



An
Bord
Pleanála

Inspector's Addendum Report

ABP-321494A-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

Date of Site Inspection

14th February 2025

Inspector

John Duffy

1.0 Background

1.1. The Board Direction dated 22nd of May 2025 refers to the previous Board Direction of 20th of March 2025 whereby the Board decided to issue requests to the applicant and the planning authority under Article 73A (1) (a) of the Planning and Development Regulations 2001 and section 132 of the Planning and Development Act 2000, as amended, respectively, in relation to the current status (inter alia) of the Mullingar Local Area Plan (2014 – 2020).

1.2. The Article 73A (1) (a) and Section 132 notices stated the following:

‘The Board noted that this application is made under the applicable legislation for large scale residential development. Specifically, the Board noted Section 32A (1) and (2)(b)(ii) of the Planning and Development Act 2000, as amended, which refers to large-scale residential development on land ‘the zoning of which facilitates its use for the purposes proposed in the application.’

In this regard the Board noted that the Mullingar Local Area Plan (2014 - 2020), which sets out the general land use and zoning policies for the site, was extended for a period not exceeding five years at a meeting of the Westmeath County Council on 25 March 2019, and that the new Local Area Plan remains at the pre-draft stage.

To enable the Board to deal with this appeal, please provide any further information confirming that the Mullingar Local Area Plan (including the zoning objective set out therein), continues to remain in force and if so, by what specific legislative provision, and provide any further information clarifying the valid zoning status of the subject site, noting that the site falls within the area of the above-mentioned Local Area Plan.

Please provide any further information, for example any relevant provision of the current Westmeath County Development Plan 2021-2027 or any other relevant matter in accordance with the applicable legislation for large scale residential development, which you consider might assist the Board in clarifying its ability to deal with this appeal.’

1.3. The respective notices issued to the planning authority and first party on the 26th of March 2025. A response to the section 132 notice was received from the planning authority on the 10th April 2025. Following a request from the applicant’s agent for a time extension to respond to the Article 73A (1) (a) notice, the first party was notified

of a revised response date of on or before the 20th May 2025. A response was received from the applicant's agent on the 20th of May 2025.

- 1.4. The Board Direction dated the 22nd of May 2025 requests the Inspector to review the responses received from the applicant's representatives (Legal and Planning) and from the planning authority and to provide the Board with an addendum report.
- 1.5. The Board further requests that the Inspector seeks advice from the Board's Legal Department about the matters raised in the response from JA Shaw and Company Solicitors on behalf of the applicant.
- 1.6. In response to the Board Direction of 22nd of May 2025, this addendum report sets out a summary of the responses received from the planning authority and the representatives of the first party, in addition to providing an assessment of the matters raised.
- 1.7. Also in response to the Board Direction dated the 22nd of May 2025, advice has been sought from the Board's Legal Department about the matters raised in the response provided by J.A. Shaw and Company Solicitors, on behalf of the applicant. In this regard, advice has been received from the Board's Legal Department. I have considered the legal advice. The legal advice is subject to legal privilege. As such, the advice is not attached to the planning file.

2.0 Responses to the statutory notices

2.1 Planning Authority response

The response received from the planning authority to the section 132 notice is summarised as follows:

- The Mullingar LAP 2014 – 2020 was extended until the 20th of January 2025 and it was in force when this Large-Scale Residential Development (LRD) was determined by the planning authority.
- Mullingar is designated as a 'Key Town' in both the settlement hierarchy of the Regional Spatial and Economic Strategy (RSES) for the Eastern and Midland Region and the Core Strategy of the Westmeath County Development Plan 2021-2027.

- Having regard to the drafting of the new Planning and Development Act 2025, the lack of certainty regarding transitional arrangements relating to its enactment, and further to new provisions relating to Urban Area Plans, a delay in drafting a new plan for Mullingar has arisen.
- The Draft Mullingar LAP 2025-2031 is at an advanced stage of completion and can be submitted to An Bord Pleanála to facilitate a decision on the application, in the event the Board does not wish to rely on the aforementioned policy frameworks.

