



An  
Bord  
Pleanála

## Inspector's Report PL91.248020

### Development

Permission for the construction of a housing development of 26 no. residential dwellings consisting of 10 no. detached dwellings, 16 no. semi-detached dwellings with associated roads and infrastructure. Planning permission is also sought for the upgrade of Greenpark Avenue consisting of the installation of speed ramps, the realignment of the junction of Greenpark Avenue and South Circular Road with speed ramps at each approach.

### Location

Greenpark Avenue, South Circular Road, Limerick.

### Planning Authority

Limerick City & County Council

### Planning Authority Reg. Ref.

16/908

### Applicant(s)

M. A. Ryan & Sons Ltd.

### Type of Application

Permission

### Planning Authority Decision

Grant

<b>Type of Appeal</b>	First / Third Party
<b>Appellant(s)</b>	Richard Kirwin & Ailbhe Kenny William Murphy
<b>Observer(s)</b>	Councillor Elenora Hogan
<b>Date of Site Inspection</b>	27 <sup>th</sup> April, 2017
<b>Inspector</b>	A. Considine

## 1.0 Site Location and Description

- 1.1. The site is located approximately 1.5km to the west of the city of Limerick, and south of the River Shannon, in a mature residential area off South Circular Road. The site is located in close proximity to the Dooradoyle area of Limerick. The subject site is accessed off the small cul-de-sac Greenpark Avenue to the south of the site and backs onto a small track known as Bothrin an Tobar to the north. The site is located within easy reach of both the Dock Road and O'Connell Avenue which are important arterial routes in and out of the City Centre.
- 1.2. The surrounding area is generally residential with extensive open area to the west of the subject site which comprised the former Greenpark Racecourse lands. The site has a stated area of 1.6ha. This area of the City is well serviced with a variety of schools, primary, secondary and indeed the third level Mary Immaculate College is also located in close proximity to the site. Public transport facilities also service this area of Limerick

## 2.0 Proposed Development

- 2.1. The application to Limerick County Council was for permission for the construction of 26 dwelling houses, site infrastructure and all ancillary site works all at Greenpark Avenue, South Circular Road, Limerick.
- 2.2. The development proposes 10 detached houses and 16 semi-detached houses. The house designs proposed are similar throughout the subject site and provide for accommodation over 3 levels. The proposed finishes include a select roof tile and a plaster render finish to the external walls, with brick to be used at ground floor level only on the front elevation. It is also proposed to use double glazed uPVC windows with uPVC fascia and soffit. Each house is proposed to be provided with 2 on site car parking spaces with 10 additional spaces proposed located throughout the site.
- 2.3. The detached houses will provide for a large kitchen / diner with separate living room to the rear of the houses overlooking the garden. A utility room, accessible bedroom / study ensuite and formal sitting room are also proposed at ground floor level. At first floor level, 4 bedrooms are proposed, 2 en-suite and a family bathroom and hotpress. At second floor level is proposed a games room over the full length of the

roof area with a floor area of 52m<sup>2</sup>. There is a variety of layouts proposed for the detached houses and each has a floor area of between 188.87m<sup>2</sup> (2 houses), 370.59m<sup>2</sup> (6 houses) and 375.88m<sup>2</sup> (2 houses). It is proposed that the detached houses will have an overall height proposed at between 9.74m and 9.778m.

- 2.4. The semi-detached houses will provide for a large kitchen / diner with separate living room, a utility room, accessible WC at ground floor level. At first floor level, 3 bedrooms are proposed, 1 en-suite double, a double and a single bedroom as well as a family bathroom and linen press. At second floor level is proposed a further en-suite double bedroom in 14 of the 16 semi-detached houses, with two houses proposed without the attic conversion. The semi-detached houses have a floor area of between 150.50m<sup>2</sup> and 188.37m<sup>2</sup>. It is proposed that the semi-detached houses will have an overall height proposed at approximately 9.74m.
- 2.5. The estate is to be laid out with four of the large detached houses fronting onto Greenpark Avenue, with four others backing onto them looking into the subject site. Public open space is provided within the site in two pockets. Pocket 1 will incorporate a playground and a mini sports pitch. The second area of open space is located in the centre of the estate road.
- 2.6. A number of reports and documents were submitted in support of the proposed development including:
- Traffic & Transport Assessment
  - Services Report
  - Flood Risk Assessment
  - Planning Sustainability Statement
  - Appropriate Assessment Screening Statement
  - Bat Survey
  - Tree Survey
  - Market Valuation of lands
  - Costings for Semi-detached House
  - Design Statement

- Planning Application Form and relevant Plans and Particulars for the proposed development.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

The Planning Authority decided to grant planning permission for the proposed development, subject to 37 conditions.

#### **3.2. Planning Authority Reports**

##### **3.2.1. Planning Reports**

The Planning Officers initial report considered the proposed development in terms of the requirements of the Development Plan, the Planning History pertaining to the site as well as the comments and submissions from internal departments and external bodies, including third party objectors. The report recommends that FI is sought with regard to a number of issues including as follows:

1. Identification of septic tanks in the area
2. Mobility management plan
3. Boundary treatments
4. Site layout plan to show extended footpath
5. Sections of roads and driveways
6. Public lighting design
7. Surface water disposal
8. Front boundary details
9. Construction management and delivery plan
10. Full site levels survey and proposed FFLs
11. Bat survey required
12. Re-examination of trees including the removal of mature trees

Following receipt of the response to the FI request, the final planners report recommends that permission be granted.

### 3.2.2. Other Technical Reports

Executive Archaeologist: notes that there are no Recorded Monuments within the curtilage or the immediate vicinity of the site. Given the greenfield nature of the site however, there is a possibility of disturbing previously unknown archaeological material/artefacts. Archaeological monitoring of all ground disturbance associated with the development is required. A recommended condition is included.

Fire Authority: no objection.

Following receipt of the response to FI, the following reports were submitted:

Limerick Smarter Travel: Report welcomes the upgrade proposals presented by the proposed development. However, concern is raised regarding the conflict between pedestrians and vehicular traffic on Upper Greenpark Avenue given that the upgrade and realignment of the Avenue is not extended to the full Avenue.

Public Lighting Engineer; No objection to the proposed development.

The Planning Report makes reference Roads Report but no such report is on file. This report has been requested by ABP but to date, I have not received a copy.

### 3.3. Prescribed Bodies

Irish Water: No objection.

### 3.4. Third Party Observations

#### 3.4.1. Mr. James Dawson:

Traffic safety issues as existing infrastructure is inadequate due to narrow roadway and narrow or non-existing footpath. There are existing issues and additional development cannot be accommodated. Development Plan objectives are being breached and the matter was dealt with a few years ago. Bicycle traffic has not been considered.

3.4.2. Desmond Downes:

Traffic safety issues are raised as a concern as well as the inadequacy of the existing footpaths in the area. Previous submissions in relation to the old racecourse clearly established by Limerick City Council that alternative access to Greenpark Avenue were to be part of any development of the site. This creates a precedent and previous developments adjacent to the old racecourse incorporated large roads, roundabouts and all ancillary works to allow access from both the Dock Road and Ashbourne Avenue.

3.4.3. Mr. William Murphy:

Traffic safety issues raised as a concern, including the inadequacy of the existing footpaths in the area. Previous submissions in relation to the old racecourse clearly established by Limerick City Council that alternative access to Greenpark Avenue were to be part of any development of the site. This creates a precedent and previous developments adjacent to the old racecourse incorporated large roads, roundabouts and all ancillary works to allow access from both the Dock Road and Ashbourne Avenue.

3.4.4. Ms. Sheila O'Kelly:

Greenpark Avenue is incapable of taking the additional traffic which would occur due to the development. Precedent suggests that access to the lands should be from the Dock Road and Ashbourne Avenue.

3.4.5. Ms. Cecilia Madden:

Greenpark Avenue is incapable of taking the additional traffic which would occur due to the development. Concern for the safety of local residents and pedestrians.

