



An
Bord
Pleanála

Inspector's Report ABP 311981-21

Development

Request to make alterations to previously permitted development (application reference number ABP 304028-19)

Location

The Opera Site, Limerick

Applicant

Limerick City and County Council

Type of Application

Section 146B - Request to alter development approved under Section 175 Planning and Development Act, 2000, as amended.

Inspector

Pauline Fitzpatrick

1.0 Introduction

- 1.1.1. The requester was granted approval under ref. ABP 304208-19 for a mixed use development entailing demolition, adaptive reuse and new build to provide for a mixed use scheme of primarily office uses, supported by a range of retail/non-retail services, café/restaurant, licenced premises, apart-hotel, civic/cultural use, residential and open space on The Opera Site in Limerick city centre. The requester is now submitting this request to An Bord Pleanála, pursuant to section 146B of the Planning & Development Act 2000 (as amended), for alterations to the terms of that approval as it relates to the permitted development.

2.0 Planning History

- 2.1.1. ABP 304028-19 - approval granted in February 2020 for a mixed use development entailing demolition, adaptive reuse and new build to provide for a mixed use scheme. The internal gross floor area of the proposed mixed use development, exclusive of the basement, is stated to be 45,170 sq.m. The overall proposed gross floor area is 53,531 sq.m. For ease of reference the site is divided into 7 parcels:
- 2.1.2. Parcel 1 – Corner of Michael Street and Ellen Street entails replacement of an existing surface car park with a 4 to 6 storey building comprising of retail and restaurant/café/bar at ground floor level with office use on the upper levels. The building has a stated gross floor area of 14,098 sq.m.
- 2.1.3. Parcel 2A – Corner of Patrick Street and Ellen Street entails demolition of existing office building and construction of a 5 storey, apart-hotel with café/bar/restaurant at ground floor level. Nos. 4-6 Ellen Street are to be refurbished and modified with retail at ground and basement level. The upper levels will comprise apart-hotel units. This parcel also provides for the refurbishment and adaptive reuse of Nos. 7-8 Ellen Street and Nos. 1-5 Patrick Street to provide for retail use at ground and basement levels and 13 no. residential units.
- 2.1.4. Parcel 2B - No. 9 Ellen Street (Quinn's Pub) is to be refurbished with bar/restaurant/café uses on all levels.
- 2.1.5. Parcel 3A4 - Renovation and adaptation of the former Town Hall which is a protected structure and Nos. 8 & 9 Rutland Street, demolition of building extensions to the rear

and replacement with a full height glazed atrium to the new plaza. Nos. 6 & 7 Rutland Street are to be demolished and replaced. The Town Hall, as refurbished and extended, is to house the City and County Library with provision for a cafe in the basement. The new build structure will provide commercial office floor space over 4 and 5 storeys.

- 2.1.6. Parcel 3B - Refurbishment and adaptive reuse of Nos 4-5 Rutland Street to provide for retail use at ground and basement levels with residential use on upper levels providing for 3 no. 2 bed apartments.
- 2.1.7. Parcel 5 - Demolition of existing office building and construction of a new landmark building, principally 14 storeys in height, with a 15 storey element providing for enclosed plant.
- 2.1.8. Parcel 6 - Retention of existing 4 storey, Granary Building which is a protected structure to be retained in office and restaurant/licenced premises use.
- 2.1.9. Basement level providing for 155 car parking spaces and 311 bicycle parking spaces in addition to ancillary services including plant, attenuation tanks, storage, refuse management etc. The basement is to be accessed from Michael Street.
- 2.1.10. Open Spaces to include a public square/plaza in the centre of the site, north-south public space to the rear of the Granary Building and enhanced public space at Bank Place. Pedestrian links via the open spaces are proposed from Bank Place, Patrick Street, Ellen Street and Michael Street. The proposed development also includes environmental improvement works to the adjacent public streets.

