



## Inspector's Report

**L-500891-CE-26**

|                                     |   |
|-------------------------------------|---|
| <b>Development</b>                  | Construction of 55 dwelling houses and all associated site development works. The application was accompanied by a Natura Impact Statement (NIS). |
| <b>Location</b>                     | Ballymaley & Ballycorey, Ennis, Co. Clare.  |
| <b>Planning Authority</b>           | Clare County Council  |
| <b>Planning Authority Reg. Ref.</b> | 2460667   |
| <b>Applicant(s)</b>                 | Custy Construction Limited & John Talty Construction Limited  |
| <b>Type of Application</b>          | Permission  |
| <b>Planning Authority Decision</b>  | Grant Permission + Conditions   |
| <b>Type of Appeal</b>               | Third Party Normal Planning Appeal  |
| <b>Appellant(s)</b>                 | Michael Duffy   |
| <b>Observer(s)</b>                  | None  |
| <b>Date of Site Inspection</b>      | 26 <sup>th</sup> May 2026   |
| <b>Inspector</b>                    | Sarah O'Mahony  |

## Table of Contents

|      |  |           |
|------|--|-----------|
| 1.0  | Site Location and Description .....                      | 3         |
| 2.0  | Proposed Development .....                               | 3         |
| 3.0  | Planning Authority Decision .....                        | 4         |
| 4.0  | Planning History .....                                   | 12        |
| 5.0  | Policy Context .....                                     | 13        |
| 6.0  | EIA Screening .....                                      | 15        |
| 7.0  | The Appeal .....   | 15        |
| 8.0  | Assessment .....   | 21        |
| 9.0  | Appropriate Assessment .....                             | 26        |
| 10.0 | Water Framework Directive .....                          | 27        |
| 11.0 | Recommendation .....                                     | 28        |
| 12.0 | Reasons and Considerations .....                         | 28        |
| 13.0 | Conditions .....   | 28        |
|      | <b>Appendix 1: Environmental Impact Assessment .....</b> | <b>35</b> |
|      | <b>Form 1: Pre-Screening .....</b>                       | <b>35</b> |
|      | <b>Form 2 - EIA Preliminary Examination .....</b>        | <b>37</b> |
|      | <b>Appendix 2: Appropriate Assessment .....</b>          | <b>39</b> |

## 1.0 Site Location and Description

- 1.1. The 3.655ha greenfield site is situated on the northern outskirts of Ennis in County Clare, 2.5km from the town centre. Access is provided from two agricultural style gates off the Gort Road, the R458, as well as a third agricultural gate from a tertiary local road at the east. Lough Girroga is situated 300m to the south, the River Fergus is 100m to the northwest and Ballyallia Lough is 400m northwest. The Limerick-Galway railway line is situated 250m east of the site.
- 1.2. The irregular shaped site comprises two large fields and three smaller ones as well as a small derelict outbuilding. It slopes up from the Gort road towards a high point in the centre and the slopes down again further south. Boundaries on the outskirts of the overall site as well as between the fields comprise mature and native mixed species hedgerows and treelines.
- 1.3. There is a series of timber monopoles carrying overhead cables crossing the centre highpoint of the site on an east-west axis. There is another series situated adjacent the Gort Road at the north, some of which are situated on the site.
- 1.4. There is a linear pattern of single dwellings situated along the Gort Road alongside the north of the site as well as the local road at the east and northeast. The layout of the site is such that it wraps around to the side and rear of some of these dwellings.

## 2.0 Proposed Development

- 2.1. Planning permission sought for development which comprises the following:
  - construct 55 No. dwellinghouses consisting of
    - 8 No. 4 bedroom detached two storey houses,
    - 8 No. 4 bedroom semi-detached two storey houses,
    - 5.No 3 bedroom detached 2 storey houses,
    - 26 No. 3 bedroom semi-detached 2 storey houses,
    - 8 No. 3 bedroom detached bungalows,

- car parking, vehicular & pedestrian access including roads, footpaths, cyclepaths, public lighting, landscaping together with all site development works and connections to public services.
- Demolition of an existing outbuilding which houses a bat night-roost and construction of a new bat house on lands to the south of the site, but within the same landholding and adjacent to good quality foraging habitat.

2.2. The application was accompanied by the following documentation, as well as all standard and statutory drawings and notices:

- Natura Impact Statement
- Design Statement
- Part V agreement
- Hydrological Assessment
- Public Lighting Report
- Bat Survey
- Preliminary Construction and Environmental Management Plan
- Uisce Éireann Confirmation of Feasibility
- Stormwater Report
- Soil Infiltration Tests

### **3.0 Planning Authority Decision**

#### **3.1. Further Information**

3.1.1. The Local Authority requested 10no. items of further information from the applicant as follows:

1. Revised layout to address overlooking, improve passive surveillance and provide more usable public open space etc. Specifically, the applicant was requested to:
  - a. Omit unit nos. 24-27.
  - b. Reorientate 6no. units.
  - c. Indicate the locations of visitor parking.

- d. Revise the layout to omit vehicular 'pinch-points'.
  - e. Provide site section drawings including adjacent third-party lands.
  - f. Provide contiguous elevations.
  - g. Adjust Part V proposals accordingly.
2. Insufficient dimensions and floor areas provided to determine room areas and compliance with minimum residential standards.
3. Revised boundary treatments to improve passive surveillance, a coherent single-boundary strategy along third party lands and removal of long stretches of boundary walls to improve the public realm.
4. Revised open space strategy to provide more meaningful and useable open space including removal of steep sloping areas from the overall calculation of open space.
5. (a) Concerns regarding pedestrian and cycle connectivity to the town centre. The applicant was advised to liaise with both the Municipal District Office and the Road Design Office and provide connectivity proposals.  
  
(b) Provide a Traffic and Transportation Assessment, Road Safety Audit and carry out a number of revisions to the internal road network such as removing specified cul-de-sacs and turning heads, providing dimensions of parking spaces, roads and footpaths, provide EV charging infrastructure, a speed ramp and pedestrian crossing, vehicle tracking and a signing and lining plan.
6. Address lacune in the NIS including submission of a Bat Derogation Licence and revised NIS assessing all construction impacts and having regard to all technical reports.
7. Landscaping and Lighting proposals are insufficient to address mitigation recommendations in the NIS. The applicant was requested to submit revised proposals accordingly which are informed by the Bat Derogation Licence.
8. Revised CEMP to address hydrology mitigation measures as required by the LDR14 zoning and SEA carried out for the CDP. The revised CEMP should also take account of mitigation recommendations in the NIS and Hydrology Report.
9. The Planning Authority noted lacunae in the NIS regarding wastewater treatment, stormwater overflows and emergency overflows in the network between the site

and the public wastewater treatment plant and whether untreated waste is being discharged. The applicant was requested to submit:

- a. An Engineering Services report as recommended in the NIS,
- b. Details of high-level overflow from proposed infiltration trenches as noted in the Flood Risk Assessment, and
- c. Proposals for existing overhead powerlines on the site.

10. *'The Planning Authority notes the contents of the Hydrological Report and notes a lack of detail provided in respect of any stormwater overflows or emergency overflows in the network between the site and the wastewater treatment plant or at the treatment plant itself and whether these are discharging untreated wastewater to the SACs. Therefore, a revised Hydrological Report and other technical reporting, if required, shall be provided to demonstrate stormwater or emergency overflows will not result in discharge of untreated wastewater to the SACs.'*

- 3.1.2. The applicant submitted the requested information including a revised layout which reduced the number of proposed units from 55no. to 53no. The previous proposal for a network of cul-de-sacs, pocket parks and homezones was replaced with a simpler layout positioning dwellings fronting onto a new spine road and two large areas of open space with fewer cul-de-sacs. Ground levels in the east of the site will be increased to provide a usable area of open space.
- 3.1.3. Revised dwelling floorplans were submitted demonstrating compliance with guidance outlined in the "Quality Housing for Sustainable Communities Guidelines for Planning Authorities" (2007) and SPPR 2 of the Sustainable & Compact Settlement Guidelines for Planning Authorities.
- 3.1.4. The revised layout has been designed to integrate into the Ennis Active Travel plan for the Gort road which proposes a new bus stop and pedestrian crossing close to the Ballyallia junction. Should the Ennis active travel plan not go ahead on the Gort Road the applicants have agreed to contribute a financial contribution to Council to ensure that the proposed development is connected to the existing public footpath.
- 3.1.5. Provision for EV charging will be made at each dwelling while visitor spaces will be in accordance with the CDP requirements.

- 3.1.6. A Bat Derogation Licence was submitted.
- 3.1.7. A revised NIS and detailed CEMP were submitted which had regard to all other technical reports as well as the revised design.
- 3.1.8. Revised landscaping and lighting designs were submitted which had regard to ecological considerations.
- 3.1.9. Overhead powerlines will be transferred underground.
- 3.1.10. A revised surface water management scheme is proposed summarised by the applicant as follows:

*'There are now 2 large infiltration storage and soakaway trenches namely infiltration trench 1 and infiltration trench 2. Infiltration trench 1 is at a higher level and hence, in the event of an abnormal flood event or blockage there is an overflow designed from infiltration trench 1 to the stormwater manhole ref S14 which discharges towards the lower infiltration trench 2.'*

- 3.1.11. The following paragraph is the applicant's response to further information request item no. 10 regarding untreated wastewater:

*'There appears to be an assumption by the planning authority that wastewater was proposed to be treated on-site. This is not the case. There is no intention to discharge untreated wastewater to any SAC's. Also, there is no emergency overflow proposed in the wastewater network between the site and the wastewater treatment plant or at the treatment plant itself. As outlined in the Engineering Service Report, there is more than adequate capacity in the proposed wastewater network in the development site and Irish Water have issued a confirmation of feasibility for wastewater connection to their infrastructure without the need for infrastructure upgrade. Please note that with the revised estate layout, only 53 units are now being proposed and the pre-connection agreement for both water and wastewater was for 55 houses. The Hydrological Assessment carried out by Anthony Cawley concluded that the proposed development with a project specific Construction Environmental Management Plan (CEMP) in place will not present any potential significant hydrological or hydrogeological impact to the water environment both surface and groundwaters, nor to the hydrological sensitive downstream European sites at Lough Girroga and the River Fergus.'*

3.1.12. The applicant submitted a Hydrological Assessment which states:

*'Please note the proposed foul network is gravity flow system to the public sewer and therefore there will be no requirement for on site storage, pumping, or overflows, emergency or otherwise. There will be no wastewater treatment on site with the foul discharged directly offsite to the Uisce Éireann public foul sewer where it will eventually reach the Municipal Ennis Wastewater Treatment Plant. The wastewater design flow discharging to the public sewer at node F12 is 1.656l/s from the Quinn calculations. Any of the downstream wastewater infrastructure beyond manhole F12 is the responsibility of Uisce Éireann and does not form part of this application.'*

3.1.13. The applicant also submitted an Engineering Services Report which repeats the above extracts and also added the following:

*There is no intention to discharge untreated wastewater to the SAC's. Also, there is no emergency overflow proposed in the wastewater network between the site and the wastewater treatment plant or at the treatment plant itself. As outlined above there is more than adequate capacity in the proposed wastewater network in the development site and Irish Water have granted a confirmation of feasibility for wastewater connection to their infrastructure without the need for infrastructure upgrade.*

3.1.14. The further information response was deemed significant and revised statutory notices were published and submitted.