3.4.6. Michael & Marian Keyes:

Traffic safety issues raised. The validity of the traffic assessment is raised given that it ignored essential safety issues. In addition, the scale of the houses fronting onto Greenpark Avenue is raised as a concern as the three storey scale will impact on the adjacent single storey houses. It is noted that no contiguous elevation showing the existing adjacent properties submitted. Planning precedence also raised.

3.4.7. Alphonsus & Una Reddan:

Impacts on existing privacy by reason of overlooking. Traffic issues raised including the introduction of road changes in the form of ramps and roundabout causing a bottleneck.

3.4.8. Michael Holmes:

Issues raised reflect those above including concerns regarding the ongoing use of existing garages fronting onto Greenpark Avenue.

3.4.9. Eugene McNamara:

Issues raised reflect those above including concerns regarding the impact of recent developments in the area which forces residents to park to the rear of their properties on Greenpark Avenue. The development will increase traffic / parking to well in excess of 120 cars in the cul-de-sac.

3.4.10. Sinead Cosgrove:

Issues raised reflect those above including concerns regarding the impact of the development on the operation and safety of the Creche which operates in the area. 40 children attend daily and the increase in the volume of traffic is a concern.

3.4.11. Thomas Ben & Vera McNamara Lynton:

Access route is unsuitable and unsafe and previous decisions require alternative access route.

3.4.12. Patrick Ryan:

Impact on the use of existing garage, traffic infrastructure is inadequate, previous decisions regarding alternative access and the felling of trees to accommodate the development.

3.4.13. Noel & Mary Andrews:

Issues raised reflect those above including roads and traffic implications on Greenpark Avenue.

3.4.14. Ailbhe Kenny & Richard Kirwin:

Issues raised reflect those above including roads and traffic implications on Greenpark Avenue as well as proposed modifications to the Avenue on lands which



the developer does not own. The proposed amendments will reduce on street car parking which existing residents use. Traffic safety issues also raised.

## 4.0 Planning History

4.1. The following is the planning history associated with the subject site:

**ABP ref PL30.239922 (PA ref 11/770014):** Permission was granted by Limerick City Council for the construction of 26no. dwellings, 12 no. detached dwellings and 14no. semi-detached dwellings, site infrastructure and all ancillary site works. The application was refused on appeal to the Board for the following stated reason:

‘Having regard to the flooding history of the site, the Board is not satisfied that the proposed development would not be at serious future risk from flooding or would not contravene the provisions of ‘The Planning System and Flood Risk Management’ Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in November, 2009. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.’

4.2. Adjacent sites

**01/30:** An application for the development of lands for infrastructure to include a new roundabout on the N69 (Dock Road), roads, sewers, watermains, other underground services and landscaping (construction of the roads and services for the future development of lands).

**ABP Ref 30.222799 (05/14):** Planning permission granted to Limerick Racecourse PLC for development of mixed-use scheme at the former Greenpark Racecourse. The development includes a residential scheme which will consist of 353 residential units; consisting of 112 no. apartments, 17 no. maisonette apartments, 54 no. semi-detached units and 70 no. detached houses, 43 no. terraced houses, 29 no. duplex units and 28 no. apartments below duplex and playgrounds. The application also includes a neighbourhood centre incorporating; a creche, retail unit, coffee shop, doctor/dentist office. The application includes parking for approximately 725

vehicles at ground and basement level, ancillary site works, access roads and hard and soft landscaping. The application also includes the provision of a major recreation amenity area incorporating playing pitches, changing facilities, informal recreation areas, landscaped amenity areas, ancillary parking (approx 100 vehicle spaces), a playground and hard and soft landscaping. An EIS submitted with application.

The first party appeal against a number of conditions, was withdrawn prior to a decision being made. This permission was granted on the 29<sup>th</sup> February, 2008 and remains a valid permission with an expiry date of 27<sup>th</sup> February, 2013.

**07/237:** Planning permission granted to Limerick Racecourse PLC to raise land levels at the Old Racecourse, Greenpark, Dock Road, Limerick using clean inert construction and demolition waste and subsoil. An Environmental Impact Statement will be submitted as part of the application.

**ABP ref 30.230944 (07/453):** Permission refused for a development of housing scheme and crèche. The proposed development will consist of 222 no. housing units (comprising 90 houses, 78 duplex/apartment units and a 54 unit retirement village), a crèche, associated access provisions, filling of lands (for which a waste licence will be required), site development works, services infrastructure, access roads and landscaping. The decision was upheld by An Bord Pleanála on appeal who refused permission for the following two reasons:

1. The proposed residential development includes inadequate public open space provision to serve the needs of future residents in contravention of the relevant provisions set out in the Limerick City Council Development Plan 2004 and sections 4.14-4.20 of the 'Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities' published by the Department of the Environment, Heritage and Local Government in December 2008. The proposed development would, therefore, seriously injure the residential amenity of future residents and would be contrary to the proper planning and sustainable development of the area.

2. Having regard to the quantum of development proposed together with the design and layout on this restricted site including a 4 storey retirement home with minimal amenity open space for residents and duplex units with poor internal layouts and open space to serve the units together with external access staircases, and a poorly integrated roads and parking layout, it is considered that the proposed development would result in a substandard form of residential amenity for future residents of the dwelling units and the retirement home. The proposed development would therefore, seriously injure the residential amenity of future residents and would be contrary to the proper planning and sustainable development of the area.

The Inspectors report pertaining to this application, 08/311, refers to the 05/14 permission and notes that the applicant indicates that “05/14 no longer represents a viable economic proposal in terms of build cost and marketability/design style in the current market”..... “application 05/14 will not be built as the lands on which it was to be located is now the subject of a further application (08/311).”

**07/470:** Planning permission granted to Limerick Racecourse PLC for the construction of a greyhound racing stadium and ancillary development works, car parking, lighting, landscaping and access works all on a site of 6.6 Ha. The track will be a 500m Greyhound track (480m internal circumference/510m external circumference), it will provide stadia viewing, dining area, kennel block, shop storage areas and office buildings. Site levels will be increased to accommodate the proposed development so that the proposed FFL (Final Floor Level) of the stadium will be 4.5 OD. The track will generally be at a level of 4.2 aOD and the final height of the stadium building will be 16.1m with additional roof support poles of 9.7m. Filling of the lands over an infrastructure way leave is also proposed. The facility will provide for 510 car, 54 greyhound trainer vehicles and 3 coach parking spaces around the stadium will access onto and from the Dock Road via the permitted internal access which will require detail changes. The proposed will also allow for the construction of a roundabout on this internal access road to access the northeast end of the stadium site. An Environmental Impact Statement accompanies this

application and will be available for inspection or purchase at a fee not exceeding the reasonable cost of making a copy.

The development has been constructed and is operational.

**08/311:** Planning permission sought for a development which will consist of 300 no. housing units (comprising 17 no. 4 bed detached units, 12 no. 6 bed detached units, 16 no. 4 bed semi-detached units with garage, 36 no. 4 bed semi-detached units without garage, 78 no. 3 bed semi-detached units, 63 no. 4 bed 3 storey town houses, 27 no. 3 bed duplexes & 27 no. 3 bed apartments, and 24 apartments), associated access provisions, regarding and filling of lands by over 300mm in certain areas (for which a waste licence may be required) to allow housing to be constructed at the specified finished floor levels detailed on the application drawings, site development works, services infrastructure, access roads at appropriate levels to access proposed housing and landscaping. This application was deemed withdrawn prior to a decision issuing.

## 5.0 Policy Context

### National Policy / Guidelines

#### 5.1. Sustainable Residential Development in Urban areas, Guidelines (DoEHLG, 2008):

- 5.1.1. These statutory guidelines update and revise the 1999 Guidelines for Planning Authorities on Residential. The objective is to produce high quality – and crucially – sustainable developments:
- quality homes and neighbourhoods,
  - places where people actually want to live, to work and to raise families, and
  - places that work – and will continue to work - and not just for us, but for our children and for our children's children.
- 5.1.2. The guidelines promote the principle of higher densities in urban areas as indicated in the preceding guidelines and it remains Government policy to promote sustainable

patterns of urban settlement, particularly higher residential densities in locations which are, or will be, served by public transport under the *Transport 21* programme.

