



An  
Bord  
Pleanála

# S. 4(1) of Planning and Development (Housing) and Residential Tenancies Act 2016

## Inspector's Report ABP-304705-19

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<b>Strategic Housing Development</b>	70 student apartments (326 bed spaces), 30 no Build to Rent apartments and two ancillary retail units and associated works.
<b>Location</b>	Punches Cross, Limerick, Co. Limerick.
<b>Planning Authority</b>	Limerick City & County Council
<b>Applicant</b>	Cloncaragh Investments Ltd.
<b>Prescribed Bodies</b>	Irish Water Transport Infrastructure Ireland. Health Service Executive
<b>Observer(s)</b>	1. Mairead O' Donoghue

2. Mary and Seamus Bergin
3. Donal and Edwina Cantillon
4. Patricia and Geared Reidy
5. Sinead Stack
6. Alan Mc Cormack
7. Cllr Elisa O Donovan
8. Haynes Solicitors

**Date of Site Inspection**

04<sup>th</sup> of September 2019

**Inspector**

Karen Hamilton

## 1.0 Introduction

This is an assessment of a proposed strategic housing development submitted to the Board under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016.

## 2.0 Site Location and Description

- 2.1. The subject site, c. 0.77 hectares and is located at Punch's Cross, a suburban area on the western side of Limerick, approximately 1.5km from the city centre. The site occupies a corner site between Rosbrien Road and Ballinacurra Road/ O'Connell Avenue. The site is a brownfield site, vacant and overgrown with a disused commercial building on the site, currently surrounded by hoarding.
- 2.2. The Rosbrien Road bounds the north eastern side of the site, the Ballinacurra Road along the west and there are traffic lights at the most northerly point where these two road meet New Street and O'Connell Avenue. There is a local retail centre to the southwestern corner and a modern Lidl discount food store in the south eastern corner and surrounding area comprises of a mix of commercial and community uses in conjunction with low to medium density residential development.

## 3.0 Proposed Strategic Housing Development

- 3.1. The proposed residential development comprises of 70 student apartments (326 bed spaces) and 30 no. Build to Rent (BTR) apartments.

### Block A - 9,028m<sup>2</sup>

- The building fronts onto the Ballinacurra Road and Rosbrien Road and ranging in height from four storey plus recessed penthouse, cumulating in a six storey feature corner at Punched cross junction.
- 56 no. student apartments ( 3, 4, 5 & 6 bedroom configurations),
- Communal facilities reception and social areas of 551m<sup>2</sup> at ground floor,
- Two ancillary retail units (105.6m<sup>2</sup> & 99m<sup>2</sup>).

### Block B- 5,061m<sup>2</sup>

- Rear courtyard building 5 storeys plus penthouse to 7 storeys with 12 apartments ( 5 bedroom configuration),
- 30 BTR apartments.
- 14 no student apartments.

### Ancillary

- Courtyard 1,486m<sup>2</sup>,
- Additional courtyard space (450m<sup>2</sup>) for the BTR,
- 48 surface bicycle spaces for the student accommodation,
- Vehicle access and egress onto Ballinacurra Road and Rosbrien Road in a one-way arrangement,
- Building set back at the corner of Punches Cross to provide a mini plaza and provision for additional bicycle stands.

3.2. A summary of the **parameters** of the proposed development is listed below:

<b>Parameter</b>	<b>Site Proposal</b>
Application Site	0.77 ha
No. of Units	326 student bed spaces & 30 apartments
Density	Net c. 118 dwellings per hectare (430 bed spaces)
Other Uses	2 retail units (c. 204m <sup>2</sup> )
Car Parking	84 spaces (basement)
Bicycle Parking	c. 380 (basement)
Vehicular Access	Rosbrien Road and Ballinacurra Road
Part V	3 units

3.3. The **breakdown** of residential unit types in the BTR building is as follows:

Unit Type	1 bed	2 bed	3 bed	Total
Apartment	10	18	2	30
% Total	33%	60%	7%	100%

## 4.0 Planning History

4.1. The most relevant history associated with the site is noted as follows:

### **PL30.221336 (Reg Ref 06/203)**

Permission granted for the demolition of existing buildings and erection of mixed use retail/office development including an anchor retail unit, 5 no. retail units, betting office, takeaway facilities and upper floor office development.

### **04/770531**

Permission granted for a showroom to the front of the premises and retention of minor alterations

4.2. Within the vicinity

### **14/1255 (immediately west of proposed site)**

Permission granted for a change of use of part of ground floor from office to HSE's Child and Adolescent Mental Health Service and other works to NEPS building

### **PL91.247323 (Reg Ref 16/44)**

Appeal in relation to a development contribution for special works with a grant of permission for demolition of structure and erection of discount foodstore.

### **PL91.248965 (Reg Ref 17/60) (immediately SW of proposed site)**

Permission refused for the demolition existing buildings and construction of a new monopitched licenced discount food store considering the excessive size on the retail floor space on an area zoning for local centre.

**18/8014** (Part 8 development at site on Rosbrien Road to SE of proposed development)

Provision of 17 residential units, relocation of existing pitch, provision of new junction onto Rosbrien Road from community centre and ancillary works.

## 5.0 Section 5 Pre Application Consultation

5.1. A Section 5 Consultation meeting took place at the offices of Limerick City and County Council, Dooradoyle, Limerick on the 25<sup>th</sup> of January 2019. The main topics raised for discussion at the tripartite meeting were based on the agenda that issued in advance as follows:

1. Development Strategy for the site to include a proposal in the context of SHD legislation; proposed uses in context of zoning objective; elevational treatment/finishes; connectivity
2. Development Standards to include internal layout, landscaping, daylight/sunlight;
3. Residential Amenity
4. Traffic and Parking
5. Surface water drainage
6. Any other matters

A copy of the Inspector's report and Opinion is on the file for reference by the Board. A copy of the record of the meeting is also available on the file.

### 5.2. Notification of Opinion

An Bord Pleanála issued notification that, it was of the opinion, the documents submitted with the request to enter into consultation, require further consideration and amendment to constitute a reasonable basis for an application for strategic housing development. The following is a brief synopsis of the issues noted in the Opinion that needed to be addressed:

1. Justification of **development strategy** type of residential uses proposed and the relationship/compatibility between them, particularly with regards to matters of nature of ownership and tenure, residential amenity, management and security of the proposal and submission of details of Part V provision.
2. An architectural report and urban design statement should be submitted with the application which justifies the **elevation treatment and finishes** of the proposed development in the context of the site specific detailing of finishes, openings, the treatment of balconies, railings, landscaped areas and boundary treatments, having regard to the long term management and maintenance of the buildings and the interface between the proposed buildings and public realm/areas of communal open space.
3. Submission of a **car parking strategy** for the proposed development, having particular regard to the level of parking proposed, how it is intended that it is assigned and managed and measures proposed to address shared car parking, visitor parking and drop off locations.

The applicant was requested to submit specific information with any application for permission as summarised below, and accompanied the application:

1. A plan detailing existing/proposed uses within this overall parcel of land zoned 'Local Centre'
2. A schedule of accommodation.
3. Colour coded drawings for student accommodation element of the proposal and apartment types within the residential element
4. A report that addresses issues of residential amenity (both existing residents of adjoining developments and future occupants) and cross section drawings.
5. A site specific Student Management Plan.
6. A Conservation Report that addresses the impacts, if any, of the proposed development on the O'Connell Avenue ACA.
7. Additional CGIs/visualisations/3D modelling showing the proposed development relative to existing development in vicinity.

8. A life cycle report in accordance with section 6.3 of the Sustainable Urban Housing: Design Standards for New Apartments (2018).
9. Construction and Demolition Waste Management Plan.
10. Drainage information as detailed in in Appendices, Surface Water Drainage Report, dated 16/01/2019 of PA Opinion submitted to An Bord Pleanála.
11. Additional information in relation to roads, traffic and parking as detailed in Appendices, Roads/Traffic/Parking Report, dated 16/01/2019 and Limerick Smarter Travel Report, dated 15/01/2019 of PA Opinion submitted to An Bord Pleanála.