3.0 Proposed Changes

The changes proposed as part of the subject 146B request relate to **Building Parcel 1** and the **Basement** and are as follows:-

3.1. Parcel 1:

- Movement of Ellen Street façade northwards by 300mm to ensure alignment with the neighbouring buildings. This will result in a net loss of 23 sq.m. over the 4 floors.
- Gable wall from ground to 3rd floor onto Ellen Street will be built independent of the neighbouring building, with a small separating zone which will be fully

closed in and suitably weathered. This will result in a net loss of 9 sq.m. over 4 floors.

- 2nd floor window to Ellen Street reduced in size arising from detailed design of location of the wall adjoining the gable to the existing building.
- Office reception area to be increased by 50 sq.m. with introduction of double height space to the area. This results in a net loss of 54 sq.m. to the gross internal area at 1st floor level. The main entrance door is to be moved to provide a more central approach from the plaza to the building reception desk and lift lobby.
- Omission of one access door from the plaza to the café due to the increase in the office reception area.
- Omission of two areas of signage integrated with the ground floor curtain wall glazing arising from the expanded reception area to the commercial offices and to account for future air louvre requirements for the fit out of the commercial unit.
- Extension of the ground floor glazing arising from the adjustment allowing for increase to active ground floor commercial frontage on Ellen Street.
- Reduction in the requirement for ground level openings with ventilation grilles to the basement arising from detailed design of the car park ventilation strategy systems. All vents to the plaza elevation and along Michael Street have been omitted. The vents in front of the Ellen/Michael Street retail unit have been reduced to one bay along Ellen Street.
- The dimension between the ground floor to the 1st floor to be reduced from 4.800mm to 4.725mm to ensure that the Ambulant Stairs as required under TGD Part M is compliant. The datum of all upper floor levels to be lowered by 75mm but the floor-to-floor dimensions remains unchanged.
- Canopy over ramp altered from glass to aluminium louvres for safety and maintenance reasons.
- Inclusion of 2nd pedestrian access pathway from Michael Street to the new public plaza.

- 4th floor door to terrace to be moved.
- Increase from a single substation to a double substation and inclusion of additional switch-room to meet the requirements of ESB. As this is required to be accessed from a public area at street level it will result in the loss of c. 4 metres of shop front onto Michael Street.
- Detailed design results in the reorganisation of Central Core (A) and Secondary Core (B) with the footprint of the central core (A) reducing in area on the upper floors.
- Roof top plant increased by 126 sq.m. to ensure compliance with TGD Part L. The screen enclosure is to be increased .

3.2. Overall Basement:

3.2.1. Technical Guidance Document Part L requires a more onerous mechanical and electrical plant provision to meet Near Zero Energy Building requirements (nZEB). In response, additional plant to the basement area is proposed for all buildings rather than at ground or roof levels.

- A general reorganisation of the overall basement was carried out with an increase in area of 824 sq.m. (gross) identified to allow for reorganised car and bicycle parking solutions and additional area provision for plant. The core alterations and delivery strategy (to ensure all deliveries to commercial buildings would be accommodated at basement level) also impact on the basement reorganisation.
- The divisional line between the communal basement carpark and the respective areas dedicated to parcels 3 and 4 are to be altered arising from the above reorganisation.
- Dedicated cycle/pedestrian access stairs to the basement is to be omitted with a cycle ramp to be incorporated into the vehicle ramp. A dedicated pedestrian stairs to be provided within the plaza area in proximity to the laneway accessing Ellen Street.
- Width of vehicle ramp to be widened to allow for 2 vehicular lanes.

- The car and bicycle parking arrangement is to be altered. There is no change in the number of spaces to be provided.
- Stair and ramp connection from the library café to the basement has been omitted. The rationalised access will be via the primary parcel 3 basement area.
- A dedicated bin lift is to be provided.

4.0 Requester's Submission

4.1.1. The requester considers that the alterations sought do not constitute the making of a material alteration of the permitted development and would not give rise to significant environmental effects beyond those already considered in the original EIAR and the Board's previously completed EIA.

4.1.2. The request is accompanied by:

- Planning Report
- Architects Report
- Conservation Architect's Opinion
- Archaeologist's Opinion
- Engineering Planning Report
- Construction and Demolition Waste Management Plan
- AA Screening Report
- Plans and drawings

4.1.3. ***Need for Amendments***

The alterations are required to implement design improvements and efficiencies identified subsequent to the grant of permission. This includes requirements of the ESB, fire safety strategy, more efficient building maintenance and compliance with Technical Guidance Document Part L.