5.1.3. Section 5.6 of the guidelines suggest that there should be no upper limit on the number dwellings permitted that may be provided within any town or city centre site, subject to the following safeguards:

- compliance with the policies and standards of public and private open space adopted by development plans;
- avoidance of undue adverse impact on the amenities of existing or future adjoining neighbours;
- good internal space standards of development;
- conformity with any vision of the urban form of the town or city as expressed in development plans, particularly in relation to height or massing;
- recognition of the desirability of preserving protected buildings and their settings and of preserving or enhancing the character or appearance of an Architectural Conservation Area; and
- compliance with plot ratio and site coverage standards adopted in development plans.

## 5.2. **Design Manual for Urban Roads and Streets (DEMURS), DoTTS, March 2013**

In terms of the design of the proposed development, including the entrance and access to the site, it is a requirement that they be considered against the Design Manual for Urban Roads and Streets (DEMURS), DoTTS, March 2013. This Manual replaces DMRB in respect of all urban roads and streets and it does not differentiate between public and private urban streets, where a 60kph speed limit or less applies. The implementation of DMURS is obligatory and divergence from same requires written consent from relevant sanctioning authority (NRA, NTA or DTT&S). The Manual seeks to address street design within urban areas (i.e. cities, towns and villages) and it sets out an integrated design approach.

### **5.3. The Planning System & Flood Risk Management, Guidelines for Planning Authorities (DoEHLG 2009)**

- 5.3.1. These guidelines were published on 30th November, 2009, and are issued under section 28 of the Planning & Development Act, 2000. As such, An Bord Pleanála is required to have regard to same. The primary aim of these guidelines is to ensure a more consistent, rigorous and systematic approach to the avoidance and minimisation of potential future flood risk and to fully incorporate flood risk assessment and management into the planning system.
- 5.3.2. The guidelines require the planning system at national, regional and local levels to:
- avoid development in areas at risk of flooding, particularly in floodplains, unless there are demonstrable, wider sustainability grounds that justify appropriate development and where the flood risk can be reduced or managed to an acceptable level without increasing flood risk elsewhere;
  - adopt a sequential approach to flood risk management when assessing the location for new development based on avoidance, reduction and mitigation of flood risk; and
  - Incorporate flood risk assessment into the process of making decisions on planning applications and planning appeals.
- 5.3.3. The guidelines provide a decision making tool for assessing exceptions to the restriction of development due to potential flood risks, namely, the Justification Test. This test has been separated into the plan making justification test and the development management justification test. The purpose of the justification test is to provide clarity as to the appropriate flood risk assessment considerations at various levels of the planning process.

### **5.4. Floods Directive 2007/60/EC2:**

- 5.4.1. The EU Floods Directive on the assessment and management of flood risks entered into force on November 2007. This Directive now requires Member States to assess if all water courses and coast lines are at risk from flooding, to map the flood extent and assets and humans at risk in these areas and to take adequate and coordinated

measures to reduce this flood risk. This Directive also reinforces the rights of the public to access this information and to have a say in the planning process.

## 5.5. Development Plan

- 5.5.1. The Limerick City Development Plan 2010 – 2016 is the statutory Development Plan for the city of Limerick. The subject site is located within the environs of Limerick City and is identified as falling within the South Circular road / Ballinacurra area of the City. The Plan notes that there is ‘an employment zone is located at the Dock Road and residential development is the predominant land use in the area from the high density inner urban areas of Wolfe Tone Street through the period dwellings along O’Connell Avenue and the South Circular Road and the more modern housing of Ballinacurra, Greenfields and the lower portions of the South Circular Road.’
- 5.5.2. In particular reference to the subject site, which originally comprised a small part of the former Limerick Race Course, the plan provides that this area ‘represents one of the largest remaining undeveloped land banks in the City which when integrated with the adjacent Allendale developments represents the newest housing area in the City. This development already includes a small Neighbourhood Centre. Developed open space and recreational facilities are limited but there is a significant green land bank incorporating the Baggott Estate and the former racecourse lands to service the area with the sporting clubs located at Portland Park, Catholic Institute and Young Munster RFC’.
- 5.5.3. The key objectives for this area of Limerick City, and in particular, the lands associated with the former Race Course, are indicated as follows:
- To sustainably develop the Baggott Estate and the open space area in the former race course lands in a coordinated manner for recreational purposes both passive and active.
  - To ensure that the residential amenities of those residences along the southern ring road are not adversely impacted.
  - To seek the balanced development of the existing under utilised lands in the area in particular the former racecourse lands.

- To seek that the contribution of the former racecourse to the cultural and sporting history of the city is commemorated in the development of the lands.
- To ensure the provision of infrastructure appropriate to the needs of the area.

- 5.5.4. Chapter 6 of the Development Plan deals with Housing. The site is zoned Residential 2A where it is the zoning objective for the site ‘to provide for residential development and associated uses.’
- 5.5.5. Part of the site lies within an identified Flood Zone A and flooded during major flooding event in December, 1999. The incident is indicated as being a flood quality code 2 – flood events are rigorously verified by the OPW and each flood event is classified and graded according to a quality coding system.
- 5.5.6. Chapter 16 of the Development Plan deals with Development Standards and Part III deals with residential development. Issues pertaining to dwelling size, housing mix, separation between dwellings, open space provisions, site coverage and car parking standards are dealt with in this section of the Plan.
- 5.5.7. The Plan requires that all development applications proposed in an area where there is a Flood Risk as identified in the plan, shall submit:
- Submit a Flood Risk Analysis & Hydrological Survey
  - Submit a Flood Risk Assessment
  - Satisfy the Planning Authority that any flood risk arising from the proposal will be successfully managed with the minimum environmental effect to ensure that the site can be developed and occupied safely.
  - Satisfy the Planning Authority that finished floor level requirements can be met throughout the proposed development.
  - Submit details of the mitigation measures proposed.
  - Satisfy the Planning Authority in writing that the Planning Requirements of the Office of Public Works (OPW) as indicated on the website [www.flooding.ie](http://www.flooding.ie) can be met on the proposed site.

The level of information required will be determined in accordance with the level of vulnerability to flooding as outlined in Appendix 1 and the requirements set out in the



'Planning System & Flood Risk Management Guidelines for Planning Authorities' 2009.

## 5.6. **Natural Heritage Designations**

The subject site is located at a distance of approximately 500m from the nearest SAC, Lower River Shannon SAC Site Code 2165, and 1km from the River Shannon and River Fergus Estuaries SPA, Site Code 4077. The site is not located within any designated site.

## 6.0 **The Appeal**

This is a multiple third party appeal

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

#### 6.1.1. Dr. Richard Kirwin & Dr. Ailbhe Kenny:

The grounds of appeal are similar to the issues raised in the course of the PAs assessment of the proposed development and are summarised as follows:

- Inadequacies of Greenpark Avenue as a carriageway due to inadequate width of road and footpaths as well as the potential traffic safety, congestion and impacts on residential amenity that will result in the event of a grant of permission.
- The use of the Avenue for access to the site will result in the loss of necessary on-street car parking. Access to the proposed site would be more suited from the Dock Road and Courtback Avenue.
- Access to the Racecourse site via Log na gCapall housing development was refused permission by both LCCC and An Bord Pleanala in 2015 (ABP ref PL91.246035) which included grounds of public safety by reason of traffic hazard. Log na gCapall is significantly wider than Greenpark Avenue and it is considered reasonable that similar concerns should apply with regard to the current proposal.

- The development represents a piecemeal development of the overall Greenpark Racecourse lands.
- Planning history of the site whereby a similar development was refused.