### 5.3. Applicant's Statement

The applicant has submitted a statement of response to ABP Opinion's. With regard to the specific additional information required, the applicant has submitted/ responded as follows:

- **Development Strategy**

The apartments have been designed as Build to Rent (BTR) as this is more appropriate adjoining the student accommodation and minor alterations to the apartment blocks to allow a greater separation distance between the private amenity space of the apartments and internal courtyard for the student accommodation.

- **Elevation Treatments and Finishes**

The student accommodation now includes south facing gable walls. An architectural report and urban design statement details the remaining elevation treatment. A landscape design strategy details the perimeter, the internal courtyard, the communal open space and the planting strip along the southern boundary.

- **Car parking**

A student accommodation management plan and a build-to-rent accommodation management plan both detail the car parking. Two drop off points are located near the entrance to the student accommodation. No drop off points are provided for the BTR units although visitor parking is permitted in the basement.



## 6.0 Applicant's Statement of Consistency

The applicant has submitted a Statement of Consistency as per Section 8(1)(iv) of the Act of 2016, which indicates how the proposal is consistent with the policies and objectives of Section 28 guidelines and the County Development Plan. The following points are noted:

- A summary of the proposed development and the planning history are included.
- Design changes following the pre-app with the Board include a reduction in the number of BTR apartments and increase in 2 student apartments.
- The proposed development complies with the NPF in particular National Policy Objective 11 supporting development in urban areas.

### Section 28 Guideline compliance

- Guidelines on Sustainable Residential Development in Urban Areas: A checklist of compliance with the 12 urban design criteria is included in Appendix A.
- Design Manual for Urban Roads and Streets (DMURS): A Traffic and Transport Assessment (TTA) refers to the design of the junction and compliance with DMURS.
- Design Standards for New Apartments: Guidelines for Planning Authorities: A compliance schedule (OCA Architects) has been included indicating compliance with the standards and provision of amenities for BTR.
- Part V Guidelines: Transfer of 3 units elsewhere and there is no obligation in relation to Part V for the Student Accommodation.
- Urban Development and Building Heights Guidelines for Planning Authorities: Building height has been increase to provide a more dense development on a brownfield site in line with the guidelines.
- The Planning System and Flood Risk Management: The site has a low risk of flooding as per the flood risk assessment report and therefore the justification test did not have to be applied.

- Childcare Guidelines: Only 30 apartments have been proposed therefore the need for a childcare facility is excluded.
- Appropriate Assessment Guidelines for Planning Authorities: A screening assessment has been provided to indicate that there will be no impact on any European Designated Site.
- Environmental Impact Assessment: A screening assessment has ruled out any likely significant environment effects.
- Retail Planning Guidelines: The site forms part of a Local Centre which already has thriving retail outlets
- The proposed development complies with other sectorial policies including Rebuilding Ireland, Smarter Travel etc.

#### City Development Plan

- The site is zoned as “Local Centre” which promotes the development of a retail function with a focus on local centre.
- Residential use is permitted and residential institution of open for consideration.
- It is considered that the retail function for a local centre is adequately catered for in the adjoining Greenpark Local Centre.
- A Masterplan of the site and the lands immediately adjacent has been submitted.
- A Design Statement indicates compliance with the Urban Design Manual.
- The net density is c. 118 dwellings per hectare, which is considered reasonable adjoining a site with good public transport links.
- An indicative site coverage in the development plan (p. 16.9) is 50% and the proposal includes 32%
- The development plan required 1 carpark space per 5 students and 1 space per 20-25 retail / restaurant units although it was agreed in the pre-app that a limit of 100 spaces would be included.

- The cycling spaces are in excess of the requirements and includes secure storage facilities in the basement in addition to surface.
- Private Open Space is not provided for the student accommodation.
- Communal open space is provided in two areas: a main courtyard (1,850m<sup>2</sup>) for the student apartments and an apartment courtyard (475m<sup>2</sup>), which is 32% of the site area (2,325m<sup>2</sup>).

#### Section 247 meetings

- Three meetings were held with the third recorded as the formal pre-planning meeting.

#### Information submitted

- A Student Management Plan is submitted.
- A letter of support from the Mary Immaculate College refers to the shortage of student accommodation.

## 7.0 **Relevant Planning Policy**

### 7.1. **Project Ireland 2040 – National Planning Framework**

The NPF includes a Chapter, No. 6 entitled 'People, Homes and Communities'. It sets out that place is intrinsic to achieving good quality of life. A number of key policy objectives are noted as follows:

Objective 13 provides that "in urban areas, planning and related standards, including in particular, height and car parking will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth.

Objective 33 seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

Objective 35 seeks to increase residential density in settlements.

## 7.2. Section 28 Ministerial Guidelines

The following is a list of section 28 Ministerial Guidelines considered of relevance to the proposed development. Specific policies and objectives are referenced within the assessment where appropriate.

- ‘Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas’ (including the associated ‘Urban Design Manual’)
- ‘Design Manual for Urban Roads and Streets’ (DMURS)
- ‘Childcare Facilities – Guidelines for Planning Authorities’
- ‘Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities’ 2018
- Urban Development and Building Height, Guidelines for Planning Authorities, 2018.
- Appropriate Assessment of Plans and Projects in Ireland, Guidelines for Planning Authorities.

## 7.3. Limerick City Development Plan 2010-2016 (as extended)

The site is located on lands zoned local centre, where Objective Z0.5 (D) states it is an objective *“To protect, provide for and/or improve the retail function of local centres and provide a focus for local centres”*.

### Transport

- Policy TR.6- Mobility Management. Require a Mobility Management Plan for any development which will have a significant trip generation.
- Policy TR.9- Cycling & Walking. Prioritise safe facilities for pedestrian and cyclists throughout the city.
- Policy TR.12- Controlled & Non- Controlled Crossings. Enhance traffic management through controlled pedestrian crossing at major interchanges.
- Policy TR.25- Promotion of an Alternative Energy Sources for Vehicles by on-street charging points for electric vehicles or facilities for discharge of Bio-Fuels.

## Housing & Urban Design

- Policy H.2- Housing Mix- Provide a good mix of house types for all different ages and lifestyles.
- Policy H.3- Density- Provide a density in line with the sustainable residential density guidelines and support a mix of tenures.
- Policy H.5- Density- Promote increased density having regard to existing or proposed public transport provisions and proximity to the City Centre.
- Part II- Quantitative Standards- Increase in density in city centre locations should include a variety of built form in the layout.
- Part II- Quantitative Standards- Site coverage in Zone 3- Suburban is 50%.
- Policy DM.2 -Planning Statements- larger schemes will be accompanied with design statements including, inter alia, the architectural response to the site.

## Contaminated lands

- The development plan refers to the Docklands as having a legacy of contamination on the site, no specific policies are detailed.

## Surface Water

- Policy WS.6- It is policy to provide high quality Surface Water Collection and Disposal System.
- The control of surface water discharges to 2 l/sec/ha where there is restricted capacity.
- Policy WS.7 Sustainable Urban Drainage Systems (SUDS) It is the policy of Limerick City Council to ensure that all new developments incorporate sustainable urban drainage systems at the application stage.

## Open Space

- General provision 10%
- All applications shall have regard to the standards on the national apartment guidelines.
- Private open space for apartments 12-15m<sup>2</sup> per bed space.

## Built Heritage

### Policy BHA.17 Development in Architectural Conservation Areas

It is the policy of Limerick City Council to protect and enhance the special heritage values, unique characteristics and distinctive features from inappropriate external works within the four Architectural Conservation Areas as follows:

- ACA 1B South Circular Road
- ACA 1C O'Connell Avenue
- ACA 3 Ballinacurra Road

### Policy BHA.19 ACA 1B South Circular Road & New Street

### Policy BHA.20 ACA 1C O'Connell Avenue

### Policy BHA.22 ACA 3 Ballinacurra Road

## 7.4. Designated sites

The subject site is located c.1.1km to the south of the River Shannon and River Fergus Estuaries SPA (site code 004077) and the Lower River Shannon SAC (site code 002165).

## 8.0 Environmental Impact Assessment

8.1. Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

- Construction of more than 500 dwelling units,
- Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. (In this paragraph, "business district" means a district within a city or town in which the predominant land use is retail or commercial use.)