4.1.4. ***Planning Policy Context***

- The permitted development will transform the prominent brownfield site within Limerick City Centre in line with Limerick 2030: An Economic and Spatial Plan for Limerick, adopted as variation no.4 of the Limerick City Development Plan.

4.1.5. *Environmental Considerations*

- The details set out throughout the report, the accompanying details and AA Screening Report provide the Board with full details and description of the nature of the proposed works, relevant environmental sensitivities and potential effects arising in the context of the proposed amendments.
- It is considered that EIA is not required.

Population and Human Health

- No new considerations arise

Land, Soil, Geology and Groundwater

- The provisions of the Construction Methodology and Phasing Management Plan (CMPP) are as per the provisions of the permitted development and the compliance documentation submitted in relation to the commencement of construction on the site.
- The operational phase is unlikely to have significant adverse impacts on the local geological/hydrogeological environment due to the environmental considerations incorporated into the design.
- No new considerations arise.

Water

- The mitigation measures associated with the permitted development to manage and control potential impacts during development will not need to be changed or augmented to facilitate the proposed development.
- As with the permitted development surface water runoff will be limited to the pre-development greenfield discharge rate and will discharge to existing drainage infrastructure.
- No new considerations arise.

Air and Climate

- No new considerations arise.

Noise

- The proposed amendments will only result in minor, additional noise from the construction of the extended basement area. Given the size of the additional area any additional impacts are not predicted to fall outside the scope of the impacts identified in the EIAR. No new impacts are predicted and no new mitigation measures are required.
- No change in vibration impacts is predicted that would require specific mitigation.

Microclimate

- No new considerations arise.

Landscape and Visual

- The changes to the basement cannot be seen above ground.
- The changes to the façade of the building in Parcel 1 are minimal and will not affect the streetscape.
- No new considerations arise.

Traffic and Transportation

- There will be a small increase in construction traffic arising from the additional material to be extracted to allow for the increased basement. This increase will be in the order of 250 two way HCV movements over a 3-6 month period. This level of additional traffic over this period would not be considered material.

Waste Management

- There will be additional waste from the enlarged basement. The mitigation measures associated with the permitted development to manage and control waste during construction will not be required to be changed or altered.

Material Assets

- No new considerations arise

Biodiversity

- The development will be entirely within the scope of what was assessed as part of the permitted development. No new considerations arise.
- A Screening Assessment Report accompanies the request.

Archaeology and Cultural Heritage

- An Archaeologist's Opinion accompanies the amendment request.
- The increase in the basement does not present further negative impacts on archaeology and cultural heritage. The mitigation measures for the approved scheme remain suitable and appropriate.

Architectural Heritage

- Conservation Architect's Opinion accompanies the request.
- The alterations and modifications are minor and do not materially affect the character of protected structures and do not present any further impacts on the special character of the wider streetscape/receiving environment.

5.0 Legislative Basis

Section 146B. — (1) Subject to subsections (2) to (8) and section 146C, the Board may, on the request of any person who is carrying out or intending to carry out a strategic infrastructure development, alter the terms of the development the subject of a planning permission, approval or other consent granted under this Act.

(2)(a) As soon as practicable after the making of such a request, the Board shall make a decision as to whether the making of the alteration to which the request relates would constitute the making of a material alteration of the terms of the development concerned.

(b) Before making a decision under this subsection, the Board may invite submissions in relation to the matter to be made to it by such person or class of person as the Board considers appropriate (which class may comprise the public if, in the particular case, the Board determines that it shall do so); the Board shall have regard to any submissions made to it on foot of that invitation.

(3)(a) If the Board decides that the making of the alteration would not constitute the making of a material alteration of the terms of the development concerned, it shall

alter the planning permission, approval or other consent accordingly and notify the person who made the request under this section, and the planning authority or each planning authority for the area or areas concerned, of the alteration.