#### 6.1.2. Mr. William Murphy:

The grounds of appeal are similar to the issues raised in the course of the PAs assessment of the proposed development and are summarised as follows:

- Disagrees with the Boards previous direction that traffic movements generated by the development could reasonably be accommodated on Greenpark Avenue.
- The development is premature as LCCC is actively pursuing the development of roads infrastructure in the old racecourse.
- Inadequate road and footpath widths and at the narrowest point there are two garages, a laneway and a gateway opening onto the Avenue from which cars currently access and egress. The development will reduce the carriageway to 4.7m. The proposal would not accord with the Development Plan requirements, which would require a minimum 7.5m width carriageway and a 1.8m footpath, and if permitted, would result in traffic hazard and congestion.
- The Traffic & Transport Assessment is inadequate as it focuses entirely on the junction of Greenpark Avenue & South Circular Road, making no assessment or comment on the safety issues relating to the capacity of the Avenue to take the additional traffic, or the impact on existing garages, the crèche. Also, concern is raised regarding the notional plan that 40 further houses will access via Greenpark Avenue.
- Scale of houses facing onto Greenpark Avenue will be out of character with existing houses.
- Premature development as the Greenpark Racecourse Distributor Road is identified as an objective in the Development Plan linking the roundabout in the McInerney Alandale development off Ashbourne Avenue with the existing roundabout of the Dock Road adjacent to the greyhound track. The Capital Budget in the City & County Council Adopted Budget 2017 allocates €3.7M to

this road. This distributor road would facilitate the current proposed development rather than the unsuitable Greenpark Avenue.

## 6.2. Applicant Response

The first party has responded to the third party appeals as follows:

- Although the scheme promotes the inclusion of the footpath it is anticipated that over-running of the footpath for vehicles entering and exiting the garages will be permitted and will have minimal physical restriction.
- DMURS, Chapter 4.4.1 provides guidance on suitable carriageway widths. The proposal adheres to the principles of the manual. In terms of traffic congestion, the TTA made an assessment of the impact of traffic generated from a theoretical 100 house development. The analysis concluded that the junction would be operating at 43.3%.
- It is acknowledged that the footpath width will be restricted but as vehicular flows to / from the site development will be low and the width of the carriageway is restricted, speeds will be low. It is considered that these areas will not create risk of pedestrians being struck by passing motorists.
- With regard to the comments that the TTA is inadequate, it is submitted that the assessment has included all houses and garages on the Avenue and that the theoretical analysis considered a 100 house development. The TAA establishes that there is ample capacity in the Avenue and its junction with South Circular Road to accommodate the development.
- All of the houses on Greenpark Avenue have the benefit of off-road parking and that driveways remain vacant while residents park on the road. It is considered a reasonable request that residents make use of their off-street parking while construction of the dwelling houses.
- The current proposal is not comparable to the proposed 108 house development accessed via Log na gCapall.
- The request to consider access from the Dock Road and Courtbrook Avenue would require lands under 3<sup>rd</sup> Party ownership to be traversed. These lands are currently under receivership control. Attempts have been made to discuss

possible future access to other development lands but these have not been entertained by the receiver. Even if a right of way could be negotiated, it would be in excess of 500m in length which would render the development economically unviable.

The submission includes commentary relating to pre-planning discussions with the PA in relation to roads and flooding, layout, Part V and construction traffic.

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

The PA has not responded to this third party appeal.

### **6.4. Observations**

Cllr Elenora Hogan submitted an observation, fully supporting the third party objections to the proposed development. In addition, Cllr Hogan wishes it noted that LCCC has, on the 23<sup>rd</sup> February, 2017, advertised on eTenders for Multidisciplinary Services (Stage 1-5) – Housing Development Associated Road Infrastructure Greenpark (RFT Ref 114645). This action moves the proposal to develop a roads infrastructure in the old racecourse from the status of Aspirational Objective in the Development Plan to a concrete proposal to be implemented in a measurable timeline within the coming year or two.

### **6.5. Further Responses**

None

## 7.0 Assessment

Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Compliance with National Guidelines & Standards & Planning History
2. General Compliance with the Limerick City Development Plan & General Development Standards
3. Roads & Traffic
4. Water Services
5. Flood Risk Analysis
6. Appropriate Assessment

### 7.1. Compliance with National Guidelines & Standards & Planning History:

Sustainable Residential Development in Urban Areas (DoEHLG, 2008)

- 7.1.1. Given the fact that the subject site is located within the established development boundaries of Limerick City, is zoned for residential purposes and can connect to public services, the principle of development at this location is considered acceptable and in compliance with the general thrust of national guidelines and strategies. The 2008 guidelines updated the Residential Density Guidelines for Planning Authorities (1999), and continue to support the principles of higher densities on appropriate sites in towns and cities and in this regard, I consider that it is reasonable to support the development potential of the subject site in accordance with said guidelines. The development proposes the construction of 26 dwelling units on a site covering approximately 1.6ha and in terms of the recommendations of the Guidelines, the density could be considered at the lower levels permissible on such zoned lands. However, given the nature of site and its location within the context of the overall area, I have no objection to the proposed density of same.

7.1.2. The subject site originally constituted part of a larger landholding associated with the former Limerick Racecourse. The land retained by the Racecourse Company was subject to a number of previous planning applications, including reference no. 05/14 (ABP ref 30.222799 – withdrawn prior to decision) whereby permission was granted by the local authority for a substantial mixed use development including many varieties of residential properties 353 units in total, a neighbourhood centre incorporating; a creche, retail unit, coffee shop, doctor/dentist office, and parking for approximately 725 vehicles at ground and basement level. The permission also included the provision of a major recreation amenity area incorporating playing pitches, changing facilities, informal recreation areas, landscaped amenity areas, ancillary parking and landscaping. This permission provided for development up to the boundary of the current subject site. This permission has not been implemented.

7.1.3. Further to the above, the Board will note the planning history associated with the current site under PL30.239922 where permission was granted by Limerick City Council for the construction of 26no. dwellings, 12 no. detached dwellings and 14no. semi-detached dwellings, site infrastructure and all ancillary site works. The application was refused on appeal to the Board for the following stated reason:

‘Having regard to the flooding history of the site, the Board is not satisfied that the proposed development would not be at serious future risk from flooding or would not contravene the provisions of ‘The Planning System and Flood Risk Management’ Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in November, 2009. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.’

The decision by the Board included the following note:

‘Any future proposal for residential development on the site should make better provision for open space and pedestrian permeability through the site and provide for the location of dwellings outside that portion of the site deemed to be at risk of future flooding.’

7.1.4. The objective of the Sustainable Residential Development in Urban Areas guidelines is to produce high quality, and crucially, sustainable developments. Section 5.6 of the guidelines provides certain safeguards with regard to such urban developments

to deal with both existing and future residents the area of the proposed development. Said safeguards are detailed above in Section 5.1 of this report and I consider it reasonable to address the proposed development against same.

a) *Compliance with the policies and standards of public and private open space adopted by development plans;*

In terms of private open space, the proposed development provides for rear gardens with minimum depths of 11m. The Limerick City Development Plan requires that a minimum of 15m<sup>2</sup> per bed space is required. The development, proposes 10 no. detached houses and 16 no. semi-detached houses. The detached houses have 5 double bedrooms amounting to 10 bed spaces and therefore, with a requirement of 150m<sup>2</sup> of private open space. 14 of the semi-detached houses have 3 double bedrooms and 1 single bedroom, 7 bed spaces and as such, have a requirement of 105m<sup>2</sup>. The remaining 2 semi-detached houses have 2 double bedrooms and 1 single bedroom and as such have a requirement of 75m<sup>2</sup>.

The proposal provides for adequate open space associated with the detached houses while the smaller of the proposed semi-detached houses, no 9 and 10, also have adequate private open space. Of the remaining 14 semi-detached houses, only 5 have adequate private open space in accordance with the cited requirements. Four of the houses along the northern boundary of the site, houses 20-23, have inadequate open space as well as being north facing. In addition to the concern of inadequate private open space and orientation, these houses to the north of the site also back onto the existing high stone wall which forms the boundary of the site with Bothrin an Tobar.

With regard to public open space, the proposal provides for two pockets of common open space area to be located towards the western area of the site which will provide for a green area, a mini sports area and a children's play area. The applicant indicates that this area will have an area of 1,932m<sup>2</sup>. There is a second small area of public open space proposed with an area of 344m<sup>2</sup>. This indicates that the amount of area afforded to public open space is 2,276m<sup>2</sup>, amounting to 14.2% of the site area. This figure falls short of the

stated Development Plan requirements as it relates to the provision of public open space on greenfield sites, being 15%.