8.2. The proposed development is for 326 student bed spaces and 30 BTR apartments, on a site area of 0.77ha. The site is located in an urban area that is not considered to come within the above definition of a "business district". It is therefore considered

that the development does not fall within the above classes of development and does not require mandatory EIA.

- 8.3. As per section 172(1)(b) of the Planning and Development Act 2000 (as amended), EIA is required for applications for developments that are of a class specified in Part 1 or 2 of Schedule 5 of the 2001 Regulations but are sub-threshold where the Board determines that the proposed development is likely to have a significant effect on the environment. For all sub-threshold developments listed in Schedule 5 Part 2, where no EIAR is submitted or EIA determination requested, a screening determination is required to be undertaken by the competent authority unless, on preliminary examination it can be concluded that there is no real likelihood of significant effects on the environment. In these circumstances, upon preliminary examination, it is concluded that, based on the nature, size and location of the development, there is no real likelihood of significant effects on the environment. The need for EIA is therefore precluded and a screening determination is not required.

## 9.0 Third Party Submissions

A total of 11 no. observations were received, 3 of which are prescribed bodies, detailed below in section 9.0, with the remaining from residents within the existing site, two of which include multiple signatures. Similar issues were raised throughout the submissions so I have summarised these under common themes below:

### Principle of development

- Student accommodation is not suited to this residential area.
- The gross density of persons per hectare is 558 persons per hectares and is unjustifiable.
- The proposed residential density at 118ha is excessive in the area and is not in keeping with Policy H.6 of the development plan requires any proposal to respect the established character of the area.
- The entire areas should have been masterplanned.
- If the Mary Immaculate College (MIC) is to grow in size then student accommodation should be accommodated on campus.

- There is discrepancy on the details with reference to the location and extent of Rosbrien Road.
- There have been no elevation drawings submitted as the proposal bounds Rosbrien Road.
- The applicant has included a strip of lands along the front of the site with Rosbrien Road, which is not included within their site on the OS Maps (Limerick County Council). The disposal or transfer of any strip of lands is a matter for the Elected Members.
- The site does not actually have any road boundary with Ballinacurra Road as this starts after the junction with Childers Road.
- Various sketches are not consistent with the situation on the ground where:
  - The section facing south east shows a greater gap between the terraces of houses and shows a gable which is not visible.
  - The south east / west elevation labels a building as a derelict structure which is a substation.
  - The North West facing elevation refers to Rosbrien Hill which is incorrect.
  - Master plan A indicate existing houses opening directly onto footpaths which actually have gardens.
- The preplanning documentation was not available to the appellants.
- There is a micro company involved in the ownership and there will be no accountability should there be damage in the vicinity or unfinished properties.
- The proposed development does not represent regeneration for the Punch's Cross Area.
- The reports refer to an existing derelict structure, which is indeed a substation.
- There was no consultation organised on this development and there is already a high provision of student accommodation, therefore there is concern the units will not be filled.



- There is a query as to the necessity for more Student Accommodation at this location. (Appendix 6 includes other change of use applications for student accommodation in the vicinity). There are only 870 students in MIC.
- The proposal will set an undesirable precedent for further similar development in the vicinity.

### Cycling

- The wider footpath along Rosbrien Road is welcome although the standards of DMURS should be applied and facilitate the needs of cyclists.
- The provision of an extra lane for private traffic is contrary to DMURS.
- The one-way system, both within the development and on Rosbrien Road, are a barrier to cycling which can be mitigated by contra-flow and physical separation of cyclist.
- The adjoining Ballinacurra Road, Rosbrien Road and junction of Ballinacurra Road, O Connell Avenue, New Street, Circular Road and Rosbrien Road should be upgrades to standards set out in the National Cycle Manual.
- The provision of bicycle stands for the BTR should be increases to 104 (per person) as is the student accommodation and include cover.
- Sheffield bike stands should be considered as a minimum and no security features are provided for the cycle stands.

### Traffic & Car parking

- The development is in Zone 3, close to the City Centre, therefore double (84 spaces for 30 apartments) should not be provided.
- The traffic modelling only addresses vehicular travel and does not allow for a modal shift away from the car.
- The traffic audit was carried out when no schools were on.
- The local residents will lose street parking.
- There is currently a bottleneck at this location and cars are queued along Rosbrien Road.
- The Road Safety Audit does not include any consideration for pedestrian safety.
- The Rosbrien Road was included in LCCC Noise Action Plan 2018-2023 due to the threshold and number of vehicles travelling along.

- There are currently 7 lanes of traffic verging onto the un-signalled Rosbrien Road.
- The entrance and “civic plaza” at an important junction, would have a detrimental impact on the movement of flow of pedestrians.
- The impact of the proposed development on traffic flow to the south has been disregard.
- The flow and movement of wheelchair users has not be integrated.
- The inclusion of the taxi set down area will not work at this location and the surrounding area cannot accommodate an additional lane for traffic and will cause further congestion.
- The proposal includes planting of trees along the footpaths (2m x 2m required for planting. The width of the footpath need reconsidered.

#### Health and Safety

- The site is an old quarry and petrol station and no assessment has been completed in relation to contamination, the last report was in 2013.
- The underground carpark will require quarrying bedrock which will damage the health of residents in the vicinity.
- It is unclear if the underground storage tanks have been removed from the site.
- Appendix G “Demolition Contractors completion statement” was not attached to the report.
- The statement of consistency state the soil to be removed may have some contamination.
- There are no details in relation to hrs of activity proposed.
- The air borne dust from the construction may be carcinogenic and have a negative impact on the surrounding area.
- The AA screening report refers to the duct being settleable and therefore no impact on respiratory illness, which is untrue.
- The four underground storage tanks may still remain on site and their removal will cause a negative impact of the health of the residents in the vicinity.

- The applicants submitted monitoring report notes the presence of contamination, only recorded until 2013.
- The completion report recommends removal of the contaminated soils from the site.

### Residential Amenity

- The proposed height, design and use does not take into account adjoining residential amenity. This scale would be more suited to the City Centre.
- The Residential Amenity Report submitted ignores the negative impact on the local residents of New Street, O'Connell Avenue and Rosbrien Road.
- The proposed development will not bring any enhanced quality for the residents in the vicinity of the site.
- The development will be overbearing and cause overlooking.
- There will be noise and disturbance from the amount of students included.
- The development will have a negative visual impact on the surrounding area.
- The proposed development is not in keeping with the existing.
- The application refers to a casual food outlet (fast food) which will have a negative impact on the surrounding area.
- There will be an increase in noise pollution.
- There will be an increase in anti-social behaviour from the students.
- There is no prohibition for students within the proposed 30 apartments.
- Property values will decrease in the vicinity.
- There is concern the two retail units will be used for a takeaway and therefore causing anti-social behaviour.
- The development plan supports the development of Mary Immaculate College, but only if it does not adversely impact the amenities of the area.
- The development plan states that major developments should be designed to avoid significant noise impacts (generated by piling during construction).
- The lack of open space within the development will mean that the residents and students will congregate on Punches Cross or the green space on Rosbrien Road.
- The size of the one bedroom apartment is 46.75m<sup>2</sup> which is below the 55 m<sup>2</sup> required in the apartment guidelines.

- There will be light pollution from the proposal on the surrounding area.

### Design

- There are no buildings over three storeys in the vicinity of the site.
- The height is inconsistent to the surrounding area and does not adequately respect the interface areas.
- There have been no elevations of the proposal onto Rosbrien Road (R858).
- The plans describe the proposal as 6 storeys with a setback, which is effectively seven storeys.
- Higher density building should be located closer to the commercial properties on Childers Road.
- The provision of housing units is not in keeping with the local authority housing list and does not include a mix of development.
- The NorthWest corner (facing O Connell Avenue) has largely blank gable windows and is three times the height of Punches Bar, on the opposite side of the road.

### Architectural Conservation Area/ Built Heritage

- Much of Ballinacurra Road, O'Connell Avenue and New Street are within an ACA.
- The proposed development will dramatically alter the setting and appearance.
- Policy BHA.19 ACA 1B and BHA.20 ACA 1C and BHA.22 ACA 3 required that development protect the special character of South Circular Road & New Street, O'Connell Avenue and Ballinacurra Road.
- Section 14.7 of the plan includes specific objective relating to the South Circular Road/ Ballinacurra Area.
- There are two protected structures in the vicinity which will be impacted.
- The only other street front building is Punch's Pub which is in excess of 100 years.
- The modern style of the proposed will not be in keeping with the surrounding Georgian Architecture.
- The ACA designation does not allow for parking within the boundaries of residents dwellings and are therefore dependant on the street parking. (Photographs are submitted of double parking on the streets in the vicinity).