2.2 First party response

2.2.1 The Planning Partnership and J.A. Shaw and Company Solicitors responded, on behalf of the applicant, to the Article 73A (1) (a) notice, on the 20th of May 2025. Included with the submission from J.A. Shaw and Company is a copy of a presentation, dated May 2025, made by the planning authority on the upcoming Draft Mullingar Local Area Plan 2025-2031, to a meeting of the Municipal District of Mullingar Kinnegad on the 12th of May 2025.

The first party responses are summarised below.

2.2.2 The response from **The Planning Partnership** may be summarised under relevant headings as follows:

Procedural matter

- Commentary and opinion provided relating to, inter alia, the timelines given for responding to the Board's Further Information request and the stated potential consequences should the information not be submitted in the specified period.

Planning precedent and case law

- Previous LRD appeal cases where similar matters have been raised by the Board in terms of expired Local Area Plans (LAPs) include the following:

ABP-316019-23 (Crosstown, Ardavan, Co. Wexford)

ABP-319137-24 (Tinakilly, Rathnew, Co. Wicklow)

ABP-319657-24 (Blessington Demesne, Newpaddocks and Santryhill, Blessington, Co. Wicklow).

- It is considered that the refusal reasons pertaining to appeal cases ABP-319137-24 and ABP-319657-24 which relate to procedural matters cited by way of

reference to Sections 32A(1) and (2)(b)(ii) of the Planning and Development Act 2000, as amended, have set a precedent. Both refusal reasons considered that 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, and in that context, it was considered that the Board was precluded from granting permission for the proposed developments. There is, however, no legislative provision for the involvement of the Board at the pre-planning stage of the LRD procedure.

- The request made for further information which issued on 26th of March 2025 appears to depart from the approach taken in respect of the above-mentioned cases.
- While it is acknowledged that the absence of a land use zoning was referred to in the refusal decisions of the above-mentioned cases, the decisions effectively related to a planning assessment of the proposed developments with regard to higher tier planning documents in the absence of the LAPs. These included the relevant County Development Plans, the Regional Spatial and Economic Strategy (RSES) and the National Planning Framework (NPF).
- Of further significance is that the refusals referred to circumstances whereby the proposal could not be approved with sole regard to the relevant County Development Plan on account of the issue of surplus of residential zoned land, that would be addressed at the time of a future LAP being made. It would therefore appear that, notwithstanding the absence of land use zonings, the Board had undertaken a planning assessment to determine whether the proposal might be accepted with regard to higher tier planning documents (e.g. the Core Strategy and policy objectives of the relevant County Development Plan). It is agreed that this is an appropriate course of action.
- The subject site pertaining to this current LRD proposal before the Board was zoned since the adoption of the 2002-2008 Mullingar Town Plan (as contained in the County Development Plan at that time) and it has continually been zoned and aligned with planned population projections of Mullingar, now refined by the NPF and the RSES as a Key Town, which is also fully reflected in the Westmeath County Development Plan 2021-2028.

- It is understood that the decisions relating to appeal cases ABP-319137-24 and ABP-319657-24 have been subject to judicial review, that the refusals of permission have been quashed and that the cases are remitted to the Board for fresh decisions. While no written judgment is to be issued in respect of these cases, the High Court decision would indicate that a legal precedent has been set by which the Board cannot simply refuse permission for failure to satisfy Section 32A of the Act, and further, that in the absence of a LAP, the Board should not refuse for prematurity alone.

Planning matters

- The Board is enabled to determine the planning application on 'white' zoned lands (i.e. on lands not presently zoned) on its merits and with regard to other material considerations, namely the Core Strategy of the adopted Westmeath County Development Plan 2021-2027, settlement status, housing targets and relevant national, regional and countywide planning policy.
- The Mullingar LAP review process had been initiated and informed by, inter alia, the draft Mullingar Area Based Transport Assessment, before the planning application was submitted. The matter of the new Mullingar LAP was raised during the LRD pre-application process (see LRD Opinion) and it is documented in the minutes of the Section 32 meeting and the section 247 consultation.
- Westmeath County Council confirmed that the proposed development fell within the definition of a LRD and that the proposal constituted a reasonable basis on which to make an application. In this regard, the planning authority clearly had full regard to the full range of relevant national, regional and local planning policy (including the NPF, Section 28 Ministerial Guidelines, the RSES and the County Development Plan).
- Reference is made to sections 10 (2)(a) and 19 (2) of the Planning and Development Act 2000, as amended. It is considered that the purpose of land-use zoning is not to function as a stay on development in its entirety, but as a mechanism by which the planning authority indicates particular areas to be used for particular purposes, in circumstances where the planning authority requires such uses to be indicated. It does not imply that the principle of development is

