



An
Bord
Pleanála

Inspector's Report

ABP-311994-21

Development	Construction of 48 houses. A Natura Impact Statement was lodged with the planning application.
Location	Smithstown, Shannon, Co Clare.
Planning Authority	Clare County Council
Planning Authority Reg. Ref.	21372
Applicant(s)	Woodhaven Developments Limited.
Type of Application	Permission
Planning Authority Decision	Grant with conditions
Type of Appeal	First vs Special Contribution Condition Third Party vs Decision
Appellant(s)	Woodhaven Developments Limited Edward Keena
Observer(s)	None
Date of Site Inspection	21/01/2022
Inspector	Adrian Ormsby

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1.0 Site Location and Description

- 1.1. The appeal site is located in Shannon town on the northern side of the Airport Road R-471. The site is located c. 500m east of the Shannon Roundabout and the N19 which is a further 1km south west of the N18/M18 motorway.
- 1.2. The site has a stated site area of 2.83 ha and forms part of a larger landholding of c.5.64ha. It is located is located to the rear/north of Tracey's Oakwood Hotel and is bound to the west by the Tullyvarra Road L-7178 local road which links the R-471 to the Smithstown link road and onto the Shannon Roundabout and the N19. The northern boundary of the site is a local cul de sac road that serves three one off style houses.
- 1.3. The subject site is undeveloped and appears to most recently have been used for agricultural purposes. There is a small area of hardstanding located to the south western corner of the site with a trailer parked on site. The boundary to the hotel includes mature trees and hedgerows. The road side boundaries of the site includes mature hedgerows. Mature hedgerows also delineate field boundaries within the site.
- 1.4. There are a number of commercial properties in the general area of the site to the southwest and south east including McDonalds Drive Thru, a Circle K filling station, the Shannon Aviation Museum. Other commercial properties including car maintenance businesses are located further to the east of the site.

2.0 Proposed Development

- 2.1. The application comprises-
 - 48 houses
 - 34 no. two storey dwelling houses,
 - 6 no. two storey dwelling houses with optional additional attic space accommodation and
 - 8 no. single storey dwelling houses
 - A Natura Impact Statement (NIS) was submitted.

2.2. The Planning Authority sought Further Information (FI) on the 11/06/21 in relation to the following-

1. A Traffic Impact Assessment was requested having regard to proposed development and all R1 zoned lands. Details of electric vehicle charging was also requested.
2. Proposals required to ensure high level of residential amenity, including garden levels and sound reduction measures for dwellings 5-11 and 23-32 to ensure normal use of adjoining hotel do not detract from residential amenity.
3. A Special Development Contribution is required and further details required on the extent of path to be provided by the applicants.
4. Applicant invited to comment/address the potential for higher density, proposal to reduce access points onto main access road and the useability of the central open space which is separated from houses by the main access road.

2.3. The applicants responded to the FI request on the 26/08/21 with no major revisions to the development as applied for.

2.4. The FI response was consider Significant and revised public notices were received on the 10/09/21

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant permission on the 04/11/20 subject to 24 conditions generally of a standard nature and including-

- C. 1 The layout of the proposed dwellings 23-40 shall be as per site layout plan 20/04/21. All other elements shall be as per site layout plan of 26/08/21.
- C.2 S47 agreement to restrict units to individual purchasers.
- C. 3 Mitigations measures of NIS to be implemented
- C. 6 Finished floor levels shall not be modified
- C. 9 Schedule of materials/finishes to be used

- C. 10a the Development shall be open plan with no walls or fences to be erected (notwithstanding any exempted development provision)
- C. 16 Construction Management Plan
- C. 22 Development Contribution €266,352
- C. 23 Bond €240,000
- C. 24 Special Development Contribution €232,000

4.0 Planning Authority Reports

4.1. Planning Reports

4.1.1. The following is noted from the first planners report (dated 11/06/21)-

- The site is zoned R1 as per the Shannon Town and Environs Local Area Plan 2012-2018 (as amended)
- The site is surrounded by lands zoned for commercial use.
- The application provides for Phase 1 of the overall development of residential zoned lands. The proposal equates to a density of 20 units per useable hectare in proposed phase 1.
- If consideration is given to the entirety of the lands contained within the Masterplan for the applicants land at this location which has an area of 5.64 ha, the overall density of future proposed density (excluding creche) is 29.7 units per ha.
- The subject site is an 'Outer suburban/ greenfield site' where net densities in the range of 30-50 per ha should be encouraged. Having regard to the overall density as per the Masterplan submitted 29.7 per ha is considered acceptable.
- The layout has been designed in such a way to link in with potential future development on lands to the east.
- The design of dwellings, mix of houses and materials proposed are considered acceptable.

- Boundaries to side and rear of dwellings are considered acceptable.
- It is proposed to set the western boundary that faces the Tullyvarra road back into the site to increase the width of the road to 6m.
- Proposed boundaries are acceptable.
- The proposed development would not result in overshadowing, overbearance or overlooking.
- A construction management plan shall be attached as a condition.
- The development will have a very limited impact on surrounding uses in terms of noise and disturbance.
- The housing mix proposes 18 two beds, 26 three beds and 4 four beds. The houses will be single and two storey. The mix is acceptable.
- Traffic safety implications are considered one of the most important aspects of the proposals.
- An assessment is required of the capacity of the junction of the R471 and the Tullyvarra Road to cater for the proposed development and the potential for 158 units and creche. A TIA is required.
- Having regard to the footprint and excavation required for the development archaeological monitoring should be conditioned.
- Having regard to the NIS submitted and mitigation measures proposed the development will not have a negative impact on the qualifying interest of any Natura 2000 site.
- Mitigation measures of the Biodiversity assessment shall be provided by way of condition.
- The proposal constitutes a sub threshold EIA development. There is no real likelihood of significant effects on the environment.
- The site is not located within a designated flood risk area and potential for on site flooding would be limited.
- No issues arise as regards water supply and connection to public sewerage treatment system.

4.1.2. The second Planners Report (dated 01/11/21) reflects the decision of the Planning Authority. The following is noted from the report-

- The modifications made in response to the Further Information request have satisfactorily addressed the primary concerns with respect to this development. Any minor issues which remain can be addressed by means of condition.

4.2. Other Technical Reports

- Clare Co. Co's Road Design Office-
 - 08/06/21- Further Information required including TIA and Special Development Contributions.
 - 20/09/21- concerns raised about the suitability of the public road. The engineer's own traffic count will be carried out and until then not in a position to comment on FI. Should the road not be suitable then a contribution should be sought for road widening and junction upgrade.
 - 06/10/21- the road will require an upgrade to a minimum of 5.5m with a 2m footpath. A contribution should be sought for realignment of junction, amount to be agreed with Municipal Districts Engineer
- Municipal Districts Engineer
 - 20/10/21- A contribution of €232,000. Costs based on-
 - 250m of 2m wide concrete path - €45,000
 - 250m of 250m of 5.5m wide road- €137,000
 - Junction upgrade- €50,000
- Fire Authority- two reports on file dated 20/05/21 and 25/05/21
 - No objections subject to conditions.

4.3. Prescribed Bodies

- Mid-West National Roads Design Office-
 - No concerns raised

- Irish Aviation Authority-
 - No observations
- Shannon Airport-
 - No observations
- Health and Safety Authority-
 - Does not advise against the development.
- Irish Water-
 - No objection
- Development Applications Unit-
 - 10/06/21 and the 10/09/21, Archaeological Conditions recommended
- Transport Infrastructure Ireland-
 - 08/09/21 Position remains the same as the letter of 17/06/21 (This date was after the FI issued. I have not been able to identify a TII report/letter on file dated the 17/06/21)

4.4. Third Party Observations

4.4.1. Two third party submissions were received and are on file. The main planning issues raised can generally be summarised as follows-

- Impacts of the overall development in excess of 100 houses on home value and residential amenity.
- Concerns of housing types, height and street lighting
- Environmental Impacts
- Impacts of other developments in the area.
- Construction working hours
- Light pollution and air emissions
- Antisocial behaviour
- Traffic generation

- Potential impacts from adjoining hotel operations on future residential amenity
- Density, proposal should be considered Infill where a density of 50+ per ha is required
- No creche or Schools Demand Need Assessment Report submitted.
- 158 units would be a Strategic Housing Development
- Application is premature pending Confirmation of Feasibility from Irish Water.
- A Site Specific Flood Risk Assessment is required.

5.0 Planning History

5.1. This Site (recent)-

- ABP-306417-20- Vacant Site Levy - Appeal S.9, The Board confirmed entry on the Vacant Site Register on the 28/04/2020

5.2. Adjoining Site to south-east and north-east of subject appeal-

- 211397- 55 houses and a Childcare facility **lodged** on the 30/12/2021, further information sought on the 24/02/2022

5.3. Nearby Sites to north and north west-

- ABP-305437-19- 3 mixed use commercial buildings, **Grant**, 10/01/2020
- ABP-307576-20- Retention of new entrance, construction of new entrance and the alteration of land levels, **Grant**, 09/11/2020

5.4. Hotel site to immediate south-

- 20102- external private patio area with boundary walls, amended main vehicular entrance area and signage, **Grant**, 26/03/2020
- PL 03.244422- Retention of a well, pumps, storage tanks, water treatment units to hotel, **Grant**, 07/05/2015

6.0 Policy Context

6.1. National Planning Framework (NPF)

- 6.1.1. The NPF seeks to focus growth on cities, towns and villages with an overall aim of achieving higher densities than have been achieved to date.