## Environmental Assessment

- The applicant has accepted that there is contamination on the site from previous uses.
- Due to the quarrying the underlying bedrock is eroded which leaves the limestone bedrock close to the surface and therefore a highly vulnerable aquifer.
- There has been a mechanical removal of limestone bedrock in the past.
- There has been no assessment of the basement carpark the proposed piling and/or the hydrocarbon contamination.
- Policy LBR.8 of the development plan refers to the precautionary principle when dealing with Natura 2000 sites.
- The Ballinacurra Creek is a tributary of the Shannon and is close to the site.
- The contamination issue has implications for the Lower River Shannon SAC (002165) which is 1.1km from the site and the River Shannon and River Fergus Estuaries SPA (004077).
- The stage 1 assessment took into consideration mitigation measures which is prohibited as per People over Wind (CJEU case C 323/17) and Heather Hill Management Company case.
- The cumulative impacts listed in the AA screening are not relevant to the site.
- The AA screening states the petrol pumps have been decommissioned, this is factually incorrect as only the surface pumps were removed and the underground storage remains.
- No Natura Impact Assessment (NIS) or Environmental Impact Assessment (EIA) has been submitted.
- There is no impact from the use of SUDS on the site, which is probably porous. Chapter 12 of the development plan states that SUDs shall not be used where the ground water or high water table is at risk.
- No site specific assessment of the existing buildings has been undertaken to see if any wildlife existing in situ.
- Chapter 12 of the development plan includes requirements for sites which are possibly contaminated.

## 10.0 Planning Authority Submission

### 10.1. Overview

The planning authority, Limerick City and Council has made a submission which was received by ABP on the 12<sup>th</sup> of August 2019. The report notes pre-planning consultations in the area and summarises the submissions received in respect of the application. **The planning authority has not raised any serious concerns with regard to the proposed development submitted.**

### 10.2. Summary of Views of Elected Members

A synopsis of the comments/views in respect of the proposed development is set out as follows:

- The development of a derelict site is welcome.
- There is concern over the lack of public consultation.
- The height of the structure is excessive in relation to existing housing stock.
- There is serious concern over the impact on the traffic and the validity of the TTA is questioned, displacement of the on-street parking, congestion on New Street.
- There should be a greater social mix provided.
- Cycle lanes should be integrated
- A takeaway/off licence should not be included in the proposed retail units.
- There is concern in relation to the BTR after the 15 year period.
- Concern in relation to enforcement of the student accommodation.
- On site management is essential, including point of contact during construction and point of contact in the council for security on the site.
- A construction management plan should be provided.
- The external materials should be long lasting and weather appropriate.
- There is no risk with respect the previous use and contamination.
- There is no enough residential mix provided on the site.
- There will be excessive noise during the construction and vulnerable residential use and HSE residents should be protected.
- All landscaping should be of a native use.
- The developer should be accountable.

### 10.3. Planning Analysis

The report which sets out the principle planning considerations as summarised below:

#### Principle of Development

- Residential Development is “permitted in principle” under Objective Z0.5 (D) local centre.
- The retail provision is adequately represented in the Greenpark local centre and Lidl discount store which forms part of the adjoining local centre zoning.
- The Mary Immaculate College is located within 320m of the site.
- The National Student Accommodation Strategy estimated a shortfall of 2,169 student bed spaces in Limerick City for 2019.
- The applicant states there are only 998 spaces within 1,000m of the site and the proposed development would only represent 7%.

#### Demolition of Buildings

- No details are provided of the buildings to be demolished.

#### Site Layout

- The location of Block A and Block B on the site is noted and the overall design of the buildings and response to the site context is acceptable and in compliance with the national policy.

#### Density

- There is no upper limit to the density as proposed in the apartment guidelines
- The site is located 1,200m from the urban zone of the city limits and 1,100m from Limerick train station.

#### Apartment Blocks

- The proposed development is in compliance with the SPPRs in the apartment
- SPPR1- the number of one bed units does not exceed 50%,
- SPPR 2- The application is not a building refurbishment scheme or urban infill scheme of up to 0.25ha.
- SPPR 3-The compliance statement refers to the minimum apartment sizes.
- SPPR 4/ 5/ 6/7 & 8 have been complied with.

### Design, Height, Scale, Materials & Finishes

- The maximum height is 20.1m high.
- The height in the vicinity is generally mixed and up to three storeys.
- The building height guidelines allow increased heights at appropriate locations and the proposal would significantly contribute to the development of a brownfield site.
- A Conservation Report has been submitted and the materials on the corner features are well designed and appropriate to the location adjoining an ACA.
- The railing and setback from the edge of the road will allow ventilation of the carpark and protect the privacy of the residents.

### Residential Amenity of adjacent property.

- Any overbearing will not be unduly excessive.
- The separation distances are considered acceptable.
- The submitted Residential Impact Assessment includes an impact on sunlight and potential noise impact.
- The proposed includes a new widened footpath.

### Public Open Space/ landscape Strategy

- The BTR apartments include private balconies and highly accessible private open space.
- The student accommodation does not contain private open space although has communal open space accessible to all residents
- The communal open space provided is 32%.

### Childcare facility

- Given the location of the site a childcare facility is not considered necessary.

### Unit Mix, BTR/ Student Apartments/ Retail element

- A management plan has been submitted.
- The BTR has been included following preplanning with the Board.
- The two retail units are small as per advice provided to the applicant at preplanning.



- No takeaway or off licence should be provided within these retail units and they should be ancillary to the overall residential use.

#### Appropriate Assessment/ Environmental impact Assessment

- The Board is the competent authority with regard AA/ EIA.
- Comments are submitted from the Heritage office.

Internal Reports & Submissions have been summarised within the report (further detailed below)

#### Development Contributions

- It is recommended that a contribution for 70 student apartments, 30 BTR and 2 retail units is included.

#### Development Contribution Scheme 2017-2021

- Residential Development €20 per m<sup>2</sup>
- Retail/Commercial development €100 per m<sup>2</sup>

#### Proposed Development

- Residential Development Block A & B- 19,214m<sup>2</sup> x €20 = €384,280.
- Retail Development – 105.6m<sup>2</sup> + 99m<sup>2</sup> = 204.6m<sup>2</sup> x €100 = €20,460.

#### Conditions

28 no. conditions are recommended for inclusion on any grant of permission, of which the following are of note:

**C 2-** Submission of a noise assessment to ensure the proposal complies with the noise level recommendations in *BS 8223:2014 Guidance of Sound Insulation and Noise Reduction for Buildings*.

**C 3-** The development area shall be maintained by a Private Management Company, submitted for agreements prior to occupation of any residential units and access to all open space/ links etc. shall be made available to members of the public.

**C 4-** Submission of a Section 48 Contribution for €408,740.

**C 13-** Submission of detailed design for a new cross signalised junction including

- Setback on the Ballinacurra Road of a minimum 4m wide for a shared cycleway/footpath
- Revision to the access/egress junctions on Rosbrien Road and Ballinacurra Road to include physical islands to allow for left in/ left out exaggerated to ensure no unsafe traffic movements
- Road Safety Audit Stages 1, 2 &3.
- Additional works to the roads.

**C 14-** Submission of a topographical survey of the on street parking for Rosbrien Road and the cost implications for relocating the on-street parking spaces.

**C 15-** Submission of a detailed design drawings for the provision of a controlled pedestrian crossing point on Rosbrien Road (Lord Edward Street).

C 19- Compliance with the basement car park with appropriate standards, include electric charging points and submission of a construction traffic management plan.

C 26- Submission of details of the retail units which shall not include fast food takeaway, off-licence, and amusement arcade, gaming arcade and no gaming machines etc. shall be placed within the premises.

C 27- Restriction on the use of student accommodation only during the academic year and shall not be used as a hotel, hostel, apart-hotel or similar use without a prior grant of permission.

