Inspector's Report

ABP-308027-20

Development	Ten-year permission for the construction of a mixed use residential, commercial and community development, including 245 residential units across a range of building blocks ranging in height from 3 to 14 storeys, 4 no. 4-storey office blocks, a 152 bed-hotel, a 2-storey commercial building comprising 2 restaurants including hot food take away/drive thru facilities, a petrol station with shop, a 3-storey community building including a creche, community facilities and a multi-use games area, provision of a public park (1.12ha) and re-use and integration of existing structures as permitted under previous planning permissions for a shopping centre granted under P04/3700, P06/3211 and P07/1024, and ancillary site works including surface and basement parking, ESB substations, a pumping station, signage, attenuation tank, landscaping .
Location	Singland, Dublin Road, Limerick
Planning Authority	Limerick City & County Council
Planning Authority Reg. Ref.	20/25
Applicant(s)	Novelty ICAV

Type of Application	Planning permission
Planning Authority Decision	Grant Permission s.t. conditions
Type of Appeal	First Party and Third Party
Appellant(s)	1. Novelty ICAV 2. Environmental Trust Ireland
Observer(s)	None
Date of Site Inspection	1st March 2021.
Inspector	Mary Kennelly

Contents

1.0 Site Location and Description

1.1. The appeal site, which has a stated area of 7.9 ha. is located at Singland Co. Limerick, on the Dublin Road (R445), just to the east of Parkway Shopping Centre. The site is located approx. 2.5km to the east of Limerick City Centre near the junction with Childers Road (R509) which links the Dublin road with the Ballysimon Road. There are several commercial office and retail centres in the vicinity including Parkway Shopping Centre c. 500m to the west and Parkway Retail Park to the south and west. Dublin Road is a busy regional road (formerly the N7) which links the M7 at Castletroy with the University of Limerick (c. 1km to the NE of the site), business and retail parks and established housing areas such as Garryowen to the west and Rebogue to the north. The site is located on the southern side of the road and is accessed from the regional road by means of a signalised junction which serves the Parkway Retail Park via a small roundabout junction.

1.2. The section of the Dublin Road serving the site is a dual carriageway situated between two roundabout junctions, one to the west with Childers Road and one to the east with Groody Road. The site is bounded by the R445 to the north, the Parkway Retail Park and several housing estates to the west and by open fields to the south and east. Electricity transmission lines cross the site from north to south and the Groody River flows N-S to the east of the site. The open fields to the east are criss-crossed by open drains.

1.3. The appeal site comprises a partially complete shopping centre/ mixed-use development including large concrete substructures including several blocks with large steel-framed structures and large foundation slabs, earth mounds and internal access tracks. There are level changes across the site from east to west.

2.0 Proposed Development

2.1. The development comprises the construction of a new mixed-use development (45,071sq.m) comprising 24,759sq.m residential and 20,312sq.m commercial together with a public park and associated walkways and ancillary development works. The application has been accompanied by an Environmental Impact Assessment Report and a Natura Impact Statement.

2.2. The main elements of the work can be summarised as follows: -

Residential – 245 residential units (122 duplexes and 123 apartments) arranged in three clusters of courtyard blocks in the central and southern areas of the site and one block with frontage to Dublin Road (Block B18). The courtyard blocks include several large, long blocks and a number of smaller blocks arranged around central courtyards. The heights of the blocks range from 3 to 4 storeys (Blocks B01 – B17), but Block B18 is designed as a landmark building of 14 storeys. The residential accommodation comprises 76 no. 1-bed units, 127 no. 2-bed units and 42 no. 3-bed units. The density of the residential element is stated as 102 units/ha with a gross floor space of 21,283.6m².

Offices – 4 no. 4-storey office blocks (Blocks 19-22) over basement parking with combined floor area of 12,262sq.m. The blocks are located to the north and east of the residential courtyard blocks, but behind the frontage development. The floor areas for each office block are given as Block 1 - 2,695m², Block 2 - 3,111m², Block 3 - 3,228m² and Block 4 - 3,228m². The parking provision is 306 car parking spaces (234 in basement and 72 surface) which represents 1:40m², and 410 bicycle spaces.

Hotel – a 152 bed-hotel over four storeys with 2 levels of basement car parking and associated café bar with overall floor area of 5,012sq.m. The hotel building is in an L-shaped block (Block 23) which is located in the North-Eastern corner of the site with frontage to Dublin Road. Parking provision is 154 car parking spaces (137 basement/17 surface) with 20 bicycle spaces, and 25 employees.

Commercial building - a 2-storey U-shaped building (Block 24) with an overall floor area of 694sq.m which is located in the North-Western corner of the site with frontage to Dublin Road. The building incorporates two separate restaurant uses each with provision for hot food take away and drive thru facilities. It also incorporates a substation of 33sq.m. one of the units would be a café (36 seats) and the other would be a sit-down restaurant (114 seats over two levels). The parking provision is 27 surface car parking spaces with 23 bicycle spaces. Hours of operation are given as 0800-23.00 and it would employ 15 people on average.

Petrol filling station – located at the western edge of the site fronting onto the existing access road (Block 25). It is situated on the opposite side of the access road from the restaurant. The petrol station would have 12 pumps with underground fuel

storage and would include a retail sales area not exceeding 100sq.m and associated food sales sit down area (c.60m²). 12 parking spaces are proposed within the petrol station site.

Community facilities – a 3-storey community building (Block 26) located at the southern end of the site adjoining the western boundary with a gross floor area of 2,103sq.m. The building incorporates a creche, community facilities and a multi-use games area. The creche would have a floor area of 533m² and accommodate 65 children. The community/social facilities would be managed by means of a booking system and would have 20 car parking and 20 cycle parking spaces. It is proposed to provide a Multi-Use Games Area within the community facility area which would be an all-weather facility and would be managed by a booking system. There would also be a playground to the west of this building.

Public Park –it is proposed to provide a public park of 1.12ha. with associated parking which would be located along the eastern boundary of the site. Although this forms part of the open space provision for the residential element of the development, it would also be open to the public and would benefit the wider community.

Site works – surface and basement parking, ESB substations, a pumping station, an attenuation tank, signage, landscaping and ancillary site development works.

2.3. **Access** – Vehicular access to the site will be provided via the existing access road and roundabout arrangement serving the retail park, with proposed improvements to the R445 adjacent to the site. Pedestrian and cycle links are also proposed to the adjoining residential estates to the west and south-west (Chesterfield Grove and Castletroy View). Pedestrian access from Dublin Road is also provided by means of three separate links. Cycle parking is provided throughout the site.

2.4. **Demolition** - The demolition of the existing structures on the site do not form part of the proposed application. Demolition works are being undertaken separately in response to a Section 11 Notice issued under the Derelict Sites Act 1990 (Ref. No. DS-099-17).

3.0 **Planning Authority Decision**

3.1. Decision

The Planning Authority decided to Grant Permission subject to 41 no. conditions. The planning authority carried out an Appropriate Assessment and an Environmental Impact Assessment, the findings of which are set out in the decision. Most of the conditions were of a standard type, but others were specific to the development. The most relevant conditions may be summarised as follows:

Condition 2	Development Contribution €1,424,972.00.
Condition 3	Bond €1,102,500.00 completion of services.
Condition 5	Implement in full all 'Working Measures' and Mitigation Measures.
Condition 6	CEMP prior to commencement of development and after nomination of contractors.
Condition 7	Special Contribution €5,000 for revalidation of signal timings at signalised junction of R445 Dublin Road and Parkway Retail Park.
Condition 9	Prior to commencement of development, the applicant shall submit a revised phasing plan. Phase 1 shall be subdivided into 2 smaller phases. The public park shall be provided in Phase 2 and completed prior to end of Phase 3.
Condition 10	(a) Construction noise limits
	(b) Noise Management Plan - submitted with mitigation/monitoring
	(c) Noise Report incl. assessment of mechanical ventilation system
	(d) Swift Nesting Boxes to be provided at suitable locations.
Condition 11	Management co. for apartments, public park and community building.
Condition 25	(a) Details signage/advertisement for mixed use.
	(b) No illumination of signage on restaurant or petrol station.
	(c) A Main Identifier sign only which shall not exceed 4.5m in height.
Condition 28	Restaurant – nature of use prior to occupation.

Condition 29 Retail unit in Petrol station nature of use restricted.

(a) No sale/display/repair motor vehicles

(b) No off-licence

(c) No amusement arcade/gaming machines etc.

Condition 30 Use of sit-down café in petrol station ancillary to main use and no hot food take away.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The initial report of the Planning Officer (11/3/20) notes that the site falls within an Intermediate Urban Location as set out in the Sustainable Urban Housing Design Standards for New Apartments Guidelines (2018) and that there are four zoning objectives in the Development Plans for the area pertaining to the site. These include a mixed-use zone, a residential zone and an employment zone under the provisions of the Limerick City Development Plan 2010-2016 (as extended) and an Enterprise and Employment Zone and a “Groody Valley Green Wedge” zone under the Castletroy LAP 2019.

The proposed uses were generally considered to be acceptable within the various zones. It was noted that there is a Site Development Brief (10.4.3 of the LAP) which identifies the principal uses on the site as being for employment creation, and that whilst residential use is acceptable on the site, where it makes a positive contribution to the area, this component should not exceed 48% of the land uses. The Area Planner noted that the residential component is 54.9% and that the proposed accommodation generally complies with the SPPRs in the apartment guidelines. However, the POS provision, exclusive of the public park, was noted as being only 8% but would be 15% with the park. It was, therefore, considered that the public park should form part of the initial phases of the development. The 14-storey apartment building was considered to generally accord with the objectives for the provision of a landmark building at this location, but criticism is made of the failure to create a vista or a civic space as set out in Objective PV03 of the LAP.

The Area Planner reviewed the EIAR and the Technical reports from the other departments and considered that the EIAR was generally satisfactory but that further information would be required in order for the P.A. to fully assess the proposal and to come to a reasoned conclusion on the significant effects on the environment. The outstanding matters mainly relate to issues regarding noise impact on residential amenity from road noise, traffic and transport matters, waste management plan, the need for additional surveys regarding bats, mammals and amphibians and revised site-specific mitigation measures.

It was noted that the site is located approx. 671m from the Lower River Shannon SAC (Site code 002165). The Area Planner noted that the applicant had submitted an AA Screening Report which had concluded that hydrological pathways exist to the Shannon River and that significant effects cannot be ruled out to Lower River Shannon SAC (particularly sediment pollution). Given that potential effects to water quality during construction could not be ruled out, a Stage 2 NIS was submitted. However, it was pointed out that the Heritage Officer had reviewed the NIS and that FI was required in respect of the hydrological pathways and how these would be dealt with within the scheme.

Deferral was recommended pending the receipt of Further Information (as summarised in 3.3 below).

3.2.2. Other Technical Reports

Roads Operations – FI requested regarding TTA, emergency access, future road connectivity and cycle/pedestrian access. Concerns raised in respect of capacity of R445 at the Groody and Parkway roundabouts, respectively. Existing traffic conditions not accurately reflected, whereby the RFCs are 0.85-1.0 at present in the AM and PM peaks, with queuing on all approaches. Revised capacity predictions therefore required for Design Year. Revised layout to facilitate emergency access from Dublin Road and pedestrian and cycle access only to Chesterfield Estate. Link road (Road 11) also to be incorporated and constructed by applicants.

Smarter Travel – Physical Development – FI required in respect of walking and cycling facilities including linkages with Dublin Road and adjoining Chesterfield Estate. The cycle parking provision needs to be amended to ensure adequate

provision at ground levels, consolidation of bike parking areas at basement level and separate access to basements for cyclists.

Environmental Health – Further information is required regarding a site-specific waste management plan and a construction and demolition waste management plan.

Executive Scientist – Physical Development – The site is expected to be exposed to significant environmental noise from the adjacent Dublin Road (L_{den} between 50 and 70 dB and L_{night} between 45 and 60dB). The noise levels adjacent to the road are greater than those recommended in the WHO Environmental Noise Guidelines (2018), above which road noise is considered to have significant harmful effects on health and well-being. They are also at levels at which the Council receives complaints. It is recommended that an assessment is carried out on the potential impact of road noise on residents living at the proposed development taking cognisance of the WHO Environmental Noise Guidelines, the ProPG approach to new residential development and identify/propose any necessary mitigation measures. The work should be carried out by a suitably qualified acoustic engineer.

Archaeology – Concurs with the recommendations in the EIAR and raises no objection subject to condition requiring monitoring of ground works. Specific reference is made to areas within the site which have previously been disturbed, including Phase 5 works as identified in the EIAR and any other areas that may contain archaeological materials or features that may exist within the site.

Ecology – Heritage Officer – Concern raised re hydrological pathways from site to Shannon “via surface and wastewater flows”. The HO was concerned that this matter was not adequately addressed in the NIS or the EIAR. Demolition of existing structures was included in the EIAR which is welcomed as it provides for the ability to assess the cumulative effects of both demolition and those elements included in the planning application. Lack of attention to how the hydrological pathways to the Groody River was identified as being problematic. A FI request was recommended regarding details of potential pollution paths through field drains running from the site to the Groody River together with a management plan to minimise any chances of pollution occurring, particularly during the construction phase. It was not clear whether the Indicative Link Road had been included in the assessment of environmental effects. Suggested conditions related to re-use of demolished

infrastructure and fill material as proposed in EIAR, and the approval of a construction waste management plan by the L.A. to minimise site movement of material and to ensure its re-use.

Fire Service – Sole dependency on a single vehicular access via a shared existing road leading to Parkway Retail Park would prevent a timely response by emergency vehicles to existing and proposed development. The indicative alternative road access should be developed contemporaneously during the initial stages of the development so that a fast access alternative approach road is available for Emergency Vehicles during the construction phase as well.

Housing Section – Part V is applicable. Agreement in principle to transfer of 24 units.

Flood Risk – Physical Development – No objection in relation to flood risk management subject to a condition requiring the submission of drawings and particulars for approval confirming backflow and infiltration prevention at or downstream of the proposed attenuation tank flow control restrictor.

3.2.3. Prescribed Bodies

National Parks and Wildlife Services – Given that the site is near the River Groody, which flows into the River Shannon SAC (002165), it must be ensured that there is no potential impact on water quality in the River Shannon as a result of the development and that appropriate mitigation measures are put in place to protect water quality in the SAC in the form of conditions of any planning permission.

Amphibians - It is requested that an amphibian survey be carried out prior to a decision being made given the number of ponds and drainage ditches on the site which may be suitable habitats. Should any amphibians be found, the local conservation ranger should be contacted and an appropriate management plan be submitted to the NPWS including an application for a derogation licence if necessary.

Bats – may be present in the trees and hedgerows along the Eastern boundary. It is requested that a bat survey be carried out prior to a decision being made and that a copy of the survey report be forwarded to the NPWS and that should bats be found to be roosting in the trees, a derogation licence will be required if any trees are to be removed. It is recommended that the hedgerow on the eastern boundary be retained

Irish Water – No report at time of writing.

TII – No observations.

3.2.4. Third Party Observations

Two submissions have been received, which have been summarised in the P.A. reports. The main issues raised can be grouped under the following headings:

EIAR – The EIAR is inadequate having regard to the site itself, the surrounding area and the failure to include demolition of existing structures which has already commenced. The report is not available for inspection in the searchable format required by the EIA Directive.

Demolition - Planning permission is required for the demolition.

Development Plan - Development is premature pending a review of the City Development Plan, which is out of date. Proposed development is contrary to zoning objective for site which is for enterprise and employment. The range and nature of the uses militate against the provision of employment uses.

Residential element – quality of residential element at 55% is excessive.

Landmark Building - Important gateway site and a 14-storey building is inappropriate at this location as it would be unduly dominant.

3.3. Further information was requested on 11th March 2020 regarding the following matters:

Item 1 - Zoning Map – colour-coded zoning map with site masterplan superimposed on same. Parking serving proposed Blocks 21 and 22 and associated service roads shall not encroach onto the Groody Valley Green Wedge zoning.

Item 2 - TTA Capacity of R445 – clarification is required regarding the capacity predictions for the design year in respect of the Groody and Parkway Roundabouts. A revised TTA is required to reflect existing traffic conditions at these roundabouts in the AM and PM peak periods, where the RFCs range between 0.85 and 1.0 with queuing present on all approaches.

Item 3 – Access, cycling and pedestrian issues – A Revised Site Layout Plan addressing the following matters

- Emergency vehicle only access from Dublin Road.
- Pedestrian and cycle access only to Chesterfield Estate to be constructed by applicant during Phase 1. Letter of consent from L.A. to traverse the greenspace together with revised red line boundary and sections to be submitted.
- Indicative link road to south shall be constructed within red line boundary and details of point of intersection with site to be discussed with P.A.
- Provision for walking/cycling access to Dublin Road to be outlined.
- Provision to be made for ground level cycle parking.
- Basement cycle parking to be consolidated and located adjacent to stairwells with clarification of access to basement for cyclists.

Item 4 - Landmark building – Location of landmark building noted as well as Objectives PV01 and UD2 of the Castletroy LAP 2019. FI is required in respect of the 14-Storey Block 18 as follows:

- Wind study - A wind study to determine the potential impacts of the structure on wind speed at ground level having regard to its height and proximity to R445 and to the exposed nature of the site. Details of any proposed mitigation including any reduction in height to be provided.
- Noise assessment - An assessment of the potential impact of road noise on residents of Block 18 having regard to WHO Environmental Noise Guidelines 2018, given that the noise levels are above the levels recommended to avoid significant harmful effects on health and well-being, together with any mitigation measures.
- Revised proposals - for Block 18 having regard to the above matters (wind and noise) which should incorporate a graduated height and a civic square/communal area with hard and soft landscaping proposals. Parking should be provided to the rear to reinforce strong streetscape along Dublin Road. Revised photomontages should be included.

Item 5 - Apartment Guidelines – site is considered to be an 'Intermediate Location' and any revised proposals should adhere to SPPR for intermediate locations. For

example, minimum of 50% dual aspect apartments, adequate provision for communal areas and additional storage for household items.

Item 6 - Revised Phasing plan – implementation of the public park should occur in the first phase as the overall POS provision is low. A revised masterplan with scaled drawings is required together with the identification of the location of the housing in the first phase with appropriate thresholds prior to proceeding to the next phase.

Item 7 - Landscape Master Plan – greater detail required in respect of proposed public park in terms of planting, natural screening presently on site. A revised plan required having regard to density of development proposed and should address the following matters

- Significant planting with species suitable for the area and ground conditions.
- Informal recreational areas suitably level for ball games.
- Incorporation of a playground (in addition to one adjacent to community building).
- Details of play equipment, boundary fencing/treatment and proposals for the operation/management of the playground.

Item 8 - Remainder of lands in ownership – Outline proposals and plans for the remainder of lands in applicant's ownership extending down to the Groody River.

Item 9 - EIAR – The following matters to be addressed

- Surface water pollution - As the issue of potential pollution incidents has not been adequately addressed, it is necessary to provide additional information on potential pollution pathways through field drains running from the site to the Groody River, together with a management plan to minimise the potential for pollution, particularly during construction.
- Indicative Link Road – not clear if Objective T3 of Castletroy LAP has been taken into account in S2.3.6 of EIAR.
- Mitigation - Schedule of measures/features to avoid, prevent or reduce/offset adverse effects on the environment
- Monitoring - Schedule of site-specific monitoring measures
- Compensatory measures - Schedule of Compensatory measures.

- Anomalies in text and EIAR should be in searchable electronic format.

Item 10 – NIS – The following matters to be addressed

- Clarification of how the identified hydrological pathways from the site to the Shannon River "via surface and wastewater flows" will be managed or mitigated to avoid potential significant effects from the proposed development on the Lower River Shannon SAC.
- A revised NIS is requested to address the above with regard to construction and post construction phases.

Item 11 – Amphibian Survey – is required to be carried out by a suitably qualified ecologist given the presence of several ponds and drainage ditches on site. Should any amphibians be recorded, an appropriate management plan should be submitted to the NPWS, including an application for a derogation licence if required, and the applicant should liaise with the Local Conservation Ranger.

Item 12 – Bat Survey – is required to be carried out by a suitably qualified ecologist as bats may be present in the trees and hedgerows along the eastern boundary of the site. Should any bat species be found to be roosting in the trees, a derogation licence will be required from the NPWS if any trees are to be removed.

Item 13 – Areas to be taken in charge – a map identifying such areas to be submitted.

Item 14 – Matters raised by third party objectors - applicant to address these matters.

3.4. Response to FI submitted 8th June 2020

3.4.1. The **following revisions** were made to the application:

Civic Plaza - Surface parking between hotel and Block B18 on Dublin Road Frontage replaced by a civic plaza and the displaced parking bays to be accommodated in an enlarged basement area under the hotel. Basement to be increased from 13,093m² to 14,575.6m² with 512 car spaces (increased from 463 spaces).

Amenity areas B18 - North-facing balconies in Block B18 fitted with glazing to form winter gardens. Additional external communal areas provided at levels 9, 12 and 14 (roof level).

Modelling and treatment of frontage buildings – application of a unifying theme to hotel, B18 and the drive-thru restaurant to enable the landmark building to form part of a more coherent streetscape composition.

Parking and service roads Blocks 22, 22 – which had encroached on Groody Valley Green Wedge zone have been removed and parking relocated to basement.

3.4.2. Applicant Responses to Items 1 – 14 and P.A. Response to same

Item 1 – Colour coded zoning map - Mixed-use zone along western boundary, Groody Valley Green Wedge along the eastern boundary and the remainder of the site is zoned Employment and Enterprise.

PA Response - Response received and acceptable. Basement parking now proposed elsewhere in lieu of encroachment onto open space zoning.

Item 2 – TTA Revised – reflects existing traffic conditions at Parkway and Groody Roundabouts.

PA Response – Revised TIA submitted which reflects the existing congestion. The impact of the proposed development was considered to be minimal. Roads Dept. satisfied with response. However, the applicant will be required to pay €5,000 as a special contribution towards the revalidation of the signal timings at the signalised junction R445 Dublin Road/Parkway Retail Park.

Item 3 – Access, cycling and pedestrian issues – an emergency vehicle only access is provided directly from Dublin Road, through the proposed plaza. An alternative emergency vehicle access will be provided through the new access road from Bloodmill Road once this is in place. Chesterfield estates has not yet been taken in charge, but amended drawings provided showing provision of cycle/pedestrian route up to site boundary. A definitive link road now shown on Drg. No. 181-303-001. Ground level bicycle parking and consolidated cycle parking in the basement has been provided together with a cycle lane to the basement car park.

PA Response – Temporary emergency access acceptable but in the long term needs to be from new access road to the rear. Indicative links satisfactory. Basement

parking in lieu of surface parking for link road acceptable. Sufficient bike parking provided.

Item 4 – Landmark Building – detailed response to this item by BKD Architects including an Architectural Design Statement justifying the rationale for the landmark building and its design at this location. It also details the changes proposed to the scheme fronting the Dublin Road and includes revised photomontages. A Wind Microclimate Assessment Study by BRE is submitted which concludes that the wind conditions everywhere around the site and the adjacent R445 are likely to be suitable for proposed pedestrian activities. A revised Noise Report by AWN was submitted which took account of the proposed plaza and three external communal open space areas at Levels 9, 12 and 14 of the Apartment Block B18.

PA Response – Revised wind and noise assessments have been carried out. Changes to design have ensued which largely consist of enclosures of balconies and provision for windows on north elevation to be closed etc. arising from the noise assessment. Detailed report from Physical Development (Noise) which requires conditions to be attached relating to both operational noise and construction/demolition noise. These included noise limits in respect of C&D noise and the submission of a Noise Management Plan including mitigation measures and sound level monitoring. With regard to operational noise, it was required that a Noise Report be submitted one month prior to commencement of development to establish how the ventilation strategy for the residential development will impact on acoustic conditions (including the consideration of ducted noise), where it is proposed to use a mechanical heat recovery system.

Item 5 – Apartment Standards for Intermediate Locations – it is argued that the site can be classified as an 'Accessible Urban Location' given that it is within 15-minute walk time of the city centre and is on a bus route, which is planned to be upgraded to a QBC. Irrespective of this, it is stated that the proposed development complies with the standards for 'Intermediate Locations' as 55% of units are dual aspect and the requirement for communal open space is the same for both categories.

PA Response – compliance with standards, response noted and considered acceptable.

Item 6 – Revised Phasing Plan – the delivery of 1.12ha of public park land as part of Phase 1 is stated to be financially unviable. An alternative phasing plan is proposed as follows:

- **Phase 1** – 100 residential units, hotel, community building, creche, MUGA, Toddlers Playground, Multi-age large-scale playground, 0.97ha POS to serve the residential units, basement levels 1 and 2. (24 months)
- **Phase 2** – 60 residential units (16 months)
- **Phase 3** – 14-storey apartment block providing 85 no. apartments and a public plaza (24 months)
- **Phase 4** – 2 no. restaurants, petrol filling station and associated open space (10 months)
- **Phase 5** – Public park (1.2ha) and link road providing access to future connection with Bloodmill Road (10 months)
- **Phase 6** – 4 no. office blocks and remainder of basement parking, associated open space and amphitheatre (24 months).

PA response – FI indicates Public Park remains in Phase 5 of overall phasing plan. Open space is proposed as part of Phase 1. Not acceptable - Revised phasing plan required.

Item 7 – Landscape Masterplan – A detailed landscaping plan (Drg. No. 057719_MP_01 to 057719_MP_05) has been provided. Further details are included in 057719_MP_07 including the multi-age playground and details of play equipment and boundary treatment. It is stated that the playground will be manged by the Management Company and that there are no plans at present to have the development, when constructed, taken in charge by the Council.

PA Response – Revised landscaping scheme submitted. Includes play equipment. Management Company to be established. Response noted and considered acceptable.

Item 8 - Remainder of lands in ownership – the applicant does not wish to have the remainder of his lands included in the current application and there are no plans for the development of these lands at this time. It is noted that there is a new

development plan pending and the applicant will await the outcome of this before deciding how to progress the development of the remainder of the lands.

PA Response – Response noted and considered acceptable.

Item 9 – EIAR – A Supplementary EIAR has been provided which includes an Outline Surface Water Management Plan (Construction Stage). Although this is addressed in the EIAR, further details are now provided of pollution prevention measures in relation to the existing field drains to the River Groody during construction stage. Various chapters of the EIAR have been updated to take account of the additional information and a summary of the updated/modified information for each chapter is set out in Table 2.0 of the FI. It is stated that Chapter 18 of the EIAR contains the site-specific mitigation measures and that no compensatory measures are proposed. The Supplementary EIAR updated the mitigation measures. Provisions made for future link to Bloodmill Road for vehicular access and for pedestrian access and permeability throughout the development. It is stated that the planning application and EIAR were submitted to the P.A. in a searchable electronic format and that the supplementary EIAR is now being submitted in a similar format.

PA Response – The supplementary EIAR should be read in conjunction with the EIAR submitted with the application. A further EIAR assessment under each chapter heading is provided. The additional information is generally considered to be satisfactory subject to conditions.

Item 10 – NIS – The NIS submitted with the application had detailed the pollution prevention mitigation measures during construction, which had identified the pathways to the River Shannon and to the SAC. These measures had included a proposed silt curtain along the eastern boundary to prevent ingress of silt and toxic materials to the Groody River. A revised AA Screening Report is now submitted having regard to the measures proposed in the Outline Surface Water Management Plan. No post construction measures are proposed.

PA Response – Revised NIS submitted in line with the surface water management plan. Heritage Officer recommended a condition requiring mitigation measures to prevent water pollution to be implemented in full. Overall, it was considered that the development as proposed, subject to mitigation measures as proposed and

conditions as recommended should not result in significant adverse effects on the conservation status of the Lower River Shannon SAC and River Fergus SPA.

Item 11 – Amphibians – An Amphibian Survey was carried out on 20th May 2020 but no record of any Smooth Newt or Common Frog was found. A detailed report from Openfield Ecology has been provided and the Biodiversity Chapter has been updated in the Supplementary EIAR.

PA Response - Heritage Officer accepted conclusion re suitability of site for amphibians.

Item 12 – Bats – A Bat Survey was carried out on the 18th May 2020. It was confirmed that there are no potential bat roosts (mature trees or built structures) present within the site or in the surrounding area. There would be no direct/indirect impacts on roosting bats. A bat feeding area was identified in the adjoining landholding in the applicant's ownership, but it was considered unlikely that there would be any impact from the proposed development. However, the applicant has proposed some 'bat-sensitive' lighting techniques on a precautionary basis. It is confirmed that subject to these mitigation measures, there would be no residual impacts on foraging, commuting or roosting bats.

PA Response – Heritage Officer agreed with findings of Bat Report, as the site in its current state is not suitable for bat roosting. However, planning condition recommended to reduce any effects on bats outside the site, specifying that the minimum vegetation necessary be removed along the eastern boundary and that the bat mitigation measures outlined be implemented in full.

Item 13 – Lands to be taken in charge – It is not proposed to have the development taken in charge. A Management Company will be established.

Item 14 – Matters raised by Third Parties – The applicant refuted the grounds of objection in turn. These matters will be discussed in the Assessment section of this report.

3.4.3. Overall Planning Authority assessment of application following FI Response was that there will be no significant effects on the environment subject to the mitigation measures and the attached conditions set out. Permission was recommended subject to conditions.

4.0 Planning History

PL13.214040 (P.A. Ref. 04/3700) – Planning permission **granted** in **2006** for construction of a mixed-use development comprising commercial and leisure uses with an overall floor area of 58,415sq.m. This proposal incorporated 46 no. retail/commercial units, 2 no. anchor stores, restaurants, food-courts, a family leisureplex, a 10-screen cinema, a library and a creche. It also included a public park. Appeal was against contribution condition only. Access was off the existing Parkway Retail Park and new tunnelled access road onto Dublin Road. An **extension of duration** to this permission was **granted until August 2016 (PA 11/7065)**.

P.A. Ref. 06/3211 – permission **granted (2007)** for revision and modification to the original permission which primarily related to alteration of site levels, re-organising the car parking provision and increasing the floor area to 59,642sq.m. **An extension of duration** to this permission was **granted until August 2016 (PA 11/7064).**

P.A. Ref. 06/4103 – Permission **granted (2007)** for amendments to previously permitted schemes (04/3700 and 06/3211). This involved omission of the family leisureplex, restaurants, creche and cineplex, and a reduction in the number of retail units and restaurants, as well as an increase in the overall commercial/retail floorspace. The revisions included new uses including the provision of a multi-functional sports and performance auditorium to accommodate an ice-rink, a theatre and a sports hall. The overall floor area was increased to 73,142sq.m. An **extension of duration** to this permission was granted **until August 2016 (PA 11/7066).**

PA Ref 07/1024 – permission **granted** for amendments to previous schemes (04/3700, 06.3211 and 06/4103) to provide for a change of levels and to internal layout which resulted in the provision of additional retail units. No increase in overall floor area but circulation space converted to retail/commercial space and total no. car parking spaces increased from 1598 to 1788. An **extension of duration** to this permission was **granted until August 2016 (PA 11/7067).**

PL13.229685 (P.A. Ref. 08/645) – permission **granted** in **2008** for alterations to previously permitted development (under Ref. 04/3700, 06/3211, 06/4103 and 07/1024). The appeal was against a development contribution only. The revisions included an enlargement to the ice rink multi-purposed auditorium and retail floor

space, accommodation of a new anchor tenant, and an increase in the overall floor area from 73,142sq.m to 80,068sq.m. the proposed car parking provision was also increased to 2,169 spaces. An **extension of duration** to this permission was **refused** in Dec. 2011 **(PA 11/7068).**

P.A. Ref. 09/236 – Permission was **granted** in **2009** for amendments/modifications to previously permitted development (under Ref. 04/3700, 06/3211, 06/4103, 07/1024 and 08/645) including the removal of two levels of parking along with changes to elevations, materials and finishes. An **extension of duration** to this permission was **refused i**n Dec. 2011 (**PA 11/7069**).

PL91.243874 (P.A. Ref. 14/828) - planning permission was **granted** by the Board in **2015** following a first party appeal against refusal on this site to amend the partially constructed development which was previously granted on site subject to a series of extant permissions (original permission 04/3700) for a mixed-use centre comprising retail, commercial and leisure uses incorporating a public park. The modifications involved a reduction in the overall floor area by 9,430sq.m (from 73,142m² to 63,712m²), including a decrease in retail floorspace by 1,266m², in the food court by 5,285m², in the office space by 912m² and omission of the ice rink (1,475m²). Parking spaces were reduced from1,788 spaces to 1,576 spaces. Vehicular access comprised a new access from Dublin Road and an upgrade of the access to Parkway Retail Park. Part of the proposed development involved the demolition/removal of a partially complete decked car park structure (6,465m²) **Permission to extend** this permission was **refused** under **Ref.16/7033**.

5.0 Policy Context

5.1. National Planning Framework

5.1.1. Limerick has the potential to generate and be the focus of significant employment and housing growth. It is necessary to further strengthen its position as the principal focus within the region and to continue to address the legacy of regional growth having occurred outside the City area. This requires growing and diversifying the City's employment base and attracting more people to live in the City. Key growth enablers include implementation of Limerick 2030 economic strategy to create

modern, city centre office accommodation, a series of transformational city centre public realm projects, encouragement of significant inner urban residential regeneration (including the Georgian Quarter) and intensification of housing and employment development throughout inner suburban areas. Targeted pattern of growth for Limerick (Table 4.1) envisages a growth rate of 50-60% by 2040, i.e. and additional population of 47,000-56,000.

5.1.2. **NPO 3b** – Deliver at least 50% of all new homes that are targeted within the five cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford within their existing built-up footprints.

5.1.3. **NPO 4** – Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.

5.1.4. **NPO 6** – regenerate and rejuvenate urban areas with increased residential population and employment activity and enhanced levels of amenity and design quality in order to influence and support their surrounding areas.

5.1.5. **NPO 13** – In urban areas, planning standards (such as building 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.

5.1.6. **NPO 33** – Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

5.1.7. **NPO 35** – Increase residential density in settlements, through a range of measures including reduction in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building height.

5.2. Urban Development and Building Height Guidelines 2018

5.2.1. These guidelines set out national policy on building height in urban areas. In relation to suburban areas, it is stated that the scope to consider heights of 3-4 storeys must be supported at development plan/development management levels. Consolidation and densification, with greater building heights, can be considered in appropriate locations such as city and town centre areas, sites with significant public transport capacity and connectivity, but having regard to the need to achieve very high quality

in terms of architectural, urban design and public realm outcomes. Historic environments are also noted as being particularly sensitive to large scale and tall buildings, which will require an examination of the existing character of a place to establish the sensitivities of the place and its capacity for development and/or change. Certain criteria to be satisfied where increased height is proposed is set out at Para 3.2.

5.2.2. At paragraphs 3.4-3.8, guidance is provided in relation to building heights in suburban/edge locations. It is advocated that development should include an effective mix of 2, 3 and 4-storey development which integrates well into existing and historical neighbourhoods and 4 storeys or more can be accommodated alongside larger buildings, trees and parklands, rivers and wider streets. Development proposals should move away from a 2-storey cul-de-sac dominated approach and return to more compact urban forms.