3.1.15. The applicant subsequently submitted unsolicited further information comprising of a renewed Bat Derogation Licence valid until 31<sup>st</sup> December 2026.

## **3.2. Decision**

3.2.1. Clare County Council issued a notification of decision to grant planning permission on 03<sup>rd</sup> February 2026 subject to 24no. conditions including no. 10 which requires the applicant to enter into connection agreements with Uisce Éireann regarding the water and wastewater connection.

## **3.3. Planning Authority Reports**

3.3.1. Planning Reports

- There are two Case Planner's report on the file, one requesting further information and the latter assessing the response to same.

- The Case Planner's recommendation to grant permission is consistent with the decision which was issued.
- Environmental Impact Assessment issues were screened out.
- An Appropriate Assessment determination was made which concluded there is no risk of adverse effects from the proposed development subject to the correct implementation of the mitigation measures as outlined in the NIS.
- It considered the revised layout '*enhanced overall layout and improved residential amenities within the development site*', that sufficient private and public open space was proposed and that all transport and traffic related matters were acceptable.
- Demolition of the existing derelict shed housing a night roost for bats was deemed acceptable subject to the mitigation measures outlined in the bat derogation license as well as additional lighting and landscaping proposals.
- In terms of hydrology the report states '*A revised Hydrological report has been submitted which addresses stormwater overflows and emergency overflows and outlines how the construction and operational phases will manage pollution control to ensure no groundwater movements will interfere with the nearby SACs through various mitigation measures. I am satisfied with this proposal.*'

### 3.3.2. Other Technical Reports

- Municipal District: Two reports received, one requesting further information and one assessing the response. The final recommendation stated no objection subject to conditions. I note a third report on the file which makes references to connections to Abbeyville and Abbey Court housing estates which are situated 4km south of the site and consider the inclusion of this report on the file is an administrative error.
- Road Design Office: Two reports received, one requesting further information and one assessing the response. The latter sets out recommendations and conditions in the event of a grant of permission.
- Environmental Assessment Officer (EAO): Two reports received, one requesting further information and one assessing the response. No clear recommendation is made however the latter report expresses satisfaction with the information submitted. It discusses wastewater treatment in depth and relies on conclusions provided in the

Uisce Éireann 2024 Annual Environmental Report (AER) for the Ennis North Wastewater Treatment Plant which suggests discharge to the River Fergus does not have a negative impact on water quality. The EAO report notes that EPA data shows significant pressures on the River Fergus are identified both up and downstream of the discharge point and therefore the WWTP is not identified as a source of pollution. The report also states that since the plant was upgraded, together with recent upgrades to pumping stations on the network, *'the plant's increased capacity ensures that all wastewater is treated to meet EPA standards before being discharged, which has greatly reduced the levels of harmful substances entering the river.'*

- Taking in Charge Team: One report received which notes the contents of the application and makes some recommendations for conditions as well as requests for clarifications.

### **3.4. Prescribed Bodies**

3.4.1. The application was referred by Clare County Council to the following:

- Development Applications Unit: *'The Department concurs with the archaeological impact statement and conclusions of the report and therefore recommends that should planning permission be granted, further archaeological mitigation is not required.'* It notes the NIS and recommends that the Planning Authority should be satisfied that supporting reports inform impacts to water quality. It also set out recommendations such as the requirement for a bat derogation licence and lighting and landscaping designs to minimise bat impacts etc.
- Uisce Éireann: *'Uisce Éireann notes the applicants engagement with a pre connection enquiry (ref: CDS24004826 ) which resulted in a confirmation of feasibility dated 27th August 2004. This confirmation concludes that connection for both water and wastewater can be achieved without the need for infrastructure upgrades.'* No objections were stated and standard conditions requiring connection agreements and works to be carried out in accordance with UE standards were recommended.
- The Heritage Council: No response received.
- An Taisce: No response received.

3.4.2. The appeal was also referred by An Coimisiún Pleanála to the EPA however no response was received.

### 3.5. Third Party Observations

3.5.1. 11no. submissions were received from the following:

|                         |                           |                             |
|-------------------------|---------------------------|-----------------------------|
| Bridget Ginnety         | Pamela Wall               | Michelle and Eoin O' Keeffe |
| Conor and Sinéad Galvin | Catherine Freny           | Niamh Coote                 |
| Imelda O' Dwyer         | Gillian and Shane Shannon | Olivia Frawley              |
| Michael Duffy           | John Coote                |                             |

3.5.2. The following matters are raised in the submissions:

- Development not in keeping with rural character. Overdevelopment and excessive density. Lack of supporting community infrastructure. Request to omit specified units.
- Increased traffic congestion. Road safety suggestions/requests including provision of a pedestrian crossing, reduce the speed limit, relocate the bus stop and provide additional pedestrian and cycle permeability paths within the development, on the Gort road and connecting to the town centre. Agreements made with Applicant regarding provision of new vehicular entrances to existing dwellings.
- Provide grasscrete in turning areas to increase green spaces.
- Provide rainwater harvesting.
- Design and layout changes to increase passive surveillance and provide more shared spaces than private open space. Public open space should be centrally located.
- The proposed native species landscaping is welcome but denser planting should be provided. Request for additional planting adjacent existing residential boundaries.
- Privacy and security concerns from overlooking. Security of farmyard adjacent to proposed pedestrian access. Noise and amenity impacts. Request to limit some units to single storey only and omit others.
- Property devaluation.

- Boundary treatment suggestions/requests. Agreements made with Applicant regarding provision of specific boundaries.
- Overshadowing.
- Impact from street lighting. Unclear lighting proposals. Request to provide lighting on Gort Road.
- Ecology impacts including to European sites, bats and Lough Girroga.
- Water and wastewater connections should provide for connecting existing dwellings also. Impacts to existing septic tanks. Agreements made with Applicant regarding future connections to existing dwellings. Concerns regarding adequacy of existing wastewater network including existing stormwater and emergency overflows between the site and the wastewater treatment network. Lacunae in information presented regarding existing network and receiving ground and surface waters. Absence of upgrade proposals in Uisce Éireann's Capital Investment Programme to address existing shortcomings.
- Roads and infrastructure should be taken in charge.
- Maintain and preserve existing stone outbuilding. Maintain existing stone wall boundaries and existing vegetation outside boundary walls.
- Construction and demolition waste management details. The CEMP does not address washing concrete chutes or crushing and screening rock.
- No Water Framework Directive (WFD) assessment. Surface water management should be based on natural methods of infiltration and treatment. Increased hard surfaces will increase flooding.
- Drawings do not illustrate existing dwelling.

#### 4.0 **Planning History**

- 08/104: Planning permission sought for the construction of 40 no. dwelling houses, consisting of 8 no. terraced dwellings and 8 no. detached dwellings and 24 no. semi-detached dwellings, along with associated site development works and services. Due to the location of the County/Town Council Boundary this application forms one part of two applications made to the relevant respective councils.

Permission was **refused** for 2 no. reasons relating to lack of wastewater treatment facilities in the area and surface water drainage with potential impacts to Lough Girroga.

- 25/60393, ACP ref LH03.324062: Planning permission granted for 300 housing units, a creche/childcare facility and all associated site development works at Ballymacaula, Drumbiggle, Keelty, Circular Road, Ennis. Condition no.12 requires a connection agreement with Uisce Éireann for the water and wastewater network.

## 5.0 Policy Context

### 5.1. Development Plan

5.1.1. The site is governed by the policies and provisions contained in the Clare County Development Plan 2023-2029 (referred to hereafter as the CDP). Volume 3a sets out settlement plans for the Ennis Municipal District. The site has a site-specific zoning referred to as LDR14 which provides for low density residential uses. Section 2.10.1 provides the narrative below about the lands which encompasses the entire site but no additional lands.

