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**Planning and Development Acts 2000 to 2022**

**Planning Authority: Westmeath County Council**

**Planning Register Reference Number: 2360141**

**Appeal** by John Rattigan of Cnoc Na Gaoithe, Hillquarter, Coosan, Athlone, County Westmeath and by Others against the decision made on the 19<sup>th</sup> day of June, 2024 by Westmeath County Council to grant, subject to conditions a permission to Mistedale Limited care of Peter Thompson Planning Solutions of 4 Priory Grove, Kells, County Kilkenny.

**Proposed Development:**

- (i) The construction of 67 number dwellings, comprising of four number four-bedroom two-storey detached dwellings, 28 number four-bedroom two - storey semi-detached dwellings, 30 number three-bedroom terraced dwellings, five number two-bedroom terraced dwellings.
- (ii) Upgrading section of existing public sewer beneath public road west of the site, and new connection to said infrastructure;
- (iii) All associated site development works including new site entrance from public road, internal roads, paths, paving, parking, bin stores, drainage, amenity space, landscaped public open space, street lighting, boundary treatments, water services, a foul sewer pump station, storm drainage, underground stormwater attenuation tank with attenuated outflow to

existing open drain, ESB substation and all associated site works to complete the development, at at Hillquarter, Coosan, Athlone, County Westmeath.

## **Decision**

**GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.**

## **Reasons and Considerations**

Having regard to the Athlone Town Development Plan 2014-2020 (extended), the low density residential zoning objective for the area and to the policies and objectives of the Westmeath County Development Plan 2021-2027, it is considered that, subject to compliance with the conditions below, the proposed development would not seriously injure the amenities of the area or residential amenity of property in the vicinity, would not give rise to any significant impacts on the natural heritage of the area or affect the integrity of any European Site. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board noted that Athlone is a designated Regional Growth Centre according to the Settlement Hierarchy of the National Planning Framework, the Eastern and Midland Regional Spatial and Economic Strategy (2019-2030) and the Westmeath County Development Plan 2021-2027, while the Board also noted the principle of 'sequential development', the site is zoned is residential, is serviced and the proposed development provides for a mix of housing types.

## **Appropriate Assessment (Stage 1)**

The Board considered the Natura Impact Statement submitted with the application, and all the other relevant submissions on file, and carried out an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on European sites. The Board agreed with the screening assessment and conclusion carried out in the Inspector's Report that the Lough Ree Special Area of Conservation (Site Code 000440), Lough Ree Special Protection Area (Site Code 004064), the River Shannon Callows Special Area of Conservation (Site Code 000216) and the Middle Shannon Callows Special Protection Area (Site Code 004096) were the only European Sites in respect of which the proposed development has the potential to have a significant effect, in view of the Conservation Objectives for the sites, and that Stage 2 Appropriate Assessment is, therefore, required.

## **Appropriate Assessment: Stage 2:**

The Board considered the Natura Impact Statement, and all the other relevant submissions on file, and carried out an Appropriate Assessment of the implications of the proposed development on the Lough Ree Special Area of Conservation (Site Code 000440), Lough Ree Special Protection Area (Site Code 004064), the River Shannon Callows Special Area of Conservation (Site Code 000216) and the Middle Shannon Callows Special Protection Area (Site Code 004096) in view of these sites Conservation Objectives. The Board considered that the information before it was sufficient to undertake a complete assessment of all aspects of the proposed development in relation to the site's Conservation Objectives using the best scientific knowledge in the field. In completing the assessment, the Board considered, in particular, the following:

- (i) the site-specific Conservation Objectives for the European Sites,

- (ii) the likely direct and indirect impacts arising from the proposed development, both individually or in combination with other plans or projects,
- (iii) mitigation measures which are included as part of the current proposal, and
- (iv) the report and recommendation of the Planning Inspector.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's Report in respect of the potential effects of the proposed development on the aforementioned European Sites. In overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of these European Sites or any other European site in view of the sites' Conservation Objectives and that there is no reasonable scientific doubt as to the absence of such effects.

## Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 10<sup>th</sup> day of January 2024 and the 25<sup>th</sup> day of April 2024, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

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

2. Prior to the commencement of development, revised plans shall be submitted for the written agreement of the planning authority illustrating the following amendments:
  - (a) revised design proposals for units D and D1 which shall provide for direct access from the front entrance into a hallway, rather than directly into the living room.
  - (b) relocate the pumping station closer to the northern boundary of the site.
  - (c) all front boundaries of dwellings shall comprise of a 900 millimetres high bow top PVC coated fence (colour Black).

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

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

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

4. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Roof colour shall be blue-black, black, dark brown or dark grey in colour only.

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

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

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

6. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Friday inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

7. Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed name 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 of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

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

8. A taking in charge plan shall be agreed in writing with the planning authority prior to the commencement of development. This plan shall include:

(a) communal open spaces, including hard and soft landscaping, car parking areas and access ways, and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company, and

(b) details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility,

shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

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

9. Prior to commencement of any development on site, a landscape management plan prepared by a suitably qualified person, including long term design objectives, management responsibilities and maintenance schedules for all landscaped areas shall be submitted to and approved in writing with the planning authority prior to the occupation of the development. The landscape management plan shall be fully implemented as approved and shall be carried within the first planting season following substantial completion of external construction works.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development or until the development is taken in charge by the



local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

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

10. Public lighting shall be provided in accordance with a scheme which shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The scheme shall include lighting along pedestrian routes through open spaces and shall take account of trees, such lighting shall be provided prior to the making available for occupation of any residential unit.