unacceptable in circumstances where zoning objectives are not provided in particular areas.

- There is no provision that excludes residential development being proposed in the absence of a specific zoning objective. In such circumstances, the planning application would be assessed on its merits by the planning authority, in accordance with section 34 of the 2000 Act. This would include the provisions of, inter alia, the Development Plan and Section 28 Ministerial Guidelines.
- It is considered that there is no legislative requirement for LRDs to take place on zoned lands.
- Referring to sections 18 (4) and 19 (2) of the Planning and Development Act 2000, as amended, it is considered that the County Development Plan has precedence over any relevant (or absent) LAP.
- The subject lands are in a sequentially preferable location within the Key Town of Mullingar. The adopted and operative Westmeath County Development Plan 2021-2027 facilitates residential development in accordance with the Housing Strategy and the Core Strategy.
- The Mullingar LAP 2014 – 2020 is consistent with the previous iterations of the plan, with no suggestion that the local authority considered the subject lands might be rezoned in the future.
- It is understood that the Draft Mullingar LAP is to confirm the continued residential zoning of the subject lands, and that it is to be published by 10th of June 2025. The Board is invited to consider deferral of its decision, if necessary, to consider and apply the content of the new LAP.
- The Board is not restricted or precluded from making an evidence-based judgment as to the suitability of the subject proposals. The proposed development is fully consistent with the Core Strategy of the County Development Plan. The LRD Opinion highlighted high level policy objectives and matters associated with applicable national, regional and county planning documentation.
- The Westmeath County Development Plan 2021-2027 and the Core Strategy therein identify Mullingar as a Key Town within the settlement hierarchy derived from national and regional policy objectives. An examination of supporting local

policy and objectives as set out in the Development Plan, along with associated population growth and housing targets provide supporting evidence for housing need in Mullingar. Multiple extracts from the Development Plan are copied into the submission and it is stated they provide a justification for the proposed development and support a grant of permission (See pages 13 to 22 inclusive of the response).

- The proposed development is of a form, scale and development type that can deliver housing in alignment with higher level plans such as the NPF.
- A refusal of permission would further undermine and present additional housing pressures in a Key Town with available infrastructure.
- The proposed development presents a strategic opportunity to meet Core Strategy objectives and housing targets in Mullingar. It is noted that year-on-year the level of housing completions and delivery have fallen short of Core Strategy targets to deliver the quantum of population growth required by the NPF and the RSES.
- There is a significant under-supply of housing across Westmeath county. Mullingar is stated to have a target of 183 units per annum since 2020-2024 and requiring a total of 915 units over the five year period. Completions for this period are given as 407 units, suggesting a shortfall of 508 units. The proposed development is urgently required to fulfil the Core Strategy.

The submission includes the following data in the form of graphs / pie charts:

Figure 1: Graph showing housing delivery from 2020-2024 in Westmeath. This indicates that housing completions and delivery are significantly below the requisite targets set out in the Core Strategy as required by the NPF and the RSES.

Figure 2: Graph showing Core Strategy targets and completions in Mullingar (2020-2024). Delivery completions indicated to be significantly below Core Strategy targets for 2020, 2021, 2023 and 2024.

Figure 3: Pie chart showing that the proposed development would contribute to 48% of the existing housing shortfall in Mullingar for the period 2020-2024, if granted.

Figure 4: Graph showing Core strategy targets and completions – Mullingar and rural Westmeath

Figure 5: Pie chart showing housing completions (2020-2024) in rural Westmeath compared to Mullingar and Tier 1 – 5 settlements.