*This site is located along the Gort Road between Lough Girroga and Ballyallia Lake (SAC & SPA). Given the connectivity of this site to Lough Girroga within the context of its groundwater vulnerability, and the wider Ballyallia SAC/SPA, any future development proposals shall include:*

- *A construction environmental management plan (CEMP) detailing how surface water run off, especially in relation to the release of silt and other pollutants, will be controlled during construction shall form part of any development proposals for this site. Following completion, surface water run-off shall be treated via a combination of appropriate SuDS (i.e. green roofs, permeable paving, petrol interceptor, silt trap) prior to discharge to any surface water features. There should be no infiltration of surface water to the network from this site;*
- *Where a hydrogeological assessment is deemed appropriate, it shall contain a definitive conclusion as to whether the proposed development will interfere with water quality or hydrology.*

*Measures to remove any risk of ground water contamination shall be incorporated into development proposals such as providing low-carbon housing served by renewable energy sources. Where proposals need to be served by domestic oil tanks, these should be regulated with a requirement to ensure they are located in sheltered areas out of direct sunlight (reducing the risk of cracking caused by exposure to direct sunlight) and shall be bunded and/or double skinned to reduce the risk of leakage and potential contamination of the water supply.*

5.1.2. Objective V3(a)18 states it is an objective of Clare County Council:

*a) To advocate the provision by Uisce Éireann of adequate wastewater facilities to accommodate the target population and the employment potential of the plan area in accordance with statutory obligations as set out by EU and National Policy; and*

*b) To facilitate the development of new, or upgrade of existing, wastewater treatment facilities to serve Ennis and Clarecastle and their environs subject to protection of the environment, and in compliance with the Habitats Directive and other environmental considerations.*

## **5.2. Relevant National or Regional Policy / Ministerial Guidelines**

5.2.1. **Section 28 Guidelines: Sustainable Residential Development and Compact Settlement Guidelines, 2024.** The guidelines, hereafter referred to as the Compact Settlement Guidelines, set out a context to create higher density settlements to underpin sustainable development principles. Specific Planning Policy Requirements (SPPRs) are set out including SPPR 1 which refers to minimum standards for separation distances between residential units and opposing windows in habitable rooms, SPPR 2 regarding private open space for houses, SPPR 3 provides for car parking rates while SPPR 4 provides for cycle parking and storage.

5.2.2. **Section 28 Guidelines: Development Management Guidelines for Planning Authorities.** Chapter 7 refers to drafting planning conditions and requires them to be necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable.

## **5.3. Built Heritage**

5.3.1. There is a record from the Sites and Monuments Record situated 60m southwest of the site. Ref. CL033-124---- applies and it refers to an enclosure while ref. CL033-041---- refers to a ringfort-cashel and is situated 300m to the south. The site does not intersect the zone of notification associated with either record.

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

5.4.1. Ballyallia Lough Special Protection Area (SPA) and Ballyallia Lake Special Area of Conservation (SAC) and proposed Natural Heritage Area (pNHA) are all situated 100m northwest of the site.

5.4.2. Lough Girroga is another surface water lake situated 160m south of the site which also forms part of Ballyallia Lake SAC.

5.4.3. The River Fergus flows out from Ballyallia Lough in a southwest direction and forms part of the Lower River Shannon SAC 100m northwest of the site.

### **6.0 EIA Screening**

6.1. The proposed development has been subject to preliminary examination for environmental impact assessment (refer to Form 1 and Form 2 in Appendices of this report). Having regard to the characteristics and location of the proposed development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

### **7.0 The Appeal**

#### **7.1. Grounds of Appeal**

- Lack of capacity in the wastewater network and insufficient information provided to the Local Authority regarding the volume of wastewater to be generated by the development, any overflows from the network, the condition of the WWTP or whether it complies with its discharge licence. In this regard the applicant did not adequately respond to the further information request.

- The appellant confirms they have no concerns regarding capacity within the development itself but that the issue lies downstream of the proposed connection to the network at manhole 12. The WWTP discharges to the River Fergus which has a moderate WFD status and is at risk of not achieving good status.
- There is no such entity as Irish Water as it is now known as Uisce Éireann.
- The WWTP does not, and has consistently not, complied with the terms of its discharge licence issued by the EPA. Its Annual Environmental Reports (AERs) demonstrate that the discharge exceeds ammonia Environmental Limit Values (ELVs).
- The applicant highlights concerns with the AER including that the hydraulic loading figures are not consistent with the methodology set out in the Urban Waste Water Treatment Directive and cannot be relied upon as they do not provide the highest average weekly organic loading on the plant and also do not take account of stormwater discharges of untreated wastewater in the network prior to arrival at the plant.
- The AER notes there are 5no. stormwater overflows (SWOs), 4no. discharge untreated wastewater, only one is monitored and the location of two are unknown. None meet the relevant criteria set out by the 2013 DoEHLG guidance document 'Procedures and Criteria in relation to Storm Water Overflows' and the appellant therefore suggests they are also in breach of the discharge licence. The appellant again suggests that a fully informed Appropriate Assessment cannot be carried out due to the absence of this information.
- The appellant suggests that the DWF (dry weather flow) is the most appropriate figure to utilise to identify the hydraulic loading and by definition it excludes stormwater. It provides calculations suggesting the plant is already operating with a population equivalent (PE) in excess of its licensed capacity.
- The appeal highlights that the discharge licence required works including rehabilitation of the sewer network, separation of combined sewers and upgrade of satellite pump station overflows to be completed in 2010 however this has not occurred and therefore the WWTP is again non-compliant with the discharge licence.

- The further information response did not demonstrate that wastewater arising from the development would not have a significant impact on the SAC downstream. It was insufficient for the NIS to rely on the Engineering Services report claiming the downstream network is outside the control of the applicant. There is no Uisce Éireann Connection Agreement in place and the Confirmation of Feasibility (CoF) gives no guarantee of capacity either in the network or at the WWTP. Neither the CoF nor the submission made by Uisce Éireann have anything to inform the NIS or Appropriate Assessment. The Planning Authority therefore had insufficient information to make an informed determination under Section 177V of the Planning and Development Act 2000, as amended and was therefore precluded from making a decision.
- The CoF is a legally constructed instrument designed to delay matters and circumvent Appropriate Assessment which incorrectly invites the decision maker to include an unnecessary condition requiring a future Connection Agreement. It is not the basis for an Appropriate Assessment without lacunae or incorrectly assessing environmental impacts. As a connection cannot be made without an agreement, there is no need for such a condition, just as is the case with an electricity connection as the ESB do not require decision makers to include such a condition.
- The appellant suggests wastewater generated from the development will not be adequately treated in accordance with the discharge licence and therefore will increase pollution to an already compromised SAC.
- The appeal includes a report commissioned in response to another appeal in the same area demonstrating inadequacies of the network and WWTP, and the appellant states that its contents are equally relevant in this case. That report states it is incorrect of Uisce Éireann to state that the network and WWTP have hydraulic capacity during periods of high rainfall with high groundwater levels. It suggests additional flow monitoring on SWOs and EOs is required to make an accurate hydraulic assessment and that the existing plant is operating at full flow to capacity due to evidence that the one monitored SWO discharges 36% of the year. It also provides commentary regarding a different proposed development and its proposed wastewater management.

- A 2018 Site Visit Report (SVR) declared the plant to be overloaded and other SVRs allegedly give a similar indication of issues with the plant.
- The EPA required Uisce Éireann to seek a review of its discharge licence in 2024 but Uisce Éireann have resisted this.
- Condition 10 requires the applicant to enter into a Connection Agreement with Uisce Éireann however this is an inappropriate condition which does not comply with the Development Management Guidelines as it is not demonstrably necessary, relevant to planning or enforceable. It relates to other codes as set out in Section 7.8 of the Guidelines and is therefore ultra vires.
- A Connection Agreement is a private contract between Uisce Éireann and the Developer. This condition is not standardly applied to all decisions but has evolved to be included when there is a question regarding infrastructure capacity and is a delegation of the decision maker's duty to adequately assess environmental impacts. This is demonstrated by the absence of a similar condition regarding a connection agreement for other utility providers as there is no restriction or deficit in the infrastructure. If a capacity issue existed it should be picked up in the environmental determinations.
- The Planning Authority did not engage with the appellant's submission regarding construction and demolition (C&D) waste. It suggests that the Local Authority itself frequently struggles to source suitable licensed locations for such waste and therefore is aware of the issue but chose to ignore it in the assessment of this decision. The appeal provides a sample condition to be attached in the event of a grant of planning permission requiring the preparation of a C&D Resource Waste Management Plan.
- The appeal suggests the Construction Environmental Management Plan (CEMP) does not adequately address the matter of on-site processing of rock and is deliberately misleading to avoid mention of crushing or screening rock and its associated environmental assessment. Further, the application did not seek permission for processing rock. The wording provided in the revised CEMP submitted at further information stage is sufficient to warrant a condition precluding such activity.

- The appellant suggests the Case Planner’s report and Director of Services’ AA determination were deficient due to the following:
  - Failing to address the further information request and associated response regarding the wastewater network.
  - Failing to note the revised NIS relied on mitigation including that the WWTP operates in accordance with its discharge licence.
  - Claiming that the WWTP underwent a significant upgrade to increase capacity is deliberately misleading and vexatious. Works carried out since 2016 were interim only and the plant has consistently failed to meet the ELVs set out in the licence conditions. No evidence is provided of these alleged significant works.
  - References to the Tulla Road pumping station are irrelevant as it has no connection or relevance to the development site.
  - No in-combination or cumulative assessment was carried out having regard to development permitted in the agglomeration since the application was made or assessments carried out.
  - No proper Appropriate Assessment of the entire application including further information was carried out. A determination is provided without any assessment or demonstration of how the conclusion was reached.
  - No Water Framework Directive Assessment was carried out by the Local Authority.
- References are made in the appeal regarding duties of decision makers including the Habitats Directive, Waste Directive, Water Framework Directive (WFD), Water Services Act and European Communities Environmental Objectives (Surface Waters) Regulations 2009.
- The appeal also refers to a European Court of Justice case C-204/24 regarding Ireland’s failure to fulfil obligations of the WFD and provides a number of pages of extracts from that decision.
- The EPA identified the River Fergus as being at risk with a moderate status and wastewater is a key factor in this unsatisfactory rating according to the EPA. Any

increase in pollutant loading will worsen this situation and it is impossible for An Coimisiún Pleanála to apply a condition to mitigate to address this.

- The appeal concludes by contending that it is unlawful to delegate proper environmental assessments to a condition requiring a Connection Agreement, that the NIS relies on mitigation which is non-compliant with the discharge licence, and the WFD requirements are not assessed.