5.3. Sustainable Residential Development in Urban Areas Guidelines 2009 and Best Practice Urban Design Manual (2009)

5.3.1. These guidelines provide advice on matters such as density, layout and site-specific standards for the protection of amenity and the promotion of good quality spaces in accordance with best practice in urban design).

5.4. Sustainable Urban Housing Design Standards for New Apartments Guidelines (2018 as amended in 2020)

5.4.1. The purpose of these guidelines is to balance the achievement of high-quality apartment development with a significant increase in the overall level of apartment output. They provide guidance on matters such as locational considerations, mix of units, internal space standards, dual aspect, floor-to-ceiling heights, apartments to stair/lift core ratios, storage space, room dimensions, amenity spaces and car parking. The Guidelines are issued under Section 28 and the Board is required to have regard to them. In particular, the Specific Planning Policy Requirements (SPPRs) contained in the guidelines take precedence over any conflicting policy contained in development plans or local area plans.

5.4.2. Identification of suitable locations is guided by 2.4. which highlights three types of location, namely Central/Accessible Urban Locations, Intermediate Urban Locations and Peripheral/Less Accessible Locations. The central locations (suitable for the highest density) are generally within easy walking distance of city centres/significant employment zones or high quality/frequency public transport and the Intermediate zones are suitable for smaller scale but higher density developments (>45dw/ha) and will be located within reasonable walking distance of principal town/suburban centres or employment locations or high quality/frequency public transport. The requirements set out in the SPPRs and in Appendix 1 of the Guidelines will be discussed in more detail in the assessment section of this report, where relevant.

5.5. Mid-West Regional Planning Guidelines 2010- 2022

Vision for Limerick/Ennis/Shannon Region – The city core of this area would develop as a vibrant multi-purpose zone with a population of a size capable of supporting a high level of social and commercial activity.

5.6. Regional Spatial and Economic Strategy for the Southern Region (2020)

The primary aim is to implement the National Planning Framework at the regional level and to support NPF policies in achieving balanced regional development. The City of Limerick is identified as a very important driver of national growth and as a key regional centre that requires significant investment and growth. Within the strategy there is a Metropolitan Area Strategic Plan for Limerick (MASP) which identifies the need for densification of Limerick City Centre, the assembly of brownfield sites for development and city centre rejuvenation and consolidation.

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

5.7.1. A long narrow section at the western extremity of the site is zoned mixed-use at the northern end and residential at the southern end. Within the mixed-use zone, a petrol station and a restaurant are generally permitted. The remainder of the site is outside the Limerick City Plan boundary and is within the Limerick County Plan area and the Castletroy LAP.

5.8. Limerick County Development Plan 2010-2016 (as extended)

5.8.1. The site is located within the Limerick City Environs/Gateway. The CDP sets out the overarching policies for the development of the Castletroy area. Table 3.1 sets out the settlement structure for the county with Castletroy at the top of the settlement hierarchy as a Tier 1 settlement.

5.9. Castletroy Local Area Plan 2018

5.9.1. The majority of the site is zoned Enterprise and Employment. There is a narrow, elongated section alongside the eastern boundary which falls within the Groody Valley Green Wedge zone. This zone covers a large area of land which extends eastwards as far as the Groody Road. The lands to the north (opposite side of R445) are zoned retail and the lands to the south are zoned residential. There is a specific zoning objective (T3) to the south relating to an Indicative Link Street from Bloodmill Road which is intended to link the employment and enterprise zone to the residential and mixed-use zones to the south.

5.9.2. At 5.2.1, Enterprise and Employment zoned lands are envisaged to facilitate development such as internationally traded services and ICT including software, production, research and development and offices. Reference is made to the Development Management guidelines for industrial/commercial development in Section 10.6 of the County Development Plan, and to the fact that Parkway Valley is included as one of the significant areas of enterprise and employment. The main objective for this zone is stated to be to develop local resources and to promote Castletroy as an investment location.

5.9.3. **Section 10.4.3 – Site Development Brief 3: Lands at Parkway Valley Site**, which identifies the principal uses on the site as being for employment creation, with residential open for consideration where it makes a positive contribution to the area, but where retail development will not be permitted. It is noted that a Masterplan will be required (**Obj. PV01**) and that it should include a proposal for a landmark building and a link street to improve connectivity with the area. Other objectives include

PV02 – High Quality Enterprise and Employment to be achieved

PV03 – Public realm including a civic square and streets with active frontages

PV04 – maximum of 48% residential in any new development on the site

PV05 – underground parking encouraged

PV06 – Improved permeability to be achieved

PV07 – Access to site shall be from one entry point along R445 and

PV08 - provision for community facilities.

Objectives UD1 and **UD2** relate to Landmark buildings. Any development proposals at landmark locations within Castletroy or on the approaches to the city should be of a high-quality design and should contribute to a sense of distinctiveness, reflect arrival at the city and provide for a sense of place.

Objective ED1 – new industrial and enterprise development shall be provided on zoned lands

Objective T8 – to safeguard the capacity of the M7 and the R445 to ensure that any future developments do not compromise the strategic function of these roads.

Objective T10 – to support the Limerick Northern Distributor Road.

Objective T11 – Noise mitigation – Noise levels form roads can be significant and noise assessments with predicted noise levels and mitigation will be required. Predicted noise levels to be in keeping with the WHO Guidelines.

Objective EH05 – Groody Valley Green Wedge -provide a buffer between the city and the suburbs.

5.9.4. The zoning Matrix states that Residential is not normally permitted in Enterprise and Employment zones, except for the Parkway Valley site, as specified in Development Brief 3. It is further noted that 'Hotel' is open for consideration, 'Hot Food Take-Aways' are not permitted in this zone and that a 'Restaurant/Café' is open for consideration. 'Offices' and 'Light Industrial/Warehouse' uses are permitted.

5.10. Limerick 2030 – An Economic Spatial Plan for Limerick (Nov. 2014)

The plan has been incorporated into Limerick City Development Plan by Variation 4 2015 and has a statutory basis. It sets a framework for public sector action and private sector investment. There are three elements, namely an Economic Strategy, A Spatial Plan and a Marketing Plan. The vision for Limerick is that it will become a

major economic force and a leading centre for commercial investment, capitalising on the strength of its higher education institutions, the skill of its workforce and its environmental and heritage attributes. Central to its success will be the strengthening of its economy and capturing a bigger share of the high value knowledge-based employment and it is envisaged that the city centre will be at the heart of the economic force.

5.11. Natural Heritage Designations

The site is not located within any European sites. The closest European sites are the Lower River Shannon SAC (002165) which is located c.0.67km to the north, northwest and northeast of the site and the River Shannon and River Fergus Estuaries SPA (004077) which is located c.3km to the west of the site. The site has hydrological pathways to the SAC via the Groody River, which is located c. 200m to the east, and is connected by means of a series of land drains to the site. The proposed development was subject to an Appropriate Assessment Screening Report which concluded that having regard to the hydrological connection between the development site and the Lower River Shannon SAC, the need for Appropriate Assessment could not be ruled out. The application was therefore accompanied by a Natura Impact Statement.

5.12. EIA Screening

The development proposed comprises a class of development for which an EIAR is required to be submitted. The application is accompanied by an EIAR prepared by HRA Planning Consultants.

6.0 The Appeal

6.1. Third Party Grounds of Appeal – Environmental Trust Ireland

The following is a summary of the main issues raised in the third-party grounds of appeal:

1. **Lack of meaningful public participation** – The mandatory requirements for effective public participation in environmental decision making have been

breached. Meaningful access to environmental information has not been provided as specified in the 2014 Directive and in the Guidelines for Carrying Out EIA published by the Dept. of Housing, Planning and Local Government (Aug. 2018). There was a failure on the part of both the developer and the planning authority to provide for effective and meaningful public participation as follows:

- The information contained in the planning application, EIAR, AA Screening Report and NIS were not made easily accessible in a timely manner (i.e. within 3 days) and was not available in electronic form and in a searchable format.
- No URL link was provided to the planning application.
- The P.A.'s failure to advise the appellant of the receipt of substantial further information (Supplementary EIAR and Supplementary NIS, as well as the amphibian survey, bat survey etc.) which was submitted on the 8th June 2020 prevented the appellant from having meaningful access and public participation in the process. Neither was the further information advertised.
- No alternative searchable format was provided to the four paper files held by the planning authority, three of which constituted the FI submission, which made it difficult for the appellant's scientists to access the data.

These failures vitiate the decision of the P.A. to grant permission and materially contravenes the provisions of the EIA Directive and the Government Guidelines for carrying out an EIA.

2. **Competent Experts** – The EIA Directive requires that an EIAR must be compiled by competent experts. The submitted EIAR contains insufficient specialist knowledge of the various habitats, species, ecosystems, ecological and biostatical assessments, as well as the biodiversity interrelationships and populations occurring at or in the zone of influence of the site. The submitted EIAR is therefore deficient as it has not been compiled by the necessary competent experts.

3. **Demolition excluded from project** – The 2014 EIA Directive requires demolition works to be included in the project and to be addressed in the EIAR. The proposed development clearly includes substantive demolition works which are described in the Outline CEMP. It is stated that it involves removal of massive quantities of structural steel and concrete to foundation level, including 5,689 tonnes of steel, and the retention of retaining walls, slabs and foundations. The crushed concrete is to be used as fill. There will clearly be dust emissions with ramifications for air, land, soil and water quality, for climate change, greenhouse gas emissions and human health. Planning permission must be sought for the demolition works, notwithstanding the exemption under the Derelict Sites Act as EU law takes precedence over national law, and it must form part of the EIAR. In addition, the cumulative effects of demolition and the reasonable alternatives to demolition and/or re-use and re-cycling of the structures have not been adequately addressed. Nor has a new baseline pre/post demolition been established as required by the Directive. These failures vitiate the decision to grant permission.
4. **Inadequacy of EIAR -** The EIAR is inadequate and deficient. The P.A. did not carry out an adequate EIA of the project. There has been a lack of proper assessment on Environmental and Human Health impacts, which is contrary to Directive 2011/92 as amended by the 2014 Directive. The environmental sensitivity of the site is not adequately taken into account. For example, no surveys of otters and swans near the site, no assessment of the importance of the River Groody to Lamprey and Salmon species. Given the direct hydrological link and proximity to the SAC, it is considered that the EIAR is deficient. Other examples of the inadequacy of the EIAR include the failure to incorporate the speedy demolition of the existing structres on the site into the assessment of environmental effects, the absence of a new baseline, insufficient reports by competent experts and the failure to adequately consider alternatives and cumulative effects.
5. **Appropriate Assessment Screening** – The AA Screening Report is inadequate as there were no quadrant surveys or in-depth surveys. It was concluded, however, that there is a pathway from the site via surface water and wastewater flows to the SAC and concerns were raised regarding the

potential for sediment and concrete to impact water quality, and as such negative effects could not be ruled out.

6. **NIS is inadequate** - The P.A. did not carry out an adequate Appropriate Assessment of the project as required by the Habitats Directive. The site is connected hydrologically to the Groody River and hence to the Lower River Shannon SAC, but no adequate ecological assessment has been carried out. Thus, the absence of adequate bird and bat surveys are of concern as are the lack of a fish survey, an otter survey, a swan survey and a bryology report (study of mosses and liverworths). The potential for bird collisions is not assessed.
7. **Fourteen-storey tower –** this proposed residential tower block is in close proximity to the Dublin Road and is visually imposing. As it is likely to be build-to-rent, it is considered that high rises like this are destined to become an eye sore. No account of the implications of Covid-19 have been taken into account given the narrow staircases and lift access. The assessment of the impacts on population and human health in terms of the effects of wind and a down-draught on the public plaza, daylighting and shadowing and the potential for a disaster/emergency have not been assessed.
8. **Part V Social Housing –** the applicant claims that Part V does not apply to the development and hence no contribution to social and affordable housing has been included. However, the development still has 48% residential land use in an enterprise and employment zone.
9. **Traffic congestion –** Any assessment of the current congestion at the Groody and Parkway roundabouts cannot be relied upon if surveys taken during the Covid-19 lockdown, which was in place since March 2020.
10. **Noise and vibration** – The current noise levels on the Dublin Road are stated to be 70dB, which exceeds the WHO Guidelines, above which road noise has serious harmful environmental effects and implications for human health. This matter has been ignored by the developer and the P.A. and the failure to carry out a proper assessment on the effects on the future residents means that the EIAR is deficient.

11. **Birds** – the Urban Development and Building Heights Guidelines (2018) require assessments of tall buildings to take account of the potential impact on the flight lines of birds and bats and collisions, as well as the impacts of artificial lighting. However, there have been no bird surveys, swan surveys or collision impact analysis.
12. **Bats** – The bat surveys are inadequate as only one was carried out in May, whereas the NRA Guidelines on Best Conservation Practice for Bats indicates that surveys should be undertaken in June, July and August for maternity roosts. The Supplementary EIAR indicated that there was potential for bats to be present in the demolished steel and concrete structures, yet there was no bat activity assessment prior to demolition. The Supplementary information should have been readvertised.
13. **National Planning Framework** – the proposed development materially contravenes Objective 59 of the NPF which relates to biodiversity as the potential for biodiversity loss is not adequately assessed and there is insufficient provision for new biodiversity.
14. **Bona Fides of Appellant** – The appellant is an NGO involved in promoting environmental protection and as such qualifies as 'having an interest'. The comments made by the applicant's agent are refuted.

6.2. First party grounds of appeal

The first party appeal is against Condition No. 2 of the planning authority decision. The appellants seek to remove this condition which relates to the requirement to pay a development contribution. The following is a summary of the main issues raised in the first party grounds of appeal.

6.2.1. Condition No. 2

Condition No. 2 requires that

> **The developer shall pay to Limerick City and County Council a financial contribution of €1,424,972.00 in respect of public infrastructure and facilities benefitting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the Authority in**

accordance with the terms and conditions of the Development Contribution Scheme made under Section 48 of the Planning and Development Act 200 (as amended). The contribution shall be paid prior to the commencement of development, or in such phased payments as the P.A. may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment.

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

6.2.2. Background - Previous planning history

The site has been the subject of a significant planning history, the details of which are summarised in the grounds of appeal and are also summarised at 4.0 above. It is stated that a total of €2,590,922.22 has already been paid in respect of previous planning permissions on the site to date.

These contributions payments may be summarised as follows:

04/3700 €1,846,669.40

06/3211 €62,007.82

06/4103 €682,245.00

A letter confirming payment of these contributions has been attached to the planning application and to the appeal. It is submitted that a development contribution should not be levied on this site in view of the contributions already paid.

6.2.3. Adopted Development Contribution Scheme not properly applied

The GDCS adopted in 2017 includes a specific provision in relation to replacement applications. Section 12 of the GDCS states that

> "In the case of an application for replacement, development contributions will be charged on any additional floor area. Replacement applications where the contributions have not been paid previously will be subject to contributions at an appropriate rate."

This is in line with the advice contained in the Development Contribution Guidelines, which state that the practice of “double charging” is inconsistent with both the primary objective of levying development contributions and with the spirit of capturing “planning gain” in an equitable manner. Local authorities are also reminded to deduct development contributions already paid in respect of a given development from a subsequent charge.

The requirement to pay €1,424,972.00 amounts to double charging on the basis that contributions have already been paid amounting to €2,590,922.22 in respect of development on the site. It is submitted that the proposed development is a replacement development and therefore qualifies for this exemption. The total commercial floor area under the previous permission 04/3700 was 58,415sq.m. The total commercial and residential floor area of the current proposed development is 41,596.10, comprising 20,313 sq.m commercial and 21,283.60sq.m residential floorspace. Accordingly, the commercial floor space is less than that previously permitted, and for which a development contribution has already been paid.

6.2.4. Discretionary nature of contribution condition

The legislation allows for the payment of a reduced contribution or no contribution in certain circumstances in accordance with the provisions of the Scheme. Notwithstanding the stated reason for the condition that it is a “requirement” that such a condition be applied, it is submitted that Section 48(1) of the P&D Act states that the planning authority may include such a condition. Thus, it is not a mandatory requirement of the Act and there is adequate flexibility within the wording of the legislation not to attach such a condition, particularly when such reasoning is supported by the GDCS.

6.2.5. Social Housing exemption in GDCS

The GDCS includes an exemption for social housing including those units provided in accordance with Part V. The scheme includes provision for 24 no. social housing units in compliance with Part V obligations and the provision of such units is a condition of the decision to grant permission (No. 4). The gross floor space of the 24 units to be transferred is 2,155sq.m. The GDCS applies a rate of €20 per sqm of residential floor area. The development contribution should therefore be reduced by €43,100.00 (i.e. 2,155sq.m x €20).

6.2.6. Unreasonable

Levying development contributions in addition to those previously levied is unreasonable and will stifle economic development in the city.

6.3. Planning Authority Response to Grounds of Appeal

6.3.1. The Planning Authority responded to the grounds of appeal on the 25th September 2020. The response addressed both the first party and third-party appeals. The P.A. has referred the Board to the two planning reports and technical reports on file based on relevant and competent expertise, together with the EIAR assessment, including the Reasoned Conclusion on the Significant Effects on the environment and decision maker's statement, which it is stated sets out the Council's justification for the decision made. The following specific comments were also made: -

6.3.2. **Third party appeal** – the EIAR and revisions to same were provided in electronic searchable format by the applicant. The further information as submitted was not considered to be significant in terms of additional data, there was no significant change to the development as proposed. An EIAR and NIS were submitted with the original application.

6.3.3. **First party appeal** – at the time of site inspection, there were no structures on the site and any partially built structures were demolished under the Derelict Sites Act. The P.A.'s GDCS provides for exemptions in respect of changes of use and internal layout changes. The proposed development does not propose a change of use, nor amendments to a previous grant of permission. The proposed development was not considered an amendment of any other permission. The ownership of the site has changed hands many times and no proof furnished that the current applicant is the same as previous owners/developers. The contributions are therefore applicable to the proposed development under the GDCS.

6.4. First Party Response to Grounds of Appeal

6.4.1. **Validity of appeal** – the appellant is not a 'person' or a legal entity but is a voluntary body. The submission to the planning authority was made on behalf of the Environmental Trust Ireland by a B. Hayes who is a different person to Michelle Hayes, who submitted the appeal on behalf of the voluntary body. It is submitted that

the same person who made the submission on the application is not the same person as that who submitted the third-party appeal. Thus, the appeal lacks clarity and transparency and fails to comply with Section 127(b) of the Planning and Development Act 2000 (as amended).

6.4.2. **Absence of scientific evidence** – No scientific evidence has been presented by the appellant to substantiate the claims that the EIAR and the NIS are inadequate or that insufficient surveys/studies have been carried out. No evidence is presented to justify the need for the range of surveys/studies cited. These contentions are groundless and are based on a fundamental misunderstanding of the purpose and function of both an EIAR and an NIS.

6.4.3. **Background and need for the development** – the site has been significantly excavated to facilitate basement parking with concrete lift shafts and ¾ storey skeletal steel structures extending up from a concrete bowl. Works ceased in 2009 following which the site became derelict for 11 years until 2020, when the structures were largely demolished. The developer bought the site in 2017 and it was registered on the Derelict Sites Register in 2018. The developer was served with a Dangerous Structures Notice (under Section 3 of the Local Government (Sanitary Services) Act 1964. Following the issue of a Section 11 Notice under the Derelict Sites Act 1990 requiring the structures to be demolished within 6 months, the developer carried out a partial demolition. The site now comprises a large concrete slab which covers most of the developable area (with a lower-level slab at the northern end), as well as a series of retaining walls supporting the ground levels. The site contains filled land with a new ground level across the full site at +10m OD. The proposed development represents an opportunity to regenerate and redevelop the site which has become an eyesore and a scar on the landscape with a sustainable mixed-use development.

6.4.4. **Material breaches of EIA Directive** – the allegations regarding the planning process can only be answered by the P.A. However, it is stated that the planning application, including the EIAR, NIS and revisions to each, were provided in electronic and searchable format. It is pointed out that Section 38(3)(b) of the P & D Act does not state that the documents must be made available in electronic form within 3 working days, as alleged by the appellant. This section requires that the documents are made available for inspection/purchase as soon as may be and that

the P.A. may also make the documents available in electronic form. It is re-iterated that the applicant made the documents available in electronic form in accordance with Article 97(2) of the P & D Regs and that the information was managed through the Department of Housing, Local Government & Heritage portal. It is submitted that the information submitted as FI was strategic and brief in nature and that the appellant has not been hindered from participation in the planning process as evidenced by the submission of the appeal.

6.4.5. **Competence and expertise** – The credentials of the authors of each of the chapters in the EIAR are provided in chapter 1.0 which clearly demonstrates the competencies of the authors. This contention is strongly refuted.

6.4.6. **Demolition of structures on site** – the demolition occurred under separate legislative provisions to the planning code, i.e. Section 11 of the Derelict Sites Act 1990 (as amended). It did not, and does not, form part of the planning application as works commenced in December 2019, immediately prior to the submission of the planning application. However, as they were "facilitative works", they were considered in the EIAR and included in the overall assessment to ensure that the potential worst-case impacts were identified. The demolition works were complete by the time the P.A. made its decision, and hence the EIAR recognised the baseline scenario as it was at the time of preparing the EIAR, i.e. with the derelict structures and also had regard to the ultimate scenario, i.e. without the derelict structures.

6.4.7. **EIAR includes demolition works** – Section 2.3.2 of the EIAR details the demolition works, the method of demolition and the protection measures proposed in support of the demolition process. Subsequent chapters also specifically address the environmental effects of the demolition phase. The cumulative impacts are included in the scenario of 'without the proposed development but with demolition'. Chapter 5 includes a comprehensive examination of alternatives including 3 options relating to demolition. These are full demolition, partial demolition and fill. It also provides a detailed justification for partial demolition and fill. Thus, a detailed consideration of alternatives to demolition and the reuse of concrete as fill material has been undertaken and it is submitted that the EIAR is not inadequate.

6.4.8. **Inadequacy of environmental reports –** the site of the proposed development comprises 7.9ha of the developer's overall landholding (c.13ha) and constitutes a

brownfield site which has already been comprehensively disturbed. It is largely covered by concrete and vegetation is minimal except where soil or rough ground has been exposed. It is refuted that the site floods and it is located within Flood Zone C. Although lands at the eastern extremity of the landholding is within Zones A and B, this is outside the red line boundary. A detailed and comprehensive response by a professional Ecologist (Openfield Ecology) to the grounds asserting inadequacies in the ecological assessments has been submitted with the response to the grounds of appeal. It is stated that the surveys were conducted during optimal periods for habitat surveys and that no constraints were encountered. Thus, it is concluded that there is no practical, legal or mandatory basis to undertake the surveys suggested by the appellant.

6.4.9. **Apartment block** – the apartments are not intended as build-to-rent and it is clearly demonstrated how the apartments comply with the Design Standards for New Apartments Guidelines for Planning Authorities. Objective PV01 of the Castletroy LAP encourages a landmark building on the site. It is located in an 'Accessible Urban Location' where higher density is encouraged. The 14-storey building has been comprehensively justified in the Architectural Design Statement and complies with the Urban Development & Building Heights Guidelines. The Landscape and Visual Assessment in the EIAR illustrates how the building would fit into the surrounding area and there is a precedent set by the Travel Lodge Hotel nearby. The Wind Microclimate Assessment in the EIAR provides a comprehensive assessment of the effect of wind and downdraughts and concluded that the wind conditions would be suitable for pedestrian activities. The appellant states that the daylight and shadow analysis is inadequate but fails to specify in what respect it is inadequate. The EIAR did not include a bird or bat collision survey as it was not justified.

6.4.10. **Part V Social and Affordable Housing** – contrary to the appellant's statements, the proposed development makes provision for the transfer of 24 units for social and affordable housing, as detailed in the provisional agreement with the local authority, and as set out in condition 4 of the P.A. decision. It is submitted that whilst the application complies with Part V, as the siting of the proposed residential element is on lands zoned enterprise and employment, the provisions of Section 96(1) of the PDA 2000 does not apply.

6.4.11. Traffic congestion – an amended TTA was submitted as FI which reflected existing congestion on the adjacent road network and concluded that the impact of the proposed development would be minimal. It is confirmed that the Covid-19 restrictions did not affect the results of the TTA as the traffic counts were undertaken in September 2019 and the capacity adjustments were made to each roundabout to mimic the queuing observed in the survey. The revised TTA confirmed the capacity constraints at these junctions without the proposed development. It is noted that the local authority plans to upgrade these roundabouts to signal controlled junctions in the near future and it is pointed out that the Roads Dept of the P.A. considered that the impact of the proposed development on the existing road network and traffic conditions would be minimal.

6.4.12. Noise – it is refuted that noise issues have been ignored within the EIAR as it contained a detailed and comprehensive noise impact assessment on both the surrounding environment and on the future residents of the proposed residential development. The EIAR confirms that, subject to relevant mitigation measures, all locations are predicted to achieve good internal noise levels with windows closed, having regard to the external façade levels and the specified acoustic performance of the building envelope.

6.4.13. Appropriate Assessment – The appellant alleges that inadequate ecological assessments were undertaken within the NIS, but no evidence has been provided regarding the necessity for such surveys. It is suggested that the appellant has failed to understand the purpose and function of the NIS. The submitted NIS provided sufficient evidence and scientific expert opinion to assist the P.A. in coming to its conclusions on the Appropriate Assessment of the scheme that the proposed development would not give rise to significant adverse effects on the integrity of the Lower Shannon SAC. Nothing has been presented in the grounds of appeal to confirm or suggest otherwise, nor has any specific deficiency ben identified in respect of the scientific data or analysis presented in the AA Screening or NIS. It is pointed out that the site is located 3km from any site of conservation interest for birds and that no bat surveys have been recorded within the application site.

6.4.14. Environmental Impact Assessment – The appellant alleges that inadequate ecological assessments were undertaken as part of the EIAR. This is refuted and it is pointed out that no evidence to this effect has been submitted to substantiate these

claims. The applicant submitted an EIAR and a Supplementary EIAR as FI. The planning authority carried out an Environmental Impact Assessment as stated in the first schedule of its decision. The EIA conducted by the PA had concluded that subject to the implementation of the mitigation measures set out in the EIAR, and subject to compliance with the conditions set out in the P.A.'s decision, the effects on the environment of the proposed development, by itself and in combination with other development in the vicinity, would be acceptable.

7.0 Planning Assessment

7.1. The following are considered to be the main issues in the planning assessment of this appeal:

- Legal and procedural issues
- Compliance with planning policy and suitability of site
- Layout and urban design
- Housing density – compliance with guidance
- Residential Amenity
- Traffic and Transportation
- Ecology and biodiversity
- First party appeal against Condition 2
- Other Issues

7.2. Legal and procedural issues

7.2.1. The appellants have submitted that both the EIAR and NIS are inadequate and deficient, particularly in relation to inadequate ecological surveys carried out, but have also criticised the EIA process. It is claimed that the planning authority failed to carry out an adequate EIA of the project as required by the EIA Directive and that an adequate Appropriate Assessment was not carried out in accordance with the requirements of the Habitats Directive. It should be noted that both an EIAR and a NIS were submitted to the planning authority. I have outlined my consideration of these issues under Sections 8 and 9, respectively, below and have considered the

contents and adequacy of the submitted documentation. The observation that the authors of the EIAR were not sufficiently qualified or did not have sufficient expertise is also addressed in section 8 of this report. I am satisfied that the planning authority carried out an Environmental Impact Assessment and an Appropriate Assessment, including Screening for Appropriate Assessment, of the project in accordance with its statutory duties, and has recorded this as part of its formal decision.

7.2.2. The appellants' main concerns regarding the process relate firstly to a perceived lack of meaningful public participation in the process and secondly, to the failure to include the demolition works as part of the planning application and the 'project' (for the purposes of EIA), as specified in the EIA Directive 2014 and in the Government Guidelines for Carrying out an EIA.

Meaningful public participation

7.2.3. It is claimed that the information (contained in the planning application, EIAR, Screening for AA and NIS) was not made "easily accessible within 3 working days" and in an electronic and searchable format; no URL link to the planning application was provided; and that the P.A. had failed to publicise the submission of further information and make it available in searchable electronic format, thereby preventing meaningful access to the information and public participation in the process. The first party's response was that the planning application (including the EIAR, NIS and revisions to each) were all provided in electronic and searchable format as required, including the URL link. Thus, apart from the issue of "3 working days", it is claimed that the applicant has complied with these requirements and the P.A. has confirmed this.

7.2.4. In respect of the issue of timing, reference was made to Section 38(3)(b) of the P&D Act which does not require provision within "3 working days" but rather, "as soon as may be". It is further stated that the legislation provides that the P.A. "may also make them available in electronic form" in accordance with Art. 97(2) of the P&D Regs. The grounds of appeal had referenced, however, the Government Guidelines on How to Carry Out an EIA (2018) and the Government Circular Letter PL8/2017 (Advice on Electronic Notification), issued by the Dept. of Housing Planning and Local Government, (September 2017), which stated that the planning authority will be required to place certain specified information for all EIA related applications on

their website “within 3 working days of a registered application”. The specified information includes the EIAR and states the applicant must submit a copy of the EIAR in an electronically searchable format to the competent authority.

7.2.5. Notwithstanding this advice, however, I note that the stated purpose of the Circular PL8/2017 was to provide guidance on the revised requirements of the Directive and advance notice of the measures that would be required under Article 6 of the revised EIA Directive in respect of public notification, (including by electronic means), of details of planning applications requiring EIA in a timely manner. I note that the Transposing Regulations (S.I. No. 296 of 2018 European Union (Planning and Development) Environmental Impact Assessment Regulations 2018) amended **Section 38 (3)(b)** of the 2000 Act in respect of a planning application which is accompanied by an EIAR, by requiring that the relevant documents be placed on the P.A. website for inspection…. **“as soon as may be after receipt of the document and may also be made available for inspection by the authority in other electronic form”**. Thus, there is no requirement for publication on the P.A.’s website within 3 working days.

7.2.6. It is further noted that on the 26th May 2020, Section 38 of the Act was amended again (SI 180/2020) in respect of all planning applications which require that all documents accompanying an application be published on the authority’s website within 5 working days of receipt of the documents, save in exceptional circumstances. A further Circular PL07/2020 advised that the reason for this amendment was that it was considered necessary in the context of Covid-19 and the associated travel restrictions with a view to facilitating greater use of on-line access to planning applications. However, as the planning application was lodged with the planning authority in January 2020, these amendments to Section 38 did not apply to the application currently under appeal.

7.2.7. In respect of the decision not to publicise the further information, the planning authority and the developer are of the view that the information provided on 8th June 2020 was ‘strategic and brief in nature’. The first party also believes that the appellant was not hindered from participation in the planning process as evidenced by the submission of the appeal. The planning authority also stated that the FI did not involve any significant amendments to the proposed development. It is noted that the FI did include several technical documents such as an additional noise report, a

wind impact study, a bat survey and analysis, an amphibian survey and additional traffic information. The content of these reports did not, however, give rise to any proposals to alter the proposed development in any meaningful way. As the Board has the power to consider the application de novo, and in light of the current third party appeal, it is considered that there is no need for the Board to take any further action in terms of republication.

Demolition works as part of 'project'

7.2.8. The EIA Directive (2014) introduced several key amendments including the specific information on a project to be provided by the developer and the information to be included in an EIAR. The description of the project must now include, where relevant, demolition works (Annex IIA 1(a)). The information to be contained within the EIAR (Annex IV) now requires a 'Description of the project including in particular…

> 1.(b) "a description of the physical characteristics of the whole project, including where relevant, requisite demolition works, and the land-use requirements during the construction and operational phases."

And a description of the likely significant effects of the project on the environment resulting from, inter alia:

> 5(a) "the construction and existence of the project, including where relevant, demolition works."

7.2.9. It is clear, therefore, that demolition works, where they are directly linked to the execution of construction works associated with a project, or may be deemed as requisite works, should form part of a 'project' for the purposes of environmental impact assessment. The developer has conceded that the demolition works are "facilitative works" and they have, therefore, been included in the overall assessment of the project within the EIAR, in order to ensure that the worst-case impacts were identified and considered. A detailed description of the demolition works, and the methodology involved has been presented in Section 2.3.2 of the EIAR and the potential impacts have been identified, described and assessed in the relevant chapters of the EIAR. Baseline scenarios with and without the demolition works have been provided where relevant and several options regarding demolition were included in the assessment of alternatives in Chapter 5. However, it is stated that the

demolition works were carried out on foot of a Derelict Sites Notice issued under Section 11 of the Derelict Sites Act 1990 (as amended). As such, it was stated that the demolition works are exempt from the need for planning permission.

7.2.10. Section 11(6) of the Derelict Sites Act 1990 (as amended) states

> The carrying out of works within the meaning of the Local Government (Planning and Development) Acts 1963-1983 which are specified in a notice or in the notice as amended, as the case may be, under this section shall be exempted development for the purposes of those Acts.

It is accepted that works required to be undertaken on foot of a Derelict Sites Notice, in this case demolition and partial demolition of structures on the site, would have the benefit of an exemption under that Act. However, it is considered that any such exemption from the need for planning permission would presumably also have to be considered in terms of the restrictions on exemption under the Planning and Development Acts and Regulations. Exempted development provisions are subject to restrictions set out in Section 4 of the P&D Act 2000 (as amended). In addition, Article 6 and Schedule 2 of the P&D Regulations 2001 (as amended), which set out certain classes of development which are exempt from planning permission requirements, have specific conditions and limitations which restrict the exemption. Furthermore, these are also subject to any general restrictions on exemptions as set out in Article 9 of the P&D Regulations.

7.2.11. Section 4 of the Principal Act sets out types of development that shall be exempted development for the purposes of the Act and certain restrictions on exemption. Subsection (4) and 4A state that

> 4. Notwithstanding paragraphs (a), (i), (ia) and (l) of subsection (1), [which relate to specified developments regarding agriculture, forestry and land reclamation], and any regulations under subsection (2), development shall not be exempted development if environmental impact assessment or appropriate assessment of the development is required.
>
> 4A. Notwithstanding subsection (4) above, the Minister may make Regulations prescribing development or any class of development that is (a) authorised, or required to be authorised, by or under any statute (other than this Act) whether by means of a licence, consent, approval or otherwise, and (b) as

respects which an environmental impact assessment or an appropriate assessment is required to be exempted development.

7.2.12. Article 6(1) of the P&D Regulations confers exempted development status (subject to the restrictions under Article 9) on any development of a class specified in Schedule 2, Part 1 of the Regulations. I note that Class 41(b) relates to "the removal of any structure or object or the carrying out of any works required by a planning authority under the provisions of the Act or any other enactment". Thus, the requirement to demolish the structures on the site under the Derelict Sites Act may fall within this class, which would provide for an exemption from the need for planning permission, provided that it is not restricted by Article 9. However, exemption is restricted by Article 9 where appropriate assessment and environmental impact assessment of the development is required, as is the case in this instance.