*b) Avoidance of undue adverse impact on the amenities of existing or future adjoining neighbours;*

The subject site is zoned for residential development and as such, the principle of the development is considered acceptable. However, there are significant concerns raised regarding the proposed access arrangements to the site. Greenpark Avenue is a narrow and very quiet cul-de-sac which provides rear vehicular access to houses fronting onto South Circular Road, as well as those houses on the Avenue. The potential impact of the development, notably in terms of traffic generated should permission be granted, is a real and genuine concern which has possible adverse implications on the existing amenities of the residents of Greenpark Avenue. This issue will be further discussed below under the roads and traffic section of this assessment.

The Board will note the proposals for boundary treatments for the site which provide for 1.8m high walls on all sides (the decision by Limerick County Council requires 2m walls), save for the front of the residential sites. The eastern boundary of the site represents the rear boundaries of three houses, one fronting onto Greenpark Avenue and two onto Greenpark Gardens, and as such, a 1.8m high wall is appropriate. The northern boundary is an existing high stone wall which is to be retained.

Given the history associated with the adjacent Old Racecourse Lands, together with the residential zoning afforded to these lands, as well as the previous application associated with the subject site, I have concerns regarding the location of three houses and their associated boundary treatments proposed, along the western boundary of the site. The proposed houses 24 – 26, if one considers the master plan layout presented in support of the proposed development, will mitigate against integration, will interfere with the provision of appropriate public open space or potential linkages with the lands to the west of the site. Should the Board be minded to grant



planning permission in this instance, I consider that these three houses should be omitted in the interests of appropriate and integrated development.

c) *Good internal space standards of development;*

While this issue generally pertains to apartment type developments, it is appropriate to state that the proposed internal spaces provided within the houses of this proposed development are acceptable and appropriate to the family type homes proposed.

d) *Conformity with any vision of the urban form of the town or city as expressed in development plans, particularly in relation to height or massing;*

The Board will note that third parties have raised concerns regarding the height and scale of the proposed houses fronting onto Greenpark Avenue. Overall however, I am satisfied that the development as presented is acceptable in terms of height and massing.

e) *Recognition of the desirability of preserving protected buildings and their settings and of preserving or enhancing the character or appearance of an Architectural Conservation Area;*

Not relevant in this instance as there is no protected structure or Architectural Conservation Area in proximity to the subject site.

f) *Compliance with plot ratio and site coverage standards adopted in development plans.*

The Limerick City Development Plan dictates that site coverage shall not normally exceed 50% in the Suburban Zone 3 area of the City. The proposed development adequately accords with this requirement.

7.1.5. Having regard to the above, I consider that the development as proposed raises certain issues and concerns in terms of permeability and integration, the provision of open space as well as the potential for the development to have a significant and potentially adverse impact on the existing residential amenities of adjacent residential properties on Green Park Avenue, in particular with regard to the potential traffic generated by the development.

7.1.6. Access to the subject site is over Greenpark Avenue, which itself is accessed from South Circular Road. Access issues will be further discussed below under the roads

and traffic section of this assessment. The proposed development has been generally laid out to address the shape and constraints of the overall site. There are two pockets of open space adjacent to the internal road, which winds its way through the site, but as discussed above, the overall design for the site provides for a larger useable area of open space to be located towards the western area of the site. The principle of the proposed development is acceptable, given the location of the subject site within the wider Limerick City area and in close proximity to public transport links and the fact that the proposed land use is compatible with existing adjacent uses.

## **7.2. Compliance with the Limerick City Development Plan & General Development Standards:**

- 7.2.1. The A2 residential zoning objective for the subject site “.....provides for residential development and associated uses”. In this regard, it is considered that the principle of the proposed residential development is acceptable and in compliance with the existing policy and objective applicable to the subject site. As such, the issues for consideration pertaining to the proposed development relate to the nature of the proposed development in terms of its scale, density and form as it relates to its surroundings, as well as issues regarding amenity, and are discussed below.
- 7.2.2. It is acknowledged that national guidelines encourage the provision of higher density development within urban areas in order to use serviced lands in a sustainable manner, but regard has to be given to the existing nature of development in the vicinity of the subject site as well as the nature and scale of the area of Greenpark. The original landholding, from which the subject site has been taken, has been granted planning permission to be significantly developed with a variety of densities and house types provided for. In the context of the overall site, it may be considered that the subject proposed development is acceptable, in that it will provide for a further variety of family home, proximate to a wider development which, if constructed, will provide for apartments, smaller terraced houses up to semi-detached and detached houses. The development proposes 26 residential units in the form of detached and semi-detached houses, with a variety of numbers of bedroom. This is acceptable in terms of mix and unit types, having regard to the

location of the site and in the context of the wider proposed developments in this area, in my opinion.

7.2.3. I do not consider that in principle, a grant of planning permission for the nature, scale or density proposed would represent a development which contravenes the requirements of the zoning objective for the site as per the Development Plan, nor would a grant of planning permission in principle be contrary to the proper planning or sustainable development of the area. I would however refer the Board to the previous report for a similar development on the site where a number of concerns were raised particularly with regard to open space provision and the proposals to erect three houses within a possible wider open space area and enclose these houses within 1.8m high walls, contrary to best practice principles which seek to encourage permeability and integration. These considerations are addressed further below.

7.2.4. Relevant sections of the Limerick City Development Plan are contained in Chapter 16 which deals with development management control measures, while Part II of this chapter deals with Quantitative Standards and Part III, with Development Management. These parts of the Plan deal with a variety of issues and the Plan provides that when assessing applications for residential development, a number of criteria will be taken into account including:

- a) Zoning and specific objectives:
- b) Density:
- c) Quality of the proposed layout and elevations:
- d) Levels of privacy and amenity:
- e) Quality of linkage and permeability to adjacent neighbourhoods and facilities and the nature of public realm/streets and spaces:
- (f) Accessibility and traffic safety: The issue of roads and traffic will be discussed below in section 7.3 of this assessment.
- g) Quality of proposed public, private and communal open spaces and recreational facilities.

7.2.5. I have discussed a number of the above issues already in this report. In terms of levels of privacy and amenity, the proposed development provides for a variety of

house types and most of the rear gardens have a depth of approximately 11m. In terms of overlooking on itself, I am satisfied that the proposed development is acceptable. I have raised concerns regarding the potential for overshadowing within the private open spaces associated with the proposed houses along the northern boundary of the site. This concern is due to the height of the houses, at +9m, the depth of the garden and the presence of a high stone wall as well as the northern aspect of these spaces. While there may be no issues of overlooking, I am concerned regarding the quality of the open space and its amenity value and the potential overshadowing of these spaces. I also consider that there is potential for concern pertaining to the extensive removal of trees and natural vegetation and boundary treatments.

- 7.2.6. With regard to the potential impact of the development on the privacy and amenity levels of existing residential properties in the area, there have been a number of submissions made. I have considered the potential for overlooking of existing residences and in particular, a number of houses located to the east of the site. Overall, I am satisfied that adequate separation distances have been provided to ensure that the potential for overlooking is insignificant.
- 7.2.7. With regard to the quality of linkage and permeability to adjacent neighbourhoods and facilities and the nature of public realm/streets and spaces, I am satisfied that the current proposed layout seeks to provide for linkages and permeability to the adjacent racecourse lands. Such linkages would include both pedestrian as well as vehicular with the masterplan layout presented suggesting that a further 44 houses approximately could be constructed using the proposed service road and public open space. Indeed, the Traffic & Transport Assessment presented in support of the proposed development used the assumed number of 100 houses in its analysis to ensure robustness. That said, the masterplan would suggest that there would be no further linkages from the subject site to the wider racecourse lands
- 7.2.8. Other issues for consideration stipulated by the City Development Plan include:
- Dwelling Size:** The Plan seeks the provision of dwellings with 3/3+ bedrooms in order to achieve balanced communities. Given the mature residential nature of the area in the vicinity of the subject site, I consider that the proposed provision of 4 bedroomed homes is appropriate and will promote the area for families. While the

area itself provides a high quality sense of amenity, I have raised concerns regarding the provision of open spaces.