National Strategic Outcome 1 Compact Growth

From an urban development perspective, we will need to deliver a greater proportion of residential development within existing built-up areas of our cities, towns and villages and ensuring that, when it comes to choosing a home, there are viable attractive alternatives available to people.

Combined with a focus on infill development, integrated transport and promoting regeneration and revitalisation of urban areas, pursuing a compact growth policy at national, regional and local level will secure a more sustainable future for our settlements and for our communities.....

- 6.1.2. The various policies in the NPF are structured under National Policy Objectives (NPOs). Relevant National Policy Objectives include-

- *3c- Deliver at least 30% of all new homes that are targeted in settlements other than the five Cities and their suburbs, within their existing built-up footprints¹.*
- *6- Regenerate and rejuvenate cities, towns and villages of all types and scale as environmental assets, that can accommodate changing roles and functions, increased residential population and employment activity and enhanced levels of amenity and design quality, in order to sustainably influence and support their surrounding area.*
- *9- In each Regional Assembly area, settlements not identified in Policy 2a or 2b of this Framework², may be identified for significant (i.e. 30% or more*

¹ This means within the existing built-up footprint of all sizes of urban settlement, as defined by the CSO in line with UN criteria i.e. having a minimum of 50 occupied dwellings, with a maximum distance between any dwelling and the building closest to it of 100 metres, and where there is evidence of an urban centre (shop, school etc.).

² Shannon is a settlement and not identified in Policy 2a or 2b of the NPF

above 2016 population levels) rates of population growth at regional and local planning stages, provided this is subject to:

- *Agreement (regional assembly, metropolitan area and/or local authority as appropriate);*
 - *Balance with strategies for other urban and rural areas (regional assembly, metropolitan area and/or local authority as appropriate), which means that the totality of planned population growth has to be in line with the overall growth target; and*
 - *A co-ordinated strategy that ensures alignment with investment in infrastructure and the provision of employment, together with supporting amenities and services.*
- *11- In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.*
 - *35- Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.*
 - *67- Provision will be made for Metropolitan Area Strategic Plans to be prepared for the Dublin, Cork, Limerick, Galway and Waterford Metropolitan areasby the appropriate authorities in tandem with and as part of the relevant Regional Spatial and Economic Strategies*
 - *68- A Metropolitan Area Strategic Plan may enable up to 20% of the phased population growth targeted in the principal city and suburban area, to be accommodated in the wider metropolitan area i.e. outside the city and suburbs or contiguous zoned area, in addition to growth identified for the Metropolitan area. This will be subject to:*
 - *any relocated growth being in the form of compact development, such as infill or a sustainable urban extension;*

- any relocated growth being served by high capacity public transport and/or related to significant employment provision; and
- National Policy Objective 9.....

6.1.3. Other relevant sections include-

Section 2.6 Securing Compact and Sustainable Growth states-

An increase in the proportion of more compact forms of growth in the development of settlements of all sizes, from the largest city to the smallest village, has the potential to make a transformational difference. It can bring new life and footfall, contribute to the viability of services, shops and public transport, increase housing supply and enable more people to be closer to employment and recreational opportunities, as well as to walk or cycle more and use the car less.

Section 3 Effective Regional Development- Section 3.4 Southern Region- Mid West-

“A Metropolitan Area Strategic Plan (MASP) will be prepared for the Limerick Metropolitan area, incorporating Shannon, through the Regional Spatial and Economic Strategy process.

Although focused on Limerick City and key employment and infrastructure assets at Shannon and Foynes, this regional area is supported by a strong rural economy and a varied network of towns and villages. Shannon Airport has an established role as a key travel and enterprise hub for the region, with potential for further growth.

Future growth will be based on leveraging national and international connectivity, higher education capacity and quality of life to secure strategic investment. This must be underpinned by sustainable employment and housing development, focused on the broader Limerick- Shannon Metropolitan area and a strengthening of the urban cores of the county towns and principal settlements, as well as in rural areas.”

6.2. Regional Spatial & Economic Strategy for the Southern Region

6.2.1. The Southern Region’s strategy is to build a strong, resilient, sustainable region and have identified eleven ‘Statements of the Strategy’ including-

1. Compact Growth- Strengthening and growing our cities and metropolitan areas; harnessing the combined strength of our 3 cities as a counterbalance to the Greater Dublin Area, through quality development; regeneration and compact growth; building on the strong network of towns and supporting our villages and rural areas.

The Strategy focuses on ‘Key enablers’ including-

“Delivering ambitious and sustainable growth targets for our cities, developing and consolidating our Key Towns, creating the Greenest and most Liveable Metropolitan Areas for diverse communities, culture and enterprise - developing the Cork Docklands, regeneration of Limerick- Shannon, including the Limerick Northern Distributor Route/ Smart Travel Corridor, and achieving a balanced ‘concentric city’ model north of the river in Waterford with development of the North Quays and adjoining lands in Kilkenny....

Revitalising our urban areas and spaces through creative and regenerative placemaking, to deliver on Compact Growth and Housing Need, and provide new vitality for City and Town Centres;

Table 3.2 of the RSES identifies settlement typology categories in which Cities-Metropolitan Areas are the top tier in the table. The attributes of Metropolitan Areas are-

“accessible with national and international connectivity, strong business core, innovation, education, retail, health and cultural role.”

Limerick - Shannon is identified as a Metropolitan Areas with policy levels listed as NPF, RSES, MASP, Development Plans and Local Area Plans. See Map 3.1

6.2.2. Limerick- Shannon Metropolitan Area Strategic Plan (MASP) See Map 3.4

The MASP area is almost evenly split, with 49% located in Co. Clare and 51% in the City and County of Limerick. Shannon is the largest metropolitan town with a population of 9,729.

This MASP provides a focus on Limerick City and the Metropolitan settlement of Shannon. It sets out the framework for Limerick City and County Council and Clare County Council and the various stakeholders to implement the NPF within the context of the RSES.

Section 5.0 Population Projections- Table 1 Population Projections for the Limerick-Shannon Metropolitan Area is summarised as follows-

Remainder Metropolitan Area (Clare- This includes Shannon)

Population 2016- 22,947

Projected to 2026- 25,414

Projected to 2031- 26,463

Footnote 36 also states- *“25% Headroom identified in the Roadmap can apply to the County Clare area of the Limerick-Shannon Metropolitan Area.”*

6.3. Ministerial Guidelines and Circulars

- 6.3.1. Circular Letter: NRUP 02/2021- Residential Densities in Towns and Villages, as set out in Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009)-

A key shared outcome of the NPF and NDP is the compact growth of cities and towns of all sizes so as to add value and create more attractive places in which people can live and work. The preferred approach is to focus on greater reuse of previously developed ‘brownfield’ land, consolidating infill sites, which may not have been built on before, and the development of sites in locations that are better serviced by existing facilities and public transport. The NPF also acknowledges that there is a need for more proportionate and tailored approaches to residential development. This means that it is necessary to adapt the scale, design and layout of housing in towns and villages, to ensure that suburban or high density urban approaches are not applied uniformly and that development responds appropriately to the character, scale and setting of the town or village.

- 6.3.2. Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated Urban Design Manual) (2009)-

- These guidelines provide high-level policy aims to be translated into specific planning / design policy and objectives to be applied at different scales of

residential development including districts or neighbourhoods within large urban centres. Chapter 5 deals with 'Cities and larger towns' and provides detailed advice on appropriate locations for increased densities in cities and larger towns.

- Section 5.9 d) Inner suburban / infill

The provision of additional dwellings within inner suburban areas of towns or cities, proximate to existing or due to be improved public transport corridors, has the revitalising areas by utilising the capacity of existing social and physical infrastructure. Such development can be provided either by infill or by sub-division:

(i) Infill residential development

Potential sites may range from small gap infill, unused or derelict land and backland areas, up to larger residual sites or sites assembled from a multiplicity of ownerships. In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill. The local area plan should set out the planning authority's views with regard to the range of densities acceptable within the area. The design approach should be based on a recognition of the need to protect the amenities of directly adjoining neighbours and the general character of the area and its amenities, i.e. views, architectural quality, civic design etc. Local authority intervention may be needed to facilitate this type of infill development, in particular with regard to the provision of access to backlands.

- Section 5.11 f) Outer Suburban / 'Greenfield' sites states-

"These may be defined as open lands on the periphery of cities or larger towns whose development will require the provision of new infrastructure, roads, sewers and ancillary social and commercial facilities, schools, shops, employment and community facilities.

Studies have indicated that whilst the land take of the ancillary facilities remains relatively constant, the greatest efficiency in land usage on

such lands will be achieved by providing net residential densities in the general range of 35-50 dwellings per hectare and such densities (involving a variety of housing types where possible) should be encouraged generally. Development at net densities less than 30 dwellings per hectare should generally be discouraged in the interests of land efficiency, particularly on sites in excess of 0.5 hectares.”

- Section 5.12 deals with *Provision for lower densities in limited cases and states-*

“To facilitate a choice of housing types within areas, limited provision may be made for lower density schemes provided that, within a neighbourhood or district as a whole, average densities achieve any minimum standards recommended above.”