7.2.13. Having regard to the foregoing, it is not entirely clear whether the demolition works, that have already taken place which were quite substantial, can be considered to be exempt from the need for planning permission. Neither the developer nor the planning authority have sought a determination on this issue, and as such it is difficult to draw a definitive conclusion on the matter. However, should the works be found not to be exempt from the need for planning permission, the question is likely to arise as to whether the Board would be precluded from determining the application/appeal.

7.2.14. It is further considered that the issue of project splitting may also arise, should the demolition works not be deemed to be exempted development. Although the developer has addressed the issues arising from the demolition works throughout the EIAR in terms of identifying the potential impacts, assessing the significant impacts and putting forward comprehensive mitigation measures, the fact that the works have already been completed and are not included in the 'project' raises concerns in terms of potential project splitting. The appellants have also raised the issue of exclusion of the third parties from public participation in terms of the assessment of this part of the project, prior to the carrying out of the works.

7.2.15. In light of the foregoing, it is considered that the failure to include the demolition works as part of the whole project raises several questions regarding the adequacy of both the EIAR and the NIS. Given that these works have been completed in

advance of the submission, assessment and determination of the planning application for the project, it is considered that the retrospective nature of these works raises further questions regarding whether the Board is precluded from determining the case. In my view, unless the demolition works can be clearly shown to be exempt from the need for planning permission and the need for EIA and AA has been screened out, the exclusion of the demolition works from the proposed project would be likely to amount to project splitting. Thus, the requirement to retrospectively consider any significant impacts from the demolition works on the environment and on the qualifying interests and conservation objectives of the European sites would preclude the Board from determining the case.

7.2.16. In conclusion on legal and procedural matters, it is considered that there are no outstanding matters of any significance in relation to the adequacy of public participation. However, given the uncertainty regarding the exempted development status of the demolition works, (which are regarded as requisite works that should form part of the proposed project), the de-exemption of such works where EIA and AA is required, and the fact that these works have already taken place in advance of a determination on the proposed development, it is my considered opinion that the Board is precluded from determining the case on the grounds of the need to retrospectively assess the impacts of part of the project on the environment and/or that the issue of project splitting arises.

7.3. Compliance with planning policy and suitability of site

Strategic Policy for the Area

7.3.1. A review of the national and regional policies for Limerick and the Mid-West clearly indicates that Limerick metropolitan area is seen as a key economic driver for the region and that the revitalisation of Limerick City Centre is at the heart of the planning and development strategy for the area. Limerick 2030 identified some of the economic factors which have contributed to high levels of unemployment and a failure to capture inward investment in the region, which include an underutilised city centre with poor quality development, high vacancy rates and a declining population, together with a track record of favouring out of town development and a fragmented and spatially diverse enterprise environment.

7.3.2. The NPF seeks to secure the compact growth of urban areas and to deliver higher densities in suitable locations. The Regional Spatial and Economic Strategy and Limerick 2030 both highlight the need to rejuvenate and consolidate growth within the city and to increase residential density in Limerick City Centre in order to create urban areas of scale and concentration of economic activity, which can become vibrant and outstanding business and living environments. RP010 of the RSES seeks to prioritise housing and employment development in locations that are within and contiguous to existing city footprints, where it can be served by public transport, walking and cycling. Limerick 2030 seeks to reposition the city centre as a premier shopping and tourist area which would become a desirable place to live and to create quality strategic gateways on the approach to the city centre.

7.3.3. A key element identified in these strategies is the requirement to develop a strong and diverse economic base to enable sustainable, competitive and inclusive growth. A central aspiration of Limerick 2030 is to create and attract a highly productive knowledge-based employment and to diversify the economy in order to make it more resilient and sustainable than in the past. It considers that by capitalising on the strength of its higher education institutions, the skill of its workforce and its environmental and heritage attributes, Limerick can reverse past trends and capture a larger share of high-value investment based on the knowledge economy. The RSES views the linkages between Limerick's higher education institutions and enterprise and employment as a critical element of the vision for the development of the MASP. It is stated (1.2 of the RSES) that one of the key national strategic outcomes identified in the NPF is

> "A strong economy supported by enterprise, innovation and skills requires a competitive, innovative and resilient regional enterprise base. We need to foster and enterprise environment which entices people to live and prosper in the region."

7.3.4. The site is located on a major regional route, (R445), which is a dual carriageway on the approach to Limerick City from the M7 motorway and the eastern suburbs of Castletroy and Annacotty. The area in which the site is situated is one that is characterised by low-density mixed-use development which is spread out in a fragmented and haphazard manner along the Dublin Road with shopping centres, business parks and housing estates interspersed by large tracts of green field lands.

The land-uses to the east of the site include a Travelodge, an Aldi supermarket, a Circle K petrol station and a car sales showroom. There are a number of shopping centres and bulky goods retail centres to the west and south of the site with some business park uses to the south and east. A further petrol filling station is located to the north-west of the site. A cluster of higher educational uses lies to the north of the R445 which are centred around the University of Limerick and Plassey Technology Park.

7.3.5. The site itself is a large, partially developed site which has presented as a blot on the landscape for many years with significant concrete and steel structures partially completed across the site. These structures have now been largely demolished with large concrete slabs and retaining walls still in place. Although the site is served by several bus routes, it is not considered to be one which is highly accessible by means of public transport, walking and cycling. Notwithstanding refences in the EIAR to a 15-minute walking distance to Limerick City Centre, it is considered that the distance is more like 35 minutes along a route which would not be considered as a pedestrian-friendly environment. The R445 is a busy arterial road which is punctuated by several roundabout junctions, which are difficult to navigate as a pedestrian/cyclist, and buildings separated from the road frontage by large surface car parks and landscaping strips, and where there are no dedicated cycle lanes. The site is not, therefore, one which could be considered to be “contiguous to existing city footprints, where it can be served by public transport, walking and cycling”.

7.3.6. It is considered that the development of such a large vacant and semi-derelict site, which is prominently located on an important approach road to the city, as a mixed-use development with a significant urban scale which would introduce a much-needed streetscape and sense of place along the Dublin Road, is appropriate in principle and to be welcomed. Notwithstanding this, however, the range and nature of the land uses proposed, with the heavy reliance on high-density residential development, a large-scale hotel and a mix of low-grade commercial uses (drive-thru restaurants and petrol filling station), with a set of 4 office blocks set back behind the frontage development, which would not be delivered until the final phase of a 10-year development, is inconsistent with the overarching policy framework for a pivotal site such as this to contribute to the creation of a strong and diverse economic base.

7.3.7. Given that the site is in a "gateway" location and is close to the higher-education and knowledge-based cluster around the University, and is also in a highly accessible location relative to the national road network and to the city, it is considered that the nature and mix of uses proposed represents a significantly missed opportunity to provide the type of development envisaged in the strategic vision for Limerick, as set out in the national and regional planning policy documents referred to above. Furthermore, the provision of a significant high-density apartment development outside of the city centre and inner suburbs would be likely to undermine the strategic policy objectives to densify and rejuvenate the city centre as part of the overall strategy to create a counterweight to development outside of the city and to attract inward investment into the metropolitan area.

Local policy framework

7.3.8. The local policy framework contained in both the City and County Development Plans and in the Castletroy Local Area Plan (2019-25) are generally consistent with this strategic vision for Limerick. Castletroy and the Southern Environs are identified as a "Tier 1 Gateway". The majority of the appeal site is zoned 'Enterprise and Employment' in the LAP. The County Development Plan policy objective ED02 seeks to ensure that sites which are zoned for industrial and enterprise are protected from inappropriate development that would prejudice its long-term development for industrial and enterprise uses.

7.3.9. Lands zoned Enterprise and Employment are described in the LAP (5.2.1) as being in accordance with the regional planning guidance and are envisaged to facilitate development such as internationally traded services and ICT, including software, production, research and development and offices. The principal objective of this zone is to encourage employment, develop local resources and to promote Castletroy as an investment location. The main aim of this zone is to accommodate high quality and sensitively designed Enterprise and Employment development and complementary uses. The eastern extremity of the site is zoned "Groody Valley Wedge" which is an open space zoning and the western extremity is within the City Development Plan area and is zoned Mixed-Use and Residential.

7.3.10. Within the Enterprise and Employment Zone, office use is acceptable but residential use is Not Permitted, except on the 'Parkway Valley Site'. Hotel use is Open for

Consideration as is Restaurant/Café, but Hot Food Take-away is Not Permitted. Table 7 'Lands zoned and developed for industrial/employment uses' indicates that 60.26ha of Enterprise and Employment zoned lands in Castletroy remain undeveloped (out of 183ha). This represents c.33% of the EE zoned lands being undeveloped. The appeal site is 7.9ha (of which 5.24ha is zoned EE), which represents 8.7% of the undeveloped lands zoned for this purpose. It is further noted from Table 5 of the LAP that 46ha of lands are zoned Residential, the majority of which are within Phase 1 Residential and Phase 2 Residential, with approx. 91 units (2.6ha) within the Development Briefs, where a density of 35units/ha minimum is envisaged.

7.3.11. The appeal site is referred to in the LAP as "Parkway Valley" and is highlighted as "one of the significant areas of Enterprise and Employment." A Development Brief (No. 3) is provided for this site. It includes eight specific objectives labelled PV01-08 inclusive. The policy for this site is to develop the site principally for employment creation (10.4.3). Objective PV02 'Provision of High Quality Enterprise and Employment' envisages the development of the site as "a major employment centre with supporting facilities such as creches and amenity areas for employees and visitors". Retail development will not be permitted as this is well catered for in adjoining parks. However, a range of other uses are open for consideration but are seen as ancillary to the primary use as an employment zone. An element of residential use may be considered, where the proposed development makes a positive contribution to the area in terms of adding to the richness and diversity of uses. Objective PV04 requires that any residential element must form part of a sufficient mix of uses with a maximum of 48% of any development for residential use, which shall be appropriately integrated with other proposed development on site to ensure the creation of a successful mixed-use development.

7.3.12. The vision for the development of these lands is focused on the creation of a high-quality environment in terms of overall design and layout, a mixture of functions, tenure types and unit sizes and the provision of a broad range of on-site facilities for future employees. PV02 requires "a high standard of design throughout the site…...with a defined sense of place, functionally and physically connected to development on surrounding lands." The potential for increased building heights along the R445, including a landmark building, is provided for in PV01. Other

objectives for the site include the development of a public realm with architecturally designed buildings and open plazas with a high standard of quality finishes, the provision of underground parking, improved permeability and adequate provision for social and community facilities. Access is to be provided from Dublin Road with provision for a link to Bloodmill Road to the south.

7.3.13. It is considered that the proposed development, as revised, achieves many of the specific objectives for the site. It provides for a mix of uses with a newly defined streetscape including a landmark building along the Dublin Road, open spaces with quality public realm areas, increased permeability and connectivity within the site and with the surrounding lands, appropriate access and underground car parking and provision for improved pedestrian and cycling facilities. However, in terms of compliance with the overall zoning objective for Enterprise and Employment to protect such lands for a high-quality employment use, and the specific objective PV02 to create a "major employment centre" with complementary uses, it is noted that only a fraction of the 5.24ha zoned for this purpose is to be used for offices (12,262m² over 3-4 floors) with c.1,200 employees, with the remainder of the commercial development being allocated to service type uses (hotel, drive-thru/sit down restaurants and a petrol station). The nature and quantum of commercial uses do not therefore seem to be consistent with the zoning objectives for the site.

7.3.14. The purpose of including residential development in the Development Brief is stated to be to "add richness and diversity of uses" and that there would be a sufficient mix of uses with a maximum of 48% of the overall development being in residential use. The density envisaged was 35dw/ha (as a minimum). Although the percentage of residential use has been calculated as 48% of the EE zoned lands, the quantum of gross residential floor space is given as 21,283m², whereas the combined gross commercial floor space is c.20,313m², of which the office space is just 12,262m². The density of residential development is given as 102units/ha, which is quite significant for a site that is not zoned specifically for residential use. It is clear, therefore, that the residential element of the overall development is the dominant one, both visually and spatially, and that the office element, which is sited to the rear of the frontage development, has been assigned to the final phase of the overall development.

7.3.15. The phasing of the development (as revised in the FI June 2020), would result in a high-density residential development (245 units) with a hotel and some elements of open space being provided in the first 5-6 years, followed by the restaurants (including 2 no. drive-throughs) and a petrol station, but the office blocks and public park would not be provided until Years 7-10. This is not considered to be consistent with the zoning objective for the site to create an enterprise and employment zone of a high standard with good quality uses and a range of complementary uses and facilities, which together, would be capable of creating the conditions to attract significant investment in enterprise and employment development. Furthermore, the vision set out in PV02 to create a high-quality environment with a defined sense of place would be undermined by the front-loading of the residential development and by the siting of the landmark apartment building, hotel and restaurants in the strategic location along the Dublin Road frontage, with the commercial development to the rear hidden behind the main frontage development.

Conclusion on planning policy

7.3.16. In conclusion, it is considered that having regard to the prominent nature of the site and its strategic location, the proximity of the site to the national and regional road network and to the third level education cluster around the University of Limerick, to the strategic vision for Limerick to grow and diversify its economic and employment base and to encourage more people to live in the city, and to the Enterprise and Employment zoning of a substantial portion of the site, for which the objective is to protect such lands principally for enterprise and employment purposes, the proposed development given the nature, quantum and mix of uses, which would result in a predominantly high-density residential development in the initial phasing of the scheme, with an insufficient mix of high-quality commercial development in the overall development of the site, is not supported by the planning policy for the area. The proposed development would, therefore, be contrary to the zoning and planning policy objectives for the site and the area as set out in the national, regional and local policy frameworks.

7.4. Layout and Urban Design

7.4.1. The overall design of the proposed development is described in the Architectural Design Statement as being based on a street layout which forms a series of avenues

radiating out from south to north, with the 14-storey apartment block creating a landmark building along the Dublin Road frontage, the office blocks forming a new urban edge to the proposed public park within the green Groody Valley Wedge and the hotel building forming a new prominent corner with the park. The street layout would provide a series of direct, visual and pedestrian links to the Groody Valley open space and would create a visual connection with the open space area which would improve the local amenity and permeability of the area. It is stated that the hotel and landmark apartment building have been located on the R445 in order to help define the Dublin Road as a visual entry point to the city and to reinforce a new landscape character for the area. The proposed hotel is a substantial building which signals a new prominent building at the corner with the park. The lower scale residential development is located to the south where it is proximate to the more traditional established housing estates.

7.4.2. The revised Architectural Design Statement (8/6/20) justifies the location of the Landmark Building in the centre of the Dublin Road frontage, (as opposed to the corner near the entrance), as there is a bend in the road and it is positioned at the intersection of two axes, creating a focal point when approached from either direction. It is also stated that it creates a 'signal for the development'. The siting of the petrol station and drive-thru restaurants on either side of the site entrance was influenced by the zoning of the narrow wedge of land to the west, which is zoned Mixed Use (Limerick City Development Plan), and allows for such uses, whereas these uses are Not Permitted in the Enterprise and Employment zone in the Castletroy LAP. This explains why the landmark building is set back from the road entrance to the development. The Architectural Design Statement (ADS) considers that the landscaped plaza (civic space) provides animation and interest as well as drawing the pedestrian into the site, thereby creating a strong sense of place. It is acknowledged in the ADS that the proposed streetscape presents a series of separate buildings of different heights and architectural treatments, but it is submitted that the revised proposals seek to introduce a unifying theme by providing a series of floating vertically-proportioned white architectural motifs across the three buildings. As such, this revision presents a more coherent streetscape composition within which the landmark building sits more comfortably and provides for a strong road corner entrance.

7.4.3. I would agree that the siting of the tall landmark building and a substantial corner building on the main road frontage, together with a strong and distinctive urban edge fronting the park, helps to define a new streetscape and landscape character for the site, which is badly lacking in the area. However, it is considered that the nature of the proposed uses and their siting within the development results in a confused and indistinct legibility which fails to take advantage of the strategic and prominent location of the site on one of the main approach roads to the city. Notwithstanding the inclusion of four 4-storey offices blocks within the development, the proposed use of the landmark building as a residential tower block which sits in a pivotal position fronting directly onto the Dublin Road, between a commercial hotel and a 2-storey drive-thru restaurant, does little to signify that the use of the site is an important enterprise and employment site.

7.4.4. The siting of the office blocks on the road frontage does not appear to have been considered, but their location between the road frontage development and the residential development seems to belie their important role within the mixed-use scheme. The siting of the office floorspace on the main road frontage would have facilitated buildings of height and scale including a commercial landmark building. It is considered that the outlook from the residential blocks to the south and west of the office blocks would also have benefitted significantly from views over the park and green wedge, had an alternative layout been considered.

7.4.5. I would agree that the introduction of the landscaped plaza/civic space provides a degree of animation and activity at pedestrian level, which links the development with the Dublin Road frontage. However, there is little else at ground floor level along the street frontage that would contribute to the creation of active interest as the buildings would be set back from the road with no active ground floor uses. Given that Dublin Road is not currently enticing for pedestrians to walk along, due partly to the fragmented streetscape with a prevalence of car-dominated uses such as petrol filling stations and bulky retail development, it is considered that the proposed development does little to create a strong sense of place with an animated streetscape at this location. The presentation of the three buildings to the streetscape is considered to be fragmented and lacking in definition and coherence, notwithstanding the scale of the hotel and landmark buildings, and the introduction of the white motif to create some unity between the buildings. The design and scale of

each of the buildings bears little relationship to each other and the proposed revisions to the elevational treatment and landscaping are not considered to be sufficient to create a strong and distinctive streetscape with a high-quality urban design worthy of this strategic location.

7.4.6. The entrance to the site from the roundabout, which is shared with Parkway Retail Park, is to be flanked by a petrol filling station and two drive-thru restaurants. The internal road network then splits into two main arteries, 'Road 1' of which travels east for a distance of c.190m towards the green open space, serving the drive-thrus, the apartment block, the hotel and the office blocks. The second road, 'Road 02', travels southwards for c.210m past the petrol filling station, then eastwards for a further c.100m and then northwards where it travels alongside the public open space at the eastern side of the development as far as the office blocks, providing access to a series of 3 cul-de-sacs along the way. Thus, the residential development Blocks 1-17 are encircled by a long, circuitous roadway which is c.10m wide, including a footpath on either side, and comprises long straight sections. The road level at the entrance point is considerably higher than the FFLs for the residential development (Blocks 1-17), with a drop in gradient of over 5 metres to the cul-de-sac serving Block 1. The gradient of both Roads 1 and 02 falls away to the east and to the south, respectively, but Road 02 remains at a ground level of between 2 and 5 metres higher than that of the adjacent residential blocks for most of its length. This level difference is addressed by way of steps leading down to the communal open space areas between the three groupings of blocks.

7.4.7. It is considered that the proposed layout (as shown on Drawing No. 6220-07 Rev PL2 submitted on 8/06/20), results in a car-dominated environment which is not consistent with the guidance provided in the Design Manual for Roads and Streets. Although concessions are made to facilitate pedestrian short-cuts, the overall layout is likely to discourage pedestrian journeys within the site and to the external environment due to the length of the roads and to the design of the layout. The pedestrian experience of walking along Road 2 would be one which is disconnected from the adjoining residential blocks and would be dominated by vehicular movement to/from the drive-thru restaurants, the petrol filling station and along the long straight access road. It is also noted that the road layout will necessitate crossing the main access road to utilise the community centre and the playgrounds,

kickball areas etc. Although traffic calming measures have been proposed along the main access road, the layout is not considered to be one which would be conducive to a safe and attractive pedestrian environment. The cul-de-sacs serving the residential blocks are also characterised by long rows of parking bays fronting the individual units, which further emphasises the car-dominated layout of the scheme.

7.4.8. In conclusion, it is considered that the design and layout of the proposed development do not accord with the zoning objective to develop the site as a primarily enterprise and employment site, notwithstanding the incorporation of a substantial commercial floorspace and restricting the total residential floorspace to 48% of the site area, which is due mainly to the composition and siting of the commercial uses and the failure to incorporate any active ground floor uses along the main road frontage. It is acknowledged that the layout of this brownfield site is somewhat constrained by the layout and nature of the substantial concrete structures and the differential ground levels that remain on the site. Notwithstanding this however, it is considered that the overall layout is one which is car-dominated, would not contribute to a high-quality residential environment and would not be conducive to a safe and pedestrian friendly development. It would not, therefore be in accordance with the guidance in the Sustainable Residential Urban Areas Guidelines or DMURS.

7.5. Housing density – compliance with standards and guidance

Density

7.5.1. The area within which the site is located can be described as an 'Intermediate Urban Location', as described in the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2018, as amended). It is within a reasonable walking distance (10-15 minutes) of a suburban centre (Parkway Shopping Centre) and within a reasonable distance of employment centres such as the University of Limerick and the IDA Technology Park (c2.5km). There is public transport available along the R445, (and a bus stop outside the site), with routes serving the City Centre and the third-level/University complex, and the site is located c.3km from Limerick City Centre. It is noted that the first party is of the view that the site could be classified as an 'Accessible Urban Centre', but I do not agree as the walking distance to/from the city centre is c.30-40 minutes, and is along a route that

could not be described as being pedestrian friendly. However, it is planned to provide a Quality Bus Corridor along the R445 and to upgrade the cycle networks on the road, although no definite timeframe is available.

7.5.2. The Apartment Guidelines (2018) indicate that in 'Intermediate Urban Locations', higher density is generally considered suitable and may comprise wholly apartment schemes. Alternatively, medium density development of any scale that includes apartments to some extent is equally appropriate, provided that a density of greater than 45 dwellings per hectare is achieved. In light of the above, it is considered that a higher density development than currently prevails in the immediate area is acceptable in principle at this location, and this would be generally consistent with both national and local planning policy. In addition, it is acknowledged that the mixed-use nature of the development, together with the considerable constraints posed by the scale and nature of the substantial concrete structures and differential ground levels on the site, means that an apartment development is more appropriate than the incorporation of single dwelling houses. However, the density proposed is 102units/ha, which is more than double the minimum density stated in the guidance and is approximately double the density achieved in recent planning permissions in the Castletroy area, (such as ABP.307631-20 where 50units/ha was permitted by the Board in October 2017).

7.5.3. It should be noted that the Castletroy LAP 2019-2025 has determined that 1,232 houses are required during the plan period, (on the basis of 2.5 persons per house), and that a total of 101.2ha are zoned for housing, (including residentially zoned lands and Site-Specific Development Briefs). The allocation of the residential lands is set out in Table 5 of Chapter 3. This indicates that 58.8ha are zoned for Phase 1 Residential (2,058 units at min. net density of 35/ha), and that 29.8ha is allocated to Phase 2 Residential (1,043 units at min. net density of 35/ha). The residential proportion of Site Development Brief 3 (Parkway Valley) is 2.6ha, (91 units at min. net density of 35/ha). It is stated, however (3.7.2), that the total amount of land required for the plan period is 46ha., and a phasing plan has been proposed whereby 50% of the lands in Phase 1 must be developed before development can proceed on Phase 2 lands. It is noted that the 12.8ha of residential lands within the mixed use/enterprise zones (Development Brief sites) is described as being 'in

excess of the 46 hectares required in line with population projections for Limerick City and Environs'.

7.5.4. The residential component of the proposed development on the Parkway Valley site (2.6ha) represents just 2.5% of the total lands identified for residential development (101.2ha) over the lifetime of the LAP. This includes all residential lands in Phases 1 and 2 and in the non-residential zones. However, the proposed 245 units in this development represents almost 20% of the number of residential units (1,232) that will be required during the plan period and is over two-and-a-half times the number of units envisaged in the LAP Development Brief No. 3 for this site, (91 units on 2.6ha).

7.5.5. The density of residential development proposed, therefore, seems to be inconsistent with and considerably greater than the housing need identified for the area as set out in the current Castletroy LAP. It also seems to be inconsistent with the role envisaged for this site in addressing the housing demand and in the delivery of housing supply for the area. Although a higher density on this site than achieved heretofore is justified given its location within an 'Intermediate Urban Location' and the proximity of the site to facilities and services, it is considered that the density proposed is significantly higher than that achieved in recent permitted development in the locality and is not consistent with the overall planning policy for the area.

Compliance with standards

7.5.6. The design of the proposed development is generally in compliance with the SPPRs in the Apartment Guidelines in respect of minimum floor areas, the ratio of dual aspect apartments, minimum floor to-ceiling heights and minimum storage areas, and in respect of Blocks 1-17, generally exceeds the requirements by generous margins. I would refer the Board to the document 'Schedule of Accommodation and Housing Quality Assessment' (submitted to P.A. on 8/06/20), for ease of reference, which provides schedules in tabular form of the various apartment design parameters and the proposed provision in respect of each apartment/block.

7.5.7. In terms of amenity space, the quantum of private and communal amenity provision for Blocks 1-17 exceeds the minimum requirements. The orientation and aspect of the units within these blocks also scores highly as each unit achieves dual aspect and the majority would have south-facing windows. The communal space is

sheltered and overlooked and would provide a good quality outlook as well as amenity for the residents of these blocks. The quantum of private and communal amenity space serving the 14-storey Block 18, (85 apartments), is adequate, but in many instances just barely meets the minimum requirements, (5m² or 7.7m²). The private amenity space is in the form of balconies, many of which are north-facing onto the busy and noisy Dublin Road or west-facing, overlooking the car park and vehicular circulation route around the drive-thru restaurants. Several of these balconies are now proposed to be enclosed as 'winter gardens' as part of the noise mitigation proposals to address the traffic noise nuisance associated with the R445.

7.5.8. Block 18 comprises 38 no. 1-bed units and 47 no. 2-bed units. Of the 1-bed units, 26 of them are single aspect and face north, which represents c.30% of the apartments in this block and over two-thirds of the one-bed units. 12 of the 2-bed units are also single aspect, but these are all south-facing. Thus, a substantial component of the one-bed units will have fixed-shut windows and enclosed balconies. The communal open space for this block is provided in the form of three separate roof gardens, one on each of the ninth, twelfth and fourteenth floors. The combined area of communal open space is given as 523m², which complies with the minimum requirement of 519m².

7.5.9. The proposed roof garden on the ninth floor is 91m² and is located on the NW corner of the block, facing the Dublin Road and the drive-thru site. It would be sheltered from the south and the east by the upper floors of the apartment building. The roof garden on the twelfth floor is more substantial at 300m² in area and is L-shaped, incorporating south-facing and west-facing views. The fourteenth-floor roof garden is 132m² in area and is sited at the North-Eastern corner of the block. It is considered that the communal open space, whilst technically compliant with the requirements in the guidelines, is entirely composed of roof gardens at a high elevation and overlooking a busy arterial road and two drive-thru restaurants. Given that many of the apartment units are north-facing, with no natural ventilation, the quality of the communal open space should ideally compensate for the limitations of the private open space provision and internal amenity provisions. However, it is considered that the proposed communal open space provision is likely to be of relatively poor quality due to the fragmented and limited areas and the higher exposure to noise and climatic factors such as wind. These matters will be discussed further in 7.6 below.

7.5.10. The public open space provision for the residential development is primarily located to the east of the overall site and adjoins the Groody Valley open space area. The proposed POS extends N-S along the eastern boundary with a stated area of 0.58ha, which will adjoin the proposed public park to the east, with a stated area of 1.12ha. The P.A. was concerned about the quantum of open space to be provided in the initial phases of the development as the 0.58ha to be provided as POS (exclusive of the public park) represented just 8% of the overall site area. In response to the FI request, the developer declined to provide the public park (which would bring the total POS up to 15%) in the initial phases of the development on the grounds of being financially unviable. However, the P.A. in its decision, remained dissatisfied with this and attached a condition (No. 9) requiring Phase 1 to be subdivided into two phases, with the public park being commenced in Phase 2 and completed in Phase 3.

7.5.11. The public open space provision is mostly consolidated in this location to the east of the development, which is remote from most of the apartments and duplexes and, for the most part, is separated from the residential blocks by the internal road network and the proposed office blocks. The majority of the POS is overlooked by the proposed hotel and office blocks, with only four blocks of duplex units (B7, B8, B9 and B13) having the benefit of views over the playground and kick-ball area. These areas of active open space are also separated from these duplex blocks by Road 02 and by two opposing rows of perpendicular parking. It is further noted from Drawing No. 6220-07 (Rev. PL2) that most of the POS, including the kickball and playground areas, will have the ESB overhead powerlines and associated pylons routed through them, which would significantly reduce the quality of these spaces. This is not considered to be in accordance with the guidance in the Sustainable Residential Development in Urban Areas Guidelines (2009) which recommends that POS should be overlooked by surrounding homes so that it is ‘owned’ by the residents and seen as being safe and attractive to use.

7.5.12. In conclusion, it is considered that the density of residential development exceeds that envisaged in the Local Area Plan for the area, and is wholly comprised of apartments, which deviates from the pattern of development in the area. Given that this is a brownfield site, the layout of which is considerably constrained by the existing concrete structures and differential ground levels on the site, and is

designed as a mixed-use scheme, it is acknowledged that the layout is restricted to some extent and that an apartment development is likely to be more appropriate that incorporating single dwelling houses. However, the overall layout, with the car-dominant circuitous road network, siting of the apartment block adjacent to the main road and the siting of the majority of the POS on the eastern extremity of the site, being remote from most of the units and separated by the internal road network results in a poor-quality layout in terms of the residential amenity for future occupants. Although the residential accommodation generally complies with or exceeds the design parameters in the apartment guidelines, it is considered that it fails to comply with one of the key elements of the guidance by reason of the poor-quality layout of the development, and with the guidance contained in the Sustainable Residential Urban Areas Guidelines and DMURS.

7.6. Residential Amenity

7.6.1. The proposed development raises a number of issues with regard to residential amenity. In particular, concerns have been raised regarding noise levels for the future residents of the apartment block and some of the duplex blocks arising from the high noise environment along the R445. Other concerns that have arisen during the course of the consideration of the application/appeal relate to adequacy of daylight and sunlight for the proposed residential blocks and the impact of the proposed tall building on the wind environment and associated usability of the pedestrian spaces surrounding it and of the private and communal amenity areas within Block 18.

7.6.2. It is noted that the application is accompanied by an EIAR, which includes chapters that are relevant to consideration of the amenity impacts of the proposed development. These include the following:

Chapter 12	Noise and Vibration including a Noise Impact Assessment Report (updated by FI 8/6/20)
Appendix 2.1	Daylight Assessment (updated by FI 8/6/20)
Appendix 2.3	Wind Microclimate Assessment (updated by FI 8/6/20)
Report	Traffic & Transportation Assessment Report (updated by FI 8/6/20)

CEMP Outline Construction Environmental Management Plan (as amended by FI 8/6/20)

Consideration of impacts relating to amenity arising from these elements of the development are considered in more detail in the sections below under the heading of Environmental Impact Assessment, and particularly under the headings of Population and Human Health, Noise and Vibration and Air Quality and Odour, and this assessment should be read in conjunction with this section.

Noise impact assessment

7.6.3. Noise levels associated with the traffic on the R445 have been the focus of concern during the assessment of the application and have been raised in the grounds of appeal. EPA Noise contour maps for the area indicate that road traffic noise across the site is in the range of <55 to74dBL_{den} (day/evening) and <45 to 64dB L_{night}, with the highest levels along the northern end of the development site in proximity to the R445 (see Figures 12.1/2 EIAR). The results of the baseline noise monitoring carried out by the applicant are generally consistent with the contour maps, particularly during the day, with ASL1 being representative of the noise levels at the northern boundary of the site, (Table 12.3). The daytime ambient measured noise levels at this NSL are given (page 12-8) as 73-74dB$L_{Aeq15mins}$, 86-88dBL_{AFmax} and 62L_{A90}. The night-time ambient levels are given as 71-72dB$L_{Aeq15mins,}$ 84-92dBL_{AFmax} and 47-59dB$L_{A90.}$ However, it is pointed out in the EIAR that the background levels were lower, particularly at night-time, suggesting that the L_{Aeq} levels were influenced by intermittent passing cars. Thus, the overall noise risk assessment for the site was considered to be Medium to High, thereby triggering the need for an Acoustic Design Statement in accordance with ProPG Guidance.

7.6.4. The Inward Noise Impact arising from the proximity to the R445 is discussed in the EIAR at Sections 12.6.7. Predicted noise levels for ASL1 were assessed as 73dB (0700-2300) and 64dB (2300-0700). However, it was pointed out that the noise levels decrease across the site with day/evening levels of 70-75dB at the northern end reducing to 50-70-dB at the southern end, and corresponding night-time levels reducing from 60-65dB to 45-55dB. Noise contour maps for each phase of the development are provided at 12.8-12.17, (revised to 12.9-12.18 in the Supplementary EIAR), which clearly show that Block 18 and the northern side of

Block 1 would be within the red and deep orange zones. The predicted individual façade noise levels are given for residential units in Table 12.27 (revised to 12.28 in Supplementary EIAR). Useful graphical and tabular information is provided in Tables 12.19 and 12.20 (revised to 12.20 and 12.21 in the SEIAR), which are cross-referenced with Table 12.30 (revised to 12.31 in the SEIAR).

7.6.5. It is indicated that for the facades coloured purple (predicted noise levels of 67-73dB day and 60-64dB night) and those coloured red (predicted noise levels of 60-66dB day and 55-59dB night), reasonable internal sound levels will not be achieved with windows open. The only façades where good or reasonable sound levels could be achieved internally with open windows are those coloured orange or green. It is noted that the northern façade (and part of the eastern and western returns) of Block 18 is coloured purple, while the remaining eastern and western façades of this block are coloured red. In addition, the whole of the northern façade of Block 1 and the western façade of Blocks 1 and 2 are coloured red. The remainder of the residential blocks are coloured orange or green, with the majority of facades coloured green (least impact). Thus, it is proposed to provide appropriate acoustic specification to obviate the need for windows on the red and purple façades to be opened. It is proposed to use a mechanical heat recovery ventilation system for the development and as such, it is stated, that

> "there is no requirement to have windows open to achieve background ventilation requirements….and it is assumed that there will be negligible noise intrusion via ducting associated with the MHRV system".

7.6.6. The P.A. Executive Scientist had identified that the predicted noise levels in the northern section of the site arising from traffic on the R445 were excessive and did not accord with the WHO Environmental Noise Guidelines (53dB L_{den} and 45dB L_{night}). The P.A. sought FI on this issue and specifically, an assessment of the potential impact of noise on the future residents of Block 18 (the 14-storey apartment block), having regard to WHO Environmental Noise Guidance. The FI request had anticipated revised proposals in relation to Block 18, as well as mitigation measures, and an Acoustic Design Statement, as required by ProPG Guidance. The applicant's response to the FI (Noise) is contained mainly within pages 12-38 to 12-42 and pages 12-54 to 12-57 of the Supplementary EIAR. This largely confirmed that the

desired internal noise levels could not be achieved on the north-facing facades with open windows. Instead, it was proposed to provide

> "dwelling units with glazed elements and ventilation that have good acoustic properties, so that when windows are closed, the noise levels internally are good. Northern aspect windows will be fixed preventing opening. Inhabitants will be able to open windows within the dual aspect rooms if they wish, however, doing so will increase the internal noise level".