## **7.2. Applicant Response in the case of a 3<sup>rd</sup> Party Appeal**

- Uisce Éireann are the competent authority and issued an updated CoF dated March 2026 indicating there is capacity without any requirement for infrastructure upgrades. Wastewater from the proposed development will discharge to the Gort Road pumping station (WWPS) and there will be no increase in the peak pass forward flow from this WWPS. The proposed development will not contribute any surface water to the foul network.
- The applicant also suggests that when Uisce Éireann assess a pre-connection enquiry they look at capacity and compliance of their WWTPs. They have confirmed there is adequate capacity to treat wastewater from the development. The allegation that the WWTP is non-compliant is unfounded and the Uisce Éireann capacity register notes that Ennis WWTP is green indicating available capacity.
- Condition no. 10 is a standard planning application on all developments, and the applicant is happy to comply with same.
- C&D waste will be kept to a minimum due to the careful design and proposed finished floor levels at this development. It also states that measures to deal with C&D waste are set out in the CEMP and any construction waste will be sent to the closest approved facility.
- Crushing and screening was dealt with in the CEMP however crushing is not envisaged at the site. Further, the response states that the development description included the words 'all site development works' which in the applicant's opinion is adequate for the development of the site.
- Lastly, the response states that Ennis and its environs have a considerable housing shortage especially for family homes and that the site is suitably zoned with all required infrastructure.

### 7.3. Planning Authority Response

- *'Notwithstanding the observations of the third-party appeal, the Planning Authority are satisfied that a comprehensive assessment of this application has been carried out and respectfully requests An Coimisiún Pleanála uphold the decision of the Planning Authority in respect of this proposed development.'*

## 8.0 Assessment

### 8.1. Introduction

8.1.1. The proposed residential development is situated on zoned residential lands. I note a significantly revised design was submitted in the further information response which proposed a more appropriate layout improving residential amenity as well as the public realm in terms of usable public open space and a reduction in screen boundary walls. I also note that each dwelling meets the relevant residential standards in terms of internal layouts, storage, bin and cycle storage, private open space and car parking etc. In this regard I am satisfied with the overall design, layout, materials and finishes proposed and this assessment is limited to the items raised in the appeal.

8.1.2. I also note the Planning Authority required by condition no.6 that the existing hedgerow along the northwest of the site, to the rear of unit nos. 1-18 is to be 'retained and enhanced or replaced to maintain linear features.' I recommend this condition is altered, omitting the option to remove the hedgerow entirely.

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

- Wastewater Treatment
- Condition 10
- Construction and Demolition waste
- Crushing/Screening of Rock

## 8.2. Wastewater Treatment

- 8.2.1. It is proposed to discharge wastewater to the public network which will result in the wastewater being treated at Ennis North Wastewater Treatment Plan (WWTP), also referred to as Clonroadmore WWTP in some documentation on the file. The treatment type is '3P - Tertiary P removal' and Uisce Éireann have a discharge licence (no. D0048, issued in 2007) to discharge the treated wastewater to the River Fergus. The plant has a stated capacity PE of 31500 with approximately 1/3 available capacity at the time of making the report.
- 8.2.2. The applicant submitted an updated Confirmation of Feasibility from Uisce Éireann dated March 2026 with the appeal response which confirms there is capacity at to treat wastewater generated by the development without any requirement for infrastructural upgrades, but subject to a connection agreement and states '*As the network capacity changes constantly, this review is only valid at the time of its completion.*'
- 8.2.3. The EPA's 'catchments.ie' GIS system provides spatial data for waterbodies and their related status and risk under the Water Framework Directive. It identifies the River Fergus, at the point of the discharge location, as having a moderate status which is at risk of not achieving good status. It identifies 3no. significant pressures both upstream and downstream of the discharge point comprising urban wastewater, urban run-off and hydromorphology. The River Fergus is a nutrient sensitive river at the discharge point and flowing downstream thereof, and it also forms part of the Lower River Shannon SAC both up and downstream.
- 8.2.4. The most recent Annual Environmental Report (AER) published by Uisce Éireann as required by the terms of the discharge licence is the 2024 AER published 21<sup>st</sup> December 2025. It shows that the treated effluent was non-compliant with the ammonia ELV set in the licence for 3 of 14 monitoring samples taken throughout the year. It states:

*The WWTP discharge was not compliant with the ELV's set in the wastewater discharge licence for the following: Ammonia-Total (as N) mg/l.*

*The ambient monitoring results do not meet the required EQS at the downstream monitoring location. The EQS relates to the Oxygenation and Nutrient Conditions set out in the Surface Water Regulations 2009.*

*Based on ambient monitoring results a deterioration in Ammonia, BOD, BOD with inhibition, pH, Temperature, Total Nitrogen, Total Phosphorus., concentrations downstream of the effluent discharge is noted.*

*A deterioration in water quality has been identified, however it is not known if it is or is not caused by the WWTP.*

*Other causes of deterioration in water quality in the area are unknown.*

*The discharge from the wastewater treatment plant does not have an observable negative impact on the Water Framework Directive status.*

8.2.5. Section 2.1.3 of that AER states '*The table below provides details of ambient monitoring locations and details of any designations as sensitive areas.*' It responds 'no' in relation to the headings of bathing water, drinking water, shellfish and freshwater pearl mussel however it does not reference the fact that the River Fergus is an identified nutrient sensitive river.

8.2.6. The AER also highlights the presence of 5no. stormwater or emergency overflows which discharge untreated wastewater into the river. It states that only one is monitored in terms of quantity/volume of discharge, and this discharged 485,892m<sup>3</sup> of untreated wastewater during 2024. I note commentary in a 2023 EPA site visit report (no. SV27319, accessed on the EPA's LEAP portal) which states the following regarding stormwater overflows:

*'Waste water discharges from Ennis North were identified during the characterisation for the third cycle of Ireland's River Basin Management Plan as a significant pressure on the Fergus putting it at risk of not meeting its environmental objective of good status. Discharges from storm water overflow outlets on the collecting system are a significant pressure and adversely impacting the Fergus as identified in the Water Framework Directive Characterisation Assessment.*

*Storm water overflows are a significant pressure impacting this receiving water. There is a lack of information on the frequency of discharge of many of the overflows in this agglomeration. There are also outstanding specified improvements in relation to the rehabilitation of the sewer network.*

*Uisce Éireann are required to complete all the corrective actions as set out in this site visit report.'*

8.2.7. The corrective actions were to reassess this SWO, referred to as SW2, against the DoEHLG criteria and clarify why it is failing to meet the criteria, and also to improve access to the outfall itself. Later, the report also requires that *'Uisce Éireann are requested to clarify what works are required at each Storm Water Overflow so that they can meet the DoEHLG criteria'* I note Action/Instruction no. A126923 dated November 2025 further required Uisce Éireann to:

- *Provide a detailed update on the Drainage Action Plan for the Ennis North agglomeration,*
- *Provide monitoring data on SWO's*
- *Put in place monitoring on all SWO's where feasible.*
- *Provide a detailed update to complete all overdue network Specified Improvement programs as required under the wastewater Discharge Licence.*

8.2.8. The EPA subsequently requested/required Uisce Éireann (UÉ) to seek a review of the discharge licence. It is not clear if this has occurred yet however a letter is noted on the LEAP system from UÉ stating that it expected to submit the application and supporting documentation in Q1 2025.

8.2.9. Ennis north WWTP is not on the EPA's 2026 priority list requiring immediate action by Uisce Éireann.

8.2.10. The 2024 AER states UÉ expect upgrade works to be completed in 2037. I consider it can, and must, be presumed until the contrary is shown, that UÉ will comply with its obligations.

8.2.11. Having regard therefore to the rate of additional pollutant loading from only 53no. dwellings as proposed under the revised layout at further information stage, I consider it acceptable to grant permission subject to the standard UÉ condition requiring a connection agreement. This is particularly the case as UÉ are required to adhere to the terms of their discharge licence and the EPA is the relevant regulatory authority in this regard. UÉ have set out an intention to improve the collection network and address identified shortcomings and in this regard I am satisfied that permission should be granted for the proposed development.

8.2.12. I do note the scale of development and the sensitive nature of the receiving waters however having regard to the scale of ammonia exceedances noted in 3 of 14no.

water monitoring samples only, as well as the fact that urban wastewater is identified as a significant pressure upstream of the discharge point as well as downstream, and lastly noting UÉ's stated commitment to apply for a new discharge licence and carry out corrective/upgrade works in 2037, I consider it acceptable to grant planning permission.

### **8.3. Condition 10**

- 8.3.1. The appellant contends that condition 10, requiring the applicant to enter into a connection agreement with Uisce Éireann is ultra vires however I consider it is an appropriate mechanism to protect public health and relevant to all planning permissions intending to connect to the public network as such permissions generally have a 5 year lifespan and capacity matters may change in the interim period between the applicant receiving planning permission and seeking to commence development.
- 8.3.2. I am satisfied that condition 10 should be applied again and is an appropriate and enforceable condition which complies with the Development Management Guidelines.

### **8.4. Construction and Demolition Waste**

- 8.4.1. The appeal suggests there is a shortage of locations to adequately dispose of construction and demolition waste but has not presented any evidence or supporting information in this regard. It did however provide a sample condition in the event of a grant of planning permission requiring the preparation of a Construction and Demolition Resource Waste Management Plan in accordance with relevant EPA guidelines. I note that this condition is commonly attached to grants of planning permission for construction projects.
- 8.4.2. The applicant's response states there will be minimal waste and in particular given the greenfield nature of the site I agree that the development is not likely to generate much waste beyond packaging of new construction related materials and equipment. In this regard I consider it reasonable that between the CEMP and the suggested condition that construction waste will be adequately managed.