**Housing Mix:** The Plan requires all residential schemes on sites over 0.5 ha to provide a mix of house type and size as well as providing dwellings to meet the specific needs of other household types i.e. elderly, mobility impaired, sheltered housing etc. The proposed development proposes 4 bedroomed houses over 3 floors, and only the detached houses provide for a ground floor bedroom. That said, I am satisfied that the house mix is acceptable and appropriate to this mature residential area.

**Separation between Dwellings:** A distance of at least 1.5 metres is required to be provided between dwellings. This requirement is provided for.

**Open Space:**

Public Open Space: The Limerick City Development Plan requires, for a residential Greenfield site, that a minimum of 15% of total site area is provided. In all cases open space shall be of a high quality of design and layout, be located in such a manner as to ensure informal supervision by residents and be visually and functionally accessible to the maximum number of dwellings. Existing features, such as mature trees, shall be retained and enhanced by the open space provided. The Board will note that the development as proposed provides for just under the 15% public open space as required. It is further noted that the development, if permitted, will require the removal of a substantial number of existing trees in order to accommodate both the entrance to the site along the southern boundary, as well as a number of trees towards the rear of the site in order to accommodate houses.

It might be argued that the subject site may have access to other open space areas in the vicinity, including the adjacent lands if they are developed, and as such, the level of open space provided might be considered acceptable. If this is deemed acceptable to the Board, I would consider it appropriate to omit proposed houses 24, 25 and 26 which would provide additional open space and a more cohesive and useable space. I would acknowledge that the intentions for the adjacent lands,

including the provision of open spaces and recreational areas, may go some way to supporting the open space and recreational needs of the occupants of the currently proposed estate. However, there is no guarantee that these lands will be developed in the short to medium term, and in light of the sketch details of the masterplan presented in support of this proposed development, it would appear that this site will not connect or integrate with the remainder of the Racecourse lands.

Private Open Space: In relation to private open space, each residential unit is provided with an area of open space in the form of a rear garden. The Limerick City Development Plan stipulates that 15m<sup>2</sup> per bed space will normally be applied. There is no minimum length of rear garden but a 20m separation between opposing windows at first floor level and above will normally be required. I have discussed this issue above with regard to compliance with national guidelines and while the development seems to provide adequate levels of private open space to service most houses, I have reservations regarding the quality of that space with particular regard to the houses along the northern boundary of the site. These houses back onto the high stone wall which forms the boundary with Bothrin an Tobar. Given the northern orientation of these open spaces, I consider that their quality is somewhat diminished. The purpose of appropriate private open space provision is to ensure that most household activities are accommodated and is, at the same time adequate, to offer visual delight, receive some sunshine and encourage plant growth. In terms of the proposed development, and in particular having regard to the houses located along the northern boundary of the site, I am not satisfied that the proposed development as laid out would support an appropriate level of residential amenity for the future occupants of the houses. In reaching this conclusion, I have tried to consider where improvements might be achieved, but am satisfied that in order to achieve any meaningful improvements, significant alterations to the layout would be required and it would not be appropriate to deal with same via planning conditions.

**Car Parking:** The Development Plan requires that 2 space per dwelling be provided plus 25% visitor. Each of the proposed houses has provision for 2 car parking

spaces and the site layout plan provides for an additional 10 car parking spaces throughout the site. I am satisfied that the proposed car parking provision accords with the City Development Plan requirements.

- 7.2.9. I propose to consider issues of flood risk, roads and traffic and appropriate assessment separately below. Having regard to the proposed development and its compliance with the requirements of the Limerick City Development Plan, I am satisfied that, in principle, the development generally accords. There are a number of areas however, which give rise for concern in terms of prematurity, the permeability of the development and its integration with the existing residential developments in the vicinity, as well as the adjacent, as yet undeveloped lands to the west of the site. I have further concerns regarding the amenity value of proposed private open spaces as well as concerns regarding the extensive removal of existing trees, vegetation and landscape features, required to accommodate the proposed development on this site.

### **7.3. Roads & Traffic:**

- 7.3.1. The issue of access and traffic has been raised by all third parties in the course of the Planning Authority's assessment of the proposed development. The issue is further raised by a third party appellant. The Board will note that the Planning Officers report makes reference to a Roads Report but no such report is either on the Boards file, or available online. I refer the Board to the previous application relating to the subject site where the Roads & Traffic Section of Limerick City Council raised initial concerns regarding the capacity of Greenpark Avenue to accommodate a similar proposed development. This report advised, 'that the proposed route via Greenpark Avenue, is the only feasible route at present for the proposed scheme.' However, in order to facilitate the development, a number of improvements on Greenpark Avenue including footpaths, improvements to the junction with South Circular Road, road surfacing and public lighting would be required. The Board will note that the current proposed development includes proposals to implement road improvement works at the junction of Greenpark Avenue and South Circular Road, as well as on Greenpark Avenue.

7.3.2. With regard the issue of an alternative access route, the Board is advised that there are road objectives contained in the City Development Plan whereby Policy TR.2, which deals with Integrating Land Use & Transportation Policies states that 'it is the policy of Limerick City Council to promote and deliver a sustainable and integrated transportation and land use management system for Limerick City. Limerick City Council will complete and implement the recommendation of the Mid-West Area Strategic Plan (MWASP)'. Under this policy the following is relevant pertaining to the proposed development:

- The design of new development should reflect the importance of walking and cycling as transportation modes by providing safe and direct access to local services and to Bus Lanes.
- Provide road improvement schemes to facilitate the Integration of Land Use and Transportation.

7.3.3. Policy TR.5 relates to the Enhancement of Road Infrastructure, and states that It is the policy of Limerick City Council to maintain and enhance the planning, design and maintenance of the transportation and roads infrastructure in the City to ensure improved safety, promote economic growth, social inclusion and amenity for all road users. Under this policy the following is relevant pertaining to the proposed development:

- To provide new road infrastructure and improvements to existing road infrastructure and to promote higher standards of road design and construction so as to ensure that all new roads and road improvement schemes will meet projected traffic, public transport, cycling and pedestrian demand for the future.
- Deliver all road objectives shown on Map 3. Transportation Objectives, Appendix I.
- Limerick City Council will have regard to all policy documents relating to road related issues.

Policy ZL7 Design Standards for Roads relates to the provision and sizing of carriageways and footpaths.



- 7.3.4. With regard to the above policies, the Board will note that the plan provides for an all-purpose residential route near and parallel to the Dock Road, which would link the former racecourse lands to the McInerney developments and onto the Dock Road and Courtbrack Avenue. It is clear that in the long term, access to the site would be more appropriate via this proposed road in order to protect the existing residential amenities of Greenpark Avenue. The proposed site layout together with the masterplan layout as presented in support of the proposed development, and as discussed above, appears to preclude any future connection or access to the proposed road, if and when constructed. In this regard, it might be considered that the proposed development is premature pending the provision of this road and that the development may be considered piecemeal in the context of the larger Limerick Racecourse lands.
- 7.3.5. Further to the above, I would refer the Board to the fact that Limerick City & County Council have, on the 23<sup>rd</sup> of February, 2017, advertised on eTenders for Multidisciplinary Services (Stages 1-5) – Housing Development Associated Road Infrastructure Greenpark (RTF Ref 114645). The closing date for submission of tenders was the 4<sup>th</sup> of April, 2017 at 4pm. The short description seeks tenders for the delivery of Phase 1 infrastructure that will service lands and enable the delivery of 700 units. The delivery of services has been facilitated through funding from the Local Infrastructure Housing Activation Fund (LIHAF) and the Council advise that the funding for two distributor roads in Greenpark and Mungret will unlock zoned lands for development and will connect to Limericks road network. In this regard, it might be considered that the current proposal is premature pending the outcome of this tender process and the overall development of infrastructure in this area of Limerick City in accordance with the City Development Plan policy objectives.
- 7.3.6. Greenpark Avenue is a cul-de-sac, of approximately 220m in length, which currently supports access for approximately 16 households with a number of houses on South Circular Road having garages located onto Greenpark Avenue. These garages open directly onto the Avenue. The subject site is located to the end of the cul-de-sac, approximately 130m from the junction with South Circular Road. The existing carriageway has a width of between 5.2m and 5.9m, and there is a fragmented single footpath on the northern side of the carriageway with a width of between 1.5m and 1.6m. On street car parking is a common feature of the Avenue with a number of

cars parked, in particular to the north of the carriageway, but also with a number parked outside the garages to the south of the road. The carrying capacity of the Avenue in this regard is somewhat limited. The information presented in the TTA is limited in my opinion, dealing primarily with figures from the Log na gCapal development but noting that the existing Greenpark Avenue housing generates 29 am peak departures with 3 arrivals and 15 pm peak arrivals with 5 departures.