7.6.7. External amenity areas in Block 18 (i.e. balconies) that have a direct line of sight of the R445 are predicted to exceed the 55dB$_{LAeq,16hr}$ upper limit for such areas, with external noise levels of up to 73dB. Hence the developer has proposed to enclose/seal these balconies, thereby creating winter gardens instead, for all units with balconies on the northern, eastern and western façades of Block 18, (see Fig. 12.8, page 12-41 of the Supplementary EIAR). It is stated that the noise levels that can be achieved for the external communal amenity spaces, (proposed at 9th, 12th and 14th floor levels as part of FI response), would be less than 50-55dB$_{LAeq,16hr}$., and as such, could be considered as partially off-setting the adverse impact on the private amenity space.

7.6.8. Before evaluating the noise impact on the residential amenity of the future occupiers, it is considered necessary to briefly review the relevant guidance which was relied upon in the EIAR (as revised). The P.A. has recently adopted a new Noise Action Plan (2018-2023), the overall policy for which is to adopt a strategic approach to managing environmental noise from major roads which aims to -

- Identify appropriate mitigation measures to reduce noise levels where they are potentially harmful, and
- Prevent additional members of the community being exposed to undesirable noise levels through robust planning policies based on principles of good acoustic design in line with ProPG (2017) and based on the guidance and recommendations of WHO.

It is stated that there are three approaches to reducing exposure in the NAP. These are 'Prevention' in relation to new residential areas, 'Protection' in relation to existing quiet areas and 'Mitigation' in relation to areas where existing members of the public are already exposed to high noise levels. In seeking to prevent noise exposure for

new residential development, it is stated that the NAP will follow the ProPG Guidance and the WHO Guidance in respect of internal and external noise criteria. It is further stated that where adverse noise impact is considered likely, it will be necessary to provide an Acoustic Design Statement which demonstrates that all of the facets of ProPG have been followed.

7.6.9. The W.H.O. Guidance (2018) states that adverse health effects are observed among the exposed population between the range of 40-55dB$_{Lnight}$ and that noise levels greater than 55dB have been found to be increasingly hazardous to public health. It is recommended that indoor living room levels of 35dB (day) and bedroom levels of 30dB (night) should be achieved, and that outdoor living areas should achieve 50-55dB $_{LAeq}$ day. It is further recommended that populations should not be exposed to noise levels at night greater than 40dB $_{Lnight}$ (outside a bedroom with an open window).

7.6.10. ProPG Planning & Noise – Professional Practice Guidance on Planning and Noise for New Residential Areas (2017) is a U.K. publication which is the result of collaboration between several professional organisations comprising acoustic specialists and practitioners and focuses specifically on addressing the adverse impacts of traffic noise on new residential areas. It seeks to encourage a good acoustic design process in order to achieve optimal acoustic conditions both internally and externally and to avoid 'unreasonable' acoustic conditions and prevent 'unacceptable' acoustic conditions. The recommended internal noise levels are 35dB$_{LAeq,16hr}$ for living rooms, 40dB$_{LAeq,16hr}$ for dining rooms and for bedrooms, 35dB$_{LAeq,16hr}$ (day) and 30dB$_{LAeq,8hr}$ (night), with 45dB$_{LAFmax}$. 'Unreasonable' acoustic conditions are described as when these internal standards are exceeded by 5dB frequently and 'unacceptable' acoustic conditions, when the standards are exceeded by 10dB frequently.

7.6.11. However, the guidance clearly states that the achievement of an optimal solution should not merely involve compliance with internal and external noise exposure standards but should avoid design compromises which would adversely affect the living conditions and the quality of life of the inhabitants. In this respect, it is stated that "using fixed unopenable glazing for sound insulation purposes is generally unsatisfactory and should be avoided", as occupants generally tend to prefer to have control over the internal environment using openable windows, even in situations

where the acoustic conditions would be considered unsatisfactory when open. Problems identified with 'closed window scenarios' include the inability to carry out "purge ventilation", (e.g., to get rid of smells like paint or burnt food), the inability to mask internal noise from neighbours due to the lack of low-level constant traffic noise, and noise nuisance from mechanical ventilation. Thus a 'Good Acoustic Design,' according to the ProPG, does not rely solely on sound insulation of the building envelope to achieve acceptable acoustic conditions in new residential development. Instead, it is strongly encouraged that a checklist set out at 2.23 of the Guidelines is used to derive a good acoustic design. These matters include the feasibility of relocating or reducing noise levels from relevant sources, considering options for the planning and layout of the site and buildings, and the orientation of buildings.

7.6.12. The ProPG also states that a 'Good Acoustic Design' process should include provision of access to a quiet or relatively quiet external amenity space, (e.g., balconies and roof gardens), whereby noise levels should not generally exceed 50-55dB $L_{Aeq,16hr}$. It is acknowledged, however, that situations may arise where despite following a Good Acoustic Design process, significant adverse noise impacts remain on any private amenity space. In such instances, it is stated that the impact may be partially offset by providing residents with access to a series of alternatives such as

- A relatively quiet façade with openable windows or a relatively quiet external ventilated space (e.g. an enclosed balcony) as part of the dwelling, and/or
- A relatively quiet alternative/additional outside amenity space (such as a roof garden/garden), and/or
- A relatively quiet communal garden, and/or
- A relatively quiet public park within a 5 minute walk.

However, it is pointed out that there can be unintended consequences associated with such solutions. For instance, sealed up balconies can result in a lack of connection with the external environment and sealed façades can affect a resident's personal control over their own internal environments.

7.6.13. The Supplementary EIAR contains an Acoustic Design Statement (12-38 to 12-54). The ADS notes that the site is assessed as being a Medium to High risk in terms of

exposure to noise by reason of proximity to the R445, and that a substantial number of dwelling units will not be able to achieve good internal noise standards without windows being fixed shut and/or balconies being sealed airtight, solutions which are acknowledged as being generally unsatisfactory. Notwithstanding this, no justification has been provided for the siting of the 14-storey block of 85 apartments in the worst location in terms of noise exposure on the site, immediately adjacent to the R445. The reliance on sound insulation of the building envelope together with a mechanical heat recovery ventilation system seems to have been chosen without any serious consideration of an alternative site layout and/or orientation of buildings, that may have reduced the extent of the façades and dwelling units exposed to excessive noise levels and hence necessitate closed window and balcony scenarios.

7.6.14. The proposed apartment block comprises mainly one-bed and two-bed units, and a significant proportion of the one-bed units are single aspect units. Those that face north would have their windows fixed shut and those with balconies facing north, east or west would have their balconies sealed up. The single aspect units generally face east or west, and the dual aspect units also have additional windows facing east and west, which means that they would have an alternative window that could be opened. However, the east and west facing facades are 'red facades' with external noise levels of 60-66dB$_{Lden}$ and 55-59dB$_{LNight}$.

7.6.15. It is considered, therefore, that the effect of the proposed mitigation measures would be to provide a design compromise which would adversely affect the quality of life of the future inhabitants and would result in a substandard form of accommodation. Given that natural ventilation has become a significant factor in the range of measures identified to combat Covid-19, the inability to open windows is likely to result in even greater adversity in terms of living conditions. It is acknowledged that the revised design of the apartment block with three external communal areas at roof level on the 9th, 12th and 14th floors, may technically provide a solution in terms of external amenity space. However, given that the site is not primarily zoned for residential purposes and that no alternative layouts which would reduce the need for such solutions seem to have been explored, it is not accepted that the proposed design and layout is the most appropriate solution for this site, or that adequate justification has been provided to demonstrate that the internal target noises can only be achieved with windows and balconies on these façades closed.

7.6.16. In conclusion, it is considered that the siting of the apartment Block 18 in close proximity to the R445, by reason of the excessively high noise environmental at this location and the proposed closed window form of mitigation, would result in a substandard development whereby the amenities of the future occupiers would be severely compromised. The proposed development would, therefore, result in a poor-quality acoustic design for the site which would be contrary to the policy objectives of the Limerick City and County Noise Action Plan (2018-2023) and to Objective T11 of the Castletroy LAP (2019) which requires that the principles of good acoustic design are applied in accordance with ProPG and that the predicted internal and external noise levels are in keeping with the WHO Environmental Noise Guidance.

Daylight and sunlight

7.6.17. Daylight and sunlight is addressed in Chapter 2 of the EIAR. Two studies were completed in accordance with the guidance provided in BRE Site Layout Planning for Daylight and Sunlight – A Guide to Good Practice. Study A comprised an assessment of skylight amenity available within the proposed accommodation and Study B assessed sunlight access available to the proposed accommodation. Table 3 provides a summary of the results for Study A together with a 3D graphical representation of the results (Figs 18-20). It is noted that the Average Daylight Factor targets for all 30 representative rooms would meet the targets proposed and that on this basis, it is reasonable to assume that acceptable levels of internal skylight amenity would be achieved across the scheme.

7.6.18. The assessment of direct sunlight access is assessed with respect to a measure referred to as Annual Probable Sunlight Hours (APSH). This is described as the annual number of sunlight hours in the year that sun is typically expected to shine on unobstructed ground, allowing for average levels of cloudiness for the location in question. The targets are

- At least one main window wall faces within 90° due south, and
- The centre of at least one window to a main living room can receive 25% APSH including at least 5% APSH in winter months (21st Sept. to 21st March).

The results of this study are shown in Figs. 21-36. It was concluded that the majority of units have at least one habitable room which meets the 25% APSH annually and

the 5% APSH during the winter months. I note, however, that the units that fail to meet the targets are primarily located in Block 18. Figures 27 and 28 show the ASPH levels likely to be achieved for the Western, Southern and Eastern elevations of this block. These indicate that many of the rooms with the proposed winter gardens on the western and eastern elevations are those which fail to meet the annual target. A large number of these apartments are single aspect and face a noisy environment.

7.6.19. The conclusions of these studies emphasise the importance of flexibility in interpreting these results, particularly as it is recognised that in higher density proposals in urban locations, it may not be possible to achieve the specified criteria, and standards may therefore have to be adjusted locally to recognise the need for appropriate heights or street widths. I would agree that this is a reasonable approach in respect of the majority of the residential development (Blocks 1-17), However, I consider that the amenity of the future occupants of Block 18 is already compromised in respect of a high noise environment with closed windows/balconies, as discussed above, and that a low level of access to sunlight would further contribute to a poor standard of amenity for these residents.

Wind microclimate

7.6.20. Concerns have been raised regarding the wind microclimate associated with the development, and in particular, with the 14-storey tower block. A desk study was carried out to assess the wind environment with particular attention on locations within the development where unpleasant conditions are likely to occur and to discuss wind amelioration issues. The study is incorporated into Chapter 2 of the EIAR and was revised as part of the FI submitted on the 8/6/20.

7.6.21. It was considered that the wind conditions along the south-western façade of the 14-storey tower would be unsuitable for long-term sitting or entrance doorways, but would be likely to be adequate for strolling or walking with a purpose. This is due to the prevailing south-westerly wind which would create a windward vortex on this façade which would bring the wind down towards the ground, thereby creating downdraughts and accelerated ground level winds at the upstream tower corners. As a result, the wind is likely to ‘sit’ in the Drive-thru car park. However, as there are no sitting out areas here or entrances to the residential block, it was considered that it would be acceptable.

7.6.22. Similar conditions are likely to occur on the North-East façade, within which the main entrance to the building is located and which adjoins the proposed public plaza (FI 8/6/20). This area will experience downdraughts and a windward vortex is likely to sit over the civic space, and to adversely affect the main entrance. However, the study concluded that there are mitigating factors such as the infrequent and relatively weak nature of the winds from the north-east, the fact that the 14-storey block is not that tall, and that the hotel would provide some measure of protection. It was concluded that the combined effect of these factors would mean that the area would be likely to be suitable for its intended use.

7.6.23. It was acknowledged that the assessment of balcony conditions is difficult and that in general terms, the exposed corners would not be suitable for amenity usage without mitigation. The most exposed corners would be the North and South corners on the south-western façade and the South and East corners on the south-eastern façade. However, it was noted that many of the balconies are recessed and that it is proposed to provide a 1400mm glazed screen on the SE façade, which would be likely to mitigate the wind conditions, thereby rendering them suitable for amenity use. With regard to the North and East corners, the study considered that these would have less time being exposed to such wind conditions as they are not prevailing winds, which means that they are likely to be suitable for amenity purposes. Furthermore, as the north-facing balconies would have winter gardens, the wind conditions here would be immaterial.

7.6.24. It was also acknowledged that the assessment of wind conditions in respect of roof terraces is difficult to judge and, as such, the comments were therefore generalised. Community Access Space was introduced in the FI (8/6/20) at the ninth, twelfth and fourteenth floors of the apartment block. It was considered that as the 9th and 12th floors would face into the prevailing winds, the perimeters of these spaces would be windier. Furthermore, as the 12th and 14th floor open spaces are close to the top of the building, these spaces would be subjected to wind passing over them as well as around windward corners. However, it was noted that mitigation in the form of 1.5m high parapets would be provided to these spaces, which would make them suitable. The 9th floor open space, however, is also located directly adjacent to a taller part of the building. Thus, without mitigation, the wind conditions would make it unsuitable. It was considered that the proposed mitigation in the form of a 2.2m high parapet and

a further glazed 2.0m high balustrade around the perimeter would provide shelter and this, together with the small size of the space would make it suitable for amenity use.

7.6.25. It was considered that the wind conditions on the main road (R445) would be similar to those around the base of the tower, which was adjudged to be suitable for strolling and walking with purpose. Thus, it was considered that the proposed development would not be likely to create unsuitable wind conditions along the Dublin Road. In conclusion, the microclimate studies predicted that the wind conditions everywhere around the site and along the R445 are likely to be suitable for their intended pedestrian activities.

7.6.26. It is noted from the wind microclimate study that the civic space/plaza would not be suited to sitting out, and that the main entrance would probably experience unpleasant conditions due to a wind vortex at this location with associated downdraughts. This is the principal façade to the 14-storey tower block with the main entrance to the building and the microclimatic conditions would be likely to affect the functionality of the space and entrance. The mitigating factors appear pretty weak and unconvincing, as they mainly rely on the winds at this location being from a non-prevailing direction and that they would be relatively weak. The balconies and roof terraces may be adjudged to be fit-for-purpose, but given the poor quality of these spaces from a noise exposure point of view, the potential for unpleasant wind conditions contributes further to the poor quality of the accommodation for this block. This is considered to be of specific relevance in light of the particular importance to the future residents of the external amenity areas given the severe restrictions on the private amenity spaces and internal environments as a result of the high noise environment arising from the siting of the tower block next to the R445.

7.6.27. In conclusion, it is considered that the residential amenities of the future occupants would be adversely affected by the poor quality layout, which is based on a car-dominated circuitous road network, by reason of the siting of the majority of the public open space at a remote location from the residential units that it is intended to serve and is separated from it by the internal road network, and by reason of the siting and design of the 14-storey apartment block adjacent to the Dublin Road with its excessive noise environment. It is further considered that the poor-quality environment resulting from a combination of noise, wind and daylight factors for a

significant proportion of units within Block 18 would give rise to a substandard form of accommodation which would seriously injure the residential amenities of the future occupants of this block.

7.7. Traffic and Transportation

7.7.1. Traffic and transportation are addressed in Chapter 13 of the EIAR and in the Traffic and Transport Assessment Report submitted with the application. It was concluded that the traffic generation at the facility is predicted to be modest and will not have a material or significant effect on the road network. However, the P.A. requested further detailed information regarding the current traffic conditions at the Groody and Parkway roundabouts, given that the existing capacity of these roundabouts is in the order of RFC 0.85 – 1.0. In response to this request, further information was submitted to the P.A. on 8th June 2020, and is contained in Chapter 13 of the Supplementary EIAR. The Revised TIA reflects the existing congestion at these junctions. The impact of the proposed development was considered to be minimal. The P.A. Roads Dept. was satisfied with the response. However, the applicant will be required to pay €5,000 as a special contribution towards the revalidation of the signal timings at the signalised junction R445 Dublin Road/Parkway Retail Park.

7.7.2. The access to the site from the wider road network is proposed to be via the existing roundabout serving the Parkway Retail Park, which in turn is accessed from the Dublin Road signalised junction. Both of these junctions were analysed in addition to the Groody Roundabout (4-way junction to the east on the Dublin Road) and the Parkway Roundabout (5-way junction to the west). The TTA concluded that at the operational phase, although there would be a predicted increase in traffic associated with the development, it would result in a slight long-term neutral impact on the surrounding roads. The Dublin Road signalised roundabout and the Parkway Retail roundabout were predicted to perform well in the Design Year of 2037 (all phases complete) with an RFC of 53% for the latter and a DOS of 90.4% for the former. However, it is noted that the DOS of 90.4% was based on a run of the model which assumed a pedestrian signal call every two cycles instead of one cycle as at present.

7.7.3. The Parkway and Groody Roundabouts are already at theoretical capacity in the current scenario with no added development. However, the traffic analysis found that

the existing roundabouts would not experience much additional traffic overloading with the additional traffic added for the Design Year of 2037. It is further noted that LCCC is planning to upgrade both of these roundabouts to signalised crossroad junctions in the near future and it is anticipated that the work will be completed prior to the design year. It is considered, therefore, that the nature and volume of the traffic predicted to be generated by the proposed development is such that it is not likely to give rise to any significant effects on the wider road network surrounding the site in the Design Year of 2037.

7.7.4. The traffic volume associated with the construction phase is not considered to be excessive and will be spread out over the various phases of the development. Construction traffic will access the site via the Parkway Retail Park roundabout, which will result in a short-term negative impact which is not likely to be significant in terms of effects on local traffic, as construction traffic will be able to pull off the Dublin Road. However, as it is likely that the construction phase will continue after the residential blocks have been completed, it will be necessary to ensure safe segregation of traffic at this time. A Construction Transport Management Plan will be prepared prior to the commencement of development.

7.7.5. It is considered on the basis of the foregoing, that the nature and volume of the traffic predicted to be generated by the proposed development is such that it is not likely to give rise to any significant effects on the wider road network surrounding the site. However, this is dependent to a certain extent on the P.A.'s proposals to improve the road junctions in the vicinity of the site. As such, the proposed requirement to pay a special contribution to the revision of signalisation at the Dublin Road junction with the Parkway Retail Park assess road is considered appropriate and it is noted that the applicant is happy to abide by this requirement.

7.8. Ecology and biodiversity issues

7.8.1. Issues raised in the third party appeals and observations related to potential impacts on the European sites in the vicinity, particularly the Lower River Shannon SAC with which there is a hydrological connection via the Groody River, the inadequacy of surveys undertaken in terms of the species and habitats assessed and the depth and extent of the surveys, and the failure to adequately assess the impact on biodiversity. It is noted that the appeal site is located 0.67km from the nearest

European site and c.3km from the nearest SPA. The adequacies of surveys undertaken and the assessment of the impact on biodiversity, as well as the potential impacts on any European sites will be addressed in more detail in the sections headed Environmental Impact Assessment (the biodiversity section) and the Appropriate Assessment below. I would recommend that this section be read in conjunction with these sections.

7.8.2. The first party has stated that the surveys were conducted during optimal periods for habitat surveys and that no constraints were encountered. The extent and range of surveys undertaken was generally considered to be acceptable by the P.A. and by the NPWS, apart from the need for an Amphibian survey due to the presence of ponds and drainage ditches on the site and a Bat survey due to the presence of trees and hedgerows along the eastern boundary of the site. These additional surveys were carried out on 20th May 2020 and on 18th May 2020, respectively. Details of the survey and its findings are set out at 7.3.6.2 of the Supplementary EIAR, which was undertaken within the optimal survey period. The only two amphibian species identified as being likely to be encountered were the common Frog and Smooth Newt, both of which are protected under the Wildlife Act. The surveys included sweeping any ponds with nets and visual inspections of drainage ditches with interval sweep searches. No evidence of the presence of amphibians such as Smooth Newt or Common Frog, was found during the survey.

7.8.3. No potential bat roosts were found within the site boundary and hence emergence/re-entry surveys were not considered necessary. However, a transect survey was carried out after sunset of the entire landholding, which included a large area of land outside the red line boundary. No potential roost features were observed in any of the trees to the east of the landholding. The partially constructed shopping centred had been demolished at the time of the bat survey, but no crevices or cavities were observed in any of the structures which would have been suitable for roosting bats. The surrounding area was also considered to be unsuitable for roosting bats as built structures are modern and there are no mature trees.

7.8.4. Three species were of bat observed feeding or commuting through the area of mature trees in the north-east of the landholding, namely, Leisler's Bat, Common Pipistrelle and Soprano Pipistrelle. None of these are qualifying interests of the nearby Lower River Shannon SAC and are not listed in Annex II of the EU Habitats

Directive. No bats were recorded during the transect survey of the site with just one bat being recorded outside the eastern boundary of the landholding. Given the absence of any bat roosts and the low suitability of the site for bat feeding and commuting, the presence of lesser horseshoe bat can be discounted.

7.8.5. It was considered that bats are likely to forage in the embankment with semi-mature trees in the north-eastern corner of the landholding, which is c.90m from the red line boundary. As this vegetation is outside the development site, it will not be cleared, and bats will therefore be able to continue to forage and commute through this area. Mitigation will be required in respect of lighting, should any new lighting result in illumination of this vegetation. Such measures for bat-sensitive lighting have been set out at 7.6 (BIOCONST 8) of the biodiversity chapter (Supplementary EIAR).

7.8.6. The existing flora (Biodiversity Chapter of the EIAR) is described as "predominantly composed of buildings and artificial surfaces - BL3 with isolated outcrops of emerging scrub – WS1". Vegetation is minimal within the site except where soil or rough ground is exposed. There are no water courses or habitats that could be considered wetlands within the site boundary. Any bodies of open water are entirely artificial. However, surface drainage pathways lead to the River Groody. The parkland area to the east is a mix of scrub and artificial surfaces (ED3) and there is an adjacent patch of wet grassland (GS4), which is outside the site. This wet grassland is heavily grazed by horses and is associated with broad drainage ditches (FW4) and a linear hedgerow (WL1), which lead to the River Groody. The desktop and field surveys have established that the habitats within the site are of low ecological value and no evidence of any protected species was found during the field surveys. No habitats on or directly adjacent to the site, which are examples of those listed on annex I of the Habitats Directive were found. No alien invasive species were found on the site.

7.8.7. The site is not considered to provide suitable habitat for Otter, Badger, Pine Martin or Red Squirrel or any of the Deer species. Some bird species may be breeding within the buildings and adjacent scrub but they are of low conservation value. All construction and demolition works would take place outside of the bird nesting season. There are no habitats on the site that are suitable for fish, although the site is hydrologically connected to the Rivers Shannon and Groody, which are of salmonid status, and the Lower River Shannon is a SAC. A large number of

invertebrates are likely to be present, but would be unlikely to include protected species due to the low quality of the habitats present.

7.8.8. It is noted that the findings of the surveys and literature reviews indicate that there is no evidence of any protected species within the site and that the habitats are predominantly artificial in nature and of low biodiversity value. There is a hydrological connectivity to a sensitive site, the Lower River Shannon SAC. The surface water run-off will be collected and adequately treated during the construction and operational phases prior to discharge to existing municipal drainage systems. Appropriate mitigation measures will be implemented as part of the Construction and Environmental Management Plan and the Outline Surface Water Management Plan to protect any flora and fauna species of value that may occur within the site and to prevent any pollution or contamination of any watercourses in the area. It is considered, therefore, that subject to the implementation of the proposed mitigation measures, there will be no significant impacts on the biodiversity and ecology of the site and surrounding area. This issue will, however, be examined in more detail under the headings of EIA and AA below.

7.9. First party appeal against Condition 2

The first party appeal is against Condition No. 2 of the planning authority decision. The appellants seek to remove this condition which relates to the requirement to pay a development contribution. The following is a summary of the main issues raised in the first party grounds of appeal.

7.9.1. Condition No. 2

Condition No. 2 requires that

> **The developer shall pay to Limerick City and County Council a financial contribution of €1,424,972.00 in respect of public infrastructure and facilities benefitting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the Authority in accordance with the terms and conditions of the Development Contribution Scheme made under Section 48 of the Planning and Development Act 200 (as amended). The contribution shall be paid prior to the commencement of development, or in such phased payments as the**

P.A. may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment.

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

7.9.2. The first party appellant believes that the requirement to pay a development contribution of €1,424,972 amounts to double charging as a total of €2,590,922.22 has already been paid in respect of previous planning permissions on this site. It is submitted that this is a 'Replacement application' and that section 12 of the GDCS requires payment in respect of additional floor areas only, for such applications. It is further submitted that the DM Guidelines state that local authorities should deduct contribution amounts already paid in respect of a given development from a subsequent charge. It is also asserted that the requirement to pay a development contribution is not a mandatory requirement under Section 48 of the P & D Act.

7.9.3. The first party states that the previous development comprised a commercial floor space of 58,415m², and that the commercial and residential floor spaces for the current scheme are 20,313m² and 21,283m², respectively. Thus, the amount of commercial floor space has already been the subject of a charge. With regard to the residential floor space, it is noted that the GDCS provides for a reduction in respect of social housing of €20 per square metre. As the proposed development includes the transfer of 24 units with a combined floor area of 2,155m², it is submitted that a reduction of €43,100 should be applied.

7.9.4. The P.A. in its response stated that the GDCS provides for an exemption in respect of a change of use of an existing building, changes to internal layouts and/or amendments to a previous planning permission. However, in this case, the proposed development does not relate to either of these scenarios. It further advised that there were no buildings on the site at the time that the planning decision was made, and that there is no proof that the current applicant is the same as any of the previous owners. It was therefore concluded that the requirement to pay the development contribution in accordance with the GDCS, as set out in condition 2, is justified and should be retained.

7.9.5. The Development Contribution Guidelines (2013) require planning authorities to include reductions or waivers in their GDCS's in respect of scenarios such as change of use permissions where there is no need for an upgrade/new infrastructure and a charge for net additional development. Double charging is discouraged by the guidelines where a development contribution(s) has already been levied and paid in respect of a given development. In such cases, the appropriate amount should eb deducted from a subsequent charge to reflect that this development had already made a contribution.

7.9.6. The reductions and exemptions are set out in Sections 9-11 of the GDCS. Section 9 sets out a series of categories of development, none of which apply to the current proposal, Section 10 relates to changes of use and Section 11 relates to retention applications. Section 12 relates to applications for replacement development whereby development contributions will be charged on any additional floor area. The development site is an unusual one in that permission has been granted in the past for a substantial commercial development, which has been partially constructed but never completed. Thus, it is not a greenfield site, but has never benefitted from a completed development. It therefore does not strictly fall within the category of either a change of use or replacement development. There is no existing use to be changed and no existing development to be replaced. Furthermore, the proposed development is vastly different to the previously granted schemes on the site.

7.9.7. It is acknowledged, however, that a substantial amount of money has been paid to the local authority in respect of the previous development on the site, albeit by different applicants. As such it could be argued that an element of double charging may be involved. If the board agreed and was minded to grant permission for the development, it is considered that a reduction in the amount of contribution could be considered reasonable. Notwithstanding the fact that the nature of the commercial floor space differs from the previously granted commercial uses, it is considered that the contribution for the commercial element of the current proposal (20,313m²) could be waived and the contribution would be payable on the residential element only (21,283m²). The rate for residential development is €20 per unit which would amount to €425,600. However, as 24 units are to be transferred as social housing units, a further €43,100 should be deducted. This would result in a financial contribution of €382,560 instead of €1,424,972.

7.9.8. It is recommended that should the Board be minded to grant permission for the proposed development that Condition No. 2 be amended such that the amount of contribution payable be reduced from €1,424,972 to €382,560.

7.10. Other Issues

7.10.1. Collision risk – the third-party appellant made reference to the Urban Design and Building Height Guidelines (2018) which require an assessment of tall buildings to take account of the potential impact on flight lines of birds and bats and potential collision risks. However, no such studies have been undertaken. The first party has responded by saying that such studies were not justified.

7.10.2. In terms of bats, the bat survey carried out in May 2020 established that there was little or no bat activity through the site and that there was no evidence of any roosts or potential roosts. Thus, the need for a collision study for bats does not seem to be justified in this instance.

7.10.3. In response to the concerns regarding bird collision risks, the first party states that studies have not been conducted as it is not justified in this instance. This issue will be discussed in more detail under the headings of EIA and AA. However, it is worth noting that this issue was also raised in respect of the recent Board decision on the Opera Site in Limerick City Centre (ABP304028-19). The Inspector in that case noted that information was not available regarding bird collisions with tall buildings in Ireland and that the expert witness at the oral hearing (Dr. Fennessy) had stated that were such events commonplace, it is unlikely that they would go unreported. It was further noted that Limerick is not a major migratory flyway for birds and that local bird populations use the Shannon or other rivers as visual cues when moving between roosting and feeding sites. The site of the appeal is c.100m from the Groody River and 0.75km from the River Shannon, and 3km from the Shannon Estuary. It is considered that the potential for collision is, therefore, unlikely.

7.10.4. Social and affordable housing – the third-party appellants stated that the proposed scheme did not include any social and affordable housing. The first party response was that the residential element is located on lands zoned Enterprise and employment, and as such does not require the provision of social and affordable

housing under Section 96 of the P and D Act 2000 (as amended). Notwithstanding this, the applicant has provided 24 units for transfer as social and affordable housing.

7.10.5. **Objective 59 of the National Planning Framework** – it is asserted that the development proposal does not comply with this objective as biodiversity loss is not addressed and there is insufficient provision for new biodiversity. This objective relates to protected areas and protected species. It seeks to enhance the conservation status of such areas/species by implementing relevant EU Directives, incorporating objectives for the protection and restoration of biodiversity into development plans, facilitating sustainable activities in Natura 2000 sites and supporting continued research, surveys and monitoring of habitats and species. It is considered that it is not relevant to the current application/appeal.

7.11. Conclusion on proper planning and sustainable development

7.11.1. In conclusion, it is considered that given the prominent and highly accessible nature of this 'gateway' site which is zoned and earmarked for enterprise and employment creation, and to the strategic vision for Limerick to rejuvenate and consolidate growth within the city by creating a strong and diverse economic base which focuses on developing the knowledge-based economy, the proposed development with its high density residential development combined with the poor quality and extent of commercial development, would undermine the strategic policy to densify and rejuvenate the city centre and inner suburbs as a counterweight to the trend towards out of town development, and would not be in accordance with the zoning and specific objectives for this site. It is further considered that the proposed development by reason of the nature, composition and mix of uses, together with the site layout which results in frontage development that is dominated by the tall apartment block, the petrol station and drive-thru restaurants, with no provision for active ground floor uses, and the phasing of the development which would see the significant residential component provided well in advance of the commercial floorspace, would further undermine the achievement of the strategic and local policy framework for the area and fail to provide for a high quality urban design with a lively and animated streetscape along the Dublin Road.

7.11.2. The proposed site layout, which is based on a car-dominated circuitous road network, would result in a poor quality layout and environment for the future

occupants of the development by reason of the siting of the majority of the public open space at a remote location from the residential units that it is intended to serve and is separated from it by the internal road network, and by reason of the siting and design of the 14-storey apartment block adjacent to the Dublin Road with its excessive noise environment. The residential amenities of Block 18 would be further compromised by a combination of the proposed mitigation measures involving closed windows and balconies, the relatively poor quality of the wind microclimate and access to sunlight, and the nature and location of the communal open space areas. The proposed development would, therefore, fail to comply with the Sustainable Residential Development for Urban Areas Guidelines 2009 and the Design Manual for Urban Roads and Streets 2013.

7.11.3. From a procedural point of view, the uncertainty regarding the planning status of the demolition works as outlined in section 7.2 above, together with the fact that these works have already been completed prior to determination of the case, and given that the demolition works are considered to be requisite works which would facilitate the proposed development currently before the Board, which is one that requires Environmental Impact Assessment and Appropriate Assessment, means that should the Board be minded to grant permission, these matters should be considered further in order to rule out a situation where the Board in precluded from determining the case.

7.11.4. It is considered, therefore, that the proposed development would fail to achieve the strategic and local planning policy objectives for the area and the site, would result in a poor-quality layout and substandard form of development which would be contrary to government guidance contained in the Sustainable Residential Development for Urban Areas Guidelines 2009 and the DMURS 2013. The proposed development would not, therefore, be in accordance with the proper planning and sustainable development of the area and should be refused. Should the Board be minded to grant permission, however, the matters arising from the completion of the demolition works in advance of the planning decision and the first party appeal against the financial contribution condition should be addressed.

8.0 Environmental Impact Assessment

8.1. Introduction

8.1.1. This section of the report sets out the environmental impact assessment of the proposed project. Some of the matters considered have already been addressed in the Planning Assessment above. This section should therefore be read, where necessary, in conjunction with relevant sections of the Planning Assessment.

8.1.2. The proposed development is for a 10-year permission for the construction of a mixed use residential, commercial and community development on an existing site together with the provision of a public park with walkways and associated parking and ancillary site works. The proposed development incorporates the re-use and integration of parts of an existing structure into the proposed development including the retaining walls, slab and foundations of a previously constructed shopping centre development (partially completed). The proposed mixed-use development is described by the applicant as comprising

i. 245 residential units across a range of building blocks,

ii. 4 no. four storey office blocks over basement parking with a maximum floor area of 12,262m,

iii. a 152-bed hotel over four stories with two levels of basement parking with ancillary services including a café/bar with max. floor area of 5,012m²,

iv. a 2-storey building comprising 2 no. Drive-Thru restaurants/cafes and a substation,

v. a petrol filling station with ancillary retail sales (not >100m²) and associated sit-down food sales area,

vi. a 3-storey community building with max. floor area of 2,103m² comprising a creche, a community-facilities building and a multi-use games area facility

vii. a public park of 1.12ha and associated parking.

The ancillary site works include surface and basement parking, ESB sub-stations, a pumping station, signage, an attenuation tank, landscaping and ancillary site development works. The site will be accessed via the existing access and

roundabout arrangement to the Parkway Retail Park with improvements to the R445 adjacent to the site. A pedestrian and cycle link to the boundary with Chesterfield Grove is also included.

The requirement for EIA arises as the project, comprising a site area of 7.9ha within the built-up area of Limerick City characterised by commercial retail development is of a type and scale identified in Part 2 of Schedule 5, of the Planning and Development Regulations 2001 (as amended) relating to urban development. The type and class of project is

10(b)(iv) Urban development which would involve an area greater than 2 hectares in the case of a business district.

8.1.3. An EIAR has been prepared and submitted on this basis under the provisions of the 2014 EIA Directive and in accordance with the current Planning and Development Acts and Regulations (as amended) and with the European Communities (EIA) Regulations and the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018.