(b) If the Board decides that the making of the alteration would constitute the making of such a material alteration, it shall —

(i) by notice in writing served on the requester, require the requester to submit to the Board the information specified in Schedule 7A to the Planning and Development Regulations 2001 in respect of that alteration, or in respect of the alternative alteration being considered by it under subparagraph (ii)(II) , unless the requester has already provided such information, or an environmental impact assessment report on such alteration or alternative alteration, as the case may be, to the Board, and

(ii) following the receipt of such information or report, as the case may be, determine whether to —

(I) make the alteration,

(II) make an alteration of the terms of the development concerned, being an alteration that would be different from that to which the request relates (but which would not, in the opinion of the Board, represent, overall, a more significant change to the terms of the development than that which would be represented by the latter alteration), or

(III) refuse to make the alteration.

(3A) Where the requester is submitting to the Board the information referred to in subsection (3)(b)(i) , that information shall be accompanied by any further relevant information on the characteristics of the alteration under consideration and its likely significant effects on the environment including, where relevant, information on how the available results of other relevant assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive have been taken into account.

(3B) Where the requester is submitting to the Board the information referred to in subsection (3)(b)(i) , that information may be accompanied by a description of the features, if any, of the alteration under consideration and the measures, if any,

envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment of the alteration.

(4) Before making a determination under subsection (3)(b)(iii), the Board shall determine whether the extent and character of —

(a) the alteration requested under subsection (1), and

(b) any alternative alteration it is considering under subsection (3)(b)(ii)(II)

are such that the alteration, were it to be made, would be likely to have significant effects on the environment (and, for this purpose, the Board shall have reached a final decision as to what is the extent and character of any alternative alteration the making of which it is so considering).

6.0 Board Correspondence

The Board informed Limerick City and County Council on 23rd November 2021 of the request received and enclosed a copy of same.

The planning authority was not invited to make any submission at this stage.

7.0 Assessment

- 7.1.1. The first consideration in relation to this request to alter the terms of the development approved under ref. ABP 304208-19 is to determine if the making of the alteration would constitute the making of a material alteration of the terms of the approved mixed use development.
- 7.1.2. As noted in the documentation accompanying the request enabling works have commenced on site including the demolition of buildings, and protection/conservation works to buildings and protected structures to be retained. A new surface water sewer along Michael Street and the new outfall to the Abbey River in Charlotte's Quay have been constructed with diversion of the foul sewer running through the site also carried out.
- 7.1.3. The amendments arise following detailed design and consultation post approval so as to implement design improvements and efficiencies including the requirements of the ESB, fire safety strategy, more efficient building maintenance and compliance

with Technical Guidance Document Part L to meet nZEB requirements. The proposed alterations are summarised in section 3 above and are set out in detail in Sections 2 and 3 of the Architect's Report and Section 4 of the Planning Report accompanying the request. The difference between that permitted and that proposed arising from the alterations in terms of internal accommodation would be c.3 sq.m.

- 7.1.4. Block 1 is a new build and does not entail works to protected structures. The modifications proposed are very minor in detail including an adjustment in the building façade, alterations to the door and window openings, and increase in roof plant enclosure. I submit that the modifications would have a minimal visual impact on the overall scheme.
- 7.1.5. I submit that the character and setting of the structures bounding the building along Ellen Street and further north on Michael Street would not be materially affected by the proposed alterations. The visual impact of the increase in the roof plant screen enclosure is mitigated by using the same screen geometry and maximising the distance from the parapets.
- 7.1.6. The overall basement area is set to increase by 824 sq.m. from 9, 541 sq.m. to 10,365 sq.m. This equates to an 8% increase. This arises as a consequence of the additional electrical and mechanical plant requirements to meet nZEB requirements and the resulting reorganisation of the car and bicycle parking. It also provides for a delivery strategy which allows for all deliveries to commercial components in the scheme to be from the basement. There will be no increase in the number of permitted parking spaces at 155 or cycle spaces at 311.
- 7.1.7. In the context of the extent of basement area permitted and the purpose of the extension I do not consider that the 8% increase in area to be material with the mitigation measures associated with the management and control of waste during construction in the approved development not required to be altered. The additional vehicular movements, equating to approx. 250 two way HCV, would be over a short period of time of between 3 and 6 months, and is considered not material. It would not require any alterations to the traffic management system for the construction phase.