- The submission includes extracts from the Final Draft of the Revised National Planning Framework.

2.2.3 The submission received from **J.A. Shaw and Company Solicitors** on behalf of the first party may be summarised as follows:

Jurisdictional issues

- The Board is lawfully able to deal with the appeal, regardless of whether or not the Mullingar LAP 2014-2020 continues to remain in force.
- Before making an application for permission for an LRD under 34, matters under sections 32A to 32E must be considered and completed. An LRD application is not predicated on a positive opinion. It is required that an applicant must 'hold' a LRD opinion (section 32A(1)).
- It is a matter for the planning authority alone to issue an LRD opinion (section 32D refers). A prospective LRD applicant may then make a formal LRD application under section 34.
- The status of a LAP at the time of the issue of an opinion by the planning authority is not a question which can be revisited by the Board on appeal. Once section 32 A (1) is satisfied (i.e. the holding of an LRD Opinion by the prospective applicant), it is not open to be revisited and the planning authority then proceeds to consider the substantive application, which may be subject to appeal following its determination.
- The formal planning process commences only after a formal LRD application under section 34 is made, which can only happen provided the prospective applicant 'holds' an LRD opinion.
- It is not a necessary procedural matter for the Board to be satisfied that arising from section 32A(1) and / or 2(b)(ii) that the relevant LAP continues to remain in force in order for the Board to be able to deal with the appeal. If the Board was to

adopt that approach, it is considered it would fall into legal error. The Board can lawfully deal with this appeal even where the LAP has lapsed / expired since the date the making of a valid application to the planning authority under section 34.

- It is a matter for the Board on appeal under section 37 to consider the substance of the LRD application. This can be lawfully done in the absence of the Mullingar LAP 2014-2020 as extended, where the question of the zoning of the subject land falls to be considered in the overall context of the assessment of the LRD application, but not within the scope of section 32 A(1). There is therefore nothing to preclude the Board from granting permission having regard to the policy framework and context (as detailed in the submission from The Planning Partnership).

Draft Mullingar LAP

- It is accepted that the Mullingar LAP 2014-2020 may no longer remain in force.
- Section 18(3)(a) of the 2000 Act provides that the Board may consider, inter alia, any draft local plan which has been prepared but is not yet made in accordance with section 20. In this context, a meeting of the Municipal District of Mullingar Kinnegad was held on the 12th of May 2025 in which the planning authority confirmed the intended publication date of the new Draft LAP for Mullingar as the 10th of June 2005. (A copy of the planning authority's presentation at that meeting is provided with the first party submission and the key issues of the LAP are summarised and listed). It is understood that the minutes of the aforementioned meeting will be made available online in due course.
- The Board may therefore consider the content of the new draft plan and it will be fully enabled to make a lawful decision on the LRD application.
- It would be premature for the Board to reach a decision without having regard to the imminent publication of the new Draft Mullingar LAP.

Recent High Court Orders

- Recent orders made by the High Court in the matters of Cairn Homes v An Bord Pleanála (No. H.JR.2024/1371) and Keldrum v An Bord Pleanála (H.JR.2024/1198) are directly applicable to this matter, with the same legal issues arising concerning the interpretation and application of section 32A(1) and 2(b)(ii).

The decisions made in these matters have been quashed and they are remitted for reconsideration.

- The most practical and appropriate approach for the Board to take is to await the publication of the Draft LAP for Mullingar 2024-2030. It would be premature to determine the application in the absence of the planning authority's intended replacement for the 2014-2020 Mullingar LAP.

2.2.4 As referenced above, the submission from J.A. Shaw and Company Solicitors includes a copy of a presentation dated May 2025, prepared by the Planning Authority, which provided a Municipal District Update on the Draft Mullingar LAP 2025-2031 on 12th May 2025. This indicates that the Draft Mullingar LAP 2025 – 2031 will be published on the 10th June 2025 and also that the subject site for this proposed LRD will be zoned as 'Proposed Residential.'

3.0 **Assessment**

3.1 I note the planning authority's response received on 10th April 2025, pursuant to the section 132 notice that issued on the 26th of March 2025.