8.2. Compliance with legislation

8.2.1. The EIAR consists of two main parts with several appendices, as submitted to the P.A. on 17th January 2020. Part A comprises a Non-Technical Summary and Part B comprises of the main Environmental Impact Assessment Report. Some of the Appendices form part of the main report, such as the Daylight Assessment (Appendix 2.2) and the Microclimate Assessment (Appendix 2.3). However, other appendices accompanied the planning application (17/01/20) including the following:

Traffic and Transport Assessment – Punch Consulting Engineers

Outline Construction & Environmental Management Plan

Planning Engineering Report

Mobility Management Plan

Stage I Road Safety Audit

Planning Compliance Report

Building Life Cycle Report

Appropriate Assessment Screening Report

Natura Impact Statement

8.2.2. Following a request for Further Information from the P.A., a Supplementary EIAR was submitted on 8th June 2020. The main amendments can be summarised as follows:

- Enhanced public realm fronting Dublin Road comprising a new civic square in place of previously proposed grade level car parking. This is situated between Block 18 and the hotel and necessitated the replacement of displaced car parking provision at basement level. The basement was increased accordingly from 13,093m² to 14,575.6m² and accommodates 512 cars.
- Amendment of balconies on the northern façade of Block 18 to enclosed winter gardens.
- Provision of three new communal external amenity areas serving Block 18 at the ninth, twelfth and fourteenth floors, respectively.
- Revisions to the facades of the hotel, Block 18 and the commercial building accommodating the drive-thru restaurants. These revisions involved revised modelling and treatment to present a unifying theme, which is based on a series of floating vertically proportioned white architectural elements of various sizes (or motifs) across the three buildings. The changes are elevational only and do not affect the height of the buildings.
- The revised drawings were accompanied by a revised Architectural Design Statement, revised Wind Microclimatic Assessment Study and a Revised Noise Report.
- Amphibian Survey
- Bat Survey
- Revisions to Chapter 2.0 Project Description; Chapter 3.0 Spatial Planning Policy; Chapter 7.0 Biodiversity; Chapter 9.0 Water Quality; Chapter 12.0 Noise & Vibration; Chapter 13.0 Traffic and Transport; Chapter 17.0 Landscape; Chapter 19.0 Summary of Mitigation Measures

8.2.3. Further appendices accompanied the Supplementary EIAR as follows:

- An Outline Surface Water Management Plan (construction)
- Revised Planning Engineering Report
- Revised Traffic and Transport Assessment
- Overview of Lighting Installation
- Revised Screening Report for AA
- Revised NIS

8.2.4. I have carried out an examination of the information presented by the applicant, including the EIAR, the Supplementary EIAR and the submissions made during the course of the application and appeal. A summary of the submissions made by the Planning Authority, prescribed bodies, appellants and observers has been set out at Section 6 of this report.

8.2.5. The main issues raised specific to EIA can be summarised as follows:

1. **Lack of meaningful public participation** – The mandatory requirements for effective public participation in environmental decision making have been breached. Meaningful access to environmental information has not been provided as specified in the 2014 Directive and in the Guidelines for Carrying Out EIA published by the Dept. of Housing, Planning and Local Government (Aug. 2018). There was a failure on the part of both the developer and the planning authority to provide for effective and meaningful public participation. This related to a failure to provide the information in an easily accessible and electronically searchable format in a timely manner; failure to provide a URL link; failure to re-publicise the substantial FI received on 8th June 2020; and failure to provide FI response in a searchable electronic format. It is submitted that these failures have prevented the appellant from having meaningful access and public participation in the process and, therefore, vitiate the decision of the P.A. to grant permission and materially contravenes the provisions of the EIA Directive and the Government Guidelines for carrying out an EIA.
2. **Competent Experts** – The EIA Directive requires that an EIAR must be compiled by competent experts. The submitted EIAR contains insufficient specialist knowledge of the various habitats, species, ecosystems, ecological and biostatical assessments, as well as the biodiversity interrelationships and

populations occurring at or in the zone of influence of the site. The submitted EIAR is therefore deficient as it has not been compiled by the necessary competent experts.

3. **Demolition excluded from project** – The 2014 EIA Directive requires demolition works to be included in the project and to be addressed in the EIAR. The proposed development clearly includes substantive demolition works which are described in the Outline CEMP. It is stated that it involves removal of massive quantities of structural steel and concrete to foundation level, including 5,689 tonnes of steel, and the retention of retaining walls, slabs and foundations. The crushed concrete is to be used as fill. There will clearly be dust emissions with ramifications for air, land, soil and water quality, for climate change, greenhouse gas emissions and human health. Planning permission must be sought for the demolition works, notwithstanding the exemption under the Derelict Sites Act as EU law takes precedence over national law, and it must form part of the EIAR. In addition, the cumulative effects of demolition and the reasonable alternatives to demolition and/or re-use and re-cycling of the structures have not been adequately addressed. Nor has a new baseline pre/post demolition been established as required by the Directive. These failures vitiate the decision to grant permission.

4. **Inadequate assessment of human health impacts -** The assessment of the effects on the future residents of wind and a down-draught on the public plaza, daylighting and shadowing and the potential for a disaster/emergency have not been properly assessed. The current noise levels on the Dublin Road are stated to be 70dB, which exceeds the WHO Guidelines, above which road noise has serious harmful environmental effects and implications for human health. This matter has been ignored by the developer and the P.A. and the failure to carry out a proper assessment on the effects on the future residents means that the EIAR is deficient.

5. **Environmental sensitivity inadequately assessed** - EIAR is deficient as no surveys of otters and swans near the site, no assessment of the importance of the River Groody to Lamprey and Salmon species, particularly given the direct hydrological link and proximity to the SAC. The potential impact on the flight lines of birds and bats in terms of collisions has not been assessed.

6. **Bats** – The bat surveys are inadequate as only one was carried out in May, whereas the NRA Guidelines on Best Conservation Practice for Bats indicates that surveys should be undertaken in June, July and August for maternity roosts. The Supplementary EIAR indicated that there was potential for bats to be present in the demolished steel and concrete structures, yet there was no bat activity assessment prior to demolition. The Supplementary information should have been readvertised.
7. **Inadequate consideration of reasonable alternatives** – the assessment of alternatives was insufficient.
8. **Cumulative impacts are not adequately addressed** – The assessment of cumulative impacts was insufficient.

These issues are addressed below under the relevant headings, and as appropriate in the reasoned conclusion and recommendation.

Information contained in EIAR and Supplementary Information

8.2.6. In accordance with Article 5 and Annex IV of the EIA Directive, the information contained in the EIAR and supplementary information, in general, adequately identifies and describes the direct and indirect effects of the proposed development on the environment. It provides a description of the project comprising information on the site, design, size and other relevant features of the project, including the demolition works. It identifies, describes and assesses in an appropriate manner, the direct and indirect significant effects of the project on the following environmental factors

(a) population and human health;

(b) biodiversity and ecology, with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC;

(c) land, soil, water, air and climate;

(d) material assets, cultural heritage and the landscape, as well as the interactions between the factors referred to in (a) to (d).

It provides an adequate description of forecasting methods and evidence used to identify and assess the significant effects on the environment. It also provides a description of measures envisaged to avoid, prevent or reduce, and if possible,

offset, likely significant adverse effects. The mitigation measures are presented in each chapter and are summarised in Chapter 19.0.

8.2.7. Notwithstanding the foregoing, I would bring to the Board's attention the fact that information to be contained in an EIAR, as revised by the 2014 EIA Directive, (Article 5 and Annex IV), states the following

Annex IV (information referred to in Article 5(1))

1(b) A description of the project including, in particular, a description of the physical characteristics of the whole project, and where relevant, requisite demolition works.

5(a) A description of the likely significant effects of the project on the environment resulting from the construction and existence of the project, including where relevant, demolition works.

A definition of 'project' is provided in Government Circular PL8/2017 'Implementation of the 2014 EIA Directive' as follows

> 'Project' means the execution of construction works or other installations or schemes, including demolition works directly linked to the execution of construction works and other interventions in the natural surroundings and landscape.

Schedule 6 of Part 2 the Planning and Development Regulations 2001 (as amended) now requires the description of the project to include demolition works. In terms of development which requires EIA, Class 14 of Schedule 5 states the following

> Works of demolition carried out in order to facilitate a project listed in Part 1 or Part 2 of this Schedule where such works would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.

8.2.8. As stated previously, it is considered that the demolition works in question are facilitative and can be described as 'requisite' works which are directly linked to the construction of the proposed development. Thus, the demolition works must form part of the overall project, and either be screened for EIA or assessed as part of the EIA, but this does not necessarily mean that it must form part of the same planning application. The project can be split into smaller segments so long as each segment is properly screened and assessed under the Directive, without the issue of project

splitting arising. Alternatively, it could be argued that the demolition works form an initial phase of a 'Masterplan', whereby the works can be carried out without being reliant on the completion of the rest of the masterplan. However, unless each phase of the development is subject to the EIA Directive, (i.e. by means of either screening or assessment), the issue of project splitting would still arise.

8.2.9. In the case of the current application/appeal, however, it is not clear that the demolition works have either been screened for EIA or been subject to EIA. This matter is addressed in Section 1.7 of the EIAR. It is stated that the 'physical characteristics' of the development are presented as a 'phased approach' and that the EIAR has been undertaken in a comprehensive manner assessing the overall landholding (13.09ha), with the detailed assessment of the lands being undertaken of the lands within the red line boundary. It is further stated that a holistic approach has been taken in the assessment of potential effects on the environment as it examines not only the effects arising from the 'physical characteristics of the proposed development' but also the effects arising from demolition. It is then stated -

> Demolition works on site are being undertaken in response to Section 11 notices under the Derelict Sites Act 1990 and do not form part of this application. However, as they are facilitative works for the proposed development, they have been included in the overall assessment to ensure that all potential worst-case impacts are identified.

8.2.10. The approach taken by the developer, therefore, seems to have been the inclusion of the demolition works as a phase of the overall development, (but excluding it from the current project), and including the identification and assessment of potential impacts relating to demolition in the EIAR to demonstrate that these works have been subject to the EIA Directive. It is noted that the demolition of the existing concrete and steel structures has been included in the description, identification and assessment of impacts, under each of the relevant topic chapters of the EIAR, which also incorporated a 'pre-demolition' and a 'post-demolition' baseline scenario for each of the relevant topics, and the assessment of alternatives also included several alternative options regarding demolition. The demolition works are quite substantial in scale and extent, involving a footprint which covers the majority of the red line boundary. They include the removal of c.5,689 tonnes of steel and c.4,198 tonnes of concrete, separating the concrete from the reinforcement and crushing the concrete

on site for use as fill across the site as well as dewatering the site and clearing and removal of waste. The identified impacts include potential effects relating to noise, air and water pollution, and mitigation measures have been proposed to prevent/avoid/reduce such impacts. Monitoring of environment effects, (noise and vibration monitoring, air quality and dust monitoring), was also proposed during demolition.

8.2.11. I would accept that the potential impacts of the demolition works have been appropriately described, identified and assessed cumulatively with the impacts of the proposed development under each of the relevant chapter headings in the EIAR. However, the critical issue is that the demolition works have already been completed. Thus, the impacts that have been identified would have to be assessed retrospectively. Such a scenario is not in accordance with Article 2(1) of the Directive which requires that projects likely to have significant effects on the environment, by reason of their nature, size or location, should be made subject to a requirement for development consent and an assessment with regard to their effects on the environment, which must be undertaken BEFORE development consent is given.

8.2.12. The DHPLG Guidelines for Planning Authorities and the Board on Carrying Out EIA (2018) provides further guidance on this matter. It states that -

> Development consent for public and private projects which are likely to have significant effects on the environment should only be granted after an assessment of the likely significant effects of these projects has been carried out. (para 21) and
>
> In order to ensure a high level of protection of the environment and human health, screening procedures and EIAs should take account of the impact of the whole project in question, including…..demolition phases (para 22).

It is considered, therefore, that the assessment (or screening for EIA) of the demolition works should have been carried out prior to the execution of the works in order to comply with the requirements of the EIA Directive.

8.2.13. Although the demolition works were carried out under other legislation, there is no evidence that they were subject to the EIA Directive prior to their execution. It is stated (2.3.2 EIAR) that a detailed Demolition Methodology has been submitted to the 'Urban & Rural Community Development Directorate of the Council' for approval.

However, there is no indication that the demolition works were subject to screening or assessment under the EIA Directive in advance. Thus, it is considered that these works cannot be viewed as either a phase of an overall masterplan or a segment of the proposed project. As the said works have already been completed, a request for further information is not appropriate and planning permission should, therefore, be refused on these grounds.

8.2.14. I am not satisfied, therefore, that the information contained in the EIAR complies with the provisions of Articles 2, 3, 5 and Annex (IV) of the EU Directive 2014/52/EU amending Directive 2011/92/EU or with the requirements of Article 94 of the Planning and Development Regulations 2001, as amended, regarding the information to be provided in the EIAR, (as set out in 8.2.7 above), on the basis that the requisite demolition works are not included as part of the proposed project, and have been carried out in advance of a grant of consent for the proposed project and were not subject to the EIA Directive prior to their execution.

Competent experts

8.2.15. I am satisfied that the EIAR has been prepared by competent experts to ensure its completeness and quality. I note the qualifications and expertise demonstrated by the experts involved in the preparation of the EIAR, which are set out in Table 1.3. of the EIAR.

Vulnerability to Risk of Major Accidents and/or Disaster

8.2.16. The requirements of Article 3(2) of the Directive include the expected effects deriving from the vulnerability of the project to risks of major accidents and/or disaster. This is addressed in Section 2.5 and Sections 6.5.9 and 6.5.10 of the EIAR. It is stated that the risk of accidents can arise during construction and operation phases and that the risk of accidents and mitigation has been considered under each factor of the environment, where relevant. However, it is concluded that as the operation of the proposal as a mixed use commercial and residential neighbourhood is relatively benign, it is not likely to give rise to any significant impacts.

8.2.17. Potential risk from flooding was considered in Chapter 10 of the EIAR. As the existing basement level has substantial surface water and will require decanting, this will be pumped via a series of holding and attenuation tanks to the local stormwater network for disposal. However, the site infrastructure is located in Flood Zone C and

the construction works will also be undertaken in this zone, and as such no additional mitigation measures are required during demolition or construction. The vulnerability of the project to fluvial flood risk (from the River Groody) is mitigated by design, as the main buildings and infrastructure are located in Zone C. Furthermore, mitigation of surface water via the stormwater system, including attenuation of flows and flow control devices, will adequately manage the flood risk on site.

8.2.18. Potential flood risk from climate change has identified minor localised flood risk along the eastern boundary of the site. However, there is no development planned for this section of the site, and the design has incorporated a freeboard of 4.33m (over the 0.1% AEP flood level). The stormwater calculations have also been designed to include an allowance in the attenuation system for climate change. One residual flood risk was identified involving the risk of blockage of the bridge on the R445 downstream of the site. However, the risk assessment identified an available flow pathway over the Dublin Road without impacting the site, in such an event due to the difference in levels between the proposed development (10mOD) and the road (<6mOD). The proposed development is not, therefore, likely to be impacted by flooding.

8.2.19. The site is not connected to or close to any site regulated under the Control of Major Accident Hazards involving Dangerous Substances Regulations i.e. SEVESO, and there are no potential effects from this source. It is considered thar having regard to the nature and scale of the development itself, there are unlikely to be any effects deriving from major accidents and/or disasters and I am satisfied that this issue has been addressed satisfactorily in the EIAR.

8.3. Assessment of reasonable alternatives

8.3.1. Schedule 6(1)(d) of the Planning and Development Regulations 2001 (as amended) requires that an EIAR shall include a description of the reasonable alternatives studied by the developer, which must be relevant to the project, and an indication of the main reasons for the option chosen taking into account the effects on the environment. The appellants believe that the examination of alternatives was insufficient, but did not specify in which respect the inadequacy was found.

8.3.2. Chapter 5 of the EIAR outlines the main alternatives studied together with the main reasons for the options chosen and the options rejected. It is stated that alternative locations were not considered given the rationale for the redevelopment of the derelict, brownfield site, the zoning and planning policy objectives for the area and the established development in the vicinity, as it was considered that it was an appropriate location for a mixed use commercial and residential development at a sustainable density. This is considered to be acceptable as the Government Guidelines for Carrying out EIA (2018) state that the type of alternatives will depend on the nature of the project proposed and the characteristics of the receiving environment. The alternatives examined included the 'Do nothing Scenario', alternative site layouts and building designs.

8.3.3. The 'Do Nothing Scenario' took account of the vacant use and derelict nature of the site which would continue. The identification of the site as an Opportunity Site in the LAP was highlighted, and that the local demand for services and housing was not being met. Thus, the failure to develop the site for mixed uses would mean that a key objective of the LAP would not be delivered. It was also considered that it would be inappropriate and unsustainable to allow such strategically located derelict urban lands to remain undeveloped. I would agree that should the project not go ahead, the need to develop the site in accordance with the LAP objectives for the Park Valley site would remain unfulfilled. The site would either remain undeveloped or would be likely to be developed for commercial or light industrial purposes, which would have a similar impact in terms of activities.

8.3.4. The consideration of alternative designs was strongly influenced by different potential scenarios regarding demolition. A number of feasibility studies were carried out to determine the optimal approach. The options considered were retention of the structures on site and their incorporation into the final design; partial demolition of the structures, retaining just the base slab and the retaining walls; and partial demolition together with filling the site to achieve unified levels across the site.

8.3.5. The first option had the advantage of achieving the same level as the adjoining road entrance, but had the disadvantage of imposing a substantial level change with the adjoining lands to the east and creating a distinct physical separation between the two parts of the site. This option was rejected on this basis of the severe restrictions that it would impose on the master-planning of the site, the high level of basement

parking needed and the fact that the structures had been exposed to the elements for a long time. The second option was also rejected along similar grounds together with complication regarding property management and ownership. The third option was chosen as it provided for appropriate levels at both the entrance and across the site, good master-planning layout options and an optimal sustainable use of the existing materials by crushing the concrete on site and its use as fill in order to achieve a unified level.

8.3.6. The design approach was based on a street layout which forms a series of 'fingers,' thereby creating a set of direct visual and pedestrian links to the Groody Valley landscape from the whole site. Constraints included the ESB overhead lines and the siting of the POS. The scheme evolved through a series of alternative designs which sought to improve the landscape and visual contribution of the development and connectivity with the area. The initial scheme involved a hotel on the central podium block with industrial units (followed by commercial showrooms) facing the Dublin Road and a small-scale residential development to the rear and offices fronting the park. However, the poor relationship with adjoining lands meant that this option was rejected. A later option saw the showroom element reduced, a restaurant introduced with c.10,000m² commercial floorspace and 159 residential units. However, the P.A. sought increased densification to provide for a more urbanised development, commercial space that did not involve showrooms, provision of a landmark structure and a link road to the east to improve connectivity.

8.3.7. The current scheme was chosen as it met the P.A.'s requirements, with a strong mix of enterprise/employment, residential and community uses. It was considered that it would assist in placemaking, foster strong connections with the wider community, and create a strong urban form along the Dublin Road. It is noted that the option of locating the residential tower block further away from the R445 was not considered.

8.3.8. It is not a requirement of EIA, however, that every possible option be examined. It is considered that the applicant has demonstrated that a variety of alternative designs were examined and that there were considerable constraints imposed by the nature, extent and scale of the existing structures on the site together with the severe level changes across the site. On this basis, I am satisfied that the requirements of the Directive in terms of consideration of alternatives have been discharged. Notwithstanding this, however, it should be noted that as the demolition works have

already been carried out in advance of consent being given for the project, the examination of alternatives regarding demolition is academic as these works do not form part of the proposed works that are subject to the EIA. It is considered, therefore, that the requirements of Schedule 6(1)(d) have not been adequately fulfilled.

Consultations

8.3.9. Details of the non-statutory consultation entered into by the applicant as part of the preparation of the application and the EIAR, including that carried out prior to the lodgement of the application, are set out in Chapter 4 of the EIAR. Informal scoping was undertaken with statutory consultees and the planning authority in order to inform the EIA team of the issues of particular environmental importance and to draw on local knowledge and experience. This resulted in an iterative design process. A list of the consultees is provided at Appendix 4.2. Public consultation commenced with elected members in September 2018 in order to ascertain the wishes of the local community in relation to potential uses and redevelopment of the site. A need for community facilities was highlighted, as was the poor-quality environment that currently exists on the site.

8.3.10. The third party appellants claim that the information (contained in the planning application, EIAR, Screening for AA and NIS) was not made "easily accessible within 3 working days" and in an electronic and searchable format; that no URL link to the planning application was provided; and that the P.A. had failed to publicise the submission of further information and make it available in searchable electronic format, thereby preventing meaningful access to the information and public participation in the process. These matters are discussed in detail in Section 7.2 above. The developer's response was that all documentation relating to the planning application (including the EIAR, NIS and revisions to each) was provided in electronic and searchable format, including the URL link, which was confirmed by the P.A. In terms of the issue of "3 working days", it was established above (Paras 7.2.3-7.2.7), the legislation (S38(3)(b) of the P&D Act 2000, as amended) requires that the relevant documents are placed on the P.A. website "as soon as may be after receipt of the documentation", and that it may also be made available for inspection in electronic form. Thus, there is no requirement for publication on the P.A.'s website within 3 working days. It is considered, therefore, that as the application has been

accessible to the public by electronic and hard copy means, along with public notices, adequate timelines for written submissions have been provided.

8.3.11. In respect of the decision not to publicise the FI received on 8/06/20, the P.A. and the developer are of the opinion that this information was 'strategic and brief in nature' and did not require re-publication. The first party also believes that the appellant was not hindered from participation in the planning process as evidenced by the submission of observations on the application and the appeal. The planning authority also stated that the FI did not involve any significant amendments to the proposed development. I would agree that the FI did include several technical documents such as an additional noise report, a wind impact study, a bat survey and analysis, an amphibian survey and additional traffic information. The content of these reports did not, however, give rise to any proposals to alter the proposed development in any meaningful way. As the Board has the power to consider the application de novo, and in light of the current third-party appeal, it is considered that there is no need for the Board to take any further action in terms of republication. I am satisfied that the participation of the public has been effective and meaningful.

8.4. Assessment of Likely Significant Effects on the Environment

Introduction

8.4.1. The likely significant direct and indirect effects of the development are considered under the following headings, as required under Article 3 of the EIA Directive 2014/52/EU –

- Population and human health
- Biodiversity with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC
- Land, soil, water, air and climate
- Material assets, cultural heritage and the landscape
- The interaction between the factors of the environment listed above.

My assessment is based on the information provided by the applicant, including the EIAR and the Supplementary EIAR, in addition to submissions made in the course of the application and appeal, as well as my site inspection.

The EIAR comprises 19 chapters, with Chapters 1-5 providing an introduction and description of the project, alternatives considered and consultations undertaken as well as the policy framework which guided the development. Chapter 6 addresses population and human health, Chapter 7 addresses biodiversity and ecology and Chapters 8, 9 and 10 relate to lands, soils, geology, water (quality and flood risk). Chapters 11 and 12 address noise and vibration and air quality and climate, including microclimate. Chapters 13, 14 and 15 relate to material assets in the form of traffic and transport, built services and waste management, respectively. Archaeology, cultural heritage and the landscape are addressed in Chapters 16 and 17, respectively. Interactions between the environmental factors as well as cumulative impacts are considered in Chapter 18, while Chapter 19 provides a summary of mitigation measures proposed.

The EIAR was accompanied by several appendices and was supplemented by the Supplementary EIAR submitted on 8/6/20 which included updating of the text of the EIAR where relevant and further appendices. These are listed above at 8.2.1 – 8.2.3. Each of the chapters (together with the supplementary information) are considered in detail below, with respect to the relevant headings in the Directive.

8.4.2. Population and Human Health

Chapter 6 in addition to chapters and appendices relating to air and climate, noise and vibration, water, traffic and the landscape are relevant.

Receiving Environment

The site is a large vacant, derelict and prominently located one in a growing and developing suburb of Castletroy, which has become an eyesore due to large-scale partially constructed buildings, which have become dilapidated. It is situated close to institutions of higher education and high-end employment sources, with a young population and high household size. The site has frontage to the busy dual carriageway (R445) which provides easy access to both the city and the national road network, as well as the locally based sources of employment and education. The southern end of the site lies adjacent to low density housing estates comprised of mainly 2-storey houses, which are typical of housing development in the area with generally poor connectivity and permeability. The number of apartments is low.

There are several established retail developments in the vicinity, mainly to the west (Parkway Shopping Centre and Parkway Retail Park) as well as developments further to the south and within Castletroy centre. The density of development is generally low and there are many undeveloped sites along the R445, with several petrol stations in the vicinity. The streetscape lacks definition and a sense of place.

Potential Impacts

Chapter 6 of the EIAR addresses the potential impacts on population and human health, including socio-economic impacts, environmental impacts and effects on quality of life and amenity. The location of the site and nature of the proposed development is such that there are potential impacts for population and human health during the demolition and construction phases of the development due to noise and other emissions to air and water, and due to the fact that the development would be phased over 10 years. This would mean that the residential units would be occupied before much of the commercial development is due to commence. During the operational phase, emissions to air (in particular noise), landscape and visual impacts have the potential to negatively affect surrounding populations and human health.

Significant positive impacts are anticipated to the local community arising from the redevelopment of the site and the provision of housing and public open spaces. The landscape and visual impacts would also bring significantly positive benefits to the area by the removal of the existing derelict structures on site and the creation of a new streetscape with buildings of substantial scale along the Dublin Road. The creation of a park and the retention of the green parkland to the east would also improve both the visual and residential amenities of the area. However, the phasing of the proposed development of the public park would result in availability of public open space to serve the development being unduly delayed. This matter was addressed in the P.A. decision whereby a condition was attached to bring this element forward to an earlier phase.

Direct and indirect positive impacts identified include the economic and social prosperity of the surrounding area given the employment opportunities likely to be created and the economic spin off to local businesses during both construction and operational phases. Significant community benefits would also arise from the

provision of a community building with a creche, community facilities and a MUGA. The proposed project would also deliver much needed housing in an area with a growing population, which would be a direct positive long-term impact on the area.

In terms of landscape and visual amenity, the EIAR did not identify any potentially significant negative impacts as the proposed development will provide for a new urban streetscape and a landmark building along the R445 which will contribute to placemaking. Although a new built form will be introduced, and the development will be visible, the design and layout together with the proposed mitigation in terms of unifying motifs will mean that it fits into the character of the area.

The traffic likely to be generated would not contribute significantly to the road network surrounding the site and the proposed mitigation measures will minimise any impacts during peak hours.

Construction phase impacts on population and human health would arise from demolition and construction noise and dust primarily. Noise during demolition would arise from pneumatic breaking, cutting, excavating, vehicle movements and manual construction. Dust emissions would principally arise from site clearance and excavation. These activities will result in potential exceedances of guidance limits for both noise and air emissions as they will take place within 50m of boundaries with residential estates/properties. The impacts will be short-term in terms of increases in noise and dust levels but will require mitigation. Due to the phased nature of the development (over 10 years), however, there is the potential for moderate impacts to established residential areas and to the future occupants of the development. Furthermore, the demolition impacts on population and human health identified in the EIAR included potentially significant noise and air quality impacts for which mitigation and monitoring of impacts was proposed. As these works have now been carried out in advance of the grant of consent for the project, it is not clear whether these mitigation measures were undertaken as intended and what, if any, impacts had arisen. No information regarding monitoring results have been submitted.

The nature of the construction activity is such that subject to mitigation in the form of a construction and environmental management plan, the overall development would not be likely to have significant effects on surrounding receptors, and as such, it is likely that construction phase impacts on population and human health would be

temporary moderate negative. Given that the demolition works have already been undertaken, however, it would have been beneficial to the overall assessment if additional information regarding the impacts arising following demolition and the results of monitoring post-demolition had been provided to inform the current baseline conditions.

During the operational phase there is potential for significant noise impacts on future occupants of the residential units with a direct line of sight to/facing the R445 and of the proposed hotel development, arising from road noise levels. Block 18 has been singled out as being likely to have a noise environment (L_{Den} 70-75dB and L_{Night} 60-65dB), which would significantly exceed the recommended levels in the WHO guidance and the guidance used by the P.A. contained in ProPG regarding internal and external noise levels. A considerable number of residential units with windows on the northern façade and balconies on the northern, eastern and western facades of this building will not be able to achieve appropriate internal noise levels with windows open and/or sealed balconies. The north-facing facades of other residential blocks close to the R445 will have similar impacts. Many of the north-facing balconies would also experience noise levels of up to 73dB. The communal open space for this building was introduced in the FI on 8/6/20 and comprises three separate roof gardens on the ninth, twelfth and fourteenth floors, respectively. Mitigation is proposed in the form of closed windows and winter gardens together with a mechanical heat recovery ventilation system. However, this is not an optimal solution in terms of achieving high quality residential amenity and is generally considered to be unsatisfactory. No alternative layouts which would redesign the block or relocate it away from the noise source has been included.

In terms of daylight and sunlight, it is predicted that the targets will be met for the 30 representative rooms in terms of the average daylight factors and in terms of the Annual Probable Sunlight Hours, 25% of the overall residential units will meet the annual target and 5% will meet the winter hours target. Thus, the impacts for the residential development as a whole would not be significant, and no mitigation is proposed. However, as most of the units where the targets would not be met are in Block 18, which has a high number of single aspect apartments, the amenity of which is already affected by a high external noise environment, with mitigation measures in the form of closed windows and balconies, a low level of sunlight could

further contribute to adverse impacts on the residential amenities of the future residents.

The SW and NE facades of Block 18 would also experience unpleasant conditions in terms of wind microclimate, as they will experience a wind vortex and down draughts at these locations. No mitigation is proposed, but mitigating factors have been identified including infrequent and relatively weak NE winds and the relative proximity of the hotel building. The impact on balconies will be mitigated by design with the provision of a glazed screen and enclosing some of the balconies to create winter gardens. The impact of wind conditions on the communal areas/roof gardens has also been identified as they are either facing into the prevailing wind or at a highly elevated level. Mitigation in the form of parapets (1.5-2.2m high) will be provided together with a 2m high glazed screen. Although the roof terraces are likely to provide for an adequate level of open space with mitigation of the microclimatic conditions, these spaces are at a very elevated location in a building which is subject to a high noise environment.

In terms of health and safety, the construction phase will be managed through a CEMP which will be designed to minimise potential impacts. It will be necessary to provide mitigation measures to ensure that the safety of the occupants of the apartment and duplex developments are protected during the construction of later phases. During times of flooding, the lower levels of the park which are located within Flood Zone A and B, located at the eastern extremity of the site, will be managed by means of signs to notify the public and prohibit public access. The issue of major accidents is addressed at 6.5.10 of the EIAR. Having regard to the low risk of flooding of the site, the design of the proposed development and the best practice and safety measures to be implemented in order to manage the site, it is not anticipated that there is any significant risk of a major accident or disaster in respect of the proposed project.

Residual impacts

The residual impacts arising are generally positive in terms of job creation, redevelopment of a derelict site and improvements to the public realm. The mitigation during the construction phase will be managed by means of a Construction and Environmental Management Plan and an Outline Surface Water Management Plan. These plans will address the significant potential impacts arising

from the construction phase by means of best practice site management, management of truck movements, timing of site clearance, excavation and earthmoving works, the location and moisture content of storage piles and the control of noise and vibration by Best Practicable Means. Monitoring of factors such as water, air quality, climate and noise will also be employed as part of these plans. Subject to the implementation of the proposed mitigation and monitoring measures as outlined in the EIAR and supplementary information, the residual impacts will not be significant. Notwithstanding this, the lack of information regarding the actual post-demolition impacts and monitoring results casts doubt on the current baseline conditions, with consequences for the assessment of impacts.

The potential impacts on future residents of Block 18 from a combination of the high noise environment associated with road noise from the R445, a relatively low level of sunlight for some residential units and relatively poor microclimatic wind conditions at the entrance to the building and for some units within the building, are to be mitigated by means of measures such as closed windows, sealed balconies and parapets around a series of roof gardens. These measures, however, are likely to result in residual impacts in the form of a poor standard of accommodation and a low level of residential amenity for a substantial number of units within Block 18.

During the operational phase, residual impacts are likely to arise in terms of the residential amenity of the future occupants of the overall development from the design and layout of the scheme which is based on a car-dominant road network that separates the majority of the public open space from the units it is intended to serve and is not conducive to a pedestrian friendly environment.

Cumulative impacts

There are a number of developments which have secured planning permission in the vicinity of the site. A summary of these permissions is provided in Table 18.3 of Chapter 18 of the EIAR. The total number of residential units is stated as 930 units with a potential increase in population of c.2,325. A review of these developments indicates that most of them are located closer to the centre of Castletroy or at Ballysimon or Annacotty. The developments closest to the site are at Bloodmill Road and represent just 134 units. No significant cumulative impact on human health is predicted. Given the nature of the smaller developments it is unlikely that there

would be any significant increase in road traffic flows as a result of their operation. Cumulative noise impacts are unlikely to change, therefore, from those provided in the noise assessment in the EIAR. There will be a slight temporary negative effect on noise and traffic during construction of the various projects. It is concluded that any cumulative impact on population and human health is likely to be positive and long term.

Population and Human Health Conclusion

Overall, on the basis of the information presented, I do not consider it likely that there could be a significant permanent negative impact on population and human health arising from the proposed development, apart from the residual impacts identified above in respect of the residential amenities of the future occupants of Block 18 and of the overall development, which arise principally from the siting of Block 18 directly adjacent to the R445 and the car-dominated layout which sites the POS remote from the units it is intended to serve. In addition, the lack of data regarding the post-demolition impacts and monitoring results with up-to-date baseline information, particularly in respect of noise, vibration and dust impacts, casts some doubt over the conclusions regarding residual impacts. Otherwise, I am satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects on population and human health.

8.4.3. Biodiversity

Chapter 7 of the EIAR relates to Biodiversity. The Board is advised that section 7.8 of the Planning Assessment above addresses ecology. In addition, an NIS accompanies the application with an Appropriate Assessment undertaken in Section 9.0 below. There is also an overlap with land, soil and water which are addressed below. I recommend that the relevant sections be read in conjunction with each other.

Receiving Environment

The site is a vacant brownfield site in a built-up area which has been partially developed with large scale concrete and steel structures. The structures have been partially demolished since the lodgement of the planning application with significant concrete slab foundations in place with associated retaining walls. Substantial basement areas remain underground, which have largely filled with water. There are

also considerable areas of standing water occupying the central portion of the foundation slab. Much of the concrete that was demolished was crushed on site and used as fill on the eastern portion of the site and to unify levels. The River Groody is located approx. 200m to the east of the site and there is a series of land drains connecting the site to this watercourse.