C 28- Submission of a Section 47 agreement providing the 30 BTR units to remain owned and operated by the developer or an institutional entity for a minimum period of not less than 15 years.

**10.4. Statement in accordance with Section 8 (3) (B) (II)**

The Planning Authority considers the proposed development should be granted subject to conditions, having regard to the sites location on lands zoned as ZO.5 (D) Local Centre, the NPF and the relevant Section 28 guidelines.

## 10.5. **Inter-Departmental reports**

### Operations & Maintenance

- In relation to surface water, roads, access/egress, public lighting there is no objection subject to 9 no conditions.

### Housing Section

- No objection subject to final negotiation of specific details for Part V compliance.

### Fire & Rescue Services

- No objection to proposal.

### Archaeologist

- No archaeology issues.

### Environment (Noise)

- Recommend FI/ or a condition requiring the submission of an impact of road noise on the residents living at the proposed development.

### Environment (Waste Management)

- No objection subject to conditions in relation to both construction and operation.

### Heritage Officer

- There are a few typo errors in the text.
- Mitigation measures are mentioned and cannot be taken into account at screening.
- The findings of the AA screening are accepted and there if no requirement to proceed to full NIS.

## 11.0 **Prescribed Bodies**

### 11.1. Transport Infrastructure Ireland

- No objection to the proposal.

### 11.2. Health Service Executive (HSE)

- The HSE occupy the building adjoining the location of the proposed development, since Nov 2016, and the site provides accommodation for the Child and Adult Mental Health Service (CAMHS), assessment and treatment.
- There has been considerable noise disruption from the Aldi Store and the unit is sensitive to disruption.
- There are concerns in relation to disturbance from noise and dust during construction and request appropriate restrictions to mitigate against negative impacts.

### 11.3. Irish Water

- A submission to the Board on the SHD proposal stated no objection to the proposal.
- The applicants initial pre connection enquiry for 422 no. student bed spaces states that a gravity connection may not be achievable and a suitably sized pumping station may be required to be installed on the site.

## 12.0 Assessment

The main issues of the appeal can be dealt with under the following headings:

- Principle of Development
- Contamination
- Water
- Traffic, Car Parking and Cycle Provision
- Design and Layout
- Residential Amenity
- Built Heritage
- Other
- Appropriate Assessment

### Principle of Development

- 12.1. The proposed development comprises of 70 student apartments (326 bed spaces), 30 no. BTR apartments and two ancillary retail units. Previous uses on the majority of the site relate to a petrol filling station and a large derelict commercial building remains on the site. Section 5 Pre Application Consultation, was undertaken by the applicant and further consideration of development strategy, elevation treatment and finish and car parking strategy was required.
- 12.2. A number of submissions, including signed petitions, have been received from residents in the vicinity of the site, raising concern in relation to the principle of the development on this site, in particular the inclusion of the student accommodation, which I have addressed separately below.

### Zoning

- 12.3. The site is zoned in the development plan for use as a local centre, Objective ZO.5 (D) where it is an objective *“To protect, provide for and/or improve the retail function of local centres and provide a focus for local centres”*. The land use objectives for local centres refer to the use of small convenience retail units, commensurate with the area and inclusion of residential use. A range of local centre services exists in

the neighbourhood centre to the south of the site and a discount food store has been recently constructed (ABP 247323, Reg Ref 16/44) directly adjacent to the site. A large hotel/ public house is located on the opposite side of the road at Punches Corner, outside of those lands designated as local centre. The applicant submits that the residential development will not compete with the existing local services and the proposal will enhance the Local Centre Objective.

- 12.4. The Local Centre zoning permits residential development. I note the scale of the retail use in the current neighbourhood centre to the south, the recently permitted discount store and the large hotel/public bar on the corner of Punches Cross and I consider an acceptable range of facilities are currently available to support local needs. I do not consider the inclusion of residential development at this location would detract from the existing retail uses or prevent any further delivery of local services in the immediate vicinity.

#### Retail use

- 12.5. The proposal includes two retail units (204.6m<sup>2</sup>) along the front of the site at Punches Corner, at the entrance to the student accommodation. The Statement of Consistency which accompanied the application states that the retail units are to operate in conjunction with the student accommodation. Both the planning authority and a number of submissions from local residents are concerned the proposed retail use will be for a takeaway. The car parking analysis uses the quantum of spaces required, 1 space per 20-25m<sup>2</sup>, for restaurant use.
- 12.6. Part III – Development Management, of the development plan, requires specific design criteria to be integrated into apartment developments where any ground floor units are to be used for takeaway and the use of such facilities will be strictly controlled in areas which are sensitive to noise, disturbance etc. I note the location of the proposed retail units directly adjacent to and below student accommodation, and the absence of any details for ventilation, ducting etc. and I do not consider they are appropriately designed for the sale of any hot food. I note the submitted plans and particulars refer to the units as retail, although the mezzanine floor use indicates private catering. I consider a condition restricting the use of the ground floor units for retail and the submission of additional details associated with the private catering can be reasonably included on any grant of permission and the use of these areas

for these purposes would not have a significant negative impact on the remaining development.

- 12.7. Having regard to the zoning objective on the site, those uses which are open for consideration and the previous use on the site I consider the principle of residential development for both student and BTR, on this site acceptable, subject to other planning considerations, further detailed below.

### **Contamination**

- 12.8. The subject site is a brownfield site, the submitted documentation refers to past uses as a vehicle/car sale, repairs and commercial premises and a fuel filling station from as far back as 1960. A total of 8 no. fuel storage tanks were present on the site, 4 of these have been decommissioned in two stages (2007 and 2010<sup>1</sup>).

### Closure Report

- 12.9. The planning application is accompanied by a Closure Report, undertaken in 2013 which provides an analysis of the impact of the previous uses on the site, the environmental risks and includes results of groundwater monitoring over a period of 8 years. Details of the phase 1 decommissioning are included in the Closure Report and I note there is a lack of clarity in report for works undertaken in Phase 2 (Section 3.3). The report states that tanks 1-4 remain in-situ. Groundwater monitoring on the site, over the 8 years, indicates that the levels of hydrocarbons and other contaminants (TPH, MTBE and benzene) pre-recorded within the 4 no bore wells have decreased and there has been an improvement on the groundwater quality. The report concludes that assuming a proposed end commercial user and no use of vegetable gardens, the reported contaminants associated with the soil and groundwater do not represent a significant risk to the end user.
- 12.10. Third party submissions have raised concern in relation to the remaining 4 no. storage tanks on the site, the proposed excavation and the possible contamination which remains on the site. The Construction and Demolition Waste and Management Plan notes the removal of four fuel tanks and disposal of materials associated with excavation works, further discussed below, to a licensed waste facility. These works would not be unusual for a city centre brownfield site and would be necessary for the decontamination of the site.

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<sup>1</sup> Closure Report, URS, Greenparks Former PFS, Prepared for ABB (2013)

## Excavation

- 12.11. The proposal includes basement parking as a means of facilitating the car and bicycle parking required for the proposed development, which I consider is an efficient use of land and appropriate proposal for a large residential development within an urban setting. Dwg No 18.104.11 within the “Civil Engineering Report” indicates two areas proposed for bulk excavation, an area along the north, adjoining Rossbrien Road (21,150m<sup>3</sup> (4.7m average depth)) and to the south east (630m<sup>3</sup> (0.45m average depth)). The cross section drawings which accompany the application, indicate a depth of c. 4m below the existing street level, which I consider is generally in line with the above engineering report.
- 12.12. The submitted engineering report acknowledges that the excavation works may possibly have an impact on the groundwater through infiltration of polluting sub surfaces and a specific groundwater filtration system will be designed and agreed with Limerick City & County Council prior to any excavation. Section 9.0 of the Construction & Demolitions Waste and Management Plan (CDMP) states that of the c 33,000m<sup>3</sup> soil/subsoil to be removed from the site, 10% (3,300m<sup>3</sup>) is category 1 waste (suitable for transfer to a waste permitted site in Ireland), 30% is category 2 waste (suitable for transfer to waste facility in Ireland) and 60% category 4 (suitable for transfer to a non-hazardous waste facility in Ireland or Europe). Section 16 of the CDMP refers to the possible reuse of the soil on site, in other site or used for capping quarries, which, considering the level of contaminants recorded in the Closure Report, I do not consider the reuse of contaminated soil on site appropriate having regard to the residential use and a condition restricting this would be reasonable having regard to the level of contaminants on the site and the findings of the Closure Report.
- 12.13. Having regard to the information submitted in relation to the proposed excavation and waste removal, I am satisfied the applicant has determined the waste can be appropriately disposed. I note the absence of any detail relating to the groundwater filtration system and having regard to the potential impact of the works on the ground water, which are further elaborated below in relation to Appropriate Assessment, I do not consider it can be definitively concluded that the construction works can be accommodated and the site can be used for residential use as proposed.