3.2 I also note the contents of the submissions received from The Planning Partnership and J.A. Shaw and Company Solicitors on behalf of the first party. These submissions provide both a planning response and a legal response to the Board's request for Further Information made under Article 73A 1(a) of the Planning and Development Regulations 2001, as amended.

3.3 The copy of the presentation made by the planning authority on the 12th of May 2025, relating to the upcoming draft Mullingar Local Area Plan 2025 – 2031, received with the first party response, is also noted. This indicates that a Draft Mullingar LAP 2025-2031 is to be published on the 10th of June 2025, and also that the subject site pertaining to this LRD is to retain a residential zoning under the new draft LAP.

3.4 Section 18(3)(a) of the Planning and Development Act 2000, as amended, states the following:

“(3) (a) When considering an application for permission under section 34, a planning authority, or the Board on appeal, shall have regard to the provisions of any local area plan prepared for the area to which the application relates, and the authority or the

Board may also consider any relevant draft local plan which has been prepared but not yet made in accordance with section 20” (my emphasis added).

- 3.5 Should a new Draft Mullingar LAP be in place at the time the Board is making its decision on this LRD appeal, I recommend that the Board consider the Draft LAP, in accordance with section 18(3)(a) of the Planning and Development Act 2000, as amended and consider granting planning permission for the proposed development.
- 3.6 In this context, I have formally set out below, in sections 4, 5 and 6 respectively, a Recommendation, Reasons and Considerations and a Recommended Draft Order, should the Board decide to grant permission, following its consideration of the contents of the Draft Mullingar LAP 2025-2031, should it be in place when the Board makes the decision on this LRD appeal.
- 3.7 I wish to advise the Board that the First Revision of the NPF has been approved and is in force since the submission of my previous report to the Board in respect of this proposed LRD development. The revised NPF provides enhanced targets for housing delivery.

4.0 Recommendation

I recommend that permission be granted for the Large-Scale Residential Development (LRD) on a site to the south of Dublin Road, Petitswood Townland, Mullingar, County Westmeath, based on the conditions and reasons set out below.

Furthermore, I recommend that condition 27 be amended to (i) omit the payment of a special contribution in respect of the provision of pedestrian and cycle infrastructure along the R392 Dublin Road and L1113 Ardmore Road and to (ii) retain the payment of a special contribution for pedestrian and cycle infrastructure crossing over the Royal Canal and the Dublin to Sligo railway line in the vicinity of the site.

5.0 Reasons and Considerations

Schedule 1

Having regard to the provisions of the Draft Mullingar Local Area Plan 2025 – 2031, the land-use zoning of the site which is identified as ‘Proposed Residential’ in the Draft Local Area Plan, the Westmeath County Development Plan 2021 – 2027, and to the location, nature, form, height, scale and design of the proposed development, it is

considered, that subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential and visual amenities of the area, would not have a negative impact on the character of the area, would be acceptable in terms of density and unit and household mix, would not endanger public safety by reason of traffic hazard, would not adversely impact traffic levels in the area, would not cause damage to adjoining properties during the construction phase, would not cause drainage problems in the area, would not create a disjointed urban fabric in the area, would offer good quality public and private amenity spaces, would facilitate high levels of pedestrian and cyclist permeability, and would not impact on the known archaeology within the site. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Schedule 2

The Board considered that the provision of pedestrian and cycle infrastructure along the R392 Dublin Road and L1113 Ardmore Road, part of the subject of the special development contribution condition number 27, as applied by the planning authority, is covered within the adopted Westmeath Contribution Scheme 2022 and, accordingly, this part of the said condition did not meet the criteria of Section 48(2)(c) of the Planning and Development Act 2000, as amended. The Board, therefore, decided not to attach this part of the condition. Further, the Board considered that the provision of pedestrian and cycle infrastructure crossing over the Royal Canal and the Dublin to Sligo railway line, also part of the subject of the special development contribution condition number 27, as applied by the planning authority, is not covered within the adopted Westmeath Contribution Scheme 2022, and accordingly, this part of the said condition did meet the criteria of Section 48(2)(c) of the Planning and Development Act 2000, as amended. Therefore, the Board decided to attach this part of the said condition.