### **8.5. Crushing and Screening of Rock**

- 8.5.1. The appellant contends that the CEMP does not adequately address the matter of on-site processing of rock and is deliberately misleading to avoid mention of crushing or screening rock and its associated environmental assessment. Further, the application did not seek permission for processing rock and that the wording provided in the revised CEMP submitted at further information stage is sufficient to warrant a condition precluding such activity.
- 8.5.2. The applicant's response however states that crushing is not envisaged, that it is addressed in the CEMP and that the development description included the words 'all site development works' which in the applicant's opinion is adequate for the development of the site.
- 8.5.3. I note section 2.08 of the CEMP states '*Fill will be levelled across the site to prepare for road and floor construction. Bedrock is likely to be encountered during excavation. If rock removal is necessary, the rock will be broken up, screened, quality tested, and reused within the development where possible to minimize the need for additional imported fill.*'
- 8.5.4. I consider this clearly wording clearly states that any rock encountered will be processed and reused on the site. Section 3.11 sets out mitigation measures for noise while section 3.12 refers to vibration and section 3.13 to dust. I consider adequate mitigation measures are stated to address any unforeseen rock on the site. I also consider this text, together with the development description to be adequate to describe the construction methodology and any potential for rock breaking on the site.

## 9.0 **Appropriate Assessment**

- 9.1. In screening the need for Appropriate Assessment, it was determined that the proposed development could result in significant effects on Ballyallia Lake SAC, Ballyallia Lough SPA, Lower River Shannon SAC and the River Shannon and River Fergus Estuaries SPA and Lesser Horseshoe Bats in view of the conservation objectives of those sites and that Appropriate Assessment under the provisions of S177V / 177AE was required.
- 9.2. Following an examination, analysis and evaluation of the NIS all associated material submitted and taking into account observations of the Department of Housing, Local

Government and Heritage, I consider that adverse effects on site integrity of Ballyallia Lake SAC, Ballyallia Lough SPA, Lower River Shannon SAC and the River Shannon and River Fergus Estuaries SPA and Lesser Horseshoe Bats can be excluded in view of the conservation objectives of these sites and that no reasonable scientific doubt remains as to the absence of such effects. My conclusion is based on the following:

- Detailed assessment of construction and operational impacts.
- The proposed development will not affect the attainment of conservation objectives for Ballyallia Lake SAC, Ballyallia Lough SPA, Lower River Shannon SAC and the River Shannon and River Fergus Estuaries SPA and Lesser Horseshoe Bats or prevent or delay the restoration of favourable conservation condition for the relevant qualifying interests.
- Effectiveness of mitigation measures proposed including the implementation of a CEMP, discharge of wastewater to an EPA licensed Uisce Éireann WWTP and a Bat Derogation License.
- Application of planning conditions to ensure all mitigatory measures are implemented.

## 10.0 Water Framework Directive

- 10.1. An assessment of the proposed development has been carried out in accordance with Article 4 of the Water Framework Directive and relevant EPA guidance, including best practice in sustainable drainage design.
- 10.2. The development incorporates appropriate surface water management measures, including Sustainable Drainage Systems (SuDS), designed to replicate greenfield runoff rates and provide treatment of surface water prior to discharge.
- 10.3. These measures ensure that there will be no increase in pollutant loading, no alteration of the receiving waterbody's hydrological regime, and no risk of deterioration in water quality or ecological status. Any residual risks identified during the assessment are capable of being addressed through standard mitigation measures and best practice construction management, including the implementation of an appropriate Construction Environmental Management Plan (CEMP) and a

requirement to obtain a Connection Agreement from UÉ prior to commencement of development.

- 10.4. The proposed development will not impact on the achievement of environmental objectives for any water body and is therefore considered compliant with the requirements of Article 4.

## 11.0 Recommendation

- 11.1. I recommend that planning permission is granted in accordance with the conditions set out below.

## 12.0 Reasons and Considerations

Having regard to the location and character of the residential zoned lands and surrounding area together with the provisions of the Clare County Development Plan 2023-2029 including the Ennis Municipal Plan and the LDR14 land use zoning on the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would be appropriate in terms of density, scale and layout, would provide a satisfactory level of residential amenity and provide for efficient use of zoned lands and would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 13.0 Conditions

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| 1. | The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 18th day of November 2025, 26th day of November 2025, 29th day of January 2026 and 30th day of January 2026 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 and the development shall be carried out and completed in accordance with the agreed particulars.<br><br>Reason: In the interest of clarity. |
| 2. | The mitigation measures contained in the submitted Natura Impact Statement (NIS), shall be implemented.  |

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|    | Reason: To protect the integrity of European Sites.   |
| 3. | <p>The removal and disturbance of bats and the removal of the existing outbuilding on the site shall be carried out in accordance with the Bat Derogation License submitted with the application or any subsequent license issued by the National Parks and Wildlife Service. No works shall occur on the site in the absence of a valid license.</p> <p>The location of bat boxes shall be provided to the Planning Authority prior to the occupation of any unit.</p> <p>Reason: In order to protect Lesser Horseshoe Bats.</p>   |
| 4. | <p>All finished floor levels, external materials and finishes and all boundary treatments shall comply with the details submitted to the Planning Authority on 18<sup>th</sup> day of November 2025.</p> <p>Reason: In the interest of visual and residential amenity.</p>  |
| 5. | <p>The landscaping scheme shown on drawing number DCJT 03 07 24_FI, as submitted to the planning authority on the 18th day of November, 2025 shall be carried out within the first planting season following substantial completion of external construction works.</p> <p>In addition to the proposals in the submitted scheme, the following shall be carried out:</p> <p>(a) The existing hedgerows to the rear of proposed unit nos 1-18 shall be retained and enhanced.</p> <p>(b) Details of the success of planting and mammal corridor features shall be reviewed during a period of at least 3 years post construction with adaptive management to be implemented as required and findings shall be submitted to the Planning Authority.</p> <p>(c) A pre-construction tree survey shall be undertaken prior to commencement of tree felling and the results submitted to the Planning Authority.</p> <p>All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p> <p>Reason: In the interest of residential and visual amenity.</p> |
| 6. | Proposals for an estate/street name, house/apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of   |

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|     | <p>development. Thereafter, all estate and street signs, and house/apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).</p> <p>Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.</p>  |
| 7.  | <p>Prior to the commencement of development the developer shall enter into a Connection Agreement (s) with Uisce Éireann (Irish Water) to provide for a service connection(s) to the public water supply and/or wastewater collection network.</p> <p>Reason: In the interest of public health and to ensure adequate water/wastewater facilities.</p>   |
| 8.  | <p>(a) The applicant/developer shall install the storm water network, hydrocarbon interceptors, soakaways, infiltration basins, permeable paving and all other proposed SUDS measures in accordance with the designer's requirements and the manufacturer's instructions. The applicant/developer shall employ a suitably qualified Engineer to certify that the storm water network, permeable paving and all other proposed SUDS measures have been adequately installed and a record of same shall be submitted to the Planning Authority.</p> <p>(b) The applicant/developer's design team shall set out the maintenance requirements and schedules for the storm water network, hydrocarbon interceptors, soakaways, infiltration basins, permeable paving and all other proposed SUDS measures in the development and the operator of the development shall undertake to carry out the maintenance as per the schedule.</p> <p>Reason: In the interest of public health.</p> |
| 9.  | <p>(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).</p> <p>(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 the commencement of development.</p> <p>Reason: In the interest of amenity and of traffic and pedestrian safety.</p>   |
| 10. | <p>All 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</p>   |

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|     | <p>proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of sustainable transportation.</p>   |
| 11. | <p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.</p> <p>Reason: In the interests of visual and [residential] amenity.</p>  |
| 12. | <p>Public lighting shall be provided in accordance with drawing no. DCJT 03 05 24_FI, the Lighting Compliance Statement and Lighting Design Report as submitted to the planning authority on the 18th day of November, 2025. Such lighting shall be provided prior to the making available for occupation of any residential unit.</p> <p>Reason: In the interest of amenity and public safety.</p>   |
| 13. | <p>Prior to the commencement of any works associated with the development hereby permitted, the developer shall submit a detailed 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 traffic management, noise control, dust and vibration control and monitoring of such measures as well as biodiversity 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.</p> <p>The Traffic Management section shall include the following:</p> <p>(a) Deliveries, construction vehicles and associated staff shall not park on the R458 Gort road.</p> <p>(b) All transportation to and from the site of bulky materials using articulated or tipper trucks shall be routed via the R458 directly to Junction 14 of the M18 motorway unless prior written approval is received from the Planning Authority.</p> <p>Reason: In the interest of environmental protection, residential amenities, public health and safety.</p> |
| 14. | <p>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</p>   |

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|     | <p>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.</p> <p>Reason: In the interest of reducing waste and encouraging recycling.</p>   |
| 15. | <p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Friday inclusive, between 0800 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.</p> <p>Reason: In order to safeguard the [residential] amenities of property in the vicinity.</p>   |
| 16. | <p>The development hereby permitted shall be carried out and completed at least to the construction standards as set out in the planning authority's Taking In Charge Standards. In the absence of specific local standards, the standards as set out in the 'Recommendations for Site Development Works for Housing Areas' issued by the Department of the Environment and Local Government in November 1998. Following completion, the development shall be maintained by the developer, in compliance with these standards, until taken in charge by the planning authority.</p> <p>Reason: To ensure that the development is carried out and completed to an acceptable standard of construction.</p>   |
| 17. | <p>The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: To ensure the satisfactory completion and maintenance of this development.</p>  |
| 18. | <p>(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.</p> <p>(b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each specified housing unit, it is</p> |

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|     | <p>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.</p> <p>(c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified housing units, in which case the planning authority shall confirm in writing to the applicant or any person with an interest in the land that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.</p> <p>Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.</p>  |
| 19. | <p>Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority [in relation to the transfer of a percentage of the land, to be agreed with the planning authority, in accordance with the requirements of section 94(4) and section 96(2) and 96(3)(a), (Part V) of the Planning and Development Act 2000, as amended, and/or the provision of housing on lands in accordance with the requirements of section 94(4) and section 96(2) and 96(3) (b), (Part V) of the Planning and Development Act 2000, as amended], unless an exemption certificate has been granted under section 97 of the Act, as amended. Where such an agreement cannot be reached between the parties, the matter in dispute (other than a matter to which section 96(7) applies) shall be referred by the planning authority or any other prospective party to the agreement, to An Coimisiún Pleanála for determination.</p> <p>Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.</p> |
| 20. | <p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the 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</p>   |

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|     | <p>matter shall be referred to An Coimisiún Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>  |
| 21. | <p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Coimisiún Pleanála for determination.</p> <p>Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.</p> |

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence me, directly or indirectly, following my professional assessment and recommendation set out in my report in an improper or inappropriate way.