- 7.1.8. The increase in the overall basement footprint will have a minor impact where it is brought closer to the Ellen Street buildings which will be mitigated by the use of the permitted vibration reduction methods at construction stage and protection of existing rear elevation walls.

Human Beings

- 7.1.9. In my opinion no new considerations arise in terms of human beings. The works will have no material impact on noise and dust as assessed. The building height is not being altered therefore no issues arise in terms of daylighting and sunlighting. I submit that the proposed alterations will not alter the findings of the EIAR and the EIA carried out by the Board.

Biodiversity

- 7.1.10. The site is a brownfield site within Limerick City Centre. The alterations will not result in any additional impact on flora, fauna and avifauna over that as originally assessed in the EIAR.

Land and Soil

- 7.1.11. The site is a brownfield site within Limerick City Centre. The amendments providing for an enlarged basement area will result in increased waste to be disposed of. The mitigation measures associated with the permitted development to manage and control waste during construction will not be required to be changed or altered. Construction works will be in accordance with a Construction Methodology and Phasing Management Plan which accompanied the original application.

Water

- 7.1.12. The surface water sewer network has been constructed as part of the enabling works in accordance with the approved plans and is now separated from the foul water sewer network. All surface water runoff will be attenuated within the site and discharged at the allowable rate of 4 l/s/ha to the said recently constructed surface water network along Michael Street. The volumes of the two attenuation tanks in the permitted scheme at Bank Place and within the Granary Courtyard have been modified and will have storage capacities of 270m³ and 460m³ respectively but will still cater for a 1 in 100 year rainfall event without the risk of flooding. The diversion of the foul sewer to Michael Street has been undertaken in accordance with the

details of the permitted scheme. Minor alterations to the wastewater drainage within the development is proposed prior to its discharge to the public system as permitted. No alterations are proposed to the water supply strategy from that permitted.

7.1.13. I therefore accept the conclusion that the proposed alterations would not give rise to significant effects over that assessed in the EIAR and the EIA undertaken by the Board.

Air and Climate

7.1.14. The dust suppression measures during the construction phase as detailed in the EIAR and the Construction Methodology and Phasing Management Plan which accompanied the original application will apply with no impacts anticipated during the operational phase over those as assessed for the permitted development.

7.1.15. The requirement to meet nZEB obligations will result in the building having a high energy performance and will represent a positive impact from that assessed in the EIAR.

Landscape

7.1.16. In the context of the overall project the proposed external alterations are minor. They do not impact on the height of the scheme. I submit that the proposed alterations will not alter the findings of the EIAR.

Cultural Heritage

7.1.17. The increase in the basement does not present further negative impacts on archaeology and cultural heritage. The mitigation measures for the approved scheme do not require alteration. The said commitments include a targeted programme of archaeological testing trenching to be carried out following the demolition of structures and prior to any intrusive enabling works. The commitment notes that archaeological mitigation such as monitoring or excavation may be required depending on the results of the investigation.

7.1.18. The alterations and modifications are minor and do not materially affect the character of two protected structures within the overall site (The Granary to the south and The Town Hall to the north-west). The works do not present any further impacts on the special character of the wider streetscape/receiving environment.

7.1.19. I do not consider that the increase in basement area or external modifications to Block 1 are substantial and I do not consider that the alterations would warrant revised conditions if the case incorporating the enlarged basement area and external alterations came before the Board. I agree with the requester's submission that the said modifications do not alter the conclusions set out in the EIAR. I do not consider that there is a material change in terms of cultural heritage.

Material Assets

7.1.20. In my opinion no new considerations arise in terms of material assets. The additional vehicular movements associated with the additional extraction to facilitate the extended basement are not material in the context of the movements calculated to arise during the construction phase. I submit that the proposed alterations will not alter the findings of the EIAR.

Interaction of Impacts

7.1.21. I submit that the interaction of impacts does not materially alter those identified in the EIAR and assessed in the EIA.

Conclusion

7.1.22. The proposed works can be implemented while still ensuring that the mixed use development project can continue to be met without impediment. The modifications will not alter the character of the permitted development.