6.0 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:

Grant permission for the above proposed development based on the reasons and considerations set out below.

Matters Considered:

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

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

- (i) The provisions and policies of the Westmeath County Development Plan 2021 - 2027,
- (ii) The provisions and policies of the Draft Mullingar Local Area Plan 2025 – 2031, including the zoning objective ‘Proposed Residential’ for the subject lands,
- (iii) To the National Planning Framework (NPF) First Revision – April 2025 issued by the Government of Ireland,
- (iv) To Housing for All issued by the Department of Housing, Local Government and Heritage, 2021, and Rebuilding Ireland Action Plan for Housing and Homelessness 2016,
- (v) The Guidelines for Planning Authorities on Sustainable Residential Development and Compact Settlements, issued by the Department of Housing, Local Government and Heritage in January 2024,
- (vi) The Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, issued by the Department of Housing and Planning and Local Government, December 2023,
- (vii) The Climate Action Plan issued by the Government of Ireland in 2025,
- (viii) The Mullingar Local Area Plan 2014-2020 as extended, which was in place at the time of the LRD pre-application consultation and when the Pre-Application Opinion was provided,
- (ix) The availability in the area of a wide range of social, community and transport infrastructure necessary to serve this development,

- (x) The pattern of existing and permitted development in the area,
- (xi) Submissions received, and
- (xii) The Inspector's Reports

it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential and visual amenities of the area, would not have a negative impact on the character of the area, would be acceptable in terms of density and unit and household mix, would not endanger public safety by reason of traffic hazard, would not adversely impact traffic levels in the area, would not cause damage to adjoining properties during the construction phase, would not cause drainage problems in the area, would not create a disjointed urban fabric in the area, would offer good quality public open space and private amenity spaces, would facilitate high levels of pedestrian and cyclist permeability, and would not impact on the known archaeology within the site. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment (AA):

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on European Sites, taking into account the nature and scale of the development, on serviced lands, the nature of the receiving environment which comprises a site in an established urban area, the distances to the nearest European sites, and the hydrological pathway considerations, submissions on file, the information submitted as part of the applicant's Appropriate Assessment Screening Report documentation and the Inspector's report.

In completing the screening exercise, the Board agreed with and adopted the report of the Inspector and that, by itself or in combination with other development, plans and projects in the vicinity, the proposed development would not be likely to have a significant effect on any designated European Site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

Environmental Impact Assessment (EIA):

The Board completed an Environmental Impact Assessment Screening of the proposed development and considered that the information submitted by the applicant in the planning application identifies and describes adequately the effects of the proposed development on the environment.

Having regard to: -

- (a) The nature, scale and extent of the proposed development, which is below the threshold in respect of Class 10(b)(i), Class 10(b)(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- (b) The pattern of development in surrounding area,
- (c) The availability of mains water and wastewater services to serve the proposed development,
- (d) The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003), and
- (e) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment,

it is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an Environmental Impact Assessment Report would not therefore be required.

Conclusions on Proper Planning and Sustainable Development:

The Board considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable form, design, scale and residential density at this location, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of urban design, height, and quantum of development, as well as in terms of traffic and pedestrian safety and convenience. The proposal would, subject to conditions, provide an acceptable form of residential amenity for future occupants.

The Board considered that the proposed development is compliant with the Draft Mullingar Local Area Plan 2025-2031 and the current Westmeath County

Development Plan 2021 - 2027, and the proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

13.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the Planning Authority, the developer shall agree such details in writing with the Planning Authority prior to commencement of development, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. The development shall be carried out on a phased basis, which shall be agreed in writing with the Planning Authority. The childcare facility shall commence operation upon completion of Phase 1, unless otherwise agreed in writing with the Planning Authority.

Reason: To ensure that adequate public open space, road and pedestrian / cycle infrastructure and social infrastructure be provided in accordance with the development of housing and in accordance with the plans of the Local Authority.

3. Prior to commencement of development, the following details shall be submitted to and agreed in writing by the Planning Authority:

(a) Plans and particulars for House Type C (Cottage) mid-terraced units.