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Sarah O'Mahony  
 Planning Inspector

## Appendix 1: Environmental Impact Assessment

### Form 1: Pre-Screening

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| <b>Case Reference</b>  | PL-500891-CE-26   |
| <b>Proposed Development Summary</b>  | Construct 55no. dwellings with associated access roads, landscaping, connection to public services etc. |
| <b>Development Address</b>   | Ballymaley & Ballycorey, Ennis, Co. Clare   |
| <b>IN ALL CASES CHECK BOX / OR LEAVE BLANK</b>   |   |
| <b>1. Does the proposed development come within the definition of a 'Project' for the purposes of EIA?</b>   | <input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q.2.                             |
|  | <input type="checkbox"/> No, No further action required.  |
| <p>For the purposes of the Directive, "Project" means:</p> <ul style="list-style-type: none"> <li>· The execution of construction works or of other installations or schemes,</li> <li>· Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)</li> </ul> |   |
| <b>2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?</b>  |   |
| <input type="checkbox"/> Yes, it is a Class specified in Part 1.<br><del>EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.</del>  | <del>State the Class here</del>   |
| <input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3   |   |
| <b>3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?</b>  |   |

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| <input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994.<br><b>No Screening required.</b>                       |   |
| <input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.<br><del>EIA is Mandatory. No Screening Required</del>   | <b>the Class and state the relevant threshold</b>   |
| <input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.<br><b>Preliminary examination required. (Form 2)</b><br><b>OR</b><br><b>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</b> | Class 10 (b)(i) Construction of more than 500 dwelling units.<br>Threshold = 500 units.<br>Proposal = 55 units.<br><br>Class 10 (b)(iv) 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.<br><br>Threshold = 10ha<br>Proposal = 3.65ha |
| <b>4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?</b>   |   |
| Yes <input type="checkbox"/>  | Screening Determination required (Complete Form 3)  |
| No <input checked="" type="checkbox"/>  | Pre-screening determination conclusion remains as above (Q1 to Q3)  |

## Form 2 - EIA Preliminary Examination

**This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.**

|  |  |
|--|--|
| <p><b>Characteristics of proposed development</b></p> <p>(In particular, the size, design, cumulation with existing/ proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).</p>  | <p>The development has a modest footprint, comes forward as a standalone project, does not require demolition works, does not require the use of substantial natural resources, or give rise to significant risk of pollution or nuisance. The development, by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health.</p> |
| <p><b>Location of development</b></p> <p>(The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).</p> | <p>The development is situated in a per-urban area on improved agricultural land which is abundant in the area. The development is situated close to a number of sensitive habitats however appropriate mitigation measures are proposed such as the Bat Derogation Licence and the requirement to obtain a connection agreement from Uisce Éireann.</p>   |
| <p><b>Types and characteristics of potential impacts</b></p>   | <p>Having regard to the modest nature of the proposed development, its location close to sensitive habitats/features and associated mitigation measures,</p>   |

|  |   |
|--|---|
| <p>(Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).</p> | <p>likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.</p> |
| <p><b>Conclusion</b></p>   |   |
| <p><b>Likelihood of Significant Effects</b></p>  | <p><b>Conclusion in respect of EIA</b></p>  |
| <p>There is no real likelihood of significant effects on the environment.</p>  | <p>EIA is not required.</p>   |

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

## Appendix 2: Appropriate Assessment

| <b>Stage 1: Screening for Appropriate Assessment</b><br><b>Test for likely significant effects</b> |  |
|--|--|
| <b>Case Reference Number:</b> PL-500891-CE-26  |  |
| <b>Step 1: Description of the project and local site characteristics</b>                           |  |
| <b>Brief description of project</b>  | 55no. dwellings, reduced to 53no. in the further information stage, and all associated site development works including connections to the public water and wastewater networks, SUDs surface water management and provision of new spine roads connecting to adjacent lands for future development.   |
| <b>Brief description of development site characteristics and potential impact mechanisms</b>       | <p>The 3.655ha greenfield agricultural site is situated on the northern outskirts of Ennis in County Clare, 2.5km from the town centre. The irregular shaped site comprises two large fields and three smaller ones as well as a small derelict stone outbuilding. It slopes up from the Gort road towards a high point in the centre and the slopes down again further south. Boundaries comprise mature and native mixed species hedgerows and treelines.</p> <p>Ballyallia Lough Special Protection Area (SPA) and Ballyallia Lake Special Area of Conservation (SAC) are situated 100m northwest of the site. Lough Girroga is another surface water lake situated 160m south of the site which also forms part of Ballyallia Lake SAC.</p> <p>The River Fergus flows out from Ballyallia Lough in a southwest direction and forms part of the Lower River Shannon SAC 100m northwest of the site.</p> |
| <b>Screening report</b>  | Yes  |
| <b>Natura Impact Statement</b>   | Yes  |

|                                    |   |
|------------------------------------|---|
| <p><b>Relevant submissions</b></p> | <ul style="list-style-type: none"> <li>• Development Applications Unit: It notes the NIS and recommends that the Planning Authority should be satisfied that supporting reports inform impacts to water quality. It also set out recommendations such as the requirement for a bat derogation licence and lighting and landscaping designs to minimise bat impacts etc.</li> <li>• <i>Uisce Éireann notes the applicants engagement with a pre connection enquiry (ref: CDS24004826 ) which resulted in a confirmation of feasibility dated 27th August 2004. This confirmation concludes that connection for both water and wastewater can be achieved without the need for infrastructure upgrades.</i> No objections were stated and standard conditions requiring connection agreements and works to be carried out in accordance with UE standards were recommended.</li> <li>• Michael Duffy, third party appellant, raised concerns regarding wastewater treatment and capacity at Ennis North WWTP. The appeal considers reliance in the NIS on a Connection Agreement as a mitigation measure was inappropriate and that the applicant inadequately responded to the further information request regarding the wastewater network, therefore resulting in the Planning Authority having insufficient information to make an Appropriate Assessment determination.</li> </ul> |
|------------------------------------|---|

The applicant submitted an updated Confirmation of Feasibility dated March 2026 which again confirmed capacity in the wastewater network.

**Step 2. Identification of relevant European sites using the Source-pathway-receptor model**

The NIS identified all European sites within 15km of the site based on the precautionary approach. This screened in 4no. sites and screened out 6no. It also identified potential impacts to Lesser Horseshoe Bats which are a qualifying interest of another 11no. sites. The species was screened in but the overall European sites were screened out.

I agree with this approach regarding bats however I disagree with the 15km model and consider a source-pathway-receptor model more appropriate to screen the sites.

| <b>European Site<br/>(code)</b>                                | <b>Qualifying interests<sup>1</sup></b>  | <b>Distance<br/>from<br/>proposed<br/>development</b> | <b>Ecological<br/>connections<sup>2</sup></b> | <b>Consider<br/>further in<br/>screening<sup>3</sup><br/>Y/N</b> |
|--|--|---|---|--|
| Ballyallia Lake<br>SAC (000014)                                | Natural eutrophic lakes<br>with Magnopotamion or<br>Hydrocharition - type<br>vegetation [3150]<br><br>Conservation Objectives<br>dated November 2017   | 100m<br><br>northwest                                 | Indirect<br><br>hydrological                  | Yes  |
| Ballyallia Lough<br>SPA (004041)                               | 7no. waterbird species<br>and general wetland and<br>waterbirds.<br><br>Conservation Objectives<br>dated January 2025.   | 100m<br><br>northwest                                 | Indirect<br><br>hydrological                  | Yes  |
| Lower River<br>Shannon SAC<br>(002165)                         | 14no. aquatic, wetland<br>and terrestrial habitats.<br><br>5no. aquatic species<br><br>2no. mammals (1no.<br>aquatic and 1no.<br>terrestrial)<br><br>Conservation Objectives<br>dated October 2012 | 100m<br><br>northwest                                 | Indirect<br><br>hydrological                  | Yes  |
| River Shannon<br>and River Fergus<br>Estuaries SPA<br>(004077) | 21no. waterbird species<br>and general wetland and<br>waterbirds.<br><br>Conservation Objectives<br>dated September 2012   | 9.75km south<br>and<br>downstream                     | Indirect<br><br>hydrological                  | Yes  |

|                                       |  |     |   |   |
|---------------------------------------|--|-----|---|---|
| Toonagh Estate SAC (002247)           | Lesser Horseshoe Bat Conservation Objectives dated July 2018   | 4km | No connectivity to European site however bats are a mobile species noted to be present on the subject site. | No but bats are screened in as an individual species. |
| Dromore Woods and Loughs SAC (000032) | 1no. aquatic habitat<br>1no. wetland habitat<br>1no. terrestrial habitat<br>Lesser horseshoe bat<br>Otter<br>Conservation Objectives dated June 2018 | 4km | No connectivity to European site however bats are a mobile species noted to be present on the subject site. | No but bats are screened in as an individual species. |