7.1.23. I submit that no new considerations arise in relation to impacts on the environment which were not considered in the assessment of impacts for ABP 304208-19. Any impact on cultural heritage as referred to above, would be marginal.

7.1.24. I am of the opinion, having fully considered the proposed alterations and the development as approved under ABP 304208-19, that the Board would not have determined the proposal differently had the modifications now proposed in the alteration formed part of the said application. In that regard, I consider it reasonable to conclude that the proposal subject of this request does not constitute the making of a material alteration of the development as approved under ABP 304208-19.

7.1.25. I have considered the provisions of section 146B(2)(b) which provides for, at the Board's discretion, the invitation of submissions from persons, including the public. Having considered the nature, scale and extent of the alteration, the information on

file and the nature, scale and extent of the development granted under ABP 304208-19 I am of the opinion that the inviting of submissions from the public in this instance is not necessary and is not required for the purposes of the Board in determining the matter.

7.2. Appropriate Assessment

Compliance with Article 6(3) of the Habitats Directive

- 7.2.1. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.

Background on the Application

- 7.2.2. Approval was granted under ref. ABP 304208-19 for a mixed use development entailing demolition, adaptive reuse and new build to provide for a mixed use scheme of primarily office uses, supported by a range of retail/non-retail services, café/restaurant, licenced premises, apart-hotel, civic/cultural use, residential and open space on The Opera Site in Limerick city centre. The application was accompanied by a Natura Impact Statement and the Board completed an appropriate assessment. It concluded that it was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Sites, in view of the sites' conservation objectives.
- 7.2.3. This request to alter the terms of the said approval is accompanied by Stage 1 AA Screening Report prepared by Ecology Ireland dated October 2021. It was prepared in line with current best practice guidance and provides a description of the amendments proposed to the approved development and identifies European Sites within a possible zone of influence of the development.
- 7.2.4. The report concludes that it can be objectively concluded that no significant effects arising from the proposed modifications to the approved development are likely to occur in relation to the Natura 2000 sites (Lower River Shannon SAC and River Shannon and River Fergus Estuaries SPA) or indeed any other Natura 2000 sites in the wider hinterland.

7.2.5. Having reviewed the documents and submissions I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

Screening for Appropriate Assessment- Test of likely significant effects

7.2.6. The project is not directly connected with or necessary to the management of a European Site and, therefore, it needs to be determined if the development is likely to have significant effects on a European site(s).

7.2.7. The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site.

Brief description of the development

7.2.8. The applicant provides a description of the proposed amendments in Section 2.2 of the Stage 1 AA screening report. In summary, it comprises:

- Increase in the size of the basement area and internal alterations therein.
- Internal and External modifications to the building permitted in Parcel 1 which has frontage onto Michael Street and Ellen Street.

7.2.9. The site location is described in section 2 of the screening report. It is a brownfield site in Limerick City Centre.

7.2.10. Taking account of the characteristics of the proposed amendments in terms of the location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European sites:

Construction Phase:

- Surface water run-off from the site that contains silt, sediments and/or other pollutants impacting water quality in downstream Natura 2000 sites.

Operational Phase:

- Surface water run-off from the site that contains silt, sediments and/or other pollutants impacting water quality in the downstream Natura 2000 site.

European Sites

7.2.11. The Abbey River which forms part of the Lower River Shannon SAC is c. 40 metres to the north of the overall Opera Site. The River Shannon and River Fergus Estuaries SPA is c.725 metres downstream.

European Site	Qualifying Interests
Lower River Shannon SAC (site code 002165)	Sandbanks which are slightly covered by sea water 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 Ranunculion 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, Salmon, Common Bottlenose Dolphin, Otter
River Shannon and River Fergus Estuaries SPA (site code 004077)	Cormorant, Whooper Swan, Light-bellied Brent Goose, Shelduck, Wigeon, Teal, Pintail, Shoveler, Scaup, Ringed Plover, Golden Plover, Grey Plover, Lapwing, Knot, Dunlin, Black-tailed Godwit, Bar-tailed Godwit, Curlew, Redshank,

	Greenshank, Black-headed Gull, Wetland and Waterbirds.
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Detailed conservation objectives have been drawn up for the sites, the overall aim being to maintain or restore the favourable conservation condition of the identified qualifying interests.