(b) An amended / corrected site layout plan which demonstrates that no part of the proposed development impinges on the boundary of the property known as Meadow View on Ardmore Road, Mullingar.

(c) Revised plans and elevations which demonstrate a reduction in the height of the chimney lift over-run associated with the childcare facility.

(d) Revised boundary treatment proposals of appropriate height between the private amenity space associated with the childcare facility and its associated car park.

Reason: In the interests of clarity, public safety and visual amenity.

4. Each residential unit shall be used as a single dwelling unit only and shall not be sub-divided in any manner or used as two or more separate habitable units.

Reason: In the interests of sustainable development and proper planning.

5. Prior to the commencement of development, the developer shall enter into Connection Agreements with Uisce Eireann (Irish Water) to provide for service connections to the public water supply and wastewater collection network.

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

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

Reason: In the interests of visual and residential amenity.

7. (a) Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the Planning Authority for such works and services.

(b) Prior to commencement of development, the developer shall submit revised proposals which provide for the omission of all detention basins and their replacement with appropriately sized attenuation tanks.

(c) A suitable drainage system shall be installed along the eastern boundary next to the existing properties along Ardmore Road, details of which shall be

submitted and agreed with the planning authority prior to commencement of development.

Reason: In the interest of public health and surface water management.

8. (a) Prior to any ground works taking place in respect of the proposed development a buffer zone area of 20 metres shall be implemented around the Recorded Monuments Ref. WM019-077, Class: Ringfort - Rath and Ref. WM019-077001, Class: Souterrain. No ground works shall be carried out within the buffer area, including boundary works, landscaping, or ground reduction. The buffer area shall be fenced off and protected during construction and shall not be used for storage or vehicular access.

(b) All ground works associated with the proposed development shall be monitored under licence by a suitably qualified archaeologist. Should archaeological material be found during the course of works, the work on the site shall be stopped pending a decision as to how best to deal with the archaeology. The developer shall be prepared to be advised by the Department of Housing, Local Government and Heritage with regard to any necessary mitigating action (e.g. preservation in situ, or excavation) and shall facilitate the archaeologist in recording any material found.

Reason: To ensure the continued preservation (either in situ or by record) of places, caves, sites, features or other objects of archaeological interest.

9. (a) Prior to commencement of development, a pre-construction ecological in season inspection of the application site shall be carried out by a mammologist/faunal expert to confirm that proposed mitigation measures for the protection of badger activity are appropriate and adequate. The results of this inspection shall be submitted to and agreed in writing by the planning authority and all recommendations shall be fully implemented.

(b) Standard procedures for evacuation of and removal of active badger sets shall, if required, be followed (refer to National Roads Authority, 2005, Guidelines for the treatment of badger prior to the construction of national roads schemes, NRA). In

relation to disused or inactive setts found during pre-planning or pre-construction surveys, the steps outlined in the NRA 2005 Guidelines, shall be followed. A suitably qualified and experienced Ecological Clerk of Works shall be employed to oversee the implementation of excavation and removal of any badger setts and shall provide a report to the planning authority documenting the implementation of any necessary remediation measures.

(c) Hedgerow, tree, or scrub removal shall not take place during the bird breeding season which is between 1st of March and 31st of August.

(d) The mitigation and monitoring measures outlined in the plans and particulars submitted with the planning application, including those identified in the CEMP, the Ecological Impact Assessment, the badger survey, and the bat survey shall be implemented in full.

(e) A suitably qualified and experience Ecological Clerk of Works shall be appointed by the developer to oversee the implementation of the ecological mitigation measures as outlined in the above reports. The Ecological Clerk of Works shall 'sign-off' on the delivery of any mitigation measures and provide a report on their completion to the Planning Authority documenting their implementation, any failure of implementation and any necessary remediation measures.

Reason: In the interest of protecting the environment and in the interest of public health.

10. Details of the materials, colours, and textures of all the external finishes to the proposed buildings shall be as submitted with the application, unless otherwise agreed in writing with, the Planning Authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of visual amenity.