The EIAR sets out the details regarding the existing environment in terms of flora and fauna. The study methodology is outlined in 7.2 of the EIAR (as amended). The site was surveyed on 16/09/19 and 18/11/19. Habitats were identified in accordance with the Fossitt Guide and a species list was compiled for each habitat with target notes. Other data sources consulted included the NPWS mapping tool (Square R65 relates to subject site) and EPA water quality mapping. Further surveys were carried out on 18/05/20 and 20/05/20 at the request of the P.A. These were detailed surveys to determine pattern of bat usage on the application site and for the presence of amphibians, given the extent of standing water and the presence of hedgerows to the east. Surveys were also undertaken of nesting birds and of flora and fauna including protected and notable species. The appellants raised a number of concerns regarding the extent, timing and nature of the surveys undertaken. I would refer the Board to the detailed response provided by Openfield Ecology (on behalf of the developer) in the response to the grounds of appeal (24/09/20).

It is pointed out that all surveys were carried out at optimal periods/seasons and that no difficulties or constraints to the identification of habitats were encountered. The site was surveyed in both September and May, which are appropriate for general habitat surveys. It is submitted that the surveys undertaken provide the level of detail required for a full assessment of the development project on biodiversity. Bird surveys were carried out and the species noted were found to be of low conservation concern. In response to the criticism regarding bryophyte communities, it is stated that it is not standard practice to carry out dedicated surveys for mosses, liverworts, lichens and other bryophytes, especially considering the highly artificial nature of the development site. The site surveys also established that the drainage ditches are not suitable habitats for Lamprey or Atlantic Salmon and the site is not suitable for Otter. I accept that the survey work undertaken is robust and accords with best practice and was undertaken by appropriately qualified individuals.

Most of the site is categorised as BL3 Buildings and Artificial Surfaces, with areas of Scrub (WS1) located along the eastern boundary. There is a small area of Wet Grassland (GS4) to the east which is heavily grazed by horses and is crossed by Drainage Ditches (FW4). There are hedgerows (WL1) along the northern and eastern boundaries comprising mainly Hawthorn, Grey Willow and Bramble. These hedgerow habitats present nesting and foraging opportunities for common passerine birds and possibly bat species and are described as of local importance of a higher value. There are no habitats on the site suitable for fish. The site is connected to the River Groody via surface water drainage ditches, which in turn, is hydrologically linked to the Lower River Shannon SAC (670m to the north).

The EIAR indicates that there are no protected species of flora and no invasive species within the site. In terms of species of fauna, Irish Hare, Hedgehog, Pygmy Shrew, Foxes and Irish Stoat are likely to occur, but the only evidence of any species found on site was fox droppings. The lands were considered to be unsuitable for Otter, Badger, Deer and Pine Marten. The Amphibian Survey (20/05/20) established that the only species likely to be encountered were Smooth Newt and Common Frog, and that suitable habitat existed on the site, but no record of either species was detected. The site was assessed as having low potential for bats within the site, with no potential for bat roosts. The mature hedgerow on the adjoining lands to the east were surveyed in May 2020. No potential roost sites were found, but this habitat could provide foraging grounds. No bird species of high conservation concern were considered likely to occur on the site. The birds recorded during the field surveys are listed in 7.6.3.2 of the EIAR.

Potential Impacts

Potential impacts during construction and demolition are identified as loss of habitat, fugitive dust, noise emissions resulting in disturbance and water pollution. Any such impacts would be short term and temporary during demolition and medium during construction by reason of the 10-year development. The potential impacts identified for the operational phase include artificial lighting, noise, human disturbance and pollution arising from wastewater and surface water.

Overall, the evaluation of habitats was that they are of low biodiversity value to mammals and no protected species were recorded on site. Bats are likely to forage

in the embankment with semi-mature trees in the north-eastern corner of the landholding, which is c.90m from the red line boundary. As this vegetation is outside the development site, it will not be cleared, and bats will therefore be able to continue to forage and commute through this area. Mitigation measures for bat-sensitive lighting have been set out at 7.6 (BIOCONST 8) of the biodiversity chapter (Supplementary EIAR).

There would be no significant disturbance of earth as the site is mostly covered in hard surfaces. Any earth clearance would be carried out outside of the bird nesting season. Thus, the impact on bird and mammal species in terms of habitat loss and disturbance would be imperceptible negative. The impact of the proposed development in terms of loss of species and habitats on site is considered likely to be very limited and I therefore agree with the conclusion of the EIAR that the overall impact on biodiversity within the site arising from the proposed development would be imperceptible, neutral and permanent.

The site is not located within any designated site but is hydrologically connected to the Lower River Shannon SAC. Thus, the potential for pollution to surface water and impacts on designated sites are likely to be significant, in the absence of mitigation. The surface water run-off will be collected and adequately treated during the demolition, construction and operational phases prior to discharge to existing municipal drainage systems. Appropriate mitigation measures will be implemented as part of the Construction and Environmental Management Plan and the Outline Surface Water Management Plan to protect any flora and fauna species of value that may occur within the site and to prevent any pollution or contamination of any watercourses in the area. The CEMP for the demolition phase indicated that surface water would be pumped throughout this phase to a holding tank and then onto a series of settlement tanks before discharge to the surface water drainage system. Given that the demolition works have already been undertaken, however, and it is not clear whether the mitigation measures have been implemented as intended, it would have been beneficial to the overall assessment if additional information regarding the impacts arising following demolition and the results of monitoring post-demolition had been provided to inform the current baseline conditions.

Otherwise, it is considered that subject to the implementation of the proposed mitigation measures, there will be no significant impacts on the biodiversity and

ecology of the site and surrounding area. As there is no surface water drainage system on site at present, with large artificial bodies of standing water, the introduction of a surface water drainage system, which will be based on SUDs and separated from the foul system, will result in significant improvements.

Effluent from the development will pass to the Bunlicky wastewater treatment plant which is operated by Irish Water and licenced by the EPA. There are no reports of exceedances of licence limits and or issues with water quality at the point of discharge. It is stated to have adequate capacity to carer for the development. Drinking water will be from a main supply at the River Shannon and there is no evidence that water abstraction is causing any negative ecological impacts. These effects are therefore likely to be neutral and permanent.

The potential impacts on the qualifying interests of the two European sites, namely Lower River Shannon SAC and River Fergus and Shannon Estuary SPA, are addressed in the NIS which accompany the application. I would refer the Board to the appropriate assessment section of this report (9.0) for a detailed assessment of the impact of the development on these designated sites and their qualifying interests, to avoid undue repetition.

Mitigation measures

The majority of the mitigation measures relate to the construction phase and are set out in Section 7.6 of the EIAR (as amended). They include the measures contained in the CEMP and the Outline Surface Water Management Plan, as well as guidance from IFI. These will include the installation of silt fences, settlement ponds and fuel storage areas. No direct discharges will be permitted to the surface water drains or to the River Groody. Dangerous substances will be stored in bunded areas. Site personnel will be trained in the importance of preventing pollution. Monitoring programmes will be put in place including daily, weekly and monthly inspections of surface water features. During the operational phase, any new lighting directed towards the north-eastern boundary will be bat-sensitive lighting.

Residual impacts

With mitigation in place, the effect from surface water run-off during the construction phase would be negative, imperceptible and medium-term. The success of these measures will depend on site management practices, however, which will require a

monitoring programme to be put in place. However, the lack of data regarding the post-demolition impacts and monitoring results with up-to-date baseline information, particularly in respect of water quality impacts, casts some doubt over the conclusions regarding residual impacts.

Biodiversity conclusion

I would accept the overall conclusions of the EIAR in respect of biodiversity, as amended and clarified by the additional information, that the site of the proposed development does not support habitats of high ecological value, that the habitats that would be lost would not give rise to a significant negative ecological impact, and that there would be no significant adverse direct or indirect or cumulative impact on the flora and fauna of the site and its surroundings. Following the implementation of appropriate mitigation, as set out in the EIAR and supporting documentation, there will be no residual impacts of any significance. It would have been beneficial, however, to the overall assessment if additional information regarding the baseline following the completion of the demolition works had been provided. The proposals to retain the existing vegetation along the north-eastern boundaries and to supplement the treelines and hedgerows with further planting, is also appropriate.

8.4.4. Land, Soil, Water, Air and Climate

Land and Soils

Receiving Environment

The site comprises a vacant, brownfield site with a substantial amount of partially constructed structures which were intended for a mixed-use retail and leisure facility. The structures are comprised of concrete and steel, the majority of which has been demolished since the application was submitted. The retained structures comprise a large-scale foundation slab, most of the retaining walls and basement areas beneath the main foundation slabs. The eastern portion of the site is composed primarily of raised made ground, which are elevated above the floodplain of the R. Groody. Pooled water covers the majority of the foundation slab and basements.

The soils and subsoils are described in 8.3 of the EIAR. The majority of the site is comprised of poorly drained basic soils and shallow gleys, with Marine Sediments in the eastern portion of the site. The subsoils are primarily gravels and tills derived from limestone or from igneous rock. The bedrock beneath the proposed

development comprises mainly volcaniclastic rocks, with the bedrock in the wider area comprising Visean Limestones and Dinantian Pure Bedded Formation. There are no karst features mapped in the vicinity. There are no sites of geological interest in proximity to the site. The depth to bedrock varies from c.1.4m to 8.0mOD across the site. Fill was recorded in the majority of boreholes with a mix of clay infills, clay/silt and sand/gravels, as well as topsoil in the remainder. No contaminated soil or buried waste was encountered.

In a Do-Nothing Scenario, there will be no change to the land and soil within the site.

Potential Impacts

There will be no land-take or loss of agricultural lands as the site is vacant, partially constructed and in a derelict state.

Potential impacts during demolition are set out in tabular form at pages 8-16 to 8-17 of the EIAR. These include potential for surface water and ground water pollution arising from accidental spillage of fuel, contaminants etc., due to storage on site and construction traffic, as well as the storage of exposed soils and waste materials on site and failure to dispose of properly. However, as these works have already been completed, and it is not clear whether the mitigation measures were implemented as indicated, it would have been beneficial to the overall assessment if additional information regarding the impacts arising following demolition and the results of monitoring post-demolition had been provided to inform the current baseline conditions.

Following demolition, the large-scale foundation slabs, most of the retaining walls and a substantial multi-level basement remains in place. The majority of the proposed development will be constructed within the footprint of the existing building, without the need for deeper excavation, using the existing foundations and some retaining walls and slabs, with some lateral excavation required to facilitate the multi-level basement for the hotel. Thus, the environmental impacts on soils, subsoils and geology underlying the site are not likely to be significant. The greatest potential for impact arises during the construction phase, but given that the majority of the proposed development will be undertaken within the footprint of the previous development, with some lateral excavations to facilitate the multi-level basement, the residual geological impact will be minimal.

The likelihood of encountering contaminated land or buried waste was considered to be low. Risks from accidental spillage of contaminants or fuel and from the temporary storage of excavated soils and materials were identified as moderate in terms of groundwater and surface water contamination without mitigation. In addition, surface water run-off contaminated with hydrocarbons from roads, parking areas and poorly designed drainage systems would also present a risk to surrounding subsoils.

Mitigation measures

Construction phase mitigation in the form of a Construction and Environmental Management Plan is proposed. This includes standard best practice measures to minimise areas of exposed ground, manage excavated soils, prevent run-off and contamination of ground and surface water bodies including diversion/cut-off drains and silt fencing and measures to collect run-off from disturbed ground. A site investigation involving soil sampling and chemical testing in the eastern region of the site will be undertaken in the case of buried waste of contaminated land being detected. The construction phase will be subject to environmental monitoring and supervision in accordance with a Construction Method Statement. Monitoring will include activities such as protection of stored topsoil, control of runoff from stockpiles/subsoils, maintenance of cleanliness on adjoining road network, prevention of oil/diesel spillages and dust control. Surface water- quality will also be monitored before, during and after construction.

Residual impacts

Residual impacts are considered to be slight. Having regard to the previous works that have been undertaken on the site, the proposed development will have a long-term and imperceptible impact on soils and geology. However, the lack of data regarding the post-demolition impacts and monitoring results with up-to-date baseline information, particularly in respect of water quality impacts, casts some doubt on the conclusions regarding residual impacts.

Cumulative impacts

As noted above, the likely impacts from the demolition phase have been set out in the EIAR. The impacts on soils, subsoils and geology are likely to have been minimised by the proposal to avoid excavation of the original ground. Although

potential impacts would arise in respect of erosion of soil, accidental spillage of contaminants/fuels, failure to keep roads clean and failure to store/dispose of waste appropriately, it is noted that the stated intention was that these activities would be subject to mitigation measures as set out in a demolition plan by the developer. Provided that these mitigation measures were implemented, it is considered that cumulative impacts would not have been likely to arise.

Having regard to other planning applications and development in the surrounding area, it is considered that cumulative impacts are not likely to arise.

Land and Soil conclusion

I have considered all of the submissions made in relation to land and soil. I am satisfied that potential effects would be avoided, managed and mitigated by the measures which form part of the proposed scheme and by the mitigation measures. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects on land and soil.

Water

Water is addressed in Chapters 9 and 10 of the EIAR. Chapter 9 was amended in the Supplementary EIAR and the Outline Surface Water Management Plan was submitted as an appendix (8/6/20). As noted previously, there is an interrelationship between water, biodiversity, land and soil. The relevant sections should be read in conjunction with each other.

Receiving Environment

The appeal site is located within the Shannon International River Basin District – Lower Shannon Catchment. The River Groody discharges into the Lower River Shannon approx. 830m north of the site. A number of streams merge into the River Groody as it flows down through the Groody Valley, and it drains several industrial estates along the route. River Groody flows in a northerly direction along the eastern boundary of the site. Several land drains cross the eastern part of the site and flow towards the Groody river (c.100m to east). The Q values for the Groody are poor (Q2) downstream of the site (Groody Bridge, c.300m east of the site), but are moderate upstream (Q3), at the bridge over the Ballysimon Road. The current WFD River Waterbodies Risk has designated the river as being “Not at Risk” of achieving good status.

The site slopes from west to east with a difference in levels falling from c.16.22m to 5.0m, and as such, surface water from the site drains to the east via the open drains to the Groody river. There are no karst features within the site. There is a locally important aquifer, which is moderately productive. The aquifer vulnerability varies across the site being moderate at the western end, high in the centre and low at the eastern end. The WFD status for the Limerick City East Ground Water Body is Poor and at risk of not achieving good status. Groundwater sustains flows in the rivers and streams crossing the GWB. The P.A. had raised a concern in the FI request regarding the potential for pollution incidents and sought further information on potential pollution pathways through the land drains to the Groody River. The P.A. also sought a management plan to minimise the potential for pollution, particularly during construction. This matter was addressed in the Supplementary EIAR and the Outline Surface Water Management Plan submitted on 8/6/20.

A site-specific Flood Risk Assessment was carried out (Chapter 10). Fluvial flooding is considered to be the primary risk. There is evidence of historic flooding around the Groody river at the easternmost part of the site. The site infrastructure and the main development areas are located in Flood Zone C, with a low probability of inundation.

In a Do-Nothing Scenario, there will be no change to the hydrological regime.

Potential impacts

Given the scale of the development, the duration of the construction phase and the proximity of the Groody River to the east, surface water management has been identified as being of considerable importance to ensure the protection of the river and the surrounding environment from harmful substances and sediment arising during the construction phase. Potential impacts during the construction and demolition phases and the operational phase are identified in the two relevant chapters (9 and 10) of the EIAR. These include increased runoff, sediment loading, accidental spillage and leaks and the use of concrete and lime. It is pointed out that the overall hard surface area will remain more-or-less the same before and after demolition, with only a limited increase in the area of hardstanding. However, existing surface water ponding within the existing structures will have to be pumped out to a holding tank and then to a series of settlement tanks before final discharge to the existing surface water system. During the operational phase, the stormwater

system will control the discharge rate to greenfield rate/attenuation which will ensure no onsite flooding.

The Outline Surface Water Management Plan (Construction stage) provides details regarding the storage of oil and fuels during construction and details of the wheel wash and silt fencing proposals, together with measures to prevent spillages and water pollution in the form of a CEMP. Details regarding the surface water management (operational stage) are provided in Planning Engineering Report 181303-PER and in the drawings submitted with the application and FI. Although the demolition impacts on water quality identified in the EIAR required mitigation and monitoring of impacts, as these works have been completed, it is not clear whether these mitigation measures were undertaken as stated and what, if any, impacts may have arisen. No information regarding monitoring results have been submitted.

Mitigation measures

Mitigation measures are set out in tabular form in Tables 9.6 and 9.7 (pages 9-17 to 9-27) of the Supplementary EIAR. There will be no direct discharges to surface waters arising from the proposed development during either construction or operation of the project, with no discharges to ground during the operational phase. All surface water run-off will be controlled and directed to the proposed site drainage network, which in turn will discharge to the existing public storm and foul sewer connection.

Measures proposed during construction include silt fencing to prevent harmful substances reaching the River Groody, which will be monitored and altered as the construction phase advances. Other measures include wheel washing facilities, dust suppression on roads, construction of surface water settlement ponds at key locations, which will be sized according to catchments. Surface water encountered from excavations will be pumped to the settlement ponds and should groundwater be encountered, the excavation will be dewatered and the groundwater then discharged to the settlement ponds. Storage of temporary stockpiles, hazardous materials and fuels/hydrocarbons etc. will be in accordance with best practice for control of water pollution from construction sites. All relevant personnel will be appropriately trained in the use of equipment and in the importance of preventing pollution.

Other measures to be employed during construction include progressive re-vegetation of filled areas, confinement of construction activities to specific phase under construction, mulching and retention of topsoil/vegetation for final rehabilitation/landscaping works. There will be regular inspection of silt fences and settlement ponds on a daily basis with records kept. Following rainfall events, inspections of erosion control measures and removal of collected material will be undertaken. Monitoring of water quality from settlement ponds will be carried out.

The operational phase will involve an outfall to an existing drain, in the control of the applicant, which eventually discharges to the Groody River. A new surface water sewer network will be provided for the proposed development which will be completely separate from the foul water sewer network. All surface water run-off from roofs and hardstanding areas will be collected by gravity pipe and the SUDs design will include green roofs, bioretention pods and permeable paving. Surface water from the external hard standing areas will pass through an interceptor before discharge to an attenuation tank. A hydrobrake downstream of the attenuation tank will ensure discharge at a greenfield rate.

A review of the flood risk has concluded that there will be no flood risk during construction and that following construction, the site is not at risk of tidal, coastal or pluvial flooding, with fluvial flooding being the main likely source. The design of the development mitigates against any fluvial risk as the building infrastructure and vulnerable uses are all located within Zone C and the proposed FFL at 10mOD is considered to be sufficient to protect development from predicted AEPs of 1% and 0.1% along the Groody river. The stormwater system will control discharge to greenfield rates with attenuation, which will ensure no pluvial flooding up to the 30-year rainfall event and will retain floodwaters on site up to the 100-year rainfall event. A threshold of 150mm from the internal FFLs to the external hardstanding areas will also protect the development from pluvial flooding should the stormwater system fail.

The planning authority accepted that the areas of the site intended for the proposed mixed-use development are outside of any flood risk zone. No objection was raised in relation to flood risk management subject to a condition requiring the submission of drawings and particulars for approval confirming backflow and infiltration prevention at or downstream of the proposed attenuation tank flow control restrictor.

I would agree that the impacts on the hydrological environment arising from the proposed development during both construction and operational phases, with the implementation of mitigation measures as proposed in the EIAR and amended and clarified in the further information, will be insignificant. However, having regard to the previous works that have been undertaken on the site, it is considered that there will be a long-term imperceptible impact on the hydrogeological and hydrological conditions at the site and surrounding areas. Monitoring of surface water quality will be carried out through the construction phase and in the post construction phase.

Cumulative impacts

Cumulative impacts on the water environment arising from the proposed development in conjunction with existing, planned or proposed development are unlikely to arise.

Residual impacts and climate change

Both the Mid-Range Future Scenarios (MRFS) and the High-End Future Scenarios (HEFS) have been assessed. As there is no proposed development within the eastern part of the site, other than public parks and pathways, the development will not be impacted in either of these scenarios. Furthermore, the proposed FFL of 10mOD provides a freeboard of 4.33m over the 0.1% AEP flood event (5.67mOD). The stormwater attenuation calculations have also taken account of the impact of climate change.

The potential for a residual risk of a blockage occurring at a bridge downstream of the site has been considered in the EIAR (10.7.2). The bridge is located on the R445 and blockage at this location has been identified as creating the potential for flood risk to the development. It is considered, however, that should a blockage of the culvert on the River Groody occur, a flow pathway would be available over the Dublin Road without impacting on the site. As the minimum FFL at the site is set at 10mOD, and the FFL at the Dublin Road is <6mOD, this will ensure that a flow path is available without impacting the development.

Conclusion – Water

I have considered all of the submissions made in relation to water. I am satisfied that potential effects would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the mitigation measures and through suitable

conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects on water. However, the lack of data regarding the post-demolition impacts and monitoring results with up-to-date baseline information, particularly in respect of water quality impacts, casts some doubt on the conclusions regarding residual impacts.

Air – Noise and Vibration

Chapter 12 of the EIAR and the Supplementary EIAR submitted on 8/6/20, address the issues of noise and vibration impact. This issue was addressed under Section 7.6 of my Planning Assessment above and also under Section 8.4.2 of the EIA (Population and Human Health factor of the environment) above. It was noted that the noise monitoring results established that the area is not generally a quiet area, due principally to the very high noise environment associated with the R445, although the noise levels from this source decrease across the site towards the south, which means that the established residential areas to the south and west are generally much quieter.

Receiving Environment

The lands to the north along the R445 are of a mixed character with some retail developments, several petrol stations, a hotel and several vacant/undeveloped sites. There are two retail developments to the west and several housing estates to the west, southwest and south. The lands to the east are generally undeveloped and form part of the Groody Valley Green Wedge. The closest sensitive receptors are located as follows:

Carn na Ree Housing Estate	10m beyond South Western boundary
Chesterfield Grove Estate	20m beyond Western boundary
Groody Road Housing	310m to the North East
Hotel opposite site (R445)	110m to North East
Parkway Retail Park	25m to the West

According to the EPA Noise Mapping Study, road traffic noise arising principally from the dual carriageway, the R445, currently experienced on the site ranges from daytime levels of 55dB to 74dB L_{den} and nightime levels of 45dB to 64dB L_{night}, across the site from south to north. Noise monitoring results, based on 4 no. stations

(two near the perimeter of the site N and W and two residential areas to the south), generally confirmed these levels, with even quieter environments to the south of the site. ASL1 (Dublin Road) is generally representative of the future occupants of the proposed apartments at the northern end of the site. ASL2 generally represents the commercial development (Parkway Retail Park) to the west and ASL3 and ASL4, respectively, represent the established residential development to the southwest (Chesterfield Grove) and south (Carn na Ree) of the site.

In a Do-Nothing Scenario, there would be no change in prevailing conditions in terms of noise and vibration.

Potential impacts – Construction phase

During the construction phase, the main site activities will include site clearance, foundation works (including piling and basement slab construction), steel erection, general construction, road works and landscaping and will involve specific activities such as pneumatic breaking, cutting, excavating, vehicle movements, manual construction. Potential vibration impacts are associated with ground excavation works and piling. Typical noise levels associated with construction plant equipment are set out in Table 12.18 of the EIAR.

The construction noise criteria proposed for the development are as follows:

65dB$_{LAeq1hr}$ at a Noise Sensitive Location - daytime

75dB $_{LAeq1hr}$ at a commercial property

Predictions for a variety of activities and at a range of distances for the noise source (10m, 20m, 50m, 75m and 100m) are presented in Table 12.19, with mitigated levels by means of earth berms in brackets. In the absence of mitigation measures (other than the earth berm), it is likely that exceedances will occur within 50 metres of existing residential properties. Phase 1 will present the greatest difficulties in respect of protecting the amenities of the existing residential receptors at N2 - Chesterfield Grove (20m distant) and N1 - Carn Na Ree (10m distant). Due to the 10-year duration of the construction works over six phases, the inward noise impact of construction on the future occupants of the development (residential and commercial) itself have also been examined in the EIAR. The potential for exceedances of the adopted criteria arises for commercial and residential noise sensitive receptors within 10m and 20m of the site boundary, respectively. Likely

exceedances of the daytime limit during Phases 2 and 6 have been identified for residential receptors, but this is on the basis of a worst-case scenario with all activities being conducted at the closest NSLs at the same time. The potential impacts on N1 receptors are again highlighted.

The recommended vibration limits to avoid cosmetic damage to buildings are set out in Table 12.15 of the EIAR. Construction vibration impacts are likely to occur at N1 and N2, particularly during piling and ground-breaking operations. Vibration levels at the closest neighbouring buildings are expected to be below the limits set out in Table 12.15, but are likely to perceptible to occupants of nearby buildings at distances of 10-25m for piling and 10-50m for ground-breaking, (i.e. N1 and N2). With appropriate mitigation (such as use of a 3T breaker at <20m distance and adequate public relations area in place), it is anticipated that the temporary nature of these activities at such close proximity would lead to a reduced vibration impact to neighbouring properties.

Given that the demolition works have already been undertaken, however, and it is not clear whether the mitigation measures have been implemented as intended, it would have been beneficial to the overall assessment if additional information regarding the impacts arising in respect of noise and vibration following demolition and the results of monitoring post-demolition had been provided to inform the current baseline conditions.

Mitigation measures – Construction phase

Construction phase noise and vibration mitigation measures are set out at 12.7.1 of the EIAR (as amended). These measures include the requirement for the Contractor that will be appointed to take specific noise abatement measures and to comply with the recommendations of BS 5228-1:2009+A1:2014 Code of Practice for Noise and Vibration Control on Construction and Open Sites – Noise and the European Communities (Noise Emission by Equipment for Use Outdoors) Regulations, 2001. The specific measures include selection of quiet plant, attenuation and maintenance of plant and equipment, control of noise sources, screening, restriction on hours of work, monitoring of noise levels and liaison with the public. Specific measure will be set out within the Construction Noise and Vibration Management Plan (CNVMP).

It is stated that construction noise will comply with best practice guidance and will adopt the concept of Best Available Techniques as defined in the EC Directive 96/61. Noise and vibration will be monitored during the construction phase at the nearest sensitive locations to ensure compliance with the adopted limits. The lack of data regarding the post-demolition impacts and monitoring results with up-to-date baseline information, particularly in respect of noise and vibration, casts some doubt on the conclusions regarding residual impacts.

Potential Impacts – Operational Phase

Potential noises sources include vehicular traffic, car parking and deliveries; building and mechanical services plant; Filling station activity; Drive-thru activity; patron and entertainment noise associated with the hotel; creche playground; inward noise impact on the development itself.

Traffic/parking/deliveries - The calculated change in noise levels arising from increased traffic flows for the opening year (2022) and the design year (2037) are set out in Tables 12.20 and 12.21 of the EIAR (as amended). The predicted change in noise levels is between 0.9 and 1.0dB (A) in the vicinity of the majority of roads in the area. This increase would be barely perceptible and the long-term impact is likely to be imperceptible. The nearest sensitive receptors to car parking noise sources are N1 - Carn na Ree (35m), N2 - Chesterfield Grove (75m) and Block 18 (20m). The predicted noise levels from car parking activity would be within the daytime and night-time criteria, (55dB $L_{Aeq,15min}$ and 45dB $L_{Aeq,15min}$), allowing for distance and estimated frequency of usage.

It is assumed that deliveries to the Drive-thrus and petrol filling station will be made during the day and that the unloading will take place along the northern boundary to the rear of these buildings. It is stated that there will be only one delivery event within a 24-hour period, and a worst-case scenario of a delivery occurring for 15 minutes of the hour period is assumed. The predicted noise levels at the NSL N2 is 51dB $L_{Aeq,15min}$. However, within the development, the predicted noise emission from delivery events is 60dB $L_{Aeq,15min}$, which exceeds the relevant noise criteria. It is pointed out in the EIAR that this would be more than 10dB below the existing baseline noise levels in the area and that enhanced façade specification will be provided as mitigation.

Service and mechanical plant - Noise levels from electrical and mechanical plant to serve commercial and residential development are likely to arise from operating of such plant 24 hours a day. However, as details of the locations and type/make of plant are not yet known, it is not possible to calculate noise levels to the surrounding environment. It has been decided to set an appropriate design criterion for all such plant in the order of 40dB $L_{Aeq,15min}$ daytime and 35dB $L_{Aeq,15min}$ night-time at the nearest sensitive receptor, in order to achieve acceptable internal noise levels within residential units. Given that the sensitive receptors within the development would be much closer to the potential noise source than existing residential development on neighbouring sites, it is considered that once the relevant noise criteria is met within the site, it is unlikely that negative impacts will arise at NSLs outside the site.

Filling station and Drive-thru activity – the proposed filling station and associated plant will be designed to ensure that the cumulative noise emission from its operation is broadband in nature, contains no tonal elements and does not exceed 45dB L_{Aeq} at 1 metre from the façade of the nearest NSL for both day and night-time hours. This is predicted to be easily achieved given the distances involved. The predicted noise levels in respect of the proposed Drive-thru restaurant at the nearest NSLs (N2 - 180m distant and Block 18 – 20m distant) are 11dB $L_{Aeq,15min}$ and 30dB $L_{Aeq,15min}$, respectively. Given the high ambient noise level in the vicinity, the traffic noise levels associated with the Drive-thrus are unlikely to be significant.

Hotel entertainment and patron noise breakout – the hotel bar and restaurant are located adjoining the northern boundary with the R445 and the undeveloped lands to the east. The nearest NSL is, therefore, Block 18 at 100m to the west. There is potential for noise breakout from these internal areas. The entertainment sound from the operation of the internal areas will be such that noise emissions will not exceed a level of 35dB $L_{Aeq,5min}$ at the façade of any nearby NSL. Similar criteria will apply to the 63Hz and 125Hz octave band levels. The proposed external smoking area (max. occupancy of 50 patrons) will be located to the east, adjacent to the R445. The nearest NSL is Block 18 at 120m to the west. The predicted noise levels emanating from the smoking area is calculated at 34dB(A) at the nearest NSL. This would be below the ambient noise levels for both day and night-time levels. The smoking area (patron voices) would therefore have a low impact on the nearest NSL.

Creche – The predicted noise level emanating from the creche (outdoor playground) a the nearest NSL, (N1 – Carn na Ree) and Block 16, is calculated to be 30dB $L_{Aeq,1hr}$. This would be well within the recommended noise criterion of 55dB $L_{Aeq,1hr}$ and would also be below the quietest baseline levels to the south (ASL4). The resultant noise impact is therefore not significant.

Inward noise- Given the proximity of the development site to the high noise environment at the R445, the impact of this noise source is considered at 12.6.7 of the EIAR (as amended). In order to determine the inward noise impact for NSLs, it is necessary to determine the internal noise levels within the proposed buildings, which can then be compared with the criteria in BS 8233. As previously noted, the existing road traffic noise levels along the northern boundary (ASL1) during the daytime are 70-75dB $L_{Aeq,16hr}$ and during the night-time, 60-65dB $L_{Aeq,8hr.}$ The equivalent noise levels at the southern boundary are given as 50-70dB $L_{Aeq,16hr}$ (day) and 45-55dB $L_{Aeq,8hr}$ (night). Thus, the risk assessment has concluded that the level of risk across the site varies from medium to high risk.

The EIAR, as amended by the Supplementary EIAR, includes a 'Good Acoustic Design' process in accordance with the advice contained in ProPG guidance. This issue is discussed in some detail at 7.6 of my Planning Assessment above. To avoid undue repetition, the Board is advised to read both sections in conjunction with each other. It will be noted that following the application of the various considerations in the ProPG Guidance, it was established that notwithstanding the mitigation measures incorporated into the design of the layout (by screening residential amenity areas by proposed buildings), and of the residential blocks (use of solid concrete/masonry blocks on the external walls and glazing with high sound insulation properties), it will not be possible to achieve the desirable internal acoustic environments with windows open along the northern facades facing the R445. Furthermore, the private amenity spaces (balconies) with a direct line of sight of the R445 are expected to exceed the guidance limit of 55dB $L_{Aeq,16hr}$. Thus, residential units with balconies on the northern, eastern and western facades will not achieve acceptable noise levels in their external amenity areas unless they are sealed shut.

Predicted façade noise levels for each residential block, each commercial building and each office block are provided in Figure 12.19 and Tables 12.28-12.30 of the EIAR. It is stated that where façade noise levels are less than 55dB $L_{Aeq,16hr}$ during

the day and 50dB $L_{Aeq,8hr}$ at night, reasonable internal noise levels can be achieved, but where façade noise levels exceed these levels, mitigation will be required. Figures 12.20 and 12.21, together with Table 12.31 of the EIAR, identify the facades where noise levels are higher and mitigation is required. These facades are coloured purple and red. Only the facades coloured green and orange can achieve a 'good' or 'reasonable' noise level with windows open. It will be noted from Fig. 12.20 that the facades requiring mitigation relate to Block 18 (N, W, E), the hotel (N, W, E), two of the office blocks (N, W) and Duplex Blocks 1 (N, W) and 2 (W).

The FI (8/6/20) introduced additional external amenity areas on the 9th, 12th and 14th floors of Block 18. It is stated that good acoustic design principles have ensured that these external areas are positioned a sufficient distance from the R445 to achieve noise levels of 50-55dB $L_{Aeq,16hr}$. Many of the external noise levels within the public open spaces across the development are stated to be within the 50-55dB $L_{Aeq,16hr}$, particularly where the buildings act as shields from the R445. It is concluded in the EIAR that the objectives of achieving suitable external noise levels is achieved within the site. However, the Board should note that it can be seen from Figures 12.9 to 12.18 that throughout the development phases 1-6, the public open space and communal open space areas, that are not shielded by buildings at the northern end of the site, including the northern part of public park, are predicted to experience daytime levels of around 60-75 dB $L_{Aeq,16hr}$ and night-time levels of around 50-65dB $L_{Aeq,8hr}$ which exceeds the ProPG guidance levels.

Mitigation measures – Operational phase

Northern aspect windows (facing towards the R445) will be fixed shut, preventing opening. Inhabitants will be able to open windows within the dual aspect rooms if they wish, but in doing so, will increase the internal noise level. A mechanical heat recovery ventilation system (MHRV) is proposed for the development which will allow for adequate ventilation with windows closed. An appropriate acoustic specification for windows will be provided to ensure good internal noise levels can be achieved. It is assumed that negligible noise intrusion via ducting associated with the MHRV system. A detailed review of potential noise intrusion via the MHRV system will be undertaken at detailed design stage and if necessary, attenuators will be fitted to the ducts, and where possible, exhausts and inlets will be located to minimise impacts.

Balconies on the northern, eastern and western facades of Block 18 will be sealed to form winter gardens (Fig. 12.8 EIAR), involving a frameless system where joints are sealed with a neoprene gasket. Further sound reduction is achieved by the external masonry walls. The suite of mitigation measures will ensure that good or reasonable internal noise levels are achieved for all residential units with windows closed/balconies sealed where the façade levels are too high and with open windows/balconies where the façade levels are within the acceptable range. No mitigation is proposed for communal external amenity areas or public open space areas.