## **Traffic, Car Parking and Cycle Provision**

- 12.14. The subject site is bound to the east by the Rosbrien Road and west by the Ballinacurra Road and to the immediate north is a signalised junction connecting these two main roads and O' Connell Avenue and New Street. The Rosbrien Road has a one way traffic system for vehicles travelling north. The speed limit is restricted to 50km/h in the vicinity.
- 12.15. 94 no. basement car parking spaces and 294 no. basement cycle spaces are proposed via two access points into the site, to the north of the site along the Rosbrien Road and to the west along the Ballinacurra Road, both are left- in and left-out priority junctions. In addition to the proposed access, an additional traffic lane is proposed along Rosbrien Road, a strip of land (3.25m) along Rosbrien Road, between the access junction and signalised junction will be allocated to the Local Authority and an upgrade of the signalised junction is also proposed in conjunction with pedestrian crossings across the Ballinacurra Road and the Rosbrien Road.
- 12.16. A number of third party submissions refer to the lack of accommodation for cyclists, the high level of parking, further discussed below, and the loss of on-street parking and the overall impact on the pedestrians and other users.
- 12.17. A Road Safety Audit (RSA) of the preliminary design (Stage 1) noted the reduced visibility splays at access points in line with DMURS and recommend monitoring of these junctions to take into account more conservative stopping sight distances and noted the carriage way should be subject to SCRIM testing to determine whether the current PSV provides sufficient skid resistance, having regard to the significant gradient distances. In addition to these points, a range of concerns were raised with regards the alterations to the public roads in the vicinity and the design and layout of the basement carpark e.g. additional signage. The Stage 1 RSA also noted the absence of boundary treatments (these may be restrictive to traffic flow) and the existing use of the on-street parking and fire assembly point along Rosbrien Road, to the south of the access point, will restrict visibility for cars existing the site.
- 12.18. A Transport and Traffic Assessment accompanied the application following discussions with the Planning Authority and includes a traffic modelling scenario based on medium growth and considers the recent developments in the vicinity, including the discount foodstore to the south of the site. Section 8 of the TTA notes

the integration of some of the recommendations from this Stage 1 report, and refers to the recommendations of the Road Safety Audit, the Opinion Report by The Board and discussions with the Local Authority and concludes with the following:

- The inclusion of the new left turn lane, works to the signalised junction and strip of land reallocation to the Local Authority will be subject to final design and specification and will have a positive impact on the traffic flow.
- Additional works will be subject to Stage 2 and Stage 3 Road Safety Audits.
- Two of the four on-street parking spaces to the south of the site, along Rosbrien Road, will be removed to accommodate sight visibility.
- In relation to mobility management, the applicant should liaise with the NTA with regards a real time information display of bus services and leap card top-up kiosk on site.

12.19. A letter of consent has been submitted from Limerick City and County Council relating to the works along the edge of the site included the additional traffic lane for public use as per site location map 1232-17-02. The Report from the operations section of the Council noted no objection subject to conditions requiring a setback of the boundary along the Ballinacurra Road, alterations to the junctions to include exaggerated islands to prevent unauthorised movements, additional Road Safety Audits, inclusion of ducting, access chamber and loop detection locations, signal and pole locations, inclusion of pedestrian crossings, and works to the signalised junctions, further details of the removal of the 2 parking spaces along Rosbrien Road, as per condition 13, 14 & 15 of the Chief Executives Report, which I consider reasonable.

12.20. Car Parking - The proposed development includes 326 bed spaces for students and 30 BTR apartments. Map 6 of the development plan illustrates the parking zones for Limerick City and the site is located in Zone 3. Table 16.1 of the development plan includes the parking standards applicable for student accommodation in Zone 3 as a minimum of 1 per 5 students with apartments at 1:25 per apartments and 25% for visitor and 1 space per 20-25m<sup>2</sup> for retail. Having regard to the development plan a requirement for 65 spaces for the student accommodation, 1 for the apartments, 8 for visitor parking and 4 for the retail. The proposed development includes 84 car parking spaces, 13 designated for visitor parking and 15 for the apartments, the

remaining spaces (56) are for use for the student accommodation and associated retail. I consider the quantum of car parking provided sufficient to serve the overall development and note the development plan standards are a minimum.

12.21. Cycle parking- Table 16.2 includes the cycle standards requires the provision of 1 cycle space per 10 student accommodation, 1 space per apartment and 1 stand for every 50m<sup>2</sup> of retail space for developments in Zone 3. 326 no. cycle storage spaces are provided in the basement for the student accommodation and 50 for the apartments which exceeds the development plan standards. In addition to the basement parking, shared surface cycle provision is included at the main entrance and within the courtyard. Map 3B of the development plan illustrates the main cycle ways proposed throughout the City with the closest along Childers Road to the south of the site, which I consider will serve the site sufficiently.

12.22. The car and bicycle cycle is in excess of the required development plan standards although not significantly to cause a negative impact on the overall development. The Rosbrien Road accommodates a one-way system. I undertook a site inspection at 9.00 am in September, and I did not consider there was excessive congestion in the vicinity. I note the proposed upgrade of the surrounding road network, alterations to the existing signalised junction and the integration of additional pedestrian crossings and whilst I acknowledge full details of all works have not been submitted, I consider they can reasonably be dealt with reasonably by condition.

### **Design and Layout**

12.23. The site is 0.77ha in size and the proposal comprises two residential buildings, Block A along the front of the site, bounding Rosbrien Road and Ballinacurra Road and Block B within the site. The main entrance into Block A, student accommodation, is at the junction between Rosbrien Road and Ballinacurra Road and the height of the aspect is seven storeys at the corner dropping to five along the Ballinacurra Road. A public plaza provides a feature at the main entrance to Block A. A number of third party submissions have raised concern over the scale and mass of the proposal on this site, in particular the impact on the residential amenity and Architectural Conservation Areas (ACAs) in the vicinity which are dealt with separately below.

12.24. Density- The density is c. 118, having regard to 70 student apartments and 30 BTR apartments. A third party submission quantifies the density as 558 persons per ha,

having regard to the student bed spaces rather than the units, which I do not consider is reasonable. The subject site is a brownfield site on the edge of Limerick City Centre and within a designated local centre. The development plan promotes density standards from the sustainable residential guidelines, therefore a minimum of 50 per ha is required. I note the location of the site adjoining a bus route, in the vicinity of mixed use developments and close to the Mary Immaculate College and I consider the density complies with relevant section 28 guidelines.

- 12.25. Site Coverage-The site is located in Zone 3 of the development plan which specify an indicative site coverage of 50%. The supporting documentation details the coverage at 34%, therefore the site coverage is acceptable.
- 12.26. Height- The building fronting onto the Ballinacurra Road and the Rosbrien Road will be the most prominent with regards height and both are set back from the edge of the existing road by 4.5m. Guidance for medium & high rise buildings, as provided in the development plan, includes an emphasis on high quality contemporary buildings which make a positive contribution to the skyline and have cognisance to the surrounding area. Emphasis on height is concentrated at the central features of Block A, adjoining the public plaza, and Block B at the rear both of which include 7 storeys. I note the existing brownfield use, commercial nature of the adjoining lands and the local centre zoning and the need for efficient land use I consider the height range acceptable for this urban setting, providing a focal point into Limerick City Centre.
- 12.27. Design- The Architectural Report and Urban Design Statement incorporates a design concept and mirrors the overall design of the scheme to a similar development in Nassau Street, Dublin, for Trinity. The entrance at the northern most corner, which connects to a plaza, provides a focal point for the development which is enhanced by a six storey element. The remaining buildings fall down to 4 storeys along the frontage and I consider the variation in height and design compliments the site. I have some concerns in regard to the exact details of the finishes, discussed below, although the mix and range, if conditioned as high quality, will support a high quality design. The set back from the edge of the road and public plaza will ensure the building is not overbearing on the surrounding area.