11. The areas of public open space shown on the lodged plans shall be reserved for such use. These areas shall be levelled and / or contoured, as appropriate, soiled, seeded, and landscaped in accordance with the landscaping scheme and landscape masterplan submitted to the planning authority with the planning application. This work shall be completed before any of the dwellings are made available for occupation unless otherwise agreed in writing with the planning authority and shall be maintained as public open space by the developer until taken in charge by the local authority.

Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

12. Proposals for a development name and numbering scheme and any associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, and unit numbers, shall be provided in accordance with the agreed scheme. The proposed name(s), in Irish and English, shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority.

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

13. Public lighting shall be provided in accordance with a final scheme, which shall include lighting for the public amenity walking / cycle route, open spaces and set down / servicing areas, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The design of the lighting scheme shall take into account the existing and permitted public lighting in the surrounding area, and shall be bat friendly. Such lighting shall be provided prior to the making available for occupation of any unit within the proposed development.

Reason: In the interests of amenity, the environment and public safety.

14. The development hereby permitted shall be carried out and completed at least to the construction standards as set out in the planning authority's Taking In Charge

Standards. In the absence of specific local standards, the standards as set out in the 'Recommendations for Site Development Works for Housing Areas' issued by the Department of the Environment and Local Government in November 1998. Following completion, the development shall be maintained by the developer, in compliance with these standards, until taken in charge by the planning authority.

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

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

(b) Footpaths shall be dished at road junctions in accordance with the requirements of the planning authority. Details of all locations and materials to be used shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

(c) The final design and material specification of the dedicated cycle infrastructure within the development, shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

(d) The developer shall submit to the planning authority a Stage 3 post construction Road Safety Audit following the completion of the proposed development.

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

16. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between the hours of 0700 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

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

Reason: In the interest of sustainable transportation.

18. (a) All areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.

(b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

19. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials within each house plot, for each apartment unit and the childcare facility shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the agreed waste facilities shall be maintained and waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

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

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

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

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

(c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified housing units, in which case the planning authority shall confirm in writing to the applicant or any person with an interest in the land that the

Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

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

22. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

- a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- b) Location of areas for construction site offices and staff facilities;
- c) Details of site security fencing and hoardings;
- d) Details of on-site car parking facilities for site workers during the course of construction;
- e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- f) Measures to obviate queuing of construction traffic on the adjoining road network;
- g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- i) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- j) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;

- l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- m) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the Planning Authority.

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

23. Prior to the commencement of any works associated with the development hereby permitted, the developer shall submit a detailed final Construction Environmental Management Plan (CEMP) for the written agreement of the planning authority. The CEMP shall incorporate details for the following: collection and disposal of construction waste, surface water run-off from the site, on-site road construction, and environmental management measures during construction including working hours, noise control, dust and vibration control and monitoring of such measures. A record of daily checks that the construction works are being undertaken in accordance with the CEMP shall be kept at the construction site office for inspection by the planning authority. The agreed CEMP shall be implemented in full in the carrying out of the development.

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

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

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

25. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the satisfactory reinstatement of the site upon cessation of the project coupled with an agreement empowering the local authority to apply such security or part thereof to such reinstatement. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.

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

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

27. The developer shall pay a financial contribution to the planning authority as a special contribution under Section 48(2)(c) of the Planning and Development Act 2000, as amended, in respect of the provision of pedestrian and cycle infrastructure crossing

the Dublin to Sligo railway line and Royal Canal in the vicinity of the site, which benefits the proposed development. The amount of the contribution shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála for determination. The contribution shall be paid prior to commencement of development or in such phased payments as may be agreed prior to the commencement of the development, and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the terms of payment of this financial contribution shall be agreed in writing between the planning authority and the developer.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority in respect of public services, which are not covered in the Development Contribution Scheme or the Supplementary Development Contribution Scheme and which will benefit the proposed development.

I confirm that the report represents my professional planning assessment, judgment and opinion on the matter assigned to me and that no person has influenced or tried to influence, directly or indirectly, the exercise of my professional judgment in an improper or inappropriate way.

John Duffy
Planning Inspector

5th June 2025