7.3.7. The TTA, in seeking to present a robust analysis, has used the figure of 100 houses to show that the Avenue and the junction with South Circular Road has the capacity to accommodate the development. The proposed development of 26 houses is to be located towards the end of this cul-de-sac avenue, and the TTA estimates that with 100 houses using Greenpark Avenue, the result will be 12 AM peak arrivals with 104 departures and 52 PM peak arrivals with 19 departures. While the figures of car trips presented has been considered moderate and within the capacity of the road and junction, subject to certain improvements, the reality is that the development will result in 3½ times the traffic levels on Greenpark Avenue at peak times. Much of the objection to this proposed development pertains to ability of Greenpark Avenue to accommodate the additional traffic, and the subsequent impact on the existing residential amenities of the area. In order to achieve appropriate roads and traffic conditions, the developer has proposed certain improvement works to Greenpark Avenue as well as the junction with SCR. These works include:

- The provision of a linked path from Greenpark Avenue to SCR, with a width of 0.9m in places.
- The realignment of the junction with SCR
- The stopping of the current practice of on-street parking and the introduction of permanent traffic calming measures with ramps to be provided at either side of the restricted section and inhibit parking.

It is clear that in order for Greenpark Avenue to appropriately accommodate the proposed development without significant impact on the existing residents, the practice of on street car parking, considered by the applicant not to be an automatic right, would require to change. Objectors to the proposed development submit that this practice is in many cases the only option for residents of the Avenue. It is also to be restated that a number of the garages open directly onto Greenpark Avenue

which gives rise to a potential conflict in traffic movements and may generate a significant hazard.

7.3.8. In terms of the design of the proposed development, including the entrance and access to the site, it is a requirement that they be considered against the Design Manual for Urban Roads and Streets (DMURS), DoTTS, March 2013. This Manual replaces DMRB in respect of all urban roads and streets and it does not differentiate between public and private urban streets, where a 60kph speed limit or less applies. The DMURS provides radically new design principles and standards from DMRB. The implementation of DMURS is obligatory and divergence from same requires written consent from relevant sanctioning authority (NRA, NTA or DTT&S) and is applicable in the case at hand. The Manual seeks to address street design within urban areas (i.e. cities, towns and villages). It sets out an integrated design approach. What this means is that the design must be:

- a) Influenced by the type of place in which the street is located, and
- b) Balance the needs of all users.

7.3.9. DMURS sets out a road user priority hierarchy as follows:

- 1 Pedestrians;
- 2 cyclists
- 3 public transport
- 4 car user.

The key design principles for roads include –

- Integrated streets to promote higher permeability & legibility;
- Multi-functional, placed-based, self-regulations streets for needs of all users;
- Measuring of street quality on the basis of quality of the pedestrian environment
- Plan-led, multidisciplinary approach to design.
- The importance of this design approach is dependent on site context, but also on road type - local, arterial or link. The DMURS defines a hierarchy

of places based on place-context and place-value, with centres (such as town and district centres) having highest place-value. Places with higher context / place-value require:

- Greater levels of connectivity;
- Higher quality design solutions that highlight place;
- Catering for and promotion of higher levels of pedestrian movement;
- A higher level of integration between users to calm traffic and increase ease of movement for vulnerable users.

7.3.10. In terms of the above requirements of DMURS, I consider that the proposed development has not adequately applied the design standards with particular regard to the priority hierarchy. In particular, the Board will note that in order to access the public open space area, pedestrians will have to navigate crossing the estate road. There is no continuous footpath and the 'masterplan' layout suggests that the road will continue and serve an additional 40+ houses to the west. In this regard, it is clear that the layout as proposed does not have regard to the priority hierarchy of road users to ensure compliance with DMURS and this issue should not be addressed by way of compliance with conditions. While I am satisfied that vehicular access and car parking has been addressed by the applicant, I consider that the development as proposed, does not adequately comply with DMURS.

7.3.11. In terms of the construction phase of the proposed development, I accept that there will be some impacts to existing users. However, I am satisfied that these impacts are generally temporary in nature. The Board will note that the zoning of the subject site, together with the planning history associated with the site, affords potential for a residential development.

7.3.12. While I acknowledge that the number of car trips generated by the proposed development can be considered moderate, I have a real concern regarding the impact of the additional traffic movements along Greenpark Avenue on the existing residential amenities of the area. The development, in my opinion will result in congestion and traffic hazard and I would consider that access to the development site via Greenpark Avenue is not ideal. Given the recent movements to implement the policy objective of the City Development Plan as it relates to the provision of a

distributor road to access the rest of the Racecourse Lands in recent months, together with the fact that the finance to develop the infrastructure has been secured by the Council, I consider that a grant of planning permission in this instance would be premature and that access to the site would be better served via the proposed new infrastructure for the area. I am not satisfied that Greenpark Avenue is capable of accepting the levels of traffic that would be generated by the proposed development, and as such, if permitted, the development would result in a significant traffic hazard for existing users and pedestrians of Greenpark Avenue.

#### **7.4. Water Services**

The proposed development will connect to existing services which serve the racecourse lands and is the nearest available outflow point. The public system appears to have adequate capacity to accommodate the proposed development and Irish Water has indicated no objections on these grounds.

#### **7.5. Flood Risk Analysis**

- 7.5.1. The Limerick City Development Plan requires that all development applications proposed in an area where there is a Flood Risk as identified in the plan, shall submit a number of things in order to satisfy the Planning Authority that any flood risk arising from the proposal will be successfully managed with the minimum environmental effect, that finished floor level requirements can be met throughout the proposed development, that mitigation measures are provided for and that the Planning Requirements of the Office of Public Works (OPW) as indicated on the website [www.flooding.ie](http://www.flooding.ie) can be met on the proposed site. The Board will note that the previous application on this site was refused on the grounds of the flooding history of the site. I note, again, that the applicant has indicated in the planning application form that, to their knowledge, the site has never flooded. I again advise the Board that this is not the case and having consulted with [www.flooding.ie](http://www.flooding.ie) there is a record of the adjacent lands having flooded extensively with part of the subject site also having flooded in December, 1999.
- 7.5.2. The Development Plan identifies part of the subject site as being located within and adjacent to a flood risk area and requires that a Flood Impact Assessment as well as

proposals for the storage or attenuation of run-off discharges (including foul drains) to ensure the development does not increase the flood risk in the relevant catchment, must accompany planning applications for development of areas exceeding 1 hectare. The level of information required will be determined in accordance with the level of vulnerability to flooding as outlined in Appendix 1 and the requirements set out in the 'Planning System & Flood Risk Management Guidelines for Planning Authorities' 2009.