**Reason:** In the interest of amenity and public safety.

11. All uncontaminated surface water, including roof water, shall be separately collected and discharged to the proposed storm drainage network and shall not in any circumstances be allowed discharge to the foul drainage network.
  - (a) The surface water network within the development shall be constructed in accordance with drawing number 5001 rev C03 received by the planning authority on the 25<sup>th</sup> day of April 2024.
  - (b) Prior to commencement of the development the developer shall submit a detailed design for the proposed attenuation tank identified on drawing number 5001 rev C03. Detailed design shall include cross sections and the inclusion of a chamber on the east side for inspection and maintenance.



- (c) Prior to commencement details of the oil interceptor shall be submitted to the planning authority for written approval. No oil/hydrocarbons whatsoever from the development shall discharge to the surface water system. Within two months of the completion of the development the developer is required to submit certification from a suitably qualified engineer certifying that the interceptor is installed to the correct standard.
- (d) Upon completion of the development the developer shall provide the following details to Westmeath County Council:
  - (i) written certification from a suitably qualified competent person with Professional Indemnity Insurance that the surface water network has been installed in accordance with the surface water design report;
  - (ii) details of water and air tests carried out on storm drainage networks;
  - (iii) infiltration test for manholes;
  - (iv) CCTV survey to the planning authority's specification including location map and condition report of the proposed system in the public realm;
  - (v) drawing of all underground services including storm sewer survey shall be provided in Mapdrain or Autocad format;
  - (vi) all gully, SW and Foul manhole covers in the paved carriageway and within two metres of the paved carriageway shall be Class D400 lockable.
  - (vii) all road gullies connected to the piped system to be trapped with lockable gratings.

- (e) there shall be no ACO or similar type line drainage channels on public footpaths/roads/paved areas without prior approval of specific location and details by the planning authority.

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

12. Prior to the commencement of any works associated with the development hereby permitted, the developer shall submit an updated 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, construction traffic management, and environmental management measures during construction including working hours, noise control, dust and vibration control and monitoring of such measures. A record of daily checks that the construction works are being undertaken in accordance with the CEMP shall be kept at the construction site office for inspection by the planning authority. The agreed CEMP shall be implemented in full in the carrying out of the development.

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

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

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

14. (a) The internal road network serving the proposed development, including access roads, turning bays, junctions, parking areas, footpaths and kerbs, shall comply with the detailed construction standards of the planning authority for such works and design standards outlined in Design Manual for Urban Roads and Streets (DMURS).
- (b) Footpaths shall be dished at road junctions in accordance with the requirements of the planning authority. Details of all locations and materials to be used shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.
- (c) Prior to first occupation of the development the developer shall submit to the planning authority a Stage 3 Road Safety Audit for the proposed development.

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

15. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, as amended, no advertising signage shall be erected externally on the site without the written agreement of the planning authority.

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

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

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

17. (a) Prior to the commencement of any house or duplex unit in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house or duplex unit), pursuant to Section 47 of the Planning and Development Act, 2000, as amended, that restricts all houses and duplex units permitted, to first occupation by individual purchasers, that is, those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.
- (b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each specified housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each

specified house unit or duplex for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.

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

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

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

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

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

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

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

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

21. The developer shall pay a financial contribution to the planning authority as a special contribution under Section 48(2)(c) of the Planning and Development Act 2000, as amended, in respect of the improvement and enhancement of public lighting in the vicinity of the development, which benefits the proposed development. The amount of the contribution shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála for determination. The contribution shall be paid prior to commencement of development or in such phased payments as may be agreed prior to the commencement of the development, and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the terms of payment of this financial contribution shall be agreed in writing between the planning authority and the developer.

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



22. The developer shall pay a financial contribution to the planning authority as a special contribution under Section 48(2)(c) of the Planning and Development Act 2000, as amended, in respect of the provision and enhancement of pedestrian linkages serving the development, which benefits the proposed development. The amount of the contribution shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála for determination. The contribution shall be paid prior to commencement of development or in such phased payments as may be agreed prior to the commencement of the development, and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the terms of payment of this financial contribution shall be agreed in writing between the planning authority and the developer.

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

23. The developer shall pay a financial contribution to the planning authority as a special contribution under Section 48(2)(c) of the Planning and Development Act 2000, as amended, in respect of the provision of traffic calming measures in the vicinity of the development, which benefits the proposed development. The amount of the contribution shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála for determination. The contribution shall be paid prior to commencement of development or in such phased payments as may be agreed prior to the commencement of the development, and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the terms of payment of this financial contribution shall be agreed in writing between the planning authority and the developer.

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

  
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**Declan Moore**

**Member of An Bord Pleanála  
duly authorised to authenticate  
the seal of the Board.**

Dated this 17<sup>th</sup> day of FEBRUARY 2025.