites, but in the interests of carrying out a thorough assessment and having regard to the precautionary principle, the area of assessment was expanded beyond the Zol to include designated sites within 15 km of the proposed development. Table 1 (pg. 13) identifies 11 European sites and their distances from the proposed development. Table 2 (pgs. 14-19) identifies the European site, states the QIs / SCIs of each site, and outlines the conservation objectives of same.

Having considered the foul and surface water drainage from the proposed development, the distance between the proposed development to designated sites, lack of direct hydrological pathway or biodiversity link to conservation sites, and the dilution and settlement effect within the existing public surface water drainage network via the indirect pathway during operation the AA Screening Report concludes that the construction and operation of the proposed development would not give rise to any significant effects to designated sites.

Having regard to the significant separation distances and lack of hydrological connection between the development site and the majority of the European Sites listed in Table 1, I consider the following European Sites to be relevant:

- Lough Ennell SAC (000685) is c.3.7 km to the south-west.
- Lough Ennell SPA (site code: 004044) is c. 4.1 km to the south-west.

The project is found to have an indirect hydrological pathway to Lough Ennell SAC and Lough Ennell SPA via surface water drainage. Specifically, operational phase indirect hydrological connections are identified between the proposed development and Lough Ennell. After attenuation on-site surface water drainage will be directed to an existing public surface water drainage network located to the south of the site at Ardmore Road. This discharges to the River Brosna which in turn

discharges to Lough Ennell, south west of the subject site. The AA Screening gives a minimum distance of 3.7 km and 4.1 km between the site and the SAC and SPA respectively; however this is as the crow flies so hydrologically it is likely to be significantly longer. However the potential for significant effects on these European Sites is considered unlikely. Having regard to the distance involved, and the use of the public system during operation where dust, pollutants, or silt would be dispersed, diluted, or settled within the drainage network or the river, I do not anticipate any impact on any European Site. As such, it is concluded that, in the absence of mitigation, the proposed development would not give rise to any significant effects to Lough Ennell SAC and SPA or any European Site.

Effect Mechanisms

In determining the potential impact mechanisms arising from the project on the relevant European sites, I have had regard to the AA Screening Report and all other relevant information on the case file.

I note and find the following:

- There are no protected habitats or species identified as residing at the site and therefore the likelihood of any significant effect of the project on any European site due to loss of habitat and / or disturbance of species can be reasonably excluded.
- The distances (as the crow flies) between the subject site and the European sites via the hydrological pathway are notable of at least c.3.7 km.
- Site development, clearance and construction activities pose a potential risk to surface water / groundwater quality due to contamination. However, there are no waterbodies at or adjacent to the site and no evidence of vulnerable groundwater conditions.
- The high probability that a pollution event at and/ or pollution from the construction site would be minimal in significance and / or quantity.
- The potential risk to European sites via contamination of the surface water pathway (and, as applicable, groundwater at site) is therefore considered to be extremely low and the effect of same is assessed to likely be imperceptible.
- The development works will be managed and implemented in line with the outline CEMP, which includes standardised pollution prevention and surface water control measures.
- An indirect hydrological connection exists between the project and Lough Ennell SAC and SPA via surface water drainage. However, any pollutants, silt laden runoff or dust will likely be dispersed or diluted (within the surface water drainage network) to negligible levels prior to reaching these European sites.
- The project incorporates several surface level SuDS features including, linear swale features, tree pits, land drains, attenuation tanks, soakaways and permeable paving. These SuDS features will intercept, convey, and dispose of stormwater thereby having an attenuating effect and reducing the volume of surface water runoff.

- The incorporation of SuDS features into the design of the project is required by several policy frameworks (e.g. Flood Risk Guidelines, CDP) and are a standardised embedded mitigation.
- The effects of SuDS have therefore been considered in the undertaking of this appropriate assessment screening as the primary reason for the use of SuDS has not been to protect a European site.
- As such, the potential for likely significant effects during the project's operation phase from surface water impacts through the indirect hydrological connection can be reasonably excluded.
- The high levels of dilution, mixing and / or dissipation of any contaminant in the receiving surface waters.
- The low probability of surface water contamination which would have the potential to negatively affect the qualifying features of the European sites.

Having regard to the characteristics of the project in terms of the site's features and location, and the project's scale of works, I do not consider there to be any potential impact mechanism which would result in a likely significant effect on any European sites.

Step 3: European Site(s) at Risk

As outlined above, the AA Screening Report notes that the area of assessment was expanded beyond the Zone of Influence to include designated sites within 15 km of the proposed development. For the reasons, I have outlined above, I do not identify any impact mechanisms which could have a likely significant effect on any of the identified European sites. As such, there are no European sites at risk of likely significant effect from the project.

Step 4: Likely Significant Effects on the European Site(s) 'Alone'

For the reasons outlined above, I conclude that the project would have no likely significant effect 'alone' on the qualifying features of any European site. In the interests of completeness, further appropriate assessment screening in-combination with other plans and projects is required.

Step 5: Where Relevant, Likely Significant Effects on the European Site(s) 'In-Combination with other Plans and Projects'

I have had regard to the information included in the AA Screening Report on plans and projects. I have also reviewed the planning authority's website for applicable appropriate assessment information on relevant plans (CDP), and the planning authority and An Bord Pleanála's planning registers for relevant planning cases (correct as of the date of this assessment).

The AA Screening Report outlines planning applications in the vicinity of the site. It does not identify any significant in-combination effect. Following my own review, this is a conclusion with which I

concur. I consider that the key plan is the CDP which seeks environmental protection and pollution prevention, and the projects are to be constructed to operate within industry standards. I conclude that the project would have no likely significant effect in combination with other plans and projects on the qualifying features of any European site.

Overall Conclusion – Screening Determination

In accordance with section 177U(4) of the Planning and Development Act 2000, as amended, and on the basis of objective information, I conclude that the project would not have a likely significant effect on any European site either alone or in combination with other plans or projects. It is therefore determined that Appropriate Assessment (Stage 2) under section 177V of the Planning and Development Act 2000, as amended, is not required.

This conclusion is based on:

- Objective information presented in the Appropriate Assessment Screening Report.
- Standard pollution controls that would be employed regardless of proximity to a European site and the effectiveness of same.
- Qualifying interests, special conservation interests, and conservation objectives of the European sites.
- Distances from European sites.
- Absence of any meaningful pathways to any European site.
- The discharge of surface water to the public surface water system after appropriate SuDS treatment.
- The disposal of foul water to the public foul sewer system for treatment.
- The unsuitability of the site for use by ex-situ conservation objective bird species of SPAs in the wider area.

No measures intended to avoid or reduce harmful effects on European sites were taken into account in reaching this conclusion.

Inspector: _____

Date: _____