- 7.5.3. The subject site is located within proximity to the River Shannon and the Ballynacloagh River, as well as the Meelick Creek and the identified flood risk area for the river. The adjacent substantial landholding has planning permission for the construction of a significant mixed use development and part of the current subject site is included as an area at risk of flooding. The Environmental Management & Infrastructure Section of the City Development Plan deals with flood protection where Policy WS.8 Flood Protection states that 'it is the policy of Limerick City Council to continue to work towards reducing flooding within the City and ensure that all new development proposals comply fully with the requirements of 'The Planning System & Flood Risk Management Guidelines for Planning Authorities', 2009, and any additional guidance introduced during the lifetime of the Development Plan.' Policy WS.9 Flood Risk states that 'it is the policy of Limerick City Council to ensure that development should not itself be subject to an inappropriate risk of flooding nor should it cause or exacerbate such a risk at other locations.'
- 7.5.4. In accordance with the requirements of the Flood Risk Management Guidelines, 2008, the applicant submitted a Flood Risk Assessment in support of the planning application. The report ultimately advises that the subject site is deemed to be primarily in Zone B due to the level of fill on site. The proposed residential development is classed as highly vulnerable and therefore is required to meet the justification test in accordance with Table 3.2 of the Guidelines. The report however, continues and states that the proposed site is outside the designated flood zone and that the minimum finished floor level is 5.60m OD. There is no assessment presented in terms of the submitted FRA and no justification test is undertaken. That said, only a small area of the subject site is identified as being located within the Flood Zone B area, and the open space is proposed in this area.

7.5.5. While the issue of flooding associated with the subject site has been considered, I do not accept that the submission has adequately fulfilled the requirements of the justification test associated with the Flood Risk Management Guidelines. In addition, I consider that the proposal to alter the site levels with cutting in places and the raising of the existing site levels by +1.84m in places across the site has the potential to have a significant effect on the flood regime of the whole area, including adjacent lands. These proposals may protect the proposed development from the effects of flooding, but, in my opinion, may result in an exacerbation of flooding occurring in the vicinity of the site. I do not accept that the applicant has adequately demonstrated grounds that justify the proposed development. In this regard, I do not consider the subject site suitable for the development.

## 7.6. **Appropriate Assessment**

7.6.1. The subject site is located at a distance of approximately 500m from the nearest SAC, Lower River Shannon SAC Site Code 2165, and 1km from the River Shannon and River Fergus Estuaries SPA, Site Code 4077. As such, the Board will be required to consider the potential effects of the proposed development on the identified SAC and SPA. Although the site is not located within the existing boundaries of the Natura site, given its proximity to same, the precautionary principle must be applied in this instance. The site must be subject to AA regarding its implications for the Natura 2000 site in view of the site's conservation objectives *"if it cannot be excluded, on the basis of objective information, that it will have a significant effect on that site, either individually or in combination with other plans or projects"* (EC, 2006). In other words, where doubt exists about the risk of a significant effect, an Appropriate Assessment must be carried out.

7.6.2. An Bord Pleanála, as the competent authority is responsible for obtaining the information necessary to enable an AA screening to be undertaken, and if required, obtain from the proponent, a Natura Impact Statement. Following a request for further information and clarification by the Planning Authority, the applicant submitted a AA screening report. Integral to the AA process, is the consideration of alternatives. This issue will be discussed further below. The purposes of AA screening will determine whether appropriate assessment is necessary by examining:

- a) whether a plan or project can be excluded from AA requirements because it is directly connected with or necessary to the management of the site, and
- b) the potential effects of a project or plan, either alone or in combination with other projects or plans, on a Natura 2000 site in view of its conservation objectives, and considering whether these effects will be significant.

### 7.6.3. AA Screening:

1. Description of the project and local site: This is an application to construct 26 dwelling houses on a greenfield urban site where services are available. The subject site, while not located within the SAC or SPA, is located on the edges of an identified flood risk area.
2. Is the proposed development directly connected with or necessary to the nature conservation management of a Natura 2000 site: No.
3. Identification of relevant Natura 2000 sites, within 5km of the subject site:
  - Lower River Shannon SAC, Site Code 002165
  - River Shannon & River Fergus Estuaries SPA, Site Code 004077
4. Key Natura 2000 sites with regard to the subject site and proposed development are as indicated above.
5. Existing expert reports, advice or guidance: issues raised in relation to Bat survey
6. The potential for significant impacts on Natura 2000 sites, having regard to potential significance indicators and to qualifying interests and conservation objectives for the site. Where doubt exists, it should be assumed that effects could be significant. In terms of the relevant Natura 2000 site in this instance, the Conservation Objectives for Lower River Shannon SAC, Site Code 002165 states as follows:

Objective: To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected:

- [1029] *Margaritifera margaritifera*
- [1095] *Petromyzon marinus*



- [1096] *Lampetra planeri*
- [1099] *Lampetra fluviatilis*
- [1106] *Salmo salar* (only in fresh water)
- [1110] Sandbanks which are slightly covered by sea water all the time
- [1130] Estuaries
- [1140] Mudflats and sandflats not covered by seawater at low tide
- [1150] \* Coastal lagoons
- [1160] Large shallow inlets and bays
- [1170] Reefs
- [1220] Perennial vegetation of stony banks
- [1230] Vegetated sea cliffs of the Atlantic and Baltic coasts
- [1310] *Salicornia* and other annuals colonizing mud and sand
- [1330] Atlantic salt meadows (*Glauco-Puccinellietalia maritima*)

Potential significance indicators<sup>1</sup>:

Any impact on an Annex I habitat:

- Causing interference with, reduction, erosion or fragmentation of the Natura 2000 site: Not likely
- Causing direct or indirect damage to the physical quality of the environment (e.g. water quality and supply, soil compaction) in the Natura 2000 site: Not likely
- Causing serious or ongoing disturbance to species or habitats for which the Natura 2000 site is selected (e.g. increased noise, illumination and human activity): Not likely
- Causing direct or indirect damage to the size, characteristics or reproductive ability of populations on the Natura 2000 site: Not likely

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<sup>1</sup> Using the Appropriate Assessment of Plans and Projects in Ireland - Guidance for Planning Authorities, DoEHLG, 2009 I consider that the potential significant indicators should include as presented. There is no defined list of indicators, with each site potentially generating a different list.

- Interfering with mitigation measures put in place for other plans or projects: Not likely.
- Causing the introduction or spread of exotic or invasive species: Not likely.
- Causing a cumulative impact and other impacts: Possible.

7. Assessment of likely effects - direct, indirect and cumulative – undertaken on the basis of available information as a desk study or field survey or primary research as necessary: Having considered the above potential significance indicators, I consider that the development, if permitted, is likely to have little or no impact on the adjacent Natura 2000 site.

8. Screening Statement with conclusions: The safeguards set out in Article 6(3) and (4) of the Habitats Directive are triggered not by certainty but by the possibility of significant effects. Thus, in line with the precautionary principle, it is unacceptable to fail to undertake an appropriate assessment on the basis that it is not certain that there are significant effects. It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on the Lower River Shannon SAC, Site Code 002165, or any other European site, in view of the site’s Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

## 8.0 Recommendation

I recommend that planning permission be refused for the proposed development for the following stated reasons.

## 9.0 Reasons and Considerations

1. Having regard to the location of the site and its intrinsic links to the wider Limerick Racecourse Lands, together with the layout of the overall development as proposed, it is considered that the proposed scheme would:

- be premature pending the delivery of the Housing Development Associated Road Infrastructure at Greenpark:
- be out of character with the pattern of development in the area,
- be inappropriate in the context of the adjoining land and the development potential of same,
- would provide for a road layout which would not be conducive to pedestrian safety therefore not complying with the requirements of Design Manual for Urban Roads and Streets (DMURS), DoTTS, March 2013,
- conflict with the provisions of the current Development Plan for the area and with the minimum standards recommended in the "Sustainable Residential Development in Urban Areas: Guidelines for Planning Authorities" published by the Department of the Environment, Heritage and Local Government in December, 2008,
- result in an inadequate amount of quality public and private open space to serve the proposed development, and
- give rise to substandard residential amenity for future occupiers.

The proposed development would thereby constitute a substandard form of development which would seriously injure the amenities of the area and be contrary to the proper planning and sustainable development of the area.

2. Notwithstanding the submitted Traffic & Transport Assessment, it is considered that a grant of planning permission in this instance would result in significant congestion and dis-amenity to residents of Greenpark Avenue and, if permitted, the development would result in a significant traffic hazard for existing users and pedestrians of Greenpark Avenue. The development, therefore, would be contrary to the proper planning and sustainable development of the area.

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A. Considine  
Planning Inspector  
11<sup>th</sup> May, 2017