**Step 3. Describe the likely effects of the project (if any, alone or in combination) on European Sites**

**AA Screening matrix**

| Site name<br>Qualifying interests  | Possibility of significant effects (alone) in view of the conservation objectives of the site*  |   |
|--|---|---|
|  | Impacts   | Effects   |
| <b>Site 1: Ballyallia Lake SAC (000014)</b> <ul style="list-style-type: none"> <li>Natural eutrophic lakes with Magnopotamion or Hydrocharition - type vegetation</li> </ul> | <b>Direct:</b><br>None<br><br><b>Indirect:</b><br>Negative impacts (temporary) on surface water/water quality due to construction related emissions including increased | Possibility of significant effects cannot be ruled out without further analysis and assessment. |

|  |  |   |
|--|--|---|
|  | sedimentary and construction related pollution.  |   |
| Likelihood of significant effects from proposed development (alone): Yes   |  |   |
| If No, is there likelihood of significant effects occurring in combination with other plans or projects? No  |  |   |
|  | <b>Impacts</b>   | <b>Effects</b>  |
| <b>Site 2: Ballyallia Lough SPA (004041)</b> <ul style="list-style-type: none"> <li>• Teal</li> <li>• Mallard</li> <li>• Coot</li> <li>• Black-tailed Godwit</li> <li>• Wigeon</li> <li>• Shoveler</li> <li>• Gadwall</li> <li>• Wetland and Waterbirds</li> </ul> | <b>Direct:</b><br>None<br><br><b>Indirect:</b><br>Negative impacts (temporary) on surface water/water quality due to construction related emissions including increased sedimentary and construction related pollution.<br><br>Potential for disturbance due to increased connectivity to human population | Possibility of significant effects cannot be ruled out without further analysis and assessment. |

|   |  |   |
|---|--|---|
|   | via new pathways to site.<br><br>Introduction of invasive species.   |   |
| Likelihood of significant effects from proposed development (alone): Yes  |  |   |
| If No, is there likelihood of significant effects occurring in combination with other plans or projects? No   |  |   |
|   | <b>Impacts</b>   | <b>Effects</b>  |
| <b>Site 3: Lower River Shannon SAC (002165)</b> <ul style="list-style-type: none"> <li>Sandbanks which are slightly covered by sea water all the time</li> <li>Estuaries</li> <li>Mudflats and sandflats not covered by seawater at low tide</li> <li>Coastal lagoons</li> <li>Large shallow inlets and bays</li> <li>Reefs</li> <li>Perennial vegetation of stony banks</li> <li>Vegetated sea cliffs of the Atlantic and Baltic coasts</li> <li>Salicornia and other annuals colonising mud and sand</li> <li>Atlantic salt meadows</li> <li>Mediterranean salt meadows</li> <li>Water courses of plain to montane levels with the Ranunculus fluitantis</li> </ul> | <b>Direct:</b><br>None<br><br><b>Indirect:</b><br>Negative impacts (temporary) on surface water/water quality due to construction related emissions including increased sedimentary and construction related pollution.<br><br>Negative impacts on surface water quality due to Ennis North WWTP discharging to the SAC.<br><br>Introduction of invasive species.<br><br>Disturbance of otter. | Possibility of significant effects cannot be ruled out without further analysis and assessment. |

|  |  |  |
|--|--|--|
| <p>and Callitriche-Batrachion vegetation</p> <ul style="list-style-type: none"> <li>• Molinia meadows on calcareous, peaty or clayey-silt-laden soils</li> <li>• Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i></li> <li>• Freshwater Pearl Mussel</li> <li>• Sea Lamprey</li> <li>• Brook Lamprey</li> <li>• River Lamprey</li> <li>• Salmon</li> <li>• Common Bottlenose Dolphin</li> <li>• Otter</li> </ul> |  |  |
|--|--|--|

Likelihood of significant effects from proposed development (alone): Yes

If No, is there likelihood of significant effects occurring in combination with other plans or projects? No

|  | Impacts  | Effects  |
|--|--|--|
| <p><b>Site 4:</b> River Shannon and River Fergus Estuaries SPA (004077)</p> <ul style="list-style-type: none"> <li>• Cormorant</li> <li>• Whooper Swan</li> <li>• Light-bellied Brent Goose</li> <li>• Shelduck</li> <li>• Teal</li> <li>• Pintail</li> <li>• Scaup</li> </ul> | <p><b>Direct:</b><br/>None</p> <p><b>Indirect:</b><br/>Negative impacts (temporary) on surface water/water quality due to construction related emissions including increased sedimentary and construction related pollution.</p> | <p>Possibility of significant effects cannot be ruled out without further analysis and assessment.</p> |

|   |  |  |
|---|--|--|
| <ul style="list-style-type: none"> <li>• Ringed Plover</li> <li>• Golden Plover</li> <li>• Grey Plover</li> <li>• Lapwing</li> <li>• Knot</li> <li>• Dunlin</li> <li>• Black-tailed Godwit</li> <li>• Bar-tailed Godwit</li> <li>• Curlew</li> <li>• Redshank</li> <li>• Greenshank</li> <li>• Black-headed Gull</li> <li>• Wigeon</li> <li>• Shoveler</li> <li>• Wetland and Waterbirds</li> </ul> | <p>Negative impacts on surface water quality due to Ennis North WWTP discharging to the SAC.</p> |  |
|---|--|--|

Likelihood of significant effects from proposed development (alone): Yes

If No, is there likelihood of significant effects occurring in combination with other plans or projects? No

**Lesser Horseshoe Bats**

There is a derelict agricultural shed/outbuilding on the site which will be removed as part of the development. Bat surveys have identified its use by Lesser Horseshoe Bats as a night roost for a small number of bats.

The development has the potential to have a cumulative impact in relation to habitat fragmentation, in addition to the direct loss of a night roost and foraging and commuting habitat. Indirect effects due to disturbance and light spill could also occur.

#### **Step 4: Conclude if the proposed development could result in likely significant effects on a European site**

It is not possible to exclude the possibility that proposed development alone would result significant effects on Ballyallia Lake SAC, Ballyallia Lough SPA, Lower River Shannon SAC and the River Shannon and River Fergus Estuaries SPA from effects associated with construction stage surface water run-off, operational stage wastewater and operational stage disruption.

It is also not possible to exclude the possibility that proposed development alone would result significant effects to Lesser Horseshoe Bats as a derelict building which they utilise as a night roost will be removed.

An appropriate assessment is required on the basis of the possible effects of the project 'alone'. Further assessment in-combination with other plans and projects is not required at screening stage.

#### **Screening Determination**

##### **Significant effects cannot be excluded**

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that it is not possible to exclude that the proposed development alone [or in combination with other plans and projects] will give rise to significant effects on 4 European Site(s) in view of the sites conservation objectives as well as Lesser Horseshoe Bats. Appropriate Assessment is required.

This determination is based on:

- The location of the site in close proximity to 3no. European Sites and the potential for construction related pathways and sources of pollutants.
- The proposed connection to the Uisce Éireann wastewater network and the discharge point from the Ennis North WWTP to the River Fergus which comprises part of the SAC.
- The qualifying interests and conservation objectives of those sites.
- The scale of the proposed development and characteristics of the subject site.

## Stage 2: Appropriate Assessment

The requirements of Article 6(3) as related to appropriate assessment of a project under part XAB, sections 177V [or S 177AE] of the Planning and Development Act 2000 (as amended) are considered fully in this section.

Taking account of the preceding screening determination, the following is an appropriate assessment of the implications of the proposed development of 55no. dwellings in view of the relevant conservation objectives of Ballyallia Lake SAC, Ballyallia Lough SPA, Lower River Shannon SAC and the River Shannon and River Fergus Estuaries SPA as well as on Lesser Horseshoe Bats based on scientific information provided by the applicant and considering expert opinion set out in observations on nature conservation. The information relied upon includes the following:

- Natura Impact Statement prepared by Ecofact,
- The application documents including a CEMP, Hydrology Report, Street Lighting Report, Stormwater Report, Design Statement and Engineering Services Report.
- The Bat Report and Derogation License,
- Uisce Éireann Confirmation of Feasibility.

I am satisfied that the information provided is adequate to allow for Appropriate Assessment. I am satisfied that all aspects of the project which could result in significant effects are considered and assessed in the NIS and mitigation measures designed to avoid or reduce any adverse effects on site integrity are included and assessed for effectiveness.

### Submissions/observations

As above in Stage 1 assessment.

### Site 1: Ballyallia Lake SAC (000014)

Summary of Key issues that could give rise to adverse effects (from screening stage):

- Water quality degradation (construction and operation)
- Spread of invasive species

See Table 6 and 10 NIS

| Qualifying Interest features likely to be affected                             | Conservation Objectives<br>Targets and attributes<br>(summary-inserted) | Potential adverse effects  | Mitigation measures (summary)  |
|--|---|--|--|
| Natural eutrophic lakes with Magnopotamion or Hydrocharition - type vegetation | Maintain / restore favourable conservation condition                    | Water quality impacts from construction and operational stages.<br><br>Introduction of invasive species. | <b>NIS SECTION 7</b><br>Best practice pollution control measures and application of industry standard controls.<br><br>CEMP, SUDs and Surface Water Management Plan, UE Connection Agreement, Landscaping and lighting design. |

**Site 2:** Ballyallia Lough SPA (004041)

Summary of Key issues that could give rise to adverse effects (from screening stage):

- Water quality degradation (construction and operation)
- Disturbance of mobile species
- Spread of invasive species

See Table 7 and 10 NIS

| Qualifying Interest features likely to be affected | Conservation Objectives<br>Targets and attributes<br>(summary-inserted) | Potential adverse effects | Mitigation measures (summary) |
|--|---|---------------------------|-------------------------------|
|  |   |                           |                               |

|   |  |  |  |
|---|--|--|--|
| <ul style="list-style-type: none"> <li>• Teal</li> <li>• Mallard</li> <li>• Coot</li> <li>• Black-tailed Godwit</li> <li>• Wigeon</li> <li>• Shoveler</li> <li>• Gadwall</li> <li>• Wetland and Waterbirds</li> </ul> | Maintain / restore favourable conservation condition | Water quality impacts from construction and operational stages.<br><br>Introduction of invasive species.<br><br>Disturbance of mobile species. | <b>NIS SECTION 7</b><br><br>Best practice pollution control measures and application of industry standard controls.<br><br>CEMP, SUDs and Surface Water Management Plan, UE Connection Agreement, Landscaping and lighting design. |
|---|--|--|--|