7.2.12. Identification of Likely Effects

- The enabling works for the approved development completed to date have addressed what was identified as a pathway from the site to the downstream SAC and SPA. The drainage regime in the area discharged directly to the Abbey River and to an interceptor sewer to the River Shannon. The drainage works, including a new outfall to the Abbey River on Charlotte’s Quay, to service a new surface water sewer have been installed. These works have effectively eliminated the likelihood of discharge of pollutants arising from the site via the pre-existing combined sewer pathway. The works were carried out under the supervision of an Ecological Clerk of Works in accordance with the commitments in the Construction and Environmental Management Plan that accompanied the approved development.
- The proposed modifications are minor in nature and do not introduce any new risks nor require any new environmental controls.
- The existing commitments provided in relation to environmental controls that will be applied during construction and in operation of the approved development will continue to apply at the site, regardless of the proposed modifications.

7.2.13. In combination effects are addressed in Section 3.2.8 of the screening report for AA. Cumulative and in-combination effects were comprehensively considered as part of the EIAR and NIS for the approved development. No new significant projects or plans in the zone of influence have been identified. No potential for significant cumulative effects have been identified.

Mitigation Measures

7.2.14. No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise.

Screening Determination

7.2.15. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the proposed alterations, individually or in combination with other plans or projects, would not be likely to give rise to significant effects on European Site Nos. 002165 and 004077 or any other European site, in view of the sites' Conservation Objectives and Appropriate Assessment (and submission of a NIS) is not, therefore, required.

8.0 Recommendation

I recommend that the Board decides that the proposed modifications subject of this request do not constitute the making of a material alteration of the terms of the development as approved under ABP 304028 -19.

DRAFT ORDER

REQUEST received by An Bord Pleanála on the 17th day of November, 2021 from Limerick City and County Council c/o Tom Phillips Associates under section 146B of the Planning and Development Act, 2000, as amended, to alter the terms of a mixed use development described as The Opera Site approved under section 175 of the Planning and Development Act, 2000, as amended.

WHEREAS the Board made a decision to approve the proposed development, subject to conditions, for the above-mentioned development by order dated the 27th day of February, 2000,

AND WHEREAS the proposed alteration is described as follows:

Modifications to Building Parcel 1 and the permitted basement

AND WHEREAS the Board decided, in accordance with section 146B(2)(b) of the Planning and Development Act 2000, as amended, not to invite submissions or observations from the public in relation to whether the proposed alteration would constitute the making of a material alteration to the terms of the development concerned,

AND WHEREAS the Board decided, in accordance with section 146B(2)(a) of the Planning and Development Act 2000, as amended, that the proposed alterations would not result in a material alteration to the terms of the development, the subject of the approval,

AND WHEREAS having considered all of the documents on file and the Inspector's report, the Board considered that the making of the proposed alteration would not be likely to have significant effects on the environment or on any European Site,

NOW THEREFORE in accordance with section 146B(3)(a) of the Planning and Development Act, 2000, as amended, the Board hereby alters the abovementioned decision so that the approved development shall be altered in accordance with the plans and particulars received by An Bord Pleanála on the 17th day of November, 2021, for the reasons and considerations set out below.

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard.

REASONS AND CONSIDERATIONS

Having regard to:

- (i) the nature and scale of the mixed use development approved under An Bord Pleanála reference number ABP 304208-19 for this site,
- (ii) the limited nature and scale of the alterations when considered in relation to the overall permitted development
- (iii) the examination of the environmental impact, including in relation to Natura 2000 sites, carried out in the course of that application,
- (iv) the absence of any significant new or additional environmental concerns (including in relation to Natura 2000 sites) arising as a result of the proposed alterations, and
- (v) the report of the Board's inspector, which is adopted,

It is considered that the proposed alterations would not be material. In accordance with section 146B(3)(a) of the Planning & Development Act, as amended, the Board hereby makes the said alterations.

Pauline Fitzpatrick
Senior Planning Inspector

December, 2021