12.28. Boundary treatment- The landscaping plan indicates a 1.8m decorative railing along the front of the side adjoining Rosbrien Road and Ballinacurra Road along the edge of the ventilation for the basement. A 1.8m railing is proposed around the open space dedicated for the BTR apartments and a 1.1m high railing along the edges of the interface between the ground floor and basement vehicular entrance. Gates are proposed into the rear of the development adjacent to the basement carpark access and also into both the open space courtyard for the students and the BTR open space. Detailed illustrations have not been included within the application and whilst there is some indication of the design of some boundary treatment in the CGIs, the final details of boundary treatment should be submitted to ensure a high quality finish is provided. I consider a condition on any grant of permission can be reasonably included.

12.29. External Materials- The Architectural Report and Urban Design Statements states that the external materials proposed include brick, stone and render. The exact location of these finishes are not detailed on the submitted drawings, although from analysis of the CGIs it is presumed that the main façade at the junction between Ballinacurra Road and Rosbrien Road is finished with stone, the facades along Ballinacurra Road and Rosbrien Road finished with selected brick whilst the remaining elevations at the rear of Block A and most of Block B will be finished with render.

12.30. The pre application opinion requested the submission of “specific detailing of finishes, openings, the treatment of balconies, railings and landscape areas and boundary treatment”. This request has only partially been complied with and it is evident there is absence of detailing for boundary treatment, balconies and external materials on the submitted documentation. This aside, I consider the scale and massing is appropriate at this location and the scheme responds sufficiently to the location along main approach roads into Limerick City and in the context to the surrounding environment. It is noted the substantive issue relating to the development of this site relates to the treatment of contamination, groundwater vulnerability and connectivity with a European Designated Site, as detailed below. It is recommended that should the Board be minded to grant permission, a condition requesting the agreement of further details for external materials and boundary treatment should be sought.

## **Residential Amenity**

- 12.31. The proposal includes two buildings, the larger building fronts onto the Ballinacurra Road and Rosbrien Road and a building at the rear, in a courtyard configuration. The blocks along the front of the site (A) and the most central part of the rear block (B) will accommodate 70 student apartments (326 bed spaces). The east and west of the rear building (B) will accommodate 30 build to rent units, separated from the student accommodation on the ground floor by an access and walkway to the open space.
- 12.32. The Notice of Pre-Application Consultation Opinion which issued from An Bord Pleanála referred to the compatibility of uses on the site, tenure, residential amenity, management and security. The proposed use for student accommodation has raised concern with local residents, particular relating to potential anti-social behaviour. A Student Management Plan accompanied the application and refers to the existence of 24/7 management team, with security and residential managers, which I consider sufficient management of the site.

### **Build to Rent**

- 12.33. The location of the BTR units at the rear of the site, with separate access and open space provision allows for a clear distinction of uses within the site and a sufficient tenure mix is provided. Section 5 of the Sustainable Urban Housing: Design Standards for New Apartments, 2018 provides guidance on the Build-to-Rent (BTR) sectors. The guidelines define BTR as “purpose built residential accommodation and associated amenities built specifically for long-term rental that is managed and serviced in an institutional manner by an institutional landlord”. The ownership and management of such a scheme is usually carried out by a single entity which I consider is achievable on this site and having regard to the integration with the student accommodation a strong management regime has been provided as a condition relating to the same owner would protect the residential amenities of future residents of the BTR units.
- 12.34. A schedule of compliance with the apartment guidelines accompanied the application confirming required apartment sizes, which I note and consider reasonable. Balconies are all south east and southwest facing, onto the communal open space and adjoin a local neighbourhood centre. SPPR 8 removes restrictions,

for BTR proposals, on housing mix and provides lower standards for parking, private amenity space, 10% exceedance for spaces and lower units per core, although I note the proposed scheme complies with the standards.

12.35. SPPR 7 of the apartment guidance provides guidance for the appropriate provision of communal residential facilities for occupants of the BTR units, the schedule of compliance notes the inclusions of two concierge office spaces on the ground floor. One of these areas should be reallocated for additional appropriate residential amenity such as dedicated laundry facilities, communal leisure areas, gym or work spaces/ hotdesks, concierge service, etc. to support the range of facilities recommended in the guidelines.

12.36. The development plan requires the provision of 10% communal open space for residential development and refers to the standards in the apartment guidelines for apartments. Gated communal open space (450m<sup>2</sup>) at the rear of Block B is allocated for the BTR units and any grant of permission should include a condition that this is retained exclusively for these units in order to protect their residential amenity and the proposed play area should be designed to a high standard and integrated into the management plan to be maintained by the management company.

#### Student Accommodation

12.37. The student accommodation is mainly concentrated in Block A (56 apartments), along the front of the site with the centre of Block B accommodating 14 apartments. The main entrance at the corner of the site integrates 551m<sup>2</sup> of communal and social facilities. A courtyard area (1,375m<sup>2</sup>) between Block A and B is also gated as use of the student accommodation. I note the range of apartment sizes provided (3, 4, 5, & 6 bed) and the associated common rooms and having regard to the communal areas I consider the range of student accommodation acceptable.

12.38. In relation to the impact on the amenities of the existing residences, a row of two storey terrace dwellings face onto Rosbrien Road, to the north east of the site, across from Block A are located c. 24m which I consider an appropriate separation distance has been provided. A shadow cast analysis submitted indicates shadow projection along the front of these dwellings in the evenings. Having regard to the urban setting and necessity for high density development, any such development over 3 storeys would cast shadow along Rosbrien Road, whilst this will have an

impact on the amenity of these dwellings, I do not consider it will have a significant negative impact on the amenity of these residents.

### **Built Heritage**

12.39. The site is not located within any designated Architectural Conservation Areas (ACA), nor does it contain any protected structures as listed in the Record of Protected Structure (RPS) in the development plan. The site is located central to a number of designated ACAs as summarised below:

- c. 100m to the south , along the O' Connell Avenue Road, from the O' Connell Avenue ACA 1C, separated by residential development.
- c. 100m to the east, along the New Street, from the South Circular Road & New Street ACA 1B, separated by the Punches Cross Public House.
- c. 200m to the north, along Ballinacurra Road, from the Ballinacurra Road ACA 3, separated by the existing neighbourhood centre.

12.40. A Conservation Report accompanied the proposed development which illustrates the location of the site, in conjunction with adjoining ACAs, assesses the impact of the proposed development relative to the setting (location of ACAs and Protected Structures), and concludes that any visual impact on the surrounding area will be mitigated by the high design quality of the proposed development.

12.41. The development plan includes a number of relevant policies relating to the protection of the built heritage including Policy BHA.19 ACA 1B (South Circular Road & New Street), BHA.20 ACA 1C (O'Connell Avenue) and BHA.22 ACA 3 (Ballinacurra Road) which highlight the need to protect and enhance the special heritage values, unique characteristics and distinctive features of the all those ACAs from inappropriate development affecting the external materials and features defined in the each of the ACAs 'Statement of Character' and 'Key Threats to Character'.

12.42. I note the "Statement of Character & Identification of Key Threats" for each of the ACAs in the development plan and having regard to the separation distance of those ACAs from the subject site, the scale of the buildings surrounding the existing site and mix of uses in the vicinity, I do not consider the proposed development will have any significant negative impact on the character and setting of the South Circular Road & New Street ACA, the O'Connell Avenue ACA or the Ballinacurra Road ACA.



## Other

12.43. Development Contribution: The Limerick City & County Council Development Contribution Scheme 2017-2021 includes guidance for the imposition of contributions. Section 6 states that apartments will be levied at a residential rate per m<sup>2</sup> where Appendix A states €20m<sup>2</sup>, whereas the retail is €100 per m<sup>2</sup>. The response from the planning authority recommends the imposition of a Section 48 levy of €408,740 as detailed below:

- Retail Development -  $204.6\text{m}^2 \times €100 = €20,460$
- Residential Development -  $19,214\text{m}^2 \times €20 = €384,280$ .