**Site 3: Lower River Shannon SAC (002165)**

Summary of Key issues that could give rise to adverse effects (from screening stage):

- Water quality degradation (construction and operation)
- Disturbance of mobile species
- Spread of invasive species

See Table 8 and 10 NIS

| <b>Qualifying Interest features likely to be affected</b>  | <b>Conservation Objectives Targets and attributes (summary-inserted)</b> | <b>Potential adverse effects</b>   | <b>Mitigation measures (summary)</b>  |
|--|--|--|---|
| <ul style="list-style-type: none"> <li>• Estuaries</li> <li>• Mudflats and sandflats not covered by seawater at low tide</li> <li>• Water courses of plain to montane levels with the Ranunculus fluitans and</li> </ul> | Maintain / restore favourable conservation condition                     | Water quality impacts from construction and operational stages.<br><br>Introduction of invasive species. | <b>NIS SECTION 7</b><br><br>Best practice pollution control measures and application of industry standard controls.<br><br>CEMP, SUDs and Surface Water |

|   |  |                                |  |
|---|--|--------------------------------|--|
| Callitricho-Batrachion<br>vegetation <ul style="list-style-type: none"> <li>• Sea Lamprey</li> <li>• Brook Lamprey</li> <li>• River Lamprey</li> <li>• Salmon</li> <li>• Otter</li> </ul> |  | Disturbance of mobile species. | Management Plan, UE Connection Agreement, Landscaping and lighting design. |
|---|--|--------------------------------|--|

**Site 4: River Shannon and River Fergus Estuaries SPA (004077)**

Summary of Key issues that could give rise to adverse effects (from screening stage):

Water quality degradation (construction and operation)

Disturbance of mobile species

Spread of invasive species

See Table 10 NIS

| <b>Qualifying Interest features likely to be affected</b>  | <b>Conservation Objectives<br/>Targets and attributes<br/>(summary-inserted)</b> | <b>Potential adverse effects</b>  | <b>Mitigation measures (summary)</b>  |
|--|--|---|---|
| <ul style="list-style-type: none"> <li>• Cormorant</li> <li>• Whooper Swan</li> <li>• Light-bellied Brent Goose</li> <li>• Shelduck</li> <li>• Teal</li> <li>• Pintail</li> <li>• Scaup</li> <li>• Ringed Plover</li> <li>• Golden Plover</li> <li>• Grey Plover</li> <li>• Lapwing</li> </ul> | Maintain / restore favourable conservation condition                             | <p>Water quality impacts from construction and operational stages.</p> <p>Introduction of invasive species.</p> | <p><b>NIS SECTION 7</b></p> <p>Best practice pollution control measures and application of industry standard controls.</p> <p>CEMP, SUDs and Surface Water Management Plan, UE Connection Agreement, Landscaping and lighting design.</p> |

|   |  |                                |  |
|---|--|--------------------------------|--|
| <ul style="list-style-type: none"> <li>• Knot</li> <li>• Dunlin</li> <li>• Black-tailed Godwit</li> <li>• Bar-tailed Godwit</li> <li>• Curlew</li> <li>• Redshank</li> <li>• Greenshank</li> <li>• Black-headed Gull</li> <li>• Wigeon</li> <li>• Shoveler</li> <li>• Wetland and Waterbirds</li> </ul> |  | Disturbance of mobile species. |  |
|---|--|--------------------------------|--|

The above table is based on the documentation and information provided on the file and I am satisfied that the submitted NIS has identified the relevant attributes and targets of the Qualifying Interests. In particular, I note those relating to Lesser Horseshoe Bats which are discussed as follows in the NIS:

It is not expected that Lesser Horseshoe bats will continue to use the site following development. The mitigation stated in the NIS is that the lighting and landscaping plans for the proposed development will be designed to ensure light and noise spill into adjacent lands is minimised. The aim is to ensure that Lesser Horseshoe bats will continue to be able to use the lands to the south of the proposed development and these areas will be protected by providing a planted boundary buffer area and ensuring that there is no light spill into the adjoining lands.

Developing the site will result in the permanent loss of a night roost on the site, and the permanent loss of commuting and foraging habitat on the site. Lesser Horseshoe bat is a light sensitive species, and it will not be possible to develop the site and accommodate continued use by this species. However, the habitats on the site are suboptimal for Lesser Horseshoe Bats. The habitats have been affected by encroachment from other developments, including one-off houses and the R518 road. Small numbers of Lesser Horseshoe Bats are using the site for roosting, commuting, and foraging. It is considered that they are using the small building on the site as a night roost due to the absence of other structures like this in the area.

The proposed development therefore has three key mitigation measures for Lesser Horseshoe Bats (1) a new purpose built bat house will be provided that will be superior and more secure than the suboptimal shed that the bats are currently using, (2) the boundaries of the site will be planted

to provide screening and vegetation corridor that bats can commute and forage along, and (3) light spill from the site will be minimized and there will be no light spill into the adjoining lands. It is considered that the new purpose built bat house, and associated landscaping around the proposed development, will deliver a net benefit for bats and will meet the requirements to allow a Derogation License to be granted. The design and proposed location of this proposed bat house is included in this NIS. This bat house has been designed in consultation with Ecofact. This proposed artificial bat roost would be significantly better than what the bats are currently using. Bats would be able to use this for both day and night roosting. This proposed design has also been submitted along with a derogation licence application to NPWS.

No other known bat roosts would be affected as a result of the development of the site. However, as developing the site would result in the loss of a number of trees with Potential Bat Roost Features (BRFs) the removal of trees will also be included in the derogation licence application as a precaution. There would be a minor loss of foraging and commuting habitat for Pipistrelle species. These are common and adaptable species, and they will also be expected to continue to use the site post development. Mitigation for these bat species are also included in this report. However, no derogation licence will be required for any species other than Lesser Horseshoe bat.

NPWS subsequently issued a Bat Derogation Licence which is valid until 31<sup>st</sup> December 2026 and the NIS acknowledges that a new licence may be required to in tandem with the timing of works on the site.

## **Assessment of issues that could give rise to adverse effects view of conservation objectives**

### **(i) Water quality degradation**

#### **Mitigation measures and conditions**

SUDs including onsite infiltration trenches and hydrocarbon interceptors. No surface water discharge off-site.

CEMP including standard biosecurity, housekeeping and construction methods and Surface Water Management Plan.

Connection Agreement to connect to Uisce Éireann WWTP.

An Operational Management Plan will also be put in place to ensure adequate servicing and maintenance.

**(ii) Disturbance of mobile species**

**Mitigation measures and conditions**

Avoidance measures such as buffer zones, timing of works

Appropriate lighting and landscaping designs.

Construction of new bat house to south of site.

**(iii) Spread of invasive species**

**Mitigation measures and conditions**

CEMP with biosecurity measures and good housekeeping.

**In-combination effects**

I am satisfied that in-combination effects has been assessed adequately in the NIS. The applicant has demonstrated satisfactorily that no significant residual effects will remain post the application of mitigation measures and there is therefore no potential for in-combination effects.

I note the appellants concerns regarding in-combination effects downstream due to non-compliant discharges from the Ennis North WWTP to the Lower River Shannon SAC and the River Shannon and River Fergus Estuaries SPA. The WWTP is however subject to a discharge licence as authorised by the EPA.

**Findings and conclusions**

The applicant determined that following the implementation of mitigation measures the construction and operation of the proposed development alone, **or in combination with other plans and projects**, will not adversely affect the integrity of this European site.

Based on the information provided, I am satisfied that adverse effects arising from aspects of the proposed development can be excluded for the European sites considered in the appropriate Assessment. No direct impacts are predicted to the European sites themselves. A direct impact will occur to the Lesser Horseshoe Bat which is a qualifying interest of a number of European sites however adequate mitigation is proposed to ensure no residual significant impact will occur. Indirect impacts are mainly temporary during the construction stage. Operational indirect impacts

via the public wastewater network are already subject to a discharge licence authorised by the EPA.

### **Reasonable scientific doubt**

I am satisfied that no reasonable scientific doubt remains as to the absence of adverse effects.

### **Site Integrity**

The proposed development will not affect the attainment of the Conservation objectives of the Ballyallia Lake SAC, Ballyallia Lough SPA, Lower River Shannon SAC and the River Shannon and River Fergus Estuaries SPA or for Lesser Horseshoe Bats. Adverse effects on site integrity can be excluded and no reasonable scientific doubt remains as to the absence of such effects.

### **Appropriate Assessment Conclusion: Integrity Test**

In screening the need for Appropriate Assessment, it was determined that the proposed development could result in significant effects on Ballyallia Lake SAC, Ballyallia Lough SPA, Lower River Shannon SAC and the River Shannon and River Fergus Estuaries SPA and Lesser Horseshoe Bats in view of the conservation objectives of those sites and that Appropriate Assessment under the provisions of S177V / 177AE was required.

Following an examination, analysis and evaluation of the NIS all associated material submitted and taking into account observations of the Department of Housing, Local Government and Heritage, I consider that adverse effects on site integrity of Ballyallia Lake SAC, Ballyallia Lough SPA, Lower River Shannon SAC and the River Shannon and River Fergus Estuaries SPA and Lesser Horseshoe Bats can be excluded in view of the conservation objectives of these sites and that no reasonable scientific doubt remains as to the absence of such effects. My conclusion is based on the following:

- Detailed assessment of construction and operational impacts.
- The proposed development will not affect the attainment of conservation objectives for Ballyallia Lake SAC, Ballyallia Lough SPA, Lower River Shannon SAC and the River Shannon and River Fergus Estuaries SPA and Lesser Horseshoe Bats or prevent or delay the restoration of favourable conservation condition for the relevant qualifying interests.

- Effectiveness of mitigation measures proposed including the implementation of a CEMP, discharge of wastewater to an EPA licensed Uisce Éireann WWTP and a Bat Derogation License.
- Application of planning conditions to ensure all mitigatory measures are implemented.

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