Mitigation is proposed in respect of the potential impacts from hotel entertainment noise breakout in the form of a noise policy. This policy will be required to be implemented by hotel management to ensure that noise from the venue and patrons arriving/leaving the venue, handling of deliveries etc. will be minimised. A draft noise management policy is set out at N & V OPER 1 (12.7.2 EIAR).

No mitigation is deemed necessary in respect of additional traffic on adjacent roads, building services plant, car parking on site, deliveries, filling station activities, drive-thru activities, patron noise from hotel smoking area or creche playground.

Cumulative impacts

Demolition - As the demolition works are not part of the proposed project currently before the Board, and have been carried out since the application was lodged, the cumulative impacts with the proposed project have been addressed in the EIAR. The demolition noise impacts have been considered in section 12.6.2. The potential for noise and vibration as a result of demolition works were identified as impacts, with the closest sensitive receptors at Carn Na Ree (15m to the south). Other sensitive receptors include residents at Chesterfield Grove (30m to west) and Groody Road (600m to east), and commercial receptors as the hotel (285m to NE) and retail development to the west (85m). Appropriate noise limits for residential receptors were set at 65dB $L_{Aeq,1hr}$ daytime and 55dB $L_{Aeq,1hr}$ evening /weekends, and for commercial receptors, 75dB $L_{Aeq,1hr}$.

The typical noise levels associated with the demolition of the existing structures is set out in Table 12.16. Activities include concrete breaker, crane, tracked excavator, concrete crusher, steel cutting/breaking, dozer, dump truck, generator and water

pump. The predicted noise levels generated range from 65-86dB $L_{Aeq,1hr}$. The concrete crushing, steel breaking and excavating activities generate the highest noise levels (82-86dB). The noise levels at the various receptors were predicted to comply with the limits at all but one receptor, Carn Na Ree (Noise Assessment Location N1), where a noise level of 71dB $L_{AEQ,1hr}$ would be likely to occur. However, it is stated that this would be in a worst-case scenario, with all items of equipment operating simultaneously. Nevertheless, it was stated that appropriate mitigation measures would be used such as erection of screening, hoardings, earth berms, use of quiet plant, restriction on hours etc. (as set out in 12.7 of EIAR).

The recommended vibration limits to avoid cosmetic damage to buildings are set out in Table 12.15 of the EIAR. It is acknowledged that during surface construction works (piling and groundbreaking), these vibration limits would be perceptible to occupants and likely to cause subjective impacts. It is stated that such impacts can be reduced by managing the public relations around the specific works, by advising the public of the purpose and duration of the works. It is predicted that the vibration levels are likely to comply with the limits in Table 12.15 for most receptors, apart from Carn Na Ree. Notwithstanding this, it is stated that any demolition activities will be required to operate below the recommended vibration criteria in Table 12.15.

It is considered that the cumulative impacts in terms of noise and vibration of the proposed development with the demolition works have been adequately identified and described with appropriate mitigation measures proposed. However, as these works have been completed since the application was lodged with the P.A., it is not clear whether the mitigation measures were implemented as indicated. Thus, it is not possible to be definitive about whether cumulative impacts are likely to arise.

Cumulative noise impacts are addressed at 12.6.7 of the EIAR in respect of other developments and at page 12-34 (Table 12.25) in respect of the entire development. Table 12.25 shoes that the cumulative noise impact of all noise sources arising from the development simultaneously can operated within the daytime and night-time criteria for each noise sensitive location assessed. There are no expected cumulative noise impacts associated with building services plant from the proposed development in combination with other development in the area. Within the development site, the operation of such plant will be designed to ensure that the overall impact is deemed to be long-term and not significant.

Potential operational impacts are identified as arising from increased traffic flows resulting from other developments and any building services plant in the area. The baseline scenario takes into account existing road traffic noise and other noise sources in the area and the noise assessment (Tables 12.20-21) considers the cumulative impact of the proposed development together with existing traffic flows and those associated with the residential development permitted in the wider area and future zoned lands. On this basis, it is concluded that the noise impacts would be long-term and imperceptible.

Residual impacts

The mitigation measures proposed for the residential units facing north and with facades within a line of sight of the R445 will ensure the achievement of good or reasonable internal noise environments for these units. However, in doing so, it is considered that it will result in compromises which would adversely affect the living conditions and quality of life of the future inhabitants. To avoid undue repetition regarding this issue, the Board is referred to the discussion at paragraphs 7.6.10-7.16 of my planning assessment above. It is considered that the implementation of the proposed mitigation measures would result in a substandard form of accommodation for a significant number of residential units, and that no serious consideration has been given to alternative layouts which would result in the relocation of the residential blocks away from the excessive noise source (R445) within the overall site. I would, therefore, disagree with the conclusion in the EIAR (12.9) that the residual impacts in respect of inward noise would be deemed neutral, of slight significance and permanent duration.

Air/ Noise Conclusion

I have considered all of the submissions made in relation to noise and vibration. I am satisfied that the potential effects of the construction phase and in respect of the operational phase generally, other than for the residential units within Block 18 with facades that face north, east and west, where the required mitigation measures would result in closed windows and sealed balconies, would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the mitigation measures and through suitable conditions. In respect of the said units within Block 18, I am not satisfied that the development would not have

unacceptable impacts in terms of inward noise. Furthermore, the provision of up-to-date data regarding the post-demolition impacts with mitigation in place and associated monitoring results would have been beneficial to the overall assessment of noise and vibration during the demolition phase. Otherwise, I am satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative impacts on noise and vibration.

Air and Climate

Air quality and Climate issues are addressed in Chapter 11 of the EIAR.

Receiving environment

Air quality varies spatially and temporally, in that concentrations of pollutants fall away from major road sources and can vary due to changes in traffic volumes, meteorological conditions and wind direction. Air quality monitoring programs have been undertaken recently by the EPA and Local Authorities. Limerick is within Zone C where air quality is good with pollutant concentrations falling below EU limit values. The nearest sensitive receptors chosen are located within 200m of the Dublin Road (R445). R1 is at the Park Nursing Home (off the Groody roundabout to the north-east). R2 is a residential property opposite the site on the northern side of the R445. The predominant wind direction is from south west with generally moderate wind speeds.

Two baseline scenarios were examined, i.e. with and without demolition. The potential for an increase in ambient levels of particulate matters as a result of demolition has been identified. However, it is noted that with the use of best practice mitigation, ambient levels of particulates should remain low and return to normal once demolition is complete. Thus, it is stated that the future baseline scenario (following demolition) is essentially the same as the current baseline scenario.

In a Do-Nothing Scenario, there would be no change in prevailing conditions in terms of air and climate.

Potential impacts

Fugitive dust emissions giving rise to dust nuisance is identified as a potential impact during the construction and demolition phases, with further air emissions (PM_{10} and $PM_{2.5}$) from trucks, vehicle engines and machinery arising during construction. Dust

deposition typically occurs within 200m of a construction site with the majority occurring within 50m.

The activities identified include demolition of the existing partially constructed buildings and the retention of retaining walls and slabs, and the filling of the site to construction level. During construction, the activities include excavations, land clearance, stockpiles, deliveries and movements of materials on/off site. There are a large number of sensitive receptors within 50m of the site boundary. Having regard to the scale and extent of the development, there is potential for significant dust soiling within 50 metres and for PM_{10} particulates within 15 metres of the proposed development. This has the potential to affect the residential housing estates to the south and west of the site in terms of air quality and human health, where many houses are within 50m of the site. Construction vehicles and generators will give rise to greenhouse gases - CO_2 and N_2O emissions.

Traffic arising from the proposed development once operational has the potential to affect air quality as vehicles give rise to emissions including NO2, PM10, PM2.5, CO and Benzene. The predicted impacts are set out in Tables 11.6 and 11.7 of the EIAR. It has been demonstrated that there would be a negligible increase with an imperceptible magnitude in NO_2 concentrations, PM_{10} and $PM_{2.5}$ levels and CO and Benzene levels, respectively, when the Do Nothing and Do-Something Scenarios are compared. Thus, the levels of traffic-derived air pollutants from the proposed development will not exceed the ambient air quality standards either with or without the development. The impact of the proposed development on these pollutants is therefore predicted to be imperceptible and long-term.

The regional air quality impact of the proposed development on emissions of NO_x and VOCs was also assessed. In the opening year (2022), the predicted impact of changes to AADT is to increase NO_x levels by 0.00062% and VOC levels by 0.00027% of the relevant ceilings to be complied with. For the Design Year 2036, the predicted NO_x and VOC levels would increase by 0.00103% and 0.00030% respectively. Thus, the impacts on regional air quality during the operational phase are predicted to be imperceptible and long-term.

The impact of the proposed development on emissions of CO_2 impacting climate were also assessed, the results of which show that the proposal would increase CO_2

emissions by 0.00069% of Ireland's EU target in the opening year (2022) and in the design year, 2036. The impact on the national GHG emissions will therefore be insignificant in terms of Ireland's obligations under the EU 2020 Target.

Mitigation Measures

Construction phase mitigation measures for air quality impacts involve a pro-active approach to the control of fugitive dust. Details of the dust minimisation plan set out in Appendix 11.3). It is considered that, following the implementation of mitigation measures, no residual impacts in terms of dust are anticipated during construction. The specific measures include the development of a documented system for managing site practices for dust control and the identification of persons responsible for its management. The plan will also make provision for monitoring and a complaints system. It is stated that in the event of a dust nuisance occurring, movements of materials likely to raise dust will be curtailed and satisfactory measures put in place to rectify the problem before the resumption of construction.

Provided that a dust minimisation plan is implemented as proposed for the construction phase, the air quality impacts should be short to medium-term and should not be significant.

No mitigation measures are proposed during the operational phase.

Site specific measures to minimise emissions of CO_2 and N_2O from construction vehicles and generators will be introduced. These include prevention of vehicles form leaving engines idling, even for short periods of time, and minimisation of waste materials due to poor timing or over ordering.

Cumulative impacts

Demolition works are included in the identification and assessment of impacts in order to provide a worst-case scenario, although these works have been carried out outside of the project. The cumulative impacts of the demolition phase in terms of air quality are assessed in 11.5.4. Best practice mitigation measures have been proposed for both the demolition and construction phases, to ensure the prevention of significant impacts to sensitive receptors. However, the phases will not occur at the same time, as the demolition works have been completed since the application was submitted. The predicted cumulative impacts on air quality and climate change are deemed medium term and not significant for the construction phase.

Notwithstanding this, the avoidance of potential impacts identified during demolition were dependent on mitigation measures being implemented. As stated previously, the said demolition works have been completed, and it is unclear whether the mitigation measures were implemented as intended. It is difficult, therefore, to be definitive about the residual impacts in respect of air quality, as no information has been provided regarding any impacts following the implementation of these measures or of monitoring results.

Several construction projects in the vicinity have been identified and there is the potential for cumulative dust impacts should construction periods coincide. Dust mitigation measures proposed will, however, avoid significant cumulative impacts on air quality. Impacts due to increased traffic as a result of these developments have been accounted for in the traffic data used in the assessment. These are deemed not to be significant as outlined in the residual impacts.

Air and Climate Conclusion

I have considered all of the submissions made in relation to air and climate. I am satisfied that overall the basic methodology and results presented would indicate that potential effects would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the mitigation measures and through suitable conditions. Given that demolition phase has been completed, and no information has been provided on dust monitoring, it would have been beneficial to the overall assessment if additional information had been provided in this respect Otherwise, I am satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative impacts on air and climate.

8.4.5. Material Assets, Cultural Heritage and the Landscape

Material Assets

Traffic

The proposed development would have the potential to result in increased traffic flows to and from the site. This issue is addressed in Chapter 13 and associated Appendices of the submitted EIAR and in the RFI submitted to the P.A. on 8th June 2020. I have also addressed this issue in some detail in section 7.7 of my planning assessment above. To avoid undue repetition, the Board is advised to read each section in conjunction with each other.

Receiving environment

The Dublin Road (R445) is a dual carriageway comprising two lanes of traffic in each direction with high volumes of daily traffic (22,000 AADT in 2019 with 1.3% HGV). The proposed development is located between two major roundabout junctions on this regional road, known as Parkway and Groody Roundabouts, respectively. The Parkway Roundabout is a 5-arm roundabout to the west of the site providing access to the Parkway Shopping Centre, Dublin Road, Childers Road and an un-named residential road. The Groody Roundabout is a 4-arm junction to the east of the site providing access to the Dublin Road (E/W), Groody Road and Plassey Park Road.

The site is accessed via a signalised junction on the Dublin road with the access road to the Parkway Retail Park and a small roundabout junction at the entrance to the retail park. There are bus stops and footpaths on either side of the Dublin Road but there are currently no dedicated bus lane facilities. A proposed bus lane has been identified for the northern side of the road. There are no dedicated cycle lane facilities apart from a waiting area adjacent to the signalised junction.

Potential impacts

It was concluded in the analysis presented in the EIAR and supplementary information, that the proposed development would not generate a significant increase in traffic and that it would not have a material effect on the surrounding road network. Analysis of the main junctions along the route, included an examination of the Parkway roundabout, the Groody roundabout, the signal-controlled junction of R445 and the access road serving Parkway Retail Park and the Retail Park roundabout. It was predicted that the AADT would increase by 12,000 PCUs in the Design Year in the Do Something scenario, but this represented an increase of just 6,000 PCUs compared with the Do-Nothing Scenario. This would result in a slight increase in traffic flows on the surrounding road network. The impact on the junction capacities was not considered to be significant, particularly in the context of the character of the area and the road network which is well trafficked.

The P.A. had requested the submission of FI in respect of the existing traffic flows at the Parkway and Groody Roundabouts, respectively, which were considered to be already at theoretical capacity. This is addressed in the revised TTA and in the Supplementary EIAR (13.5.3). It was found that with the additional development

traffic added in the Design Year (2037), these existing roundabouts will not experience much more overloading than with the current traffic volume growth. It was concluded that in the Design Year (2037), the existing signalised junction on the Dublin Road (DOS 90.4%) and the Parkway Retail Park Roundabout (DOS 53%) would perform well with the development traffic added. The P.A. Roads Engineer accepted that the operational impact of the proposed development on the local road network, including the congested junctions, would not be significant, with or without cumulative impact. It is further noted that the local authority intends to upgrade the Parkway and Groody Roundabouts to signalised crossroads in the near future, and that this work is anticipated to be implemented prior to the Design Year.

Construction traffic will use the existing roundabout serving the Parkway Retail Park for access. The forecast increase in traffic flows during the construction phase of the development was not considered to be excessive and would be spread out over the 10-year construction period. The provision of off-line access to the construction site would minimise disruption to traffic flow in the area. Construction traffic impacts are therefore considered to be negative but short-term and insignificant.

Mitigation measures

Mitigation during the construction phase will be largely provided for in the Construction Transport Management Plan which will be prepared by the appointed contractor prior to the commencement of development. This will include delivery access, haulage routes, hours of operations and other measures to minimise the impact on the adjacent road network. The type of matters to be included is set out in T&T CONST 1, 2 and 3 (13.6.1 of the EIAR). It is noted (13.5.2) that due to the proposed phasing of the construction works, there is a likelihood that construction works will be taking place after residents have occupied the buildings. It is therefore intended that the contractor of the later phases of the development will take appropriate steps to ensure that the safe segregation of the construction and public/service traffic is provided for.

No additional mitigation measures are proposed for the operational phase.

Cumulative impacts

There are no other permitted development projects identified in the neighbourhood or vicinity of the site that would give rise to cumulative impacts in terms of traffic. I

would agree with the conclusions of the EIAR that the proposed development is not likely to result in significant adverse impacts either alone or in combination with existing planned or likely future projects.

Residual impacts

There will be no residual impacts on the surrounding traffic and transportation during the construction phase, but during the operational phase, residual impacts are likely to be slight and long-term, and any increases are likely to be within the norms for urban development. The proposed road works referred to above on the surrounding road network (to be undertaken by LCCC) is likely to improve the transport environment and will further reduce the impact of the development on the surrounding roads.

Traffic and transport Conclusion

I have considered all of the submissions made in relation to traffic and transportation. I am satisfied that potential effects would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects on traffic and transportation.

Waste management

Waste management is addressed in Chapter 15 of the EIAR and in Appendix 5.1 which comprises a Waste Management Plan for the site.

Receiving Environment

LCCC is largely responsible for setting and administering waste management activities in the area. The Waste Management Plan for the Southern Region 2015-2021 sets out the waste management targets for the region. These targets seek to reduce the quantity of household waste generated, achieve higher rates of recycling and reduce the amount of waste to landfill. Limerick County Development Plan 2010-2016 (as extended) also includes policies and objectives for the LCCC area. In terms of waste infrastructure, LCCC no longer operates any municipal waste landfill in the area. There are a number of waste permitted and licensed facilities located in the Southern Waste Region for the management of C&D waste and municipal waste,

including soil recovery, hazardous waste treatment facilities, landfills, material recovery facilities, waste transfer stations and waste-to-energy facilities.

In a Do-Nothing Scenario there would be no change in terms of generation of waste from excavation, construction or operational activities on the site.

Potential Impacts

During construction, waste will be produced from surplus materials such as broken or off-cuts of timber, plasterboard, tiles, bricks etc. as well as from packaging. No material will be required to be excavated to facilitate the development, but should waste material be required to be removed, it will be undertaken in accordance with the Waste Management Act and associated regulations. The likely hazardous and non-hazardous waste streams likely to be generated, and their breakdown into waste streams, are set out in Tables 15.2 and 15.3 based on typical construction sites. The predicted construction waste generation for the proposed development is shown in Table 15.4, using the waste stream breakdowns. This estimates that the total amount of construction waste likely to be generated is 2,978.9 tonnes, of which 676 tonnes would be reused, 2022 tonnes would be recycled/recovered and 280 tonnes for disposal. The total waste estimated to be generated during the operational phase, based on the main waste types for each development type, are set out in Tables 15.5, 15.6 and 15.7.

Waste will have to be stored on site temporarily pending collection by a waste contractor. Dedicated areas will be identified for waste skips and bins. If waste materials are not stored and managed correctly, it is likely to lead to litter or pollution issues, with the potential for vermin within the development and surrounding areas. The use of non-permitted waste contractors or unauthorised waste facilities would also give rise to inappropriate management of waste and in potentially negative environmental impacts and/or pollution. There is sufficient capacity in the region for the acceptance of likely C&D waste arising from the development. Recovery of C&D waste results in a positive impact on sustainable resource consumption. Any soil to be removed off site will need to be segregated and classified to ensure that any contaminated materials are identified and appropriately handled. The potential impact of construction waste is likely to be short-term, not significant and neutral.

The main impact of inappropriate waste management during the operational phase would be the diversion of waste from the priorities of the waste hierarchy, which would lead to additional waste being sent to landfill. There is adequate capacity in the region for the collection, treatment, recovery and disposal of waste likely to arise from the development. The potential impact of operational waste is likely to be long-term, not significant and negative.

Mitigation Measures

Mitigation measures are set out in the Waste Management Plan (Appendix 15.1) and at Sections 15.6.1 (Construction) and 15.6.2 (operation) of the EIAR. These are generally standard best practice measures which will ensure that waste arising from the development is appropriately managed in accordance with the requirements of the waste management legislation and policies for the area. It will also ensure optimum levels of waste reduction, reuse, recycling and recovery are achieved and will encourage sustainable consumption of resources.

Cumulative impacts

Due to the high number of waste contractors in Limerick region, it is likely that there would be sufficient contractors available to handle waste generated by several developments being undertaken simultaneously. No cumulative impacts are likely to arise.

Residual impacts

With the implementation of the mitigation measures referred to above, it is not anticipated that there would be any significant residual impacts.

Conclusion

I have considered all of the submissions made in relation to waste management. I am satisfied that potential effects would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects on waste management.

Cultural Heritage

Archaeology and cultural heritage are addressed in Chapter 16 of the EIAR.

Receiving environment

There are no recorded archaeological sites listed in the Record of Monuments and Places (RMP) for Limerick or on the Sites and Monuments Record (SMR) data base of the Archaeological Survey of Ireland with the site of the proposed development. The closest RMP site is an excavated site (LI005-107), which is situated c.80m to the northwest in Singland. There are no protected structures on or near the site. The closest Protected Structure is Groody Toll House (PS 1628), approx. 80m to the north in Rebogue Meadows. Singland Mill/Blood Mill (PS 1629) is located c.400m to the south and the associated mill race (PS 1630) runs north to south outside the eastern edge of land in the ownership of the applicant. There are no NIAH properties on the site or in the vicinity.

In total, there are 25 recorded archaeological sites within a 1 km radius of the site, providing evidence of human settlement dating back to the Bronze Age. A list of the RMPs and their locations is provided in Table 16.1 of the EIAR. A list of designated sites (PS, RMP and NIAH) in the vicinity is provided in Table 16.2 of the EIAR.

A walkover survey established that most of the site is a derelict complex of partially built multi-storey concrete buildings, which has been stripped of topsoil and subjected to extensive ground reduction and disturbance. It was noted that the buildings were scheduled to be demolished prior to construction. It was noted that the area of the proposed public park had also been subject to much ground reduction and disturbance.

However, one undisturbed greenfield site was noted on the eastern edge of the applicant's land ownership, which is outside the development site boundary. It is an area of wet grassland and forms part of the River Groody floodplain. It is bounded by a drainage ditch which drains into the mill race (PS 1630). The low-lying nature of this site and its connection with the river makes it a potential location for archaeological features such as fulachtai fia and other possible finds. The undisturbed greenfield area has, therefore, been assessed as an Area of Archaeological Potential.

Potential impacts

Most of the proposed development (Phases 1-4 and 6) lies within the footprint of ground which has already been extensively disturbed. As such it is likely that no in situ archaeological deposits survive within this area. Thus, no impact on the archaeological environment is foreseen during demolition or construction works in these areas. Phase 5 comprises the provision of a public park with landscaping, cycle paths and walkways. Although much of this area has been stripped of topsoil and some of it has been subjected to ground reduction/disturbance, there is potential for some archaeological features within this overall area. The groundworks involved in the formation of the public park are likely to be minimal. The potential impact of Phase 5 of the proposed development is, therefore, assessed as slight. (The Board should note, however, that the planning authority sought FI which required that the public park be provided at an earlier phase. Although the developer did not agree with the P.A., a condition was attached to the decision to grant permission requiring this phase to be brought forward. As such, should the Board be minded to grant permission, the public park may be developed under a different phase.)

The area of wet grassland is outside of the site boundary and will not be impacted by the development. No protected structures or other features are located on or in close proximity to the site. The mill race and Singland Mill/Bloodmill lie outside of the site boundary and will not be impacted by the proposed development. Thus, no likely significant effects on the architectural environment are predicted.

Mitigation measures

No specific mitigation measures relating to cultural heritage or archaeology are proposed to be implemented for Phases 1-4 and 6, as no potential impacts on the areas covered by these phases have been identified. However, in regard to Phase 5 (as indicated on the submitted drawings and documents) there is a chance of hitherto unknown archaeology lying beneath the surface. It is considered appropriate that monitoring of ground works by a suitably qualified archaeologist, under licence, be required as a condition of any permission (Mitigation Measure ARCH CONST 1).

Cumulative impacts

No cumulative impacts are likely to arise.

Residual impacts

No residual impacts are likely to arise.

Cultural Heritage and Archaeological Conclusion

On the basis of the information available and having regard to specifically to the location of the site and the nature of the proposed development, it is not considered likely that the proposed development would have any impact on archaeological, architectural or other cultural heritage features. Cumulative impacts on the archaeological, architectural or cultural heritage features of the area arising from the proposed development in conjunction with existing, planned or proposed development are unlikely to arise.

The Landscape

The Landscape and visual amenity is addressed in Chapter 17 of the EIAR which was accompanied by a set of photomontages, and the Landscape Masterplans 057719_MP_01 to_04 inclusive, as amended by the FI in the Supplementary EIAR, a new set of landscape drawings MP_05-MP_10, and a set of revised photomontages. An Architectural Design Statement was also submitted with the FI on 8th June 2020. The Board is advised that there is considerable overlap between sections 2.0 and sections 7.4 and 7.5 of the planning assessment above, and as such these sections should be read in conjunction with teach other.

Receiving environment

The site is located in a built-up area which has a mixed-use character, comprising several out-of-town retail developments, a number of petrol filling stations, a car sales premises and a hotel. The urban character of the area is dominated by the dual carriageway with generally low-density and low-height frontage development and large tracts of undeveloped lands. There is one relatively tall building in the vicinity, a Travleodge hotel with an Aldi supermarket, further to the east on the Dublin Road.

The site is bounded to the west by the 2-storey Parkway Retail Park set well back from the public road and fronted by large surface car park and perimeter landscaping. Further to the west lies the Parkway Roundabout which provides access to the Parkway Shopping Centre as well as to Childers Road. The lands to

the southwest and south comprise low density housing estates of 2-storey height. The lands to the north are largely un-developed or accommodate very low-density development set within large grounds, and include a large 110kV Substation. The lands to the east are also undeveloped and comprise open space adjoining the Groody river. These lands have an open character but are dominated to a certain extent by the large pylons carrying the 110kV overhead power lines across the site from north to south. Beyond the Groody Valley, there is a low level of development as far as the Groody Roundabout, and there is substantial residential and some mixed-use development to the north and south of this roundabout.

It is clear from photographs and the photomontages on file that the concrete and steel structures were visually prominent and could reasonably be described as constituting an eye-sore. These structures have largely been demolished, (apart from the foundation slabs and retaining walls), and as a result, views of the site from public roads and the public realm are considerably more benign. Vistas from the east are now dominated by the pylons/powerlines and the Travelodge as well as the regional road. Vistas from the west are mainly dominated by the road, the petrol station and the retail park. From the residential estates to the southwest and south, there are several open views of the site, but as the foundation slabs are several metres (c.11m) below the ground level of the housing estates, the views at present are dominated by the retaining walls, the powerlines/pylons and the Travelodge.

In a Do-Nothing scenario there would be no change to the townscape and views available.

Potential impacts

The EIAR (Chapter 17) includes a Landscape and Visual Impact Assessment which includes an assessment of the impact from 7 viewpoints. The proposed development will introduce new built form into an existing edge of city brownfield site. The new built structure will be seen from different viewpoints in the locality, a representative number of which are assessed in Section 17.5.2 of the EIAR (as amended). In general, the introduction of a new mixed-use development will have a positive impact on the townscape character of the area as it will provide for a high-quality urban development which will replace the vacant and derelict state of the site at present.

Negative effects will arise from the height of some of the buildings, particularly the landmark building, which will add a new feature to the existing streetscape.

The Viewpoints included four local locations, to the east (View 2 at Travelodge hotel), to the west (View 3 at Parkway Roundabout), to the southwest (View 4 at Chesterfield Grove) and to the south (View 5 Carn na Ree). Views 2 and 3 were located c.250m and c.380m from the site, whilst Views 4 and 5 were between 62.5m and 65.5m from the site. The impacts on the views from the southwest, south and east were either profound or moderate, but each would be positive. I would generally agree with this analysis. The change in views from the housing estates (VP4 and VP5) would be profound given the close proximity and as the existing industrial like landscape would be replaced with an urban built form. Although the scale and extent of the development would be markedly different to the scale and extent of the established housing estates, the impacts would be considerably reduced by the significant drop in ground levels between these areas and the site (c.11m). Furthermore, the replacement of the unfinished development with a new mixed-use development which includes a community building closest to the housing estates and a more compatible residential use, would generate a positive impact.

View 2 is from the steps of the Travelodge, which is dominated at present by the hotel carpark, the dual carriageway and the pylon in the foreground. It does not seem to be the most representative view from the east, as there would be more important views available from the R445 when travelling towards the site. However, I would accept the justification in the EIAR that the visibility of the site is somewhat limited from the R445. The view from this location is not a particularly valuable one and the introduction of a large hotel building together with a landmark building would introduce an urban townscape which would have a positive impact on the area from this general location

View 3 is from the north-western side of the Parkway roundabout which indicate that direct views of the site, and in particular the landmark building, would be largely obscured by a copse of trees in the middle of the roundabout. However, from my inspection of the site and surroundings, I would not agree that this was the most representative view from this general location. The site is highly visible from the northern, eastern and southern parts of the roundabout and between the roundabout and the appeal site. I would agree that the landscape vista from this location is quite

varied and not very harmonious, but it is still an important vista in the locality being a major approach road. Post construction, the drive-thru restaurant and the 14-storey apartment block will be prominently visible and the landmark building and hotel will significantly alter the skyline in medium distance views. I disagree that the existing vegetation within the roundabout will screen the development, although it will lessen it to some degree. Given the scale of the landmark building and its siting within the bend in the road, it is considered that it will have a much more significant impact on the views along this stretch of the R445 and from the roundabout junction that stated in the EIAR. It is considered that it would significantly alter the visual composition of the area and would introduce a distinctly new element in the landscape. Notwithstanding this, I would agree that the quality of the view would be neutral as the proposed development comprising the 14-storey building, the drive-thru and the hotel beyond would neither detract nor enhance the landscape character or view at this location.

The viewpoints from the wider landscape were all from the east/southeast and were generally between c.570m and 1.1km from the site. They included one from Groody Neighbourhood Centre (VP7) just south of Groody roundabout, one from a housing estate further along Groody Road called Caislean na hAbhann (VP6) and one from a site near the Northern Trust building, just north of the junction of Groody Road and Ballysimon Road, Viewpoint 1. These viewpoints are less sensitive as they involve views across undeveloped landscape in a relatively flat and semi-rural in character and the views for most receptors would be transitory. The proposed development would form a relatively small element in the overall visual composition. However, the 14-storey building would break the skyline and would be in the centre of the view from this location. Thus, this view has been identified as presenting a slight negative impact. It is considered, however, that the impact would not represent a significant intervention in the landscape and would not be significant, as it would be mitigated by distance and by existing/proposed landscape screening in the form of trees.

The EIAR has assessed Viewpoint 6 as slight positive and Viewpoint 7 as moderate positive. The reason for the moderate impact from the Groody Neighbourhood Centre is that the hotel, the office blocks, the 14-storey block and the associated infrastructure will be visible from this location as well as some of the other structures between these buildings. Thus, the extent of the change in the vista will be

moderate. However, due to the character and nature of the views from this location, the proposed development is likely to result in a positive impact.

During construction, all viewpoints will be affected by the presence of hoardings, cranes, scaffolding, partially constructed buildings, machinery, stockpiles etc. However, these impacts will generally be slight to moderate, negative and short-term in duration. However, the impacts experienced in the housing estates close to the site will be mor significant

Mitigation measures

The principal mitigation measures are incorporated into the design and layout of the scheme, the design of the individual buildings and the proposed landscaping scheme. However, the further information submitted on 8th June 2020 provides further mitigation measures which principally involve the addition of the white motif to the frontage buildings along the R445 in order to improve the cohesiveness of the design and integration of these buildings into the overall development.

Residual impacts

Due to the scale of the buildings, it will not be possible to screen the development in close and medium distance views, particularly the 14-storey apartment block. However, this is not the intention, in any case, as the proposed landmark building, together with the urban scale buildings fronting the R445 and Groody Valley, are seen as making a positive contribution to the townscape and streetscape of the area, which is part of an emerging landscape character. The site is identified in the Castletroy LAP as being suitable for a landmark building, and the siting of the building close to the R445 is considered to be acceptable. The hotel building will further help to define the streetscape along the R445, and the introduction of a civic plaza will help to integrate the development into the local area.

The views from the residential estates will be moderate in the long term, but these impacts will be mitigated by the proposed landscape planting along the boundary, which together with the difference in ground levels will effectively screen much of the development. The utilisation of the already excavated ground/foundation slab will significantly reduce the visual impact of the overall development on the surrounding receptors. The inclusion of the parkland to the east will also assist in the integration

of the development into the landscape character of the area. Monitoring of landscape planting will be required.

Cumulative impacts

The 14-storey landmark building will be viewed in conjunction with the Travelodge, which is the only other tall building in the area. These buildings, together with the proposed large scale 4-storey hotel and the 4-storey office buildings will become prominent new buildings in an area that is currently characterised by low-rise and low-density development. This must be balanced against the need for an urban built form and a streetscape along the R445, which is currently lacking on this important approach road to the city. Cumulative impacts on the landscape and visual amenities of the area arising from the proposed development in conjunction with existing, permitted or planned development are not likely to arise.

Conclusion

I have considered the submissions made in relation to landscape. I am satisfied that the potential effects would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects on landscape.

8.5. Interactions

Chapter 18 of the EIAR evaluates the potential interactions between the factors of the environment considered above, which the proposed development might have on the receiving environment and sensitive receptors during demolition/construction and operational phases of the proposed project. Table 18.1 provides a matrix of interactions for ease of reference and Table 18.2 indicates the main interactions between the key elements and activities.

Interactions between noise, dust, traffic, waste management, the landscape and population/human health were considered. It was found that significant effects would not be likely to occur due to a combination of the nature and character of the existing environment, the distance between the site and residential developments and the mitigation measures proposed. Interactions between biodiversity and land/soils, water quality, noise, waste management were also considered. However, significant

effects were not likely to occur due to the nature of the activities on site, the character of the environment of surrounding lands and the mitigation measures proposed as part of the development. The operation of the development will not affect the hydrology or water quality on and surrounding the site and site drainage has been designed to divert and control any spills or leaks and therefore prevent any contamination of soils or groundwater. It was, therefore, found that there would be no adverse impacts on the local hydrological features and as a result, there would be no impact on the flora and fauna which avail of the natural water resources.

Interactions were further considered between landscape and visual impacts and population/human health. However, it was considered that the proposed development would not give rise to significant adverse impacts on amenity or on the landscape due to the derelict state of the site, the nature of the environment within which the development would be absorbed, the mitigating effect of distance and the proposed landscaping mitigation measures.

It is considered that the interactions generally indicate that the impacts will be both positive and negative and, in some cases, neutral, due to the planned mitigation measures which are proposed for the construction and operational phases of the development. These include the provision of a new and improved townscape and a mixed-use development including the provision of a substantial element of residential accommodation. Other more adverse impacts on human health may arise from dust and noise nuisance. I am satisfied that the interactions between the environmental factors have been adequately addressed and I am in general agreement with the conclusions presented in the EIAR.

8.6. Cumulative impacts

Cumulative impacts were considered in the assessment of various aspects of the environment, either in the EIAR or in the supplementary documentation. I have also considered cumulative impacts in my assessment under each heading above. I am satisfied that the cumulative assessment is robust and fully assesses the impacts of the current proposal in the context of other permitted development and proposed developments and all other relevant existing and approved projects.

8.7. Reasoned Conclusion

Having regard to the examination of environmental information contained above, and in particular to the EIAR and supplementary information provided by the developer, and the submission from the Planning Authority, prescribed bodies, appellants and observers in the course of the application, it is considered that the main significant direct and indirect effects of the proposed development on the environment are, as follows. Where appropriate the relevant mitigation measures are cited.