6.3.3. Development Contribution Scheme for Planning Authorities - Circular PD4/2003

“A special development contribution may be imposed under section 48 where exceptional costs not covered by the general contribution scheme are incurred by a local authority in the provision of a specific public infrastructure or facility. The particular works should be specified in the condition. Only developments that will benefit from the public infrastructure or facility in question should be liable to pay the levy

If the works in question are not commenced within 5 years, or completed within 7 years of the receipt of payment, or where the authority decides not to proceed with the proposed works or part of works, the applicant should be refunded the special contribution levy. This refund should be in proportion to the work not carried out and include any interest accrued over the period while held by the local authority.”

6.3.4. Development Contribution Scheme for Planning Authorities - Circular PD 5/2007.

- This circular does not include an specific provisions on Special Contributions.

6.3.5. Development Contributions - Guidelines for Planning Authorities (January 2013)

- ‘Status of the Guidelines’- Page 2-

This guidance updates and supplements non-statutory guidance previously issued in Departmental Circulars PD 4/2003 and PD 5/2007

- These Guidelines aim to assist planning authorities in achieving a balance between the costs of services provided and the need to support economic activity via Development Contribution Schemes.
- Section 1, Page 7 states-
“A special development contribution may be imposed under section 48(2)(c) where specific exceptional costs, which are not covered by the general contribution scheme, are incurred by a local authority in the provision of public infrastructure or facilities which benefit very specific requirements for the proposed development, such as a new road junction or the relocation of piped services. The particular works should be specified in the condition. Only developments that will benefit from the public infrastructure or facility in question should be liable to pay the development contribution.”
- Section 2- ‘Supporting Economic Development’ Page 10, outlines a number of ‘key messages’ including-
 - *Development contributions are not cash-cows: there is an important balance to be struck between the funding of public infrastructure and the need to encourage economic activity and promote sustainable development patterns. It is essential that development contribution schemes do not impede job creation or facilitate unsustainable development patterns.....*
 - *....While it is expected that planning authorities will ensure that developers make an appropriate contribution towards the costs of public infrastructure and facilities, the local authority must ensure that it avoids levying development contributions that are excessively high – development contributions are ultimately designed to offset only a portion of the costs of public infrastructure and facilities.*

6.3.6. Development Management Guidelines 2007-

- Section 7.12 is titled ‘Conditions requiring development contributions (sections 48 and 49 of the Planning Act)’

- *“....A condition requiring a special contribution must be amenable to implementation under the terms of section 48(12) of the Planning Act; therefore it is essential that the basis for the calculation of the contribution should be explained in the planning decision. This means that it will be necessary to identify the nature/scope of works, the expenditure involved and the basis for the calculation, including how it is apportioned to the particular development. Circumstances which might warrant the attachment of a special contribution condition would include where the costs are incurred directly as a result of, or in order to facilitate, the development in question and are properly attributable to it. Where the benefit deriving from the particular infrastructure or facility is more widespread (e.g. extends to other lands in the vicinity) consideration should be given to adopting a revised development contribution scheme or, as provided for in the Planning Act, adopting a separate development contribution scheme for the relevant geographical area. Conditions requiring the payment of special contributions may be the subject of appeal.”*

6.3.7. Transport Infrastructure Ireland’s ‘Traffic and Transport Assessment Guidelines May 2014’.

- Section 1.3- Traffic and Transport Assessment

“A Traffic and Transport Assessment is a comprehensive review of all the potential transport impacts of a proposed development or re-development, with an agreed plan to mitigate any adverse consequences.

All new developments will generate trips on the existing transport network, either by car, commercial vehicle, cycling, walking or public transport. In cases where a proposed development is of a size or type that would generate significant additional trips on adjoining transport infrastructure, this additional demand may necessitate changes to the road layout or public transport service.”

6.3.8. Design Manual for Urban Roads and Streets

- Table 4.2: Reduced SSD standards for application within cities towns and villages. Reduced forward visibility increases driver caution and reduces vehicle speeds-
 - Forward Visibility in 60kph – 59m
- Section 4.4.5 Visibility Splays, The Y distance along the visibility splay should correspond to the SSD for the design speed of the major arm, taken from Table 4.2 while also making adjustments for those streets which are frequented by larger vehicles.

6.4. Clare County Development Plan 2017-2023 (CDP)

- 6.4.1. Table 2.1 of the Plan sets out the Settlement Hierarchy for County Clare. Shannon is identified as a Linked Gateway.
- 6.4.2. Table 2.4 of the Plan sets out the **Core Strategy** for the County. Shannon can be summarised as follows-

Gateway	Shannon*
Municipal Area	Shannon
Population 2011	9,673
Population Target 2023	12,931
Target Increase in Population 2011-2023	3,258
Target Increase in No. of Households to 2023	1,185
Total Required Area of Residentially Zoned Land (ha) to 2023	59.2
Total Area Zoned (given as Residential Equivalent in ha.)	47.11
Water	Yes
Wastewater	Yes

** In recognition of its Gateway status the population target for Shannon includes 1,000 extra persons. This has been added to the initial Mid-West Regional Planning Guidelines target for Shannon from the population target available to Zone 1 as a whole.*

Table 2.4 and the Core Strategy are informed by the following-

- A density of 30 to the hectare for residentially zoned land for Shannon.
- These are average figures for calculating supplies of zoned land. Individual planning applications on residentially zoned land will be considered on their own merits;
- A household size of 2.75 persons per household;

Section 2.4.2 (Page 30) of the plan states-

It is not intended that the population targets for individual settlements will be rigidly implemented without any flexibility. Local factors for consideration include:

i Availability of services;

ii Demand and land availability;

iii The need to accommodate those who qualify to build in the countryside but who alternatively may wish to locate in a settlement;

iv The need to support the retention of local services e.g. schools.

The following Development Plan Objectives are considered relevant-

- *CDP3.2 Development Plan Objective: Shannon*

It is an objective of the Development Plan:

a. To ensure that Shannon, as a linked Gateway with Limerick in the NSS, is a driver of County and regional prosperity by harnessing its strategic location and access on the Atlantic Corridor, in addition to its employment base, international airport and other competitive advantages;

- CDP3.9: Monitoring and Implementation of Settlement Strategy

It is an objective of the Development Plan:

a. To achieve the delivery of strategic, plan-led, co-ordinated and balanced development of the settlements throughout the County;

- CDP3.10: Planned Growth of Settlements-

It is an objective of the Development Plan:

- a. *To ensure that the sequential approach is applied to the assessment of proposals for development in towns and villages and to ensure that new developments are of a scale and character that is appropriate to the area in which they are located;*
- CDP4.2: Facilitating the Housing Needs of the Population

It is an objective of Clare County Council: a. To facilitate the housing needs of the existing and future population of County Clare through the management of housing development throughout the County in accordance with the Settlement Strategy;.....
- CDP4.7: Housing Mix

It is an objective of the Development Plan:

 - a. *To secure the development of a mix of house types and sizes throughout the County to meet the needs of the likely future population in accordance with the guidance set out in the Housing Strategy and the Guidelines on Sustainable Residential Development in Urban Areas;*
 - b. *To require new housing developments to incorporate a variety of plot sizes to meet the current and future needs of residents;.....*
- CDP8.33 Development Plan Objective: Noise Pollution

It is an objective of the Development Plan:

“To ensure that all proposals for development related to transportation infrastructure comply with the provisions of the ‘Clare Noise Action Plan (2013)’ and any subsequent plans.”
- CDP8.8 Design Manual for Urban Roads and Streets (DMURS)

It is an objective of the Development Plan: To implement the requirements and recommendations contained in DMURS in the assessment of development proposals, the preparation of design schemes and their implementation in the development of streets, roads and public realm improvement schemes in the County.
- CDP14.2: European Sites

- *CDP15.8 Sites, Features and Objects of Archaeological Interest*
- *CDP19.2 Development Plan Objective: Zoning of Lands*
 - *It is an objective of Clare County Council:*

“To ensure that sufficient lands are zoned at appropriate locations in the settlement plans and local area plans of the County, in accordance with the Core Strategy population targets, in order to meet the envisaged land use requirements of the area during the lifetime of this Development Plan.”

Appendix 1 sets out Development Management Guidelines including the following-

- A1.3.2 Urban Residential Development
- A1.9.3 Car Parking Residential Developments-
 - dwelling houses - 1 space for 1 & 2 bed units, 2 spaces for ≥3 bed units
 - Visitor Parking- 1 space per 3 residential units
- Cycle Parking-
 - With garage: none
 - Without garage: 1 space per unit

6.5. The Shannon Town and Environs Local Area Plan (LAP) 2012-2018

6.5.1. The Local Area Plan came into effect on the 8th of October 2012. On the 12th of June 2017 the elected members of Clare County Council resolved to defer the making of a new Shannon Local Area Plan for a period not exceeding 5 years i.e. up to September 2022, pursuant to Section 19(1)(d) of the Planning & Development Act, 2000 (as amended).

6.5.2. Section 1.2, Page 6 states-

“This Local Area Plan will establish the framework to enable Shannon’s full potential to be realised. The following sections outline a vision and goals for Shannon Town and Environs. The chapters which follow outline a number of

aims and objectives, the implementation of which will be pursued over the lifetime of this Local Area Plan.”

6.5.3. Section 1.7, Page 10 states-

“.....the Clare County Development Plan 2011-2017 will govern the overall land use objectives for the Shannon Town and Environs Local Area Plan 2012-2018. One of the key goals of the Clare County Development Plan 2011-2017 is as follows:

‘A County Clare where the overall strategic objectives of the County Development Plan are translated into Local Area Plans containing detailed land-use zonings and master-planning of neighbourhoods in an evidenced based, planned approach with a focus on ensuring a high quality of life’.

This Local Area Plan will therefore provide for the settlement plan and zonings pertaining to Shannon Town and will be consistent with the approach of the Clare County Development Plan 2011-2017.”

6.5.4. Relevant objectives include-

- 1.2 Local Area Plan Objective: *It is an objective of the Shannon Town and Environs Local Area Plan 2012-2018 to ensure that sufficient lands are zoned at appropriate locations, in accordance with the assigned population target and to meet all envisaged land use requirements of the area over the lifetime of the local area Plan.*
- 2.1 Local Area Plan Objective: *To increase the appeal of the central areas, the town centre and the town park.*
- 6.1 Local Area Plan Objective: *To facilitate the development of each of the residential zoned sites as outlined above in order to comply with the Core Strategy requirements, ensuring that assigned population targets are delivered for the Shannon Gateway and in the interests of proper planning and sustainable development.*

6.5.5. Appendix 1 deals with Land Use Zonings. It provides the following definitions-

- *Commercial-*

The use of commercially zoned lands shall be taken to include the use of land for commercial and business uses, including retail, office, service industry, warehousing and the facilitation of enterprise/ retail park / office park type uses, as appropriate. It is important to reserve these lands for possible commercial and/or business uses and redirect other uses where it is considered that such uses would be more appropriately sited within other land zoning categories.

Retailing is open for consideration in this area, provided that an appropriate sequential test is carried out and that the lands are demonstrably the optimum location for the proposed development. The development must not detract from the vibrancy and vitality of the identified town centre and the development must be in accordance with the Retail Strategy for the Mid West Region 2010-2016, or any subsequent strategy.

- *Residential-*

'Residential' use shall be taken to primarily include the use of land for domestic dwellings. It may also provide for a range of other uses particularly those that have the potential to foster the development of new residential communities e.g. schools, crèches, small-scale medical facilities, formal and informal open spaces etc.

- *Open Space-*

The use of land as 'Open Space' shall be taken to include the use of land for afforestation, playgrounds, housing estate open spaces, landscaped areas and parks. Developments incidental to the enjoyment of open space including sports centres, outdoor recreation centres and landscapes areas, play equipment, dressing rooms and similar facilities are open for consideration. There may be limitations to what 'Open Space' can allow, particularly in relation to sensitive ecological sites.

It should be noted that lands zoned as Open Space are not necessarily in public ownership and members of the public should not automatically assume that access to the lands is permitted

6.5.6. The settlement boundary for Shannon is identified on Land Use Zoning Map A of LAP. The majority of the application site is **zoned** Residential with a specific R1 zoning objective. A small part to the south east of the site providing for right of way and servicing route to a pumping station is zoned COM1 Commercial and Open Space. The LAP specifically refers to the zonings as follows-

- *R1 – East of Town Centre (5.71 ha)*

This site is located behind the Shannon Oaks Hotel and has a rural countryside feel, despite being located centrally in the town. It is currently in agricultural use. A master plan shall be prepared for the development of this site. This shall ensure that a coordinated approach is taken and that this important, centrally-located site maximises its full potential, subject to site suitability and environmental constraints. In order to maximise its location adjacent to the town centre, the site shall be developed for a high density scheme of residential units, which, by their central location, have the potential to be served by a future renewable energy network (for example district heating), that may be developed in the future on site E3.

Layout shall be to a very high standard that maximises the opportunities for energy efficiency through, for example, solar gain. A suitable appropriate buffer shall be maintained to the commercial zoning along the northern, eastern and southern site boundaries, to be agreed at detailed project level prior to commencement of any development on R1.

Access to these lands shall be to the satisfaction of the Council. Development contributions, along with other contributions as appropriate, shall be sought towards the upgrade of the existing local road network, together with the junction near the north-west corner.

- *COM1 East of Town Centre*

These commercial zoned lands are located east of the town centre and south of Smithstown. The southern part of these lands (fronting onto Bothar Mór) comprise the Oakwood Arms Hotel, Topaz filling station and McDonalds DriveThru. Along the eastern boundary are a number of individual businesses including children's play centre, car sales / service and restaurant. The

Atlantic Air Venture premises occupies a prominent corner site at the junction of An Bothar Mór and Bothar Na Luachra.

A planned approach shall be taken to the development of the remaining area of COM1. This shall avoid piecemeal development like that which exists along the eastern boundary. It is an objective to facilitate development / redevelopment proposals for appropriate commercial developments in the context of:

- Maintaining the vitality and viability of Shannon town centre*
- Achieving an attractive frontage onto Smithstown Road, An Bothar Mór and the eastern access road*
- Ensuring the residential amenities of any future residential development on adjoining R1 lands are safeguarded*
- *Open Space*

“The use of land as ‘Open Space’ shall be taken to include the use of land for afforestation, playgrounds, housing estate open spaces, landscaped areas and parks.....”

6.6. Clare County Council’s Development Contribution Scheme 2017-2023

6.6.1. Page 13- Special Contributions-

“In addition to the requirements of this scheme, Clare County Council may require the payment of a Special Contribution in respect of a particular development where specific costs are not covered by this Scheme or incurred in respect of public infrastructure and facilities which benefited the proposed development. Where payment of such a contribution is required, a planning condition shall be attached to specify the particular works carried out or proposed to be carried out by Clare County Council or any other local authority.”

6.6.2. The basis for the determination of the Development Contribution Scheme is set out in Appendix 1- Capital Projects. Roads related projects are listed in Section 2.

6.7. Natural Heritage Designations

The site is located-

- c. 1.5km north of the Lower River Shannon SAC (002165)
- c. 5km south of the Lough Gash Turlough SAC (000051)
- c. 1.5km north of the River Shannon and River Fergus Estuaries SPA (004077) and
- c. 1.5km north of the Fergus Estuary And Inner Shannon, North Shore pNHA (002048)

6.8. EIA Screening

6.8.1. An Environmental Impact Assessment Screening report has not been submitted with the application. The Planners Report considers the need for EIA can be excluded at preliminary examination stage and a screening report is not required.

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

- Construction of more than 500 dwelling units,
- Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area³ and 20 ha elsewhere. (In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.)

6.8.3. It is proposed to construct 48 residential units. The number of units proposed is well below the threshold of 500 dwelling units noted above. The site has an overall area of 2.83 ha and in this context it is considered as located ‘elsewhere’. The site area is therefore well below the applicable threshold of 20 ha.

³ Built-up Area’ means a city or town (where ‘city’ and ‘town’ have the meaning assigned to them by the Local Government Act 2001) or an adjoining developed area (defined in Article 3, Planning and Development Regulations 2001 as amended). An adjoining developed area can be taken to mean contiguous suburbs.

- 6.8.4. The introduction of a residential development will not have an adverse impact in environmental terms on surrounding land uses. It is noted that the site is not designated for the protection of the landscape or of natural or cultural heritage.
- 6.8.5. The development proposes connecting to the public water and drainage services of Irish Water and Clare County Council. In this context I am satisfied that the proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the general area. It would not give rise to a risk of major accidents or risks to human health.
- 6.8.6. The application site is not directly connected to a European Site. I note the proximity of the proposed service route to the south east of the landholding and its proximity to an unnamed stream c.150m to the east of the site. This provides an indirect connection to European Sites. Surface water (allowing for attenuation and proposed SUDS providing on site infiltration) will discharge to the existing public storm sewer south east of the site on the R-471 with final discharge to the Shannon estuary. Wastewater will also discharge to the Shannon Estuary following treatment at the Shannon Wastewater Treatment Plant. Further consideration of significant effects, if any on European Sites are set out in Section 8.12 below.
- 6.8.7. I consider that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and that upon 'Preliminary Examination', an 'Environmental Impact Assessment Report' for the proposed development was not necessary in this case

7.0 The Appeal

7.1. Grounds of Appeal

- 7.1.1. A first party and third party appeal have been received. The first party appeal can be summarised as follows-
- The appeal is made under Section 48(2c) of the 2000 Act
 - The applicant considers that the terms of the scheme have not been properly applied in respect of a conditions laid down by the planning authority.

- Condition No 24 provides for a special contribution for improvements of public footpaths, roadway and roundabout.
- The costs associated with these special contributions are included within the adopted Development Contribution Scheme. The works if required are improvement works for the wider area zoned in the current development plan.
- There was a requirement to include these costs in the Development Contribution Scheme based on the awareness of the Council with regard to existing zoning and planning & pre planning consultations
- The specific site objectives for the site make no provision for these items associated with the special contributions.
- The Planning Authority has submitted basic details of the specific costs of each of the three elements of public infrastructure. Section 48 requires a Planning Authority to set out the nature and extent of the public infrastructure and facilities which it proposes to provide having regard to estimated cost of providing the classes of infrastructure. A map / drawing indicating the location and scope of proposed works would allow greater clarity. Without such a drawing / plan the Board cannot definitively justify the special contribution.
- The first item is for the provision of a 250m long by 2m wide concrete path at €45,000 or €90.00 per m². The current average width of the roadway is 3.70m to 5.30m and makes no allowance for an increase as regards land take (purchase/ compulsory purchase) for the provision of a footpath or roadway. The Planning Authority have granted various permission along this proposed roadway with no reference to land take. or a proposed road widening scheme. There is no facility to incorporate a new footpath along this roadway.
- The claim for 250m of a 5.5m wide roadway has a cost of €137,000.00. A report prepared by a council engineer on the 6th of October 2021 measures the road width from 3.70m to 5.3m on site. This gives an average existing width of 4.5m or a total area of 1,125 m² as against the Council's claim for 1,375m² at €99.63 per m². Working from the existing area of the road currently there is only an extension of the roadway of 250m² at €99.63 resulting in a special contribution of €24,907 50 for this item. If the Board

consider upholding this claim it is requested that the Council should seek an accurate figure as regards the costs claimed.

- It is very hard to comment on the third part of the special contribution i.e. the provision of a junction upgrade of €50,000.00, No location identification, drawings scope of works are included with this amount.
- Section 7.12 of the Development Management Guidelines requires that the identified works must be apportioned to the particular development. The basis for the calculation of the condition is not explained in the planning decision.
- The Bord are requested to take into consideration the general contribution under Condition No. 22. The three special contributions are not equitable or consistent with the guidance document issued in 2013.
- The total cost of the special contribution is being levied against the first phase (48 units) of the submitted Masterplan. This is unfair and unreasonable to these house purchasers.
- No allowance is made as regards the balance of the housing within the Masterplan or the general servicing of the wider Smithstown area covering previous and recent grants of permission associated with the area.
- The works associated with the special contributions would facilitate development to the north and south of the proposed development. It is unreasonable to levy the total costs of the proposed works against one section of the zoned lands within the total lands as the works would benefit all currently zoned land in the area.
- No special contributions levies were proportioned against any other grant of permission in the immediate area. We particular refer you to ABP-305437-19.

7.1.2. A third party appeal has been received from Ian Doyle Planning Consultant on behalf of Edward Heena the owner of Tracey's Oakwood Hotel. The grounds of appeal can be summarised as follows-

- The subject site and wider landholding essentially wraps around the rear of Treacy's Oakwood Hotel on Airport Road, Shannon. The hotel owner is not

satisfied that sufficient consideration has been given to the extent to which the proposed development may impact on the current operation and day to day running of the hotel with particular reference to the function room, night time uses and noise impact.

- The proposed development includes residential units as close as 13.5 metres from the boundary with associated rear gardens directly abutting the hotel boundary.
- It would have been prudent for the applicant to consider a Noise Impact Assessment with a view to establishing mitigation measures to prevent the existing use of the hotel function room impacting negatively on the amenities of future residents.
- The matter was raised at FI stage. The applicants response requires further consideration.
- The applicants have indicated trees will be planted to reduce noise but have not been shown on the drawings. Tree planting has limited capacity to reduce noise. A 30m wide band of tightly planted trees and hedging will only reduce noise by 5db. Sufficient land does not exist to plant enough trees to have a noise reducing effect.
- The level difference between the site, houses and hotel and the height of the proposed wall will lead to noise travelling over the wall reflecting of the house and back off the wall creating a delay or echo effect. The concrete retaining wall will do little to reduce noise.
- The applicants suggest home owners will be informed at contract stage of the hotel activities. It is argued this will achieve nothing in terms of preventing or mitigating potential noise impact. This does not overrule the councils obligations to prevent noise pollution or the associated protections afforded to potential future occupants with regards to the EPA Act 1992.
- The council are required under EU Directive 20002/49/EC to take action to reduce noise pollution which will impact the hotel operations.

- The applicant was afforded the opportunity to re-design the scheme and to conduct noise surveys to address this concern but chose not to. They did not seek the input of a suitably qualified expert with regards to noise mitigation.
- The applicants have proposed to carry out a noise assessment at the time of construction and install acoustic glass where required to the rear of dwellings 1-11. This does not have regard to rear private amenity space and residential amenity of same. Reorientating the dwellings so they face the hotel would address this concern.
- In the absence of a noise impact assessment the application should be refused.
- The proposed development is considered project splitting. It is phase 1 of a larger masterplan.
- Ambiguity exists regarding the scope of the NIS and TTA. Do they cover the masterplan or just the subject site.
- The planning authority have not sought to link the application to the proposed masterplan or to commit the developer to the remaining aspects of the masterplan e.g. through a section 47 agreement.
- The Masterplan provides for 158 units and would be more appropriately considered a Strategic Housing Development. The subject application and associated masterplan would benefit greatly from the assessments required as part of an SHD application.
- The masterplan has no legal basis and should not be considered as part of this application.
- The requirement for a Construction and Environmental Management Plan is considered a Mitigation measure in the NIS. If the subject application was a SHD this document would be required as part of the application.
- No creche is proposed and the applicant seeks to defer it within the masterplan area. No schools Demand Assessment report has been submitted. It would be best practise to include the creche in phase 1.

- The proposal does not stand up on its own in the absence of the masterplan with regards density, mix of tenure, house types and provision of a creche.
- The applicants have not used the appropriate methodology in terms of developable area calculations specifically the difference between Gross and Net Density having regard to appendix A of the SRDUA Guidelines 2009.
- The site layout states a gross area of 2.55 ha with a net area 2.41 ha. The area of the sewer route should not be excluded and therefore the gross density is 17 units per ha. The appellant questions the provision of open space and details the net density to be 20.5 units per ha at best.
- The proposal is contrary to the requirements of the Sustainable Residential Density Guidelines which require 30 units per ha given the proximity to the town core.
- Calculations on the drawings translated on page 26 of the design statement have the incorrect site area. The Masterplan density figure of 29 units is highly questionable.
- The application is for 48 units on a centrally located site within walking distance of the town core where density should be maximised.
- The site is not consistent with the definition of “outer suburban green field”. It is more appropriately described as a town centre. As per the NPF to encourage a more efficient use of land a maximum density of 50 units per ha is applicable.
- The applicants justification that apartment schemes are not viable and bespoke densities should be tailored to an areas housing need has no basis in legislative or Guidelines provisions. Viability and market forces are not valid considerations and not justification for poor planning.
- The proposal is a low density scheme that does not represent efficient land use and is contrary to the NPF and residential density guidelines.

7.2. Applicant Response

The applicant's response to the grounds of the third party appeal can be summarised as follows-

- The appellants primary concern is for the proposed development to impact current operation of the hotel with reference to night time use and functions. No evidence is submitted to substantiate their objection/observation.
- The appellants fail to address the impact of noise pollution on residents of the hotel.
- In order to create a simulation to establish a base line for any acoustic survey a review of planning permissions associated with the hotel would be required. A review of a number of these has taken place but could not collate the grants in line with what is built.
- The location of the function room and the rear access roadway encroach on lands not in the ownership of the hotel. A map identifying folio 45063F and the hotel encroachment is submitted.
- Attempts were made to address this matter at meetings and issues relating to noise were raised with reference to the appellants similar experiences in Wexford.
- The issue of noise is a central component of the appeal but the appellants have not submitted evidence. The Appellants would be the only party in a position to identify when a noise study could be carried out based on their use of the premises.
- A Noise Impact Assessment by the applicants would not be representative of the noise levels experienced. Due to Covid 19 restrictions all premises have required additional external space. This could add to external noise levels associated with the hotel but would give false readings as regards sound. If external activities are to be continued these will have to be subject of a separate application by the hotel.
- Noise levels from the hotel can be reduced by the suggested alterations by the hotel.

- The Clare County Council Noise Action Plan 2018 (attached) addresses noise impacts from major transport sources. It notes no limits exist for environmental noise in Ireland and the EPA recommends that proposed onset levels for assessment of noise mitigation measures due to road traffic at proposed housing development are Lden <45dB to 49db. The applicants estimate a worst case scenario and with the bar in operation, the noise levels are likely to range from 37 – 48 db(A) without noise mitigation in place.
- The applicants permitted the appellants to enter the site and cut down and trim back substantially the height of the tree line boundary between the properties and at the rear of the function room.
- The subject application lands do not reflect the actual boundaries of the Hotel property which extends into lands not in their ownership.
- The appellant seems to have concerns that the hotel may breach the EPA Act of 1992 and should be given protection from the planning authority and the Board as regards the breaches that they are afraid may take place.
- In relation to tree planting a final landscaping plan including tree planting shall be submitted for approval of the planning authority.
- The applicants are not required under legislation to submit an SHD application.
- The applicants have submitted an additional planning application incorporating Phase 2 of the Masterplan consisting of 55 houses along with a creche (21/1397).
- As regards concerns of density the applicants refer to the submitted design statement and submitted FI. They also refer to circular NRUP 02/2021 (attached).
- Section 5.11 of the Sustainable Residential Development Guidelines states that for Outer Suburban / Greenfield sites within cities and large towns, the density should be in a general range of 35-50 per ha. Section 5.12 densities of less than 30 per ha are not precluded in large towns. It is necessary for discretion in the application and assessment of density.

7.3. Planning Authority Response

7.3.1. A response to the first and third appeal has been received from the Planning Authority on the 20/12/21 which can be summarised as follows-

7.3.2. First Party Appeal

- The local road network serving the site is poor in terms of capacity and width.
- The main concern is for the wider use of the road network to the north which is narrow and is not served by public footpaths. The road also provides potentially easier access to the N19 and it is reasonable to assume it will be utilised more frequently if and when the development is operational.
- The site specific zoning states-
- “Access to these lands shall be to the satisfaction of the Council. Development contributions, along with other contributions as appropriate, shall be sought towards the upgrade of the existing local road network, together with the junction near the north-west corner.”
- The Contribution Scheme does not expressly exclude the charging of a ‘special’ development contribution (Section 48 (2) (c)) where that would directly facilitate a proposed development. In this regard the scheme states-
- “In addition to the requirements of this scheme, Clare County Council may require the payment of a special Contribution in respect of a particular development where specific costs are not covered by this Scheme or incurred in respect of public infrastructure and facilities which benefited the proposed development. Where payment of such a contribution is required, a planning condition shall be attached to specify the particular works carried out or proposed to be carried out by Clare County Council or any other local authority.
- Section 7.12 of the Development Management Guidelines provides for the imposition of such a condition.
- The special contribution levied by condition No. 24 includes costs that the Council will directly incur in order to facilitate the development and as such are properly attributable to it and there is a specific requirement in this

instance. The local road network needs to be significantly upgraded to include for junction and footpath improvements.

- The development will increase the population locally and with the increase in subsequent vehicular and pedestrian use it is considered there are exceptional circumstances in which the contribution is required.
- The contribution is set out as stated by the Area Engineer (Shannon MD).
- The Council's own Road Design Section stated-
- "It is the opinion of the Road Design Office that the increase in predicted traffic numbers as submitted in the Traffic and Transport Assessment will require an upgrade of the existing L-7178-0 to a minimum of 5.5m with a 2m footpath to accommodate. Design to be agreed with the Road Design Office. Road widths of 3.7m to 5.3m were measured on site.
- A contribution should be sought, amount to be agreed with the Municipal Districts Engineers office for the re-alignment of the junction between the L-7178 and the L-3170".
- The Board are requested to uphold this condition.

7.3.3. Third Party Appeal-

- The planning application has been assessed in terms of any potential impacts on residential amenity.
- It is not considered that the proposal would have a negative impact on the amenities of future occupiers of the houses or of the operations of the hotel.
- The site has been zoned for residential development since 2012 and is located within the settlement boundary of Shannon. It is considered the various uses can be accommodated side by side within this context.
- The application forms just one part of the overall site. The Masterplan as submitted was considered as part of the assessment of the application and the proposal would not prejudice the wider development of the site whilst also providing for new homes.
- The density and house type mix as proposed are appropriate and the proposal would improve the housing offering available in Shannon.

7.4. Observations

- None

7.5. Further Responses

The applicants have submitted a further response to the Planning Authority's comments. These can be summarised as follows-

- The submitted Traffic and Transport Assessment assessed the impact the proposed development will have on the existing road network as per the requirements identified within Item 1 of the Request for Further Information.
- The report reviewed the Junction, walking & cycling and public transport .
- The proposed development includes works to the junction of the north west corner by recessing over the entire west boundary of the site.
- The response refers to the Planning Authority's assessment of the FI submission in which identified parts were deemed sufficient to address concerns in terms of traffic safety. However the same report details a requirement for the Special Contribution to ensure the traffic safety of the development as proposed and the wider lands included within the Masterplan.
- Reference is made to the vacant site assessment 306417 in which the ABP inspector detailed no constraints in terms of servicing by public infrastructure.
- The planning section of the Council have failed to take account of the Shannon Draft Town Centre Masterplan which went on display towards the end of 2021 and is expected to be finalised early in 2022. It envisages an Improved Main Street will be constructed to the west of the proposed development reducing down the impact/importance of the existing road network. It would result in the down grading of roads L-7178.
- The councils submission on the third party appeal is welcomed.
- It is contended that the inclusion of condition 24 is an attempt by the council to levy residents of the proposed development for works that should be included if required under the general contribution scheme. The council do not substantiated by evidence the requirement for these works.

- The granting of permission for previous developments north of the proposed development or adjoining the development did not address or highlight any issues associated with the link access to the southern side linking Shannon Town centre. This site has been zoned for residential development since 2012.

8.0 Assessment

8.1. Introduction

8.1.1. I have examined the application details and all other documentation on file, including the submissions received in relation to the appeal. I have inspected the site and have had regard to relevant local/regional/national policies and guidance.

8.1.2. I consider the substantive issues arising from the grounds of this third party appeal, and for the purpose of assessing the appeal, relate to the following-

- Zoning and the Principle of the Development
- Noise Impacts and Proposed Residential Amenity
- Project Splitting
- First Party Special Contribution Appeal
- Appropriate Assessment

8.2. Zoning and the Principle of the Development

8.2.1. The LAP identifies the importance of the site in the context of Shannon and its environs. In this regard a blue line on the land use zoning map (A and B) outlines lands that are designated as the 'Central Area' of Shannon. This blue line identifies a number of different zonings and includes the application site within it. Section 2.4 of the LAP deals with 'Placemaking' and states-

"Shannon town centre sits within a central area/ block (refer to context map 2.1) and contains many supporting functions. It is critical that the central

area/block can attract people who then support the activities in the town centre”⁴

Section 5.2 of the LAP states-

“The central area as defined on Map A relates to an overall urban design / place making strategy for Shannon as set out in detail in chapter 2”⁵

8.2.2. The subject site is largely zoned R1- Residential. Section 6.2 of the LAP details site development briefs for each of the residential and low density residential zoned sites within Shannon Town and Environs. Section 6.2.1 deals specifically with the application site and its larger landholding including lands to the east. This section is titled ‘R1 – East of Town Centre (5.71 ha)’ and states-

“This site is located behind the Shannon Oaks Hotel and has a rural countryside feel, despite being located centrally in the town. It is currently in agricultural use. A master plan shall be prepared for the development of this site. This shall ensure that a coordinated approach is taken and that this important, centrally-located site maximises its full potential, subject to site suitability and environmental constraints. In order to maximise its location adjacent to the town centre, the site shall be developed for a high density scheme of residential units, which, by their central location, have the potential to be served by a future renewable energy network (for example district heating), that may be developed in the future on site E3.

Layout shall be to a very high standard that maximises the opportunities for energy efficiency through, for example, solar gain. A suitable appropriate buffer shall be maintained to the commercial zoning along the northern, eastern and southern site boundaries, to be agreed at detailed project level prior to commencement of any development on R1.

Access to these lands shall be to the satisfaction of the Council. Development contributions, along with other contributions as appropriate, shall be sought towards the upgrade of the existing local road network, together with the junction near the north-west corner.”

⁴ Map 2.1 is found on page 37 of the LAP document.

⁵ Map A and also map A1 are the Land Use Zoning Maps.

8.2.3. Although not clearly stated in the LAP, having assessed the contents of the LAP and its Landuse Zoning Map which specifically identify the site and the applicants landholding, I consider the above brief represents a specific land use zoning objective. This outlines a number of requirements which shall be looked at in turn in section 8.2.7.

8.2.4. A portion of the site towards the south and south east is zoned Com 1- Commercial. Section 5.5.3 of the LAP deals with lands adjoining the majority of the application site and includes the part of the site that extends south and east to provide for a right of way and service route to an existing pumping station. This section is titled 'COM1 East of Town Centre' and states-

"A planned approach shall be taken to the development of the remaining area of COM1. This shall avoid piecemeal development like that which exists along the eastern boundary. It is an objective to facilitate development / redevelopment proposals for appropriate commercial developments in the context of:

- *Maintaining the vitality and viability of Shannon town centre*
- *Achieving an attractive frontage onto Smithstown Road, An Bothar Mór and the eastern access road*
- *Ensuring the residential amenities of any future residential development on adjoining R1 lands are safeguarded"*

8.2.5. Again, although not clearly stated in the LAP, I am satisfied the above represents a specific land use zoning objective. This section outlines a number of requirements which shall be looked at in turn in section 8.2.8.

8.2.6. A very small strip of land to the south east of the site is located within lands zoned 'open space'. The LAP does not provide any site specific zoning requirements that pertain to the proposed development.

8.2.7. **Requirements of 'R1' Residential Zoning**

8.2.7.1. **Masterplan Requirement**

- a) The LAP details a masterplan shall be prepared for the development lands identified as R1 on the zoning map. The R1 lands include the application site and lands to its immediate east that are also identified with the applicants landholding.
- b) The requirement for the Masterplan is to ensure that a coordinated approach is taken and that this important, centrally-located site maximises its full potential, subject to site suitability and environmental constraints.
- c) A Masterplan has been submitted for the overall lands which divides the landholding into six 'home zones' that will provide for a framework for the overall development of the lands. The subject application proposes the development of 'home zones' 1-3.
- d) The submission of the Masterplan does not dictate the final layout, density or housing typology that future applications must comply with. However it clearly demonstrates that the subject application site can be developed in a way that will not hinder the overall development of the adjoining zoned lands in accordance with the zoning requirements including for a high density scheme. In this regard I am satisfied the Masterplan as submitted is acceptable.

8.2.7.2. **Density and Core Strategy**

- a) The LAP details a '*high density scheme of residential units*' shall be prepared for the development lands identified as R1 on the zoning map. The Clare County Development Plan 2017-2023 (CDP) and the Shannon LAP do not specify density targets in numerical form and do not clearly specify what is considered low density or what is considered high density.
- b) The applicants were advised at Further Information stage that there was potential for the provision of a higher density of units at the site. In their response the applicants suggest that the viability of certain projects with higher costs to deliver high concentrations of units is deemed prohibitive. They point to the submitted Masterplan and proposals for 29.7 ha per unit.
- c) In order to consider the LAP requirements for R1 lands as regard to a 'high density scheme' it is appropriate to consider the CDP core strategy. Table 2.4 sets out the Core Strategy targets for County Clare and for Shannon. In this

regard I am satisfied the proposed development is consistent with the core strategy targets and projections of population increase for Shannon from 9,673 in 2011 to 12,931 by 2023.

- d) The core strategy outlines a number of assumptions specifically for Ennis and Shannon including a density of 30 units to the hectare for residentially zoned land, 15 to the hectare for low density residentially zoned land and a household size of 2.75 persons. The table also clearly details that planning applications on residentially zoned land will be considered on their own merits. In this context, I would consider 15 units per hectare to range on the low side and 30 units per ha to range on the higher side of density proposals for County Clare.
- e) The application proposes 48 houses on a net site area of 2.41 ha as per question 11 of the application form and Page 26 of the submitted Design Statement. This represents a density of 20 units per ha.
- f) The application includes a Masterplan for other lands to the east of the site and within the landholding where it is suggested the overall number of units will be 158 on a landholding of 5.64 ha giving an overall density of 29.7 units per ha. I consider this to be 30 units per ha.
- g) The Appellant has raised a number of concerns relating to density and in particular questions the methodology and calculation used. They consider the proposal to be low density, does not represent efficient land use and would be contrary to the requirements of the NPF and the Sustainable Residential Development in Urban Area Guidelines 2009 (SRDUA).
- h) Appendix A of the SRDUA Guidelines discusses the 'Role of Density' and details the differences between gross and net densities. It provides examples of parts of development that can be included or excluded from calculations of net densities. In particular I note access roads within the site should be included and open spaces serving a wider area should be excluded. The Appellant questions the omission of the sewer route and open space for purposes of calculating density.
- i) Drawing no WDS-OZ-PL21 identifies 'Net Usable Land Area' for each Home Zone. Each of these areas includes for areas of open space and roads. An

overall area is provided. The developable area of this application (save the sewer route) is measured as 2.41ha. Using GIS resources available to me, I have calculated this area to be c. 2.55 ha which would provide a density of 19 units per ha.

- j) The subject sewer route follows the road layout as proposed as part of future home zones 4 & 6 and the area of the future creche as per the Masterplan. In this regard I consider it reasonable to calculate density for the proposed application without considering the sewer route noting that it is not specifically listed to be included.
- k) I also note the 1,385 sqm area of open space proposed to the south west of the application site would be likely to serve a wider area i.e. part of home zones 3 and 4 (home zone 4 is not subject to this application). In this context it could be argued that part of this area of open space should be deducted for the purpose of calculating the density of the subject application.
- l) Having regard to the above, including the apparent discrepancy in site area and the provisions of the SRDUA guidelines, I find the proposed development will provide a density of between 19-20 units per ha.
- m) The SRDUA 2009 guidelines encourage more sustainable development through the promotion of higher densities in appropriate locations. Section 5.4 details *'Appropriate Location for Increased Densities'* and provides guidance for particular area types.
- Section 5.5 - 5.12 deals specifically with 'Cities and Town Centres' and describes a number of area types. It is clear the guidelines don't seek to define 'Cities and towns Centres' by reference to zoning objectives but instead by characteristics of the site and its general area.
 - Section 5.7 discusses 'Brownfield sites'. The site is not considered a Brownfield Site.
 - Section 5.8 'Public Transport Corridors' seeks higher densities on lands within existing or planned transport corridors and in general minimum net densities of 50 dwellings per hectare should be applied and specified at LAP level. The R471 c.100m south of the site is

served by public transport⁶. The LAP was adopted after the 2009 SRDUA guidelines were published and the LAP does not specify this route as a public transport corridor. Having considered the frequency, absence/lack of public transport interconnectivity and the potential passenger capacity of the coach style bus that generally serves this route i.e. c. 56 passengers per trip. I note this categorisation is not put forward by any of the parties to the appeal. I do not consider this route to be a 'public transport corridor' as envisaged by SRDUA 2009.

- Section 5.9 deals with 'Inner suburban/infill'. This describes potential infill sites as ranging from small gap infill, unused or derelict land and backland areas, up to larger residual sites or sites assembled from a multiplicity of ownerships. It generally details the LAP should set out the planning authority's views with regard to the range of densities acceptable within the area. In this context, the application site is 'unused' lands and could also be considered 'backland' or a 'larger residual site'.
- Section 5.10 discusses 'Institutional lands'. The site does not fall into this category.
- Section 5.11 discusses 'Outer Suburban/'Greenfield' sites within cities and larger towns and that they may be defined as open lands on the periphery of cities or larger towns whose development will require the provision of new infrastructure, roads, sewers and ancillary social, commercial and community facilities etc. Noting the site's designation within the blue line 'Central Area' as per the LAP, it clearly is not on the periphery of Shannon and its development does not require significant infrastructure as per those described in the Guidelines.
- Section 5.12 details that limited provision may be made for lower density schemes provided that, within a neighbourhood or district as a

⁶ Bus Éireann Route 343, Limerick - Shannon – Ennis. Operates Monday to Friday from 05.05 to 23.25 with 24 services between these hours. Saturday from 05.05- 23.15 with 19 services between these hours. Sunday 05.05-23.15 with 10 services between these hours. <https://www.buseireann.ie/inner.php?id=406&form-view-timetables-from=&form-view-timetables-to=&form-view-timetables-route=343&form-view-timetables-submit=1>

whole, average densities achieve any minimum standards recommended. The site and landholding is generally surrounded by commercially zoned lands. In this context, it is appropriate and reasonable to consider the 'neighbourhood or district' as the overall Masterplan area where it is proposed that an overall density of 29.7 or 30 units per ha will be achieved.

- As a whole, and if developed as per the Masterplan, the 'neighbourhood or district' would comply with the density assumptions used in the CDP for the purposes of the Core Strategy i.e. 30 units per ha. The Shannon LAP 2012-18 and its zoning requirements were extended after the introduction of the CDP 2017-2023. Furthermore, section 5.12 of SRDUA 2009 allows for limited provision of a lower density scheme which would include for 19-20 units per ha as per the subject application. I also note the Core Strategy as set out in the CDP states individual planning applications on residentially zoned land will be considered on their own merits.
- n) I have given consideration to Circular Letter: NRUP 02/2021. This seeks to provide clarity in relation to the interpretation and application of the SRDUA guidelines. It espouses the shared outcomes of the NPF and NDP including compact growth of cities and towns of all sizes. One of the preferred approaches is to focus on consolidating infill sites, which may not have been built on before and the development of sites in locations that are better serviced by existing facilities and public transport. It clarifies that it is necessary to adapt the scale, design and layout of housing in towns to ensure that suburban or high density urban approaches are not applied uniformly and that development responds appropriately to the character, scale and setting of the town. It details that, in certain locations, compact development may include residential densities at a lower level than would be considered appropriate in a city or large town context. This does not exclude more central infill sites. The circular goes on to provide more specific density advice for Outer Suburban/'Greenfield' pertaining to section 5.11 of the 2009 Guidelines.
- o) Both the applicant and the Planning Authority have considered the site is located within Outer Suburban/'Greenfield' as per the Guidelines. The

Appellant challenges this stating the site is not consistent with that definition. Having considered the provisions of section 5.4-5.12 of the SRDUA Guidelines, I agree with the Appellant. The site is not on the periphery of Shannon and does not require significant infrastructure as per the R1 zoning provisions.

- p) I accept the application site is 'greenfield' in appearance. However, it is located within the blue line 'Central Area' as per the zoning map. It is almost entirely surrounded by commercially zoned land, is located less than 250 metres east of undeveloped lands that are zoned 'Town Centre' and less than 300m north east of existing developed land that is also zoned 'Town Centre'. The R471 Airport Road is located c.100 m south of the application site and this road is served by public transport. The R1 zoning requirement also refers to the sites central location and proximity to the town centre a number of times. The site cannot be described as peripheral or requiring significant infrastructure.
- q) In my opinion, the site best fits within the category of 'Infill residential development' i.e. 'unused' land as described in section 5.9 of the SRDUA Guidelines. While specific clarity in relation to section 5.11 of the Guidelines is provided in Circular Letter: NRUP 02/2021, I also note that the Circular espouses the necessity to ensure that "*development responds appropriately to the character, scale and setting of the town*". This includes for "*consolidating infill sites*", which may not have been built on before, and the development of sites in locations that are better serviced by existing facilities and public transport".
- r) Section 5.9 of SRDUA details the LAP should set out the planning authority's views with regard to the range of densities acceptable within the area. The Shannon LAP requires a Masterplan and a 'high density scheme' which applies to the whole landholding and not just the application site. The LAP was adopted in 2012 and then extended in 2018 following the adoption of the 2017-2023 CDP. Table 2.4 of the CDP details the core strategy for the County and Shannon. It calculated population, housing targets and zoned land from a 2011 base which was prior to the adoption of the 2012 LAP. The core strategy set requirements based on a residential density assumption of 30 units per

hectares to be achieved by 2023. It is, therefore, appropriate to consider the provisions and requirements of the LAP to be consistent with the adopted CDP.

- s) The proposed 19-20 units per hectare is below the core strategy assumption of 30 units per ha. However, it is higher than the 15 units per ha assumption set for low density residentially zoned land in Shannon. The subject application is to be the first phase of development on these lands. The submitted Masterplan for the overall lands provides for 29.7 or 30 units per ha. It is appropriate and not unusual for parts of Masterplan areas to have different character areas which could include ranges in densities. In this context the third phase of development of the landholding will have the highest density. The proposed application will not compromise the development of the overall lands, the achievement of 30 units per ha for the Masterplan area and would be consistent with the targets of the core strategy.
- t) Section 5.12 of the SRDUA guidelines also makes provision for lower densities in limited cases provided that, within a neighbourhood or district as a whole, average densities achieve any minimum standards recommended in the Guidelines. The site is largely surrounded by commercial lands. I have already found it appropriate in this instance, to consider 'neighbourhood or district' as including the remainder of the Masterplan landholding. Section 5.12 allows for limited provision of lower densities schemes. I am satisfied that a density of 19-20 units per ha as proposed within a Masterplan area of 30 units per ha would be consistent in this regard.
- u) However, 19-20 units per hectare is not a "high density scheme of residential units" in the context of Shannon and the requirements of the R1 zoning. Section 5.9 of SRDUA 2009 requires the LAP and County Plan to determine density for Infill sites. The County Plan and the LAP do not clearly specify what a high density scheme is and accordingly the Board may wish to consider if permitting the development could be considered to be a material contravention of the zoning objective.
- v) In this regard the Board are referred to the criteria set out in section 37 (2) (b) (ii) and (iii) of the Planning and Development Act 2000 (as amended) whereby

- the density requirement and zoning objective is not clearly stated insofar as the proposed development is concerned in the context of the LAP and consequently the CDP (by virtue of the hierarchy of plans and with specific reference to CDP19.2 Development Plan Objective Zoning of Lands), and
- having regard to the SRDUA 2009 Guidelines under section 28 of the Planning and Development Acts

It is considered that the Board is not precluded from granting permission in this instance with regard to the provisions of section 37(2)(b) (ii) and (iii) of the Planning Act 2000 as amended.

- w) Having considered the application on its own merits, its function in the overall development of the R1 zoned lands as per the submitted Masterplan, the sites residential zoning requirements as set out in the LAP, the density assumptions that form the basis of the core strategy as set out in the CDP, Zoning Objective CDP19.2 'Zoning of Lands' as set out in the County Plan, the contents of Circular Letter: NRUP 02/2021 and the provisions of the SRDUA Guidelines of 2009, including sections 5.9 and 5.12, I am satisfied the proposed provision of 19-20 units per ha, in the context of the overall Masterplan area with 30 units per ha, is appropriate, acceptable and consistent with proper planning and sustainable development.

8.2.7.3. Potential future renewable energy network (for example district heating)

- a) The R1 zoning requirement details the site shall be developed for a high density scheme which has the potential to be served by a future renewable energy network (for example district heating), that may be developed in the future on site E3 i.e. Stonehall – Enterprise Site located north of Shannon Aerospace.
- b) In the applicants design statement they detail the introduction of a district Heating System has not been substantiated by any power providers in the country. They argue it is not the responsibility of the Developer to register or become power provided or supplier in this regard.
- c) The Planning Authority have not raised any concerns in this regard.

- d) Having considered density in the previous section and noting the contention of the applicant, I see no reason why the proposed development could not benefit from or connect to future renewable energy network in the future if required/desired should such proposals come to light.

8.2.7.4. **Layout**

- a) The R1 zoning requirement as set out in the LAP details that the proposed layout shall be to a very high standard and maximises the opportunities for energy efficiency through, for example, solar gain.
- b) The Planning Authority have raised no specific concerns in terms of the proposed layout. They highlight how the layout has been designed in such a way as to link in with potential future development on the adjoining lands to the east which forms part of the overall Masterplan. At Further Information stage they suggested amendments to reduce the number of entrances on the main access road and highlighted a concern over the useability of the central open space area. In their response the applicants justified their reasoning for the original layout and proposed a low railing to safeguard the useability of the open space. The Planning Authority accepted the FI response and conditioned the original layout of houses 23-40 and revised proposals for the open space area.
- c) The appellant has raised 'layout' concerns, more specifically the proximity of houses 1-11 to the hotel property and implications for noise pollution from the hotel. This matter will be considered under section 8.3 below.
- d) The applicants have sought to justify the proposed Masterplan layout and application layout in the submitted design statement. In this they refer to six 'home zones' incorporating shared surfaces and shared facilities as recommended under the Design Manual for Urban Roads and Streets 2013 (DMURS). The differing zones creates individual character areas, residential clusters, passive traffic calming methods. The layout generally follows existing field boundaries with hedgerow and trees preserved.
- e) Section 1.2 of the SRDUA 2009 Guidelines details that they are accompanied by a non-statutory residential design manual. The manual sets out 12 criteria

that encapsulate the range of design considerations for residential development. Section 1.2 also suggests there is no strict requirement that proposed developments must comply with the 12 design criteria. Chapter 3 of the SRDUA 2009 Guidelines sets out the qualities which make for successful places, and shows how design criteria can be applied in the planning process, with particular reference to the design of residential streets.

- f) The 2013 Design Manual for Urban Roads and Streets seeks to address street design within urban areas and provides a number of suggestions for proposed layouts. The Guidelines make recommendations in relation to cul-de-sacs, shared priority 'homezones' and pedestrian and traffic safety.
- g) The layout proposes one main vehicular entrance that serves the application site and Masterplan area. The subject site is divided into three home zones with four sizeable areas of open space. Each of these spaces will benefit from substantial passive surveillance. The site includes 4 cul de sacs to be finished as home zones.
- h) The overall development of the application site and its overall layout quality should not just be considered by the design of roads and open spaces but also by its housing typology, tenure and variety. The application provides 48 housing units with types ranging from detached, semi-detached and terraced houses. 40 of the houses are two storey and eight are bungalow. Floor areas range from 71.68 sq.m to 164 sq.m. The development includes 2, 3 and 4 beds with some options providing adaptability to convert the attic space in the future. I am satisfied these will cater for a number of different housing needs of potential future residents including families.
- i) I note the R1 zoning requirement to maximise energy efficiency, for example, solar gain. A large number of roof profiles have planes facing south. The Design Statement details the houses will be constructed to a very high standard of energy efficiency achieving a BER of at least A2. Notwithstanding this, it is considered that most home energy efficiency provisions are not ones that can be addressed through the planning code i.e. heating type, air tightness and insulation provisions. However provisions for electric vehicle and bike charging can be addressed by conditions and exempted

development planning provisions can provide for PV or solar roof panels if they are required or desired by homeowners in the future.

- j) Having considered the above and the site's context, I am satisfied the proposed development provides a layout of sufficiently high standard which incorporates a number of the design criteria measures outlined in the SRDUA Design Manual and DMURS.

8.2.7.5. Buffer to Commercial Zoning

- a) The R1 zoning requires a 'suitable appropriate buffer to be maintained to the commercial zoning along the northern, eastern and southern site boundaries, to be agreed at detailed project level prior to commencement of any development on R1'. It is unclear what the LAP means by 'to be agreed at detailed project level' but it is taken to mean the development of a Masterplan and submission of subsequent planning applications.
- b) I note the appellants have raised concerns relating to the proximity of houses 1-11 to the hotel property along the southern boundary of the site and implications for noise pollution from the hotel. This matter will be considered under section 8.3 below.
- c) The site provides a buffer along its western and northern boundary by way of open space and the public road to some commercial properties and existing houses opposite the site. The eastern boundary of the site adjoins future development lands and commercial development is currently proposed as per the Masterplan. The main commercial property impacted by the proposed application is the hotel along the southern boundary. A buffer is provided by way of rear gardens, an area of open space and the access road to the rear of the hotel. I am satisfied the proposed development maintains an adequate buffer to the commercial zoning and operations of the hotel.

8.2.7.6. Access

- a) The R1 zoning requires access to these lands to be to the satisfaction of the Planning Authority. The council have granted permission with no significant concerns raised in relation to access.

- b) The site is to be accessed from the Tullyvarra Road (L-7178) along the western boundary of the site. Drawing No.21-003-005 is titled 'Proposed Visibility Splays Layout'. The legend on this drawing details that visibility splays are shown as per TII DN- GEO-03060 to external road network and as per Table 4.2 of DMURS. Stopping Sight Distance (SSD) standards based on design speed of 30 kph and 60 kph are highlighted as 23m and 59m. The drawing appears to merge the requirement of DMURS as regards visibility splays exiting the site and forward visibility of vehicles using the road.
- c) Table 4.2 of DMURS deals with forward visibility or stopping sight distances. It provides a recommended measure of the distance along the street ahead which a driver of a vehicle can see and slow down, stop or manoeuvre safely, based on travelling speed should an obstacle encroach on the line of sight. The requirement for 50 kph is 45m and for 60 kph is 59m.
- d) Section 4.4.5 and Figure 4.63 of DMURS deals with Visibility Splays. The recommended X distance from the proposed entrance is 2.4m and the Y distance should correspond to the SSD for the design speed of the major arm, taken from Table 4.2. The submitted drawing shows an X distance of 2.4m and a Y distance sightline of 59m to the road edge.
- e) Section 4.3 of the Traffic and Transportation Study submitted at Further Information stage details that the entrance will provide a minimum sightline of 70m to be compliant with the 50kph speed limit as per the TII's Geometric Design of Junctions (DN-GEO03060) and the County Development Plan.
- f) Appendix 1 of the County Development Plan provides 'Development Management Guidelines'. Section A1.9.2 deals with 'Sight Distances'. It specifies a visibility splay requirements of 70m for a design speed of 50kph and 90m for a design speed of 60kph.
- g) Having considered the R1 zoning Access requirement, the context of the site, the road network in the area