The submitted application states that Block A is 9,028m<sup>2</sup> (inclusive of retail), block B is 5,330m<sup>2</sup> and the basement carpark is 5,061m<sup>2</sup>. Having regard to the development contribution scheme, I do not consider the car park should be included for the purposes of the residential levy and therefore an area of 14,153.40m<sup>2</sup> should be levied in addition to the 204.60m<sup>2</sup> for the retail.

12.44. Part V is applicable to the “Build to Rent” apartments (30units) and the applicant has submitted a letter received from Limerick City and County Council confirming lease of 3 no units on-site to the Council and concluding that final negotiation is required. I consider any further issue of Part V could be reasonably dealt with by way of a condition on any grant of permission.

12.45. Water - The “Civil Engineering Report” states that all water services (foul and storm) to the site have been decommissioned for more than 8 years. The proposal includes connection to existing storm sewers and combined sewers located along the Ballinacurra Road. A new water mains connection will be provided. A response from Irish water noted no objection subject to the possible inclusion of a pumping station for the foul as gravity connection may not be achievable, which I consider reasonable.

12.46. Two large concrete storage tanks (300m<sup>3</sup> & 190m<sup>3</sup>) will be located within the basement area and attenuated storm water will be discharged by gravity into the existing storm water sewers within the Ballinacurra Road. The report from the Local Authority had no objection to the proposal.

## Appropriate Assessment

- 12.47. The subject site is located on an urban site, in the centre of Limerick City. The proposed development for student accommodation and BTR apartments includes a connection to the public services for the purposes of surface and foul water. The site is located on an area where the ground water is classified as highly vulnerable<sup>2</sup> and bedrock is near the surface.
- 12.48. The application is accompanied by a Screening for Appropriate Assessment which describes the project, assesses the site conditions and considers those European Designated sites within a 15km radius which have the potential to be affected, including the River Shannon and River Fergus Estuaries SPA and Lower River Shannon SAC.
- 12.49. The site is located c.1.1km to the south of the River Shannon and River Fergus Estuaries SPA (site code 004077) and the Lower River Shannon SAC (site code 002165). Having regard to the characteristics of the proposed development, the distance from and Conservation Objectives of other European Sites within a 15km radius, I consider it reasonable that the proposal only has the potential to impact on the River Shannon and River Fergus Estuaries SPA and Lower River Shannon SAC. The Conservation Objectives of the SAC<sup>3</sup> lists 14 habitats and 7 species including the Freshwater Pearl Mussel *Margaritifera margaritifera*. The Conservation Objectives for the SPA<sup>4</sup> lists 21 species of which are wetland and waterbirds. Many of these habitats and species are vulnerable to changes in the water quality and the Freshwater Pearl Mussel, a protected species under EU Habitats Directive Annex II, is seriously endangered in every part of its range throughout the world.
- 12.50. Having regard to the groundwater vulnerability and the location of the site within the same aquifer as the River Shannon and River Fergus Estuaries SPA and Lower River Shannon SAC, the screening report identifies a potential pathway, via the groundwater, which I consider reasonable.

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<sup>2</sup> [www.gsi.ie](http://www.gsi.ie)

<sup>3</sup> <https://www.npws.ie/protected-sites/sac/002165>

<sup>4</sup> <https://www.npws.ie/protected-sites/spa/004077>

## Potential Impact

- 12.51. As stated in the assessment above the subject site has a history of contamination from a previous use for a petrol filling station. The proposal includes the excavation and removal of c. 33,000m<sup>3</sup> of soil/ subsoil and four fuel tanks to dispose at an appropriate licenced facility, to accommodate the basement parking.
- 12.52. I note the characteristics of the site, including the groundwater vulnerability, karst or rock near the surface, the proposal to excavate c. 4m in depth and the distance c 1km from the edge of the River Shannon and River Fergus Estuaries SPA and Lower River Shannon SAC and I consider there is a hydrological pathway between the site and these European Sites via the groundwater. The proposed extraction of materials, in particular the fuel tanks have the potential to cause pollution via percolation and I have serious concerns relating to the impact on water quality, *inter alia* the transfer of hydrocarbons and hazardous substances through percolation of the site.
- 12.53. I consider there is a potential for impact on the water quality of the River Shannon and River Fergus Estuaries SPA and Lower River Shannon SAC from the proposed construction activities.

## Assessment

- 12.54. The screening report states that having regard to potential impact on the groundwater mitigation measures in the form of control of silt/sediment and spillage of hazardous substances are included in the Construction and Demolition Waste Management Plan (C&DW MP) and having regard to these mitigation measures the impact to the groundwater pathways is not likely. I have assessed the C&DW MP and I note there are no specific mitigation details relating to the protection of water quality for European Sites, this aside any relevant information on the likely impact on the Conservation Objectives of a European Designated site should be included in the screening for appropriate assessment, which has not been undertaken.
- 12.55. A number of submissions received from third parties refer to the inadequacy of the screening report including, *inter alia* the underground storage tanks which remain on site, the inclusion of mitigation and the absence of a Natura Impact Statement (NIS). Specific reference is made in the submission to a recent judicial review in 2018, “*People over Wind and Peter Sweetman v Coillte*” and the Heather Hill Management

Company Case, which ruled that mitigation measures cannot be taken into account at the screening stage for appropriate assessment.

12.56. Section 5.2.1 of the submitted screening assessment states that if the mitigation measures listed in the construction and management plan are implemented correctly then the impacts via the groundwater pathways are not likely to be significant. As stated above, I consider there is a direct source-pathway-receptor linking the site to the River Shannon and River Fergus Estuaries SPA and Lower River Shannon SAC. The full details of works, including excavation, removal of fuel storage tanks and the treatment of contaminated materials from the site have not been fully detailed or assessed in relation to the potential impact on any European Site and having regard to the scale of these works and implications on the groundwater quality I consider a Natura Impact Statement is required.

12.57. Therefore, having regard to location of the site c. 1km from the edge of a European Designated site, the existing pathway via the groundwater, the absence of adequate sufficient information of the works to be undertaken on the site, mitigation measures specific to the prevention of any significant negative impact on water quality and the Conservation Objectives of adjoining European Sites, I am not satisfied that the proposed development would not be likely to have a significant effect on the River Shannon and River Fergus Estuaries SPA and Lower River Shannon SAC.

### **13.0 Recommendation**

I recommend that planning permission should be refused for the reasons and considerations as set out below.

## 14.0 Reasons and Considerations

The proposed development includes the excavation of c. 33,000m<sup>3</sup> of soil/ subsoil and removal of fuel tanks and hazardous substances. The site is located on lands where the groundwater is extremely vulnerable ([www.gsi.ie](http://www.gsi.ie)) and it is located c. 1km from the edge of the River Shannon and River Fergus Estuaries SPA (site code 004077) and the Lower River Shannon SAC (site code 002165).

The submitted Screening for Appropriate Assessment has regard to the inclusion of mitigation measures to control silt/ sedimentation and spillage of hazardous substances to prevent any likely significant impact on the groundwater pathways which provide a hydrological pathway for polluted water. Measures intended to avoid or prevent significant effects on a European site cannot be considered in screening for AA. If such measures are required to avoid potentially significant impacts on a European site then a Natura Impact Statement should be submitted which assesses the effectiveness of such measures. Notwithstanding this, detail on said measures are absent from the submitted documentation. Having regard to the inadequacy of information provided in the Screening Report, the nature of the proposed development, the misapplication of mitigation measures and the absence of a Natura Impact Statement, the Board could not be satisfied that a full understanding and analysis of the hydrological connectivity between the site with the European Sites, River Shannon and River Fergus Estuaries SPA (site code 004077) and the Lower River Shannon SAC (site code 002165), and the potential implications of the proposed development on the groundwater quality has not been undertaken.

The Board therefore cannot be satisfied, beyond reasonable scientific doubt, that the proposed development, either individually or in combination with other plans and projects, would not adversely affect the integrity of River Shannon and River Fergus Estuaries SPA (site code 004077) and the Lower River Shannon SAC (site code 002165), in view of the site's Conservation Objectives. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

Karen Hamilton  
Senior Planning Inspector

16<sup>th</sup> of September 2019