- **Population and human health:** Potential positive impacts by reason of the redevelopment of a brownfield site with partially constructed buildings, and provision of housing and uses that will provide employment with associated economic and social prosperity, a new streetscape and open space including a public park, which will improve the amenities and visual setting of the area. Negative impacts for both adjoining residential properties and for future occupants of the development (due to the phasing and duration of the scheme) arising from noise, dust, traffic and excavation during the construction phase will be mitigated by a Construction Management Plan. There will be negative impacts on future occupiers of the development arising from a combination of noise, access to daylight and sunlight and wind microclimate which will be mitigated by means of permanently fixed closed windows and sealed balconies on several facades and provision of parapets and screens on the external roof gardens. The proposed mitigation, however, will result in a substandard form of accommodation for a significant number of dwelling units which will adversely affect the residential amenities of the future occupants of these units. Negative impacts arising from noise and dust associated with the demolition phase were identified and mitigation measures and monitoring programmes were proposed. However, as the demolition works were excluded from the project and were undertaken in advance of a decision on the planning application/appeal, and no up-to-date information has been provided regarding the implementation of mitigation or monitoring of outcomes following the completion of these works, it is not possible to be definitive about the resulting implications on population and human health.

- **Water quality:** The potential for pollution of surface waters, ground water and on designated sites is likely to be significant due to the land drain which provides for a hydrological link to the River Groody and to the River Shannon. Pollution during the demolition and construction phases arising from release of sediment, silt, concrete, oils and fuels would have serious implications for water quality and for water dependent habitats and species. The proposed mitigation measures contained in the outline Construction Management and Surface Water Management Plans, together with the monitoring programmes, will adequately address the impacts arising during construction. However, as the demolition works were excluded from the project and were undertaken in advance of a decision on the planning application/appeal, and no up-to-date information has been provided regarding the implementation of mitigation or monitoring of outcomes following the completion of these works, it is not possible to be definitive about the resulting implications on water quality. In terms of the operational impacts, the introduction of a surface water drainage system which is based on SUDs and best practice will result in significant positive impacts in terms of the quality and quantity of surface water discharging from the site.
- **Biodiversity:** Disturbance to bats arising from lighting during the operational phase will be mitigated by the provision and siting of sensitive lighting. Water quality impacts on water dependent habitats and species during construction will be mitigated by means of appropriate mitigation measures and monitoring programmes. However, as the demolition works were excluded from the project and were undertaken in advance of a decision on the planning application/appeal, and no up-to-date information has been provided regarding the implementation of mitigation or monitoring of outcomes following the completion of these works, it is not possible to be definitive about the resulting implications on water quality.
- **Landscape and visual impacts:** potential impacts will arise from the tall building and the scale of the buildings on the site which are significantly different to the prevailing density and pattern of development in the area. However, the impacts will be mitigated to some extent by the use of the

existing levels on the site, architectural design, treatment and finishes as well as by landscaping and screen planting.

Having regard to the above conclusion with regard to the residual effects on the environment, and taken in conjunction with the identified deficiencies in the submitted EIAR and supplementary information, and the non-compliance with the requirements of Article 94 of the Planning and Development Regulations 2001 (as amended), I am not satisfied that the proposed development would not have any unacceptable direct or indirect effects on the environment.

9.0 Appropriate Assessment

9.1. Introduction

9.1.1. Under Article 6(3) of the Habitats Directive, an Appropriate Assessment must be carried out by the competent authority for any plan or project not directly connected with or necessary for the management of a European site but likely to have a significant effect on the site in view of the site's conservation objectives. The proposed mixed-use development at Singland County Limerick is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).

9.2. Appropriate Assessment - Screening

9.2.1. The first step required under Article 6(3) is to establish if the proposed development could result in likely significant effects to a European site, in view of the site's conservation objectives. This is referred to as Stage 1 (Screening) of the Appropriate Assessment process. The screening stage is intended to be a preliminary examination. If the possibility of significant effects cannot be excluded on the basis of objective information, without extensive investigation or the application of mitigation, a plan or project should be considered to have a likely significant effect and Appropriate Assessment (AA) must be carried out.

9.2.2. The developer submitted a Screening Report for Appropriate Assessment and a Natura Impact Statement on the 17th January 2020. Both the NIS and the Screening Report for the Appropriate Assessment were prepared by Mr. Padraic Fogarty, of

Openfield Ecological Service Ltd. Following a request for information, these documents were resubmitted on 8th June 2020 with very slight amendments. The Screening Report was amended by reference to a NPWS Study on the status of selected marine habitats (Annex I) relating to which habitats were favourable and which habitats were unfavourable (page 14/15 of report). The NIS was amended by the inclusion of the proposed water quality mitigation measures (Construction phase) in the report at page 10. Otherwise, the documents are unchanged.

9.2.3. The Screening Report outlines the methodology used for assessing potential impacts on the habitats and species within two European sites that have the potential to be affected by the proposed development. It predicts the potential impacts for these sites and their Conservation Objectives and it suggests mitigation measures, assesses in-combination effects with other plans and projects and it identifies any residual effects on the European Sites and their conservation objectives.

9.2.4. The appeal site is a brownfield site derelict site which was previously built upon following the grant of permission for a mixed-use development in 2005, but was never completed. The AA Screening Report provides a description of the project at page 5, the main elements of which are as follows:

- Re-use and integration of parts of the existing structure on site into proposed development including retaining walls, slab and foundations as constructed and permitted under a previous planning permission for a shopping centre.
- Construction of a mixed-use residential, commercial and community development comprising 245 residential units, a 154-bed hotel, 4 no. office blocks, 2 no. drive-thru restaurants, 1 no. petrol filling station, a 3-storey community building.
- Provision of a public park with walkways and associated parking.
- Ancillary site works including surface and basement parking, ESB substations, a pumping station, attenuation ponds, signage and landscaping.
- Access from existing access road and roundabout serving the Parkway Retail Park with road improvements to the adjacent junction with R445.
- Pedestrian and cycle links to Chesterfield Grove.

It is noted that Demolition Works do not form part of the planning application as the works are being undertaken separately in response to a Section 11 notice under the Derelict Sites Act.

9.2.5. Following an initial screening of the proposed development the local authority determined that in the absence of mitigation or further details, the possibility of significant effects on the integrity of a European site(s) could not be excluded and that Stage 2 Appropriate Assessment would be required.

9.3. Stage 1 – Appropriate Assessment Screening

9.3.1. The sites considered and the distances from the development site are summarised below:

Name of site	Approx. distance from site
Lower River Shannon SAC (site code 002165)	At its nearest point the Lower River Shannon SAC and the main body of the River Shannon lie c.750m to the north. Surface drainage pathways lead from the site to the River Groody, which flows c.100m to the east and flows into the River Shannon. A new stormwater drainage system is to be constructed which will discharge to the River Groody. Water quality is an objective in relation to a number of species for which the SAC is designated. The surface water system will be entirely separate to the foul water system. The new wastewater connection will add to the loading of the municipal WWTP at Bunlicky which discharges to the River Shannon. There is therefore a pathway from the site via wastewater and surface water flows to the SAC. There is

	no evidence that the discharge from the WWT plant is giving rise to negative impacts on water quality. During the operational phase, the inclusion of SUDs measures and the separation of the foul and surface water systems will result in a significant improvement in terms of the quantity and quality of surface water run-off. However, indirect effects arising from surface water impacts on water quality during construction works and operational phase could arise. Thus, the potential for significant effects on the European site cannot be ruled out at this stage. **Screened in**
River Shannon and River Fergus Estuaries (site code 004077)	Located c.3.1km to the west. Indirect effects arising from surface water impacts on water quality during the construction works could arise. However, water quality is not an objective for which the qualifying interests of the SPA are designated and given the distance from the European site, potential water quality impacts can be ruled out. The potential for collision risk to birds from the proposed tall building could arise. However, having regard to the conservation objectives for the site and given the lack of any evidence of such risks, together with the absence of any suitable habitats within or in the vicinity of the site, the potential

	risks to bird species protected by the SPA from collision with buildings on the site are not likely to have a significant effect on the European site. Thus, the potential for significant effects on the European site can be excluded at this stage. **Screened out**
Glenomra Wood SAC (site code 001013)	Located c.10km to the north. No surface water or ground water connectivity with the site. There is no source pathway receptor links for direct or direct impacts. **Screened out**
Tory Hill SAC (site code 000439)	Located c.15km to the southwest. No surface water or ground water connectivity with the site. There is no source pathway receptor links for direct or direct impacts. **Screened out**
Slievefelim to Silvermines Mountains SPA (site code 004165)	Located c.12.5km to the east. The proposed development site is outside the foraging range of the SCI species associated with the SPA. No surface water or ground water connectivity with the site. There is no source pathway receptor links for direct or direct impacts **Screened out**

9.3.2. **Stage I Screening conclusion -** The site is not located in or immediately adjacent to any European sites. The closest European sites are the Lower River Shannon SAC (002165) which is located c.0.75km to the north of the site, and River Shannon and River Fergus Estuaries SPA (004077) which is located c. 3.1km to the west of the site. The likely zone of influence is considered to be the zone immediately around the construction site and extending to the European sites that are hydrologically connected to the site. This includes the River Shannon and River Fergus Estuary SPA and the Lower River Shannon SAC. Other sites within a 15km radius of the site are Glenorma Wood SAC, Tory Hill SAC and Slievefelim to Silvermines Mountains SPA. These sites were not considered in the Stage 1 Report submitted with the application, but have been considered by me, as set out in the table above. It is considered, however, that these three sites can be screened out from further assessment because of the scale of the proposed works, the nature of the Conservation Objectives, Qualifying and Special Conservation Interests, the separation distances and the lack of a substantive linkage between the proposed works and these European sites.

9.3.3. In respect of the Lower River Shannon SAC and the River Shannon and River Fergus Estuary SPA, the Screening Report concluded that the development site is too far from these sites to give rise to any habitat loss or to disturbance effects to species during either the construction or operation phases of the development. It is further noted that given that the habitats identified within the project site are of low ecological importance, and the site's location with a sub-urban industrial setting, there is no potential for habitat or species fragmentation. It is considered that based on the absence of suitable habitat and the current background levels of activity at the site, disturbance impacts on bird species for which the site is designated are not foreseen. Thus, direct impacts on the two European sites can be ruled out.

9.3.4. There are no natural watercourses within the site of the proposed development, but there is an artificial drainage channel which discharges to the River Groody c.100m to the east of the site, and from there to the River Shannon (c750m) and ultimately to the Shannon Estuary (c.3km). Although this drainage channel does not discharge directly to the SAC or the SPA, it has been identified as a pathway for potential construction related impacts which may result in negative impacts on qualifying habitats and species and affect the Conservation Objectives of the Lower River

Shannon SAC in the absence of the application of mitigation measures. There will be a new surface water drainage system which will also discharge to the River Groody following attenuation and filtering. Thus, it was concluded that indirect impacts on the SAC via surface water cannot be ruled out.

9.3.5. During the operational phase, the proposed development will connect to the municipal wastewater treatment system at Bunlickey which discharges to the Shannon Estuary, and as such, will increase the quantity of wastewater to be generated and discharged. However, there is sufficient capacity in the Bunlickey WWTP and there is no evidence that the discharge from the plant is giving rise to water quality impacts. Thus, indirect effects on the European sites arising from impact on water quality via wastewater during the operational phase of the development can be ruled out.

9.3.6. The submitted Screening Report, however, considered that as there are no water quality conservation objectives for species or habitats for which the River Shannon and River Fergus Estuaries SPA is designated, and the fact that water quality in the estuary is not believed to be affecting any of the Conservation Objectives for the bird populations of the SPA within the intertidal zone, potential indirect impacts on the SPA were ruled out. I would agree that the distance is likely to be a mitigating factor and that water quality is not a specified Conservation Objective for the qualifying interests. It is further noted that the water quality in the estuary is assessed as 'intermediate' and that the status of the estuary is 'moderate'. The Screening Report references a study published by the NPWS (on the status of selected marine habitats within the Lower River Shannon SAC) which found that the unfavourable status of the 'estuaries' and 'mudflats' habitats is due to the poorly functioning WWTP at Ennis, and not at the Bunlickey plant, which is performing to a high standard. Indirect surface water impacts from the construction stage on the River Shannon and River Fergus Estuaries SPA can therefore be ruled out.

9.3.7. The third-party appellant raised the issue of the potential for bird collision with the tall building in the grounds of appeal. This matter has not been identified as a potential impact on the qualifying interests of the SPA in the AA Screening Report. However, it was addressed in the first party response to the grounds of appeal. It is stated that there is no evidence in the literature that strikes with buildings is resulting in any kind of negative effect on bird populations in Ireland. Furthermore, the bird surveys

carried out in respect of the Biodiversity chapter of the EIAR found that the birds present on the site were found to be of low conservation concern and that the habitats present on the site were of low ecological value. The third party has not provided any evidence of the potential risk of bird strikes arising from the proposed development. It is considered that given the distance of the proposed development from the SPA, the nature of the habitats on the site and in the vicinity, and the qualifying interests of the SPA, the potential effects in terms of possible bird collisions, having regard to the Conservation Objectives for the site, can be ruled out.

9.3.8. It is considered, therefore, that given the distance from the European sites and the nature of the habitats on /in the vicinity of the site, I would agree that no direct habitat impacts are likely to occur. Considering the potential hydrological connectivity between the proposed development, however, together with the characteristics and scale of the proposed development and its proximity to the Lower River Shannon SAC, significant indirect impacts on this European site cannot be ruled out. Notwithstanding this, given the distance of the site from the River Shannon and River Fergus Estuaries SPA, the absence of any evidence that water quality in the Shannon Estuary is affecting the Conservation Objectives for the species or habitats of the SPA, significant indirect impacts arising from water quality during the construction and operational phases can be ruled out in respect of the River Shannon and River Fergus Estuaries SPA.

9.3.9. Based on my examination of the Screening for AA, NIS and supporting information, the NPWS website, aerial and satellite imagery, the scale of the proposed development and likely effects, hydrological connection and functional relationship between the proposed works and the European sites and their conservation objectives, I would conclude that the proposed development (alone) may affect one European site. The significance of these effects is uncertain and therefore, I would agree with the applicant that Appropriate Assessment is required to determine if adverse effects on the integrity of the Lower River Shannon SAC can be ruled out.

9.3.10. Taking account of the precautionary principle and in the absence of appropriate mitigation, the proposed development has the potential to impact on the qualifying interests of one European Site which should therefore be subject to Appropriate Assessment. I can therefore confirm that the site screened in for Appropriate Assessment is as follows:

- Lower River Shannon SAC [002165]

I am satisfied that no other European sites could be potentially adversely affected due to the large separation distances involved and lack of a source pathway receptor linkage with the European sites. Having regard to the foregoing, I am of the opinion that the potential for adverse impacts on Lower River Shannon SAC cannot be ruled out and a Stage 2 Appropriate Assessment is required.

9.4. The Natura Impact Statement.

9.4.1. The application is accompanied by a NIS which describes the elements of the proposed project that alone or in combination with other plans and projects are likely to give rise to significant effects on the European site which is within a possible zone of influence of the proposed development. The potential for adverse effects on the Conservation Objectives of The Lower River Shannon SAC are identified and in-combination effects with other plans and projects examined. The NIS details mitigation measures, largely based on best practice for construction close to watercourses, designed to prevent significant levels of suspended sediments or construction related pollutants entering the River Shannon and Shannon Estuary systems, as well as the design of the site drainage system for both phases of the development. An Outline Surface Water Management Plan (Construction Stage) is appended to the NIS.

9.4.2. A description of the elements of the proposed project, construction methods and proposed works is provided in the NIS. A general description of the baseline ecological conditions at the proposed development site is presented in the NIS. This is based on the pre-demolition conditions on site. The Conservation Objectives, as relevant to the identified potential significant effects, are examined and assessed in relation to the aspects of the project (alone and in combination with other plans and projects). Mitigation measures are included, and conclusions reached in terms of adverse effects on the integrity of European site.

9.4.3. The NIS concluded that, subject to the implementation of the recommended mitigation measures, the proposed development alone, or in combination with other plans and projects, would not result in adverse effects on the integrity of the European site, Lower River Shannon SAC. On the basis of the information provided,

the assessment of the impacts arising from the construction and operational phases of the development have been adequately addressed. The NIS does not, however, address the effects of demolition in any detail, but the impacts of this phase are outlined in the EIAR and supplementary information submitted with the application. The site had previously been developed with large scale concrete and steel structures for a mixed-use commercial development, but it had not been completed. These structures have been largely demolished since the application, the subject of the current appeal, was lodged with the planning authority. At present, significant areas of the site are covered by a large foundation slab with associated retaining walls and substantial basement areas, which have filled with water.

9.4.4. As the demolition phase constitutes requisite works on the same site and within the same footprint of the proposed works, it is considered that the exclusion of these works from the proposed project makes it difficult to be definitive about the findings of significant effects of the development. I am not satisfied, therefore, that the information is sufficient to allow for a complete assessment of the proposed development in view of the requirements of Appropriate Assessment and precise and definitive findings can be reached as to the implications of the proposed development on the integrity of Lower River Shannon SAC.

9.5. Appropriate Assessment of implications of the proposed development

9.5.1. The proposed development is located wholly outside any European Site. The presence of an artificial drainage channel which drains the site to the River Shannon via the River Groody gives rise to a risk of downstream water quality impacts, as there is a direct link to the SAC (c.750m). Having regard to the physical characteristics of the proposed development site, its location in proximity to the River Groody (c.100m) and the nature of the land-use in the immediate area, the potential impacts identified in the NIS relate to downstream water quality during the construction and operational phase of the proposed development, on the basis of the potential hydrological connectivity between the site and the European site.

9.5.2. The potential for water quality impacts arising from the proposed development, therefore, need to be considered in the context of uncontrolled surface water during both the demolition and the construction phases of the development, where in an uncontrolled scenario, the release of sediment and /or construction related pollution

emissions such as concrete or hydrocarbons into the river may (temporarily) adversely affect water quality and water dependant habitats locally and downstream within the Lower River Shannon SAC.

Lower River Shannon SAC (002165)

9.5.3. Stretching along the Shannon valley from Killaloe to Loop Head/Kerry Head, for a distance of some 120 km, the site is approx. 750m distant from the proposed works. It encompasses the Shannon, Feale, Mulkear and Fergus estuaries, the freshwater lower reaches of the River Shannon, the freshwater stretches of much of the Feale and Mulkear catchments and the marine area between Loop Head and Kerry Head. The site is of great ecological interest as it contains a high number of habitats and species listed on Annexes I and II of the EU Habitats Directive, including the priority habitats Lagoon and Alluvial Woodlands, the only known resident population of Bottle-nosed Dolphin in Ireland and all three Lamprey species, as well as Atlantic Salmon. A number of species listed on Annex I of the EU Birds Directive are also present, either wintering or breeding. The Shannon and Fergus estuaries form the largest estuarine complex in Ireland and support more wintering wild fowl and waders than any other site in the country. Most of the estuarine part of the site has been designated a SPA.

9.5.4. The SAC is designated for the following habitats and species.

- Sandbanks which are slightly covered by seawater all the time
- Estuaries
- Mudflats and sandflats not covered by seawater at low tide
- Coastal lagoons
- Large shallow inlets and bays
- Reefs
- Perennial vegetation of stony banks
- Vegetated sea cliffs of the Atlantic and Baltic coasts
- Salicornia and other annuals colonising mud and sand
- Atlantic salt meadows

- Mediterranean salt meadows
- Water courses of plain to montane levels with the Rancunculion fluitantis and Callitricho-Batrachion vegetation
- Molinia meadows on calcareous, peaty or clayey-silt-laden soils
- Alluvial forests with alnus glutinosa and Fraxinus excelsior
- Freshwater pearl mussel
- Sea lamprey
- Brook lamprey
- River lamprey
- Atlantic Salmon
- Common Bottlenose Dolphin
- Otter

9.5.5. Detailed Conservation Objectives have been prepared for the site, the overall aim of which is to maintain or restore the favourable conservation status of the designated habitats and species.

Potential adverse effects

9.5.6. No direct adverse effects

Due to the confined nature of the works and the distance of the proposed development from the conservation interest habitats of the SAC, there will be no impact on the conservation objectives related to habitat *area*.

Indirect adverse effects

9.5.7. There is an existing land drain which is hydrologically connected to the River Groody and from there to the River Shannon, which forms part of the Lower River Shannon SAC, and therefore provides a pathway to the European site. The NIS identifies the possibility of indirect impacts related to temporary increased sediment loading or a pollution event that may occur through the construction works or the run-off of harmful pollutants from the development which may potentially adversely impact water quality of water dependant habitats.

9.5.8. Potential impacts during the demolition phase were not specified in the NIS, but were identified in the EIAR, which included effects on water quality. The CEMP for the demolition phase (EIAR) indicated that surface water would be pumped throughout this phase to a holding tank and then onto a series of settlement tanks before discharge to the surface water drainage system. Appropriate treatment of the surface water (by means of silt curtains, silt traps, settlement tanks, hydrocarbon interceptors etc.) to prevent the discharge of any contaminated or polluted water to the watercourses was envisaged for the demolition phase as for the construction phase. However, this information regarding the demolition phase was not included in the NIS, as it was stated that these works did not form part of the project.

9.5.9. The NIS notes that many of the habitats of conservation interests within the Lower River Shannon SAC are either coastal or intertidal in nature and are connected to the site of the proposed project by hydrological means. It is stated that Fresh Water Pearl Mussel is not present downstream but that areas of Alluvial Forests have been identified downstream of the site (near the University of Limerick). It is pointed out, however, that no water quality objectives are set for any of these features of interest. In terms of species, I would agree with the findings of the NIS that Freshwater Pearl Mussel can be ruled out, but indirect impacts on the three Lamprey species, Atlantic Salmon and Otter, as well as the bird species for which the SPA is designated, should be considered. I note that the NIS has not made any reference to Watercourses of Plain to Montane levels with Ranunculion fluitantis and Callitricho-Batrachion vegetation which has been identified in the NPWS Conservation Objectives for the site in inland stretches of the Lower River Shannon to the north of the project site.

9.5.10. Whilst good water quality is not listed as a requirement to meet the conservation objectives for the intertidal and coastal habitats, the possibility of sediment run-off or a pollution event arising from the proposed development could negatively impact the conservation objectives. Targets relating to the maintenance of hydrological regimes are included for both Alluvial Forests and Watercourses of Plain to Montane levels habitats. Further targets for the latter habitat include maintenance of the freshwater seepage regimes and to maintain concentrations of nutrients at a low level. The threat of water quality impacts on these habitats downstream of the site is considered to be low, but in the absence of mitigation measures, cannot be ruled

out. Having regard to the hydrological and topographical characteristics of the site, this risk is considered to be quite low. Significant adverse effects are not considered to be likely on these habitats given the distance combined with the nature of the receiving environment and the nature and scale of the proposed development.

9.5.11. The conservation objectives for Otter include the achievement of no decline in terrestrial, estuarine, freshwater or lake habitat or in available fish biomass. The conservation objectives for the River, Brook and Sea Lampreys relate to the maintenance of river accessibility, a healthy population density/structure and no decline in extent or distribution of spawning beds. No specific water quality objectives are included. However, the conservation objectives for Atlantic Salmon include prevention in the decline in the number of spawning beds and that a water quality of Q4 should be achieved at all sites sampled by the EPA. Given the potential effects to water quality during construction and demolition, particularly in relation to sediment and concrete pollution, and spillage or leakage of oils and fuels, significant effects to this qualifying interest cannot be ruled out in the absence of mitigation.

9.5.12. The NIS identifies the potential impacts of sediment and concrete pollution which include deterioration of water quality by means of reducing light penetration, fouling the gills of animals, fouling fish spawning beds and toxic effects on fish and their invertebrate food. These impacts could reduce the availability of spawning beds and reduce water quality, thereby affecting the integrity of the SAC. Other sources of sediment within the Shannon Catchment could act in combination with these impacts to create a downward pressure on salmon numbers.

9.6. Mitigation measures

9.6.1. Mitigation measures have been proposed which will minimise the potential for water quality impacts that may arise during the construction and operational phases of the development. These are presented on Pages 9 and 10 and Appendix 1.0 of the NIS. Mitigation measures have not been proposed in the NIS for the demolition phase.

9.6.2. Temporary measures to be employed during construction include use of best practice in construction management, which will include surface water management measures, the details of which are set out in the Outline Surface Water Management plan and will be incorporated into the Construction Environmental Management Plan.

All construction related activity will be confined to the footprint of the site. Construction will follow guidance from Inland Fisheries Ireland for the protection of fish habitat. This will include the erection of a robust silt curtain along the eastern boundary to prevent ingress of silt or toxic material to the Groody River, while allowing filtered surface water to pass through. Water leaving the site will pass through a silt trap or settlement pond so that only silt-free run-off will enter the drainage ditches leading to the Groody. Settlement ponds will be designed and located at strategic points in accordance with the catchment and nature of each phase of the works. The positioning of these barriers will be modified as the phases of the development progress to ensure that all run-off will have to pass through this filtration system. No direct discharge to the surface water drains or to the river Groody will be permitted.

9.6.3. Wheel wash facilities will be installed for vehicles leaving the site and the water used will be recycled and passed through the filtration system. Surface water from excavations will be pumped and discharged to these settlement ponds. Should groundwater be encountered and dewatering required, the water will be passed through the filtration system. The settlement ponds and silt fences/traps will be inspected daily to ensure appropriate functioning. A surface water monitoring program within the open drains and the River Groody will be implemented throughout the works, which will include surface water sampling on a daily, weekly and monthly basis.

9.6.4. All materials will be stored in a safe manner including hazardous materials and fuels or chemicals, which will be stored within double sealed tanks and bunded areas to prevent any seepage to groundwater and the River Groody. No stockpiling will be permitted within 20 metres of any surface water feature. Material stockpiles will be protected from washout during rain and material to be removed will be disposed of in accordance with statutory regulations. The proposed measures will ensure no direct discharges to surface water or ground water during either phase, as well as the control and direction of all run-off to the site drainage network which will connect to the municipal drainage network.

9.6.5. Permanent measures during the operational phase are also included in the Outline Surface Water Management Plan. Following the completion of each phase, revegetation and landscaping will be carried out of exposed areas. For the

operational phase, it is proposed to outfall to an existing drain within the ownership of the client which will eventually discharge to the River Groody. A new surface water network will be provided which will be entirely separate from the foul water sewer network. All surface water run-off from roof areas and hardstanding areas will be collected by a gravity pipe network. The SUDs design includes items such as green roofs, permeable paving, bioretention pods. The stormwater drainage will pass through an interceptor prior to attenuation and a hydrobrake downstream of the attenuation tank will limit forward flow to greenfield rates.

9.6.6. The proposed development will result in a significant reduction in uncontrolled surface water discharge once operational, compared with the current situation on site. This is due to the fact that the site currently has a substantial area of hardstanding on the site which holds a considerable amount of standing water, with no formal drainage system. The proposed development will be contained within the footprint of the hardstanding area and will introduce large new green spaces, attenuation tanks and various SUDs measures, with the run-off thereby giving rise to improvements in both quantity and quality of surface water run-off.

9.7. In-combination effects

9.7.1. In-combination effects with other plans and projects were examined in the NIS. Possible in-combination effects with other plans and projects that were considered included on-going implementation of the Water Framework Directive and the demolition of the existing structures on the site. No reference to the County Development Plan, Local Area Plan or any individual planning applications in the vicinity of the site were examined.

9.7.2. It is submitted that on-going implementation of the WFD will result in overall improvements to water quality throughout the Shannon catchment. It is accepted that environmental water quality can be impacted by the effects of water surface water run-off from areas of hardstanding, which are particularly pronounced in urban areas and can include pollution from particulate matter and hydrocarbon residues, and downstream erosion from accelerated flows during flood events. It is acknowledged that similar risks to surface water quality arise from the demolition works that are proposed as a separate development process, and that pollution may act in combination with this project to result in effects to European sites in the area.

However, it is stated in the NIS that the proposed surface water design and mitigation measures incorporated into the project will result in an improvement to water quality and quantity from the development.

9.7.3. The conclusions of the NIS are that given the lack of any significant residual effects from the proposed scheme (after the application of mitigation measures), the possibility of in-combination effects that could adversely affect the conservation objectives of the Lower River Shannon SAC is unlikely. However, the timing and phasing of other projects, is not taken into account, nor is the likely significant effects arising from the Demolition Phase of the project. I would accept that the overall quality and quantity of the surface water run-off from the site following completion of the development is likely to result in significant improvements compared with a Do-Nothing scenario, and that the water quality of the River Shannon is likely to improve with on-going implementation of the initiatives under the WFD.

9.7.4. However, I am not satisfied that the conclusions of the NIS in terms of the in-combination effects are based on the best scientific information available, particularly in relation to the requisite demolition works. The nature, scale and extent of the demolition works are such that they are likely to give rise to potential discharge of contaminated water, and hence indirect impacts, on water quality of the SAC by reason of the hydrological pathway to the River Shannon via the local surface water drainage system. The exclusion of this phase from the proposed project, which is necessary to facilitate the project, relates to the same site and is largely within the same footprint of the proposed works, results in the omission of key information regarding the project, and hence raises doubts regarding the adequacy of the detailed assessment of all aspects of the development project. These works should, therefore, have been included for appropriate assessment purposes. Furthermore, the fact that these works have been carried out in advance of a determination of approval for the project, means that the effects of the demolition works and the associated mitigation measures and monitoring programmes, would require a retrospective assessment of these matters. In such circumstances, it would be difficult to be definitive about the findings and conclusion. In such circumstances, the board would be precluded from granting permission.

9.8. Appropriate Assessment conclusions

Following Appropriate Assessment, it has not been ascertained that the proposed development, individually or in combination with other plans or projects, would not adversely affect the integrity of the Lower River Shannon SAC (002165) in view of the site's Conservation Objectives. This conclusion is based on

- A full and detailed assessment of all aspects of the proposed project alone or in combination with other projects, proposed mitigation measures and the effectiveness of mitigation measures has not been carried out.
- Clear precise and definitive conclusions regarding the lack of adverse effects on the integrity of the Lower Shannon SAC in light of the Conservation Objectives cannot be reached due to the failure to include all aspects of the proposed development and the need to consider part of the necessary mitigation measures and monitoring programmes retrospectively.

In conclusion, on the basis of the information provided with the application and appeal, including the Natura Impact Assessment, and in light of the assessment carried out above, I am not satisfied that the proposed development individually, or in combination with other plans or projects, would not adversely affect the integrity of the Lower River Shannon SAC (site code 002165), in view of the site's conservation objectives. In such circumstances, the Board is precluded from granting permission.

10.0 Recommendation

10.1. I recommend that permission be **refused** for the proposed development based on the reasons and considerations set out below.

11.0 Reasons and considerations

1. Having regard to the requirement to undertake an Environmental Impact Assessment and an Appropriate Assessment in respect of the proposed development, and to the restriction on exemptions from the need for planning permission for such development, by reason of Section 4(4) of the Planning and Development Act 2000 (as amended) and Article 9 of the Planning and Development Regulations 2001 (as amended), it is considered that the

requisite demolition works form an integral part of the proposed project for which planning permission is required. It is considered, therefore, that the exclusion of the said demolition works from the proposed development and the completion of these works in advance of the determination of the planning application or appeal, notwithstanding any exemption from the need for planning permission conferred by another statutory instrument, means that the Board is precluded from determining the application.

2. On the basis of the information provided with the application and appeal, including the Environmental Impact Assessment Report, supplementary information and the submissions on file, the Board is not satisfied that a full and adequate assessment of the potential impacts of the proposed development on the environment has been carried out and that the submitted EIAR meets the requirements of Article 94 of the Planning and Development Regulations, 2001 (as amended). In particular, the requisite demolition works were excluded from the proposed project and have been undertaken in advance of approval of the project, and were not subject to the EIA Directive prior to their execution. The Board is not satisfied, therefore, that the information before it was adequate to undertake an environmental impact assessment of the project and as such, it is has not been demonstrated that the proposed development would not have significant direct or indirect effects on the environment.

3. On the basis of the information provided with the application and appeal, including the Natura Impact Statement and submissions on file, and in light of the assessment carried out above, the Board is not satisfied that the information before it was adequate to undertake an appropriate assessment in respect of the proposed development. The Board is not satisfied, therefore, that the proposed development individually, or in combination with other plans or projects, would not adversely affect the integrity of the European Site Lower River Shannon SAC [Site code 002165] in view of the site's conservation objectives. This conclusion is based on the failure to carry out a detailed assessment of all aspects of the development project, using the best scientific knowledge, by reason of the exclusion of the demolition works from the project and having regard to the potential for discharge of contaminated

water to the local surface water drainage network that has a hydrological pathway to the Lower River Shannon SAC. In such circumstances, the Board is precluded form granting permission for the proposed development.

4. Having regard to the strategic vision for Limerick as the key economic driver for the Mid-West Region to rejuvenate and consolidate growth within Limerick City by creating a strong and diverse economic base, to the zoning objective for the majority of the site which is to provide for the creation and protection of enterprise and facilitate opportunities for employment creation, and to the prominent and strategic location of the site near the cluster of third level educational establishments, it is considered that the proposed development, by reason of the nature and extent of the commercial floorspace and the quantum and high density of the residential component, which would be prioritised in the phasing of the development, together with the poor quality and nature of the frontage development which would be dominated by the landmark apartment building, would materially contravene the said zoning objective and militate against the achievement of the strategic vision for Limerick City as set out in the Limerick 2030 Plan, in the current Limerick County Development Plan and in the Castletroy Local Area Plan. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

5. The site is located in a suburban area at the edge of the city, where the pattern of development and streetscape are poorly defined with an unattractive pedestrian environment, which is inadequately served by sustainable transport means, and a high noise environment arising from its siting alongside the R445. Having regard to the density and design of the proposed development which results in a poor quality layout by reason of the siting of the apartment block immediately adjacent to the R445, the failure to provide for active ground floor uses, the car-dominated circuitous nature of the internal road network which would not be conducive to pedestrian safety, and to the poor disposition and accessibility of the public open space which is remote from the units that it is intended to serve and separated by the road network, it is considered that the proposed development would result in a substandard form of development which would seriously injure the residential

amenities of the future occupiers of the development and would militate against an attractive pedestrian environment and high quality urban design. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

6. Having regard to the siting of the proposed 14-storey apartment Block 18 directly adjacent to a major road which is characterised by an excessively high noise environment, and to the layout and design of the building, which has a high proportion of one-bedroom units with a single aspect, and the communal open space provision at 3 separate roof levels, and to the requirement for certain windows and balconies to be fixed closed and sealed in order to attain an acceptable internal noise environment, it is considered that the proposed development would result in a substandard form of accommodation which would seriously injure the amenities of the future occupants of this apartment block. The proposed development would, therefore, be contrary to the policy objectives of the Limerick City and County Noise Action Plan (2018-2023), to Objective T11 of the Castletroy LAP (2019-2025) and to the proper planning and sustainable development of the area.

Mary Kennelly
Senior Planning Inspector

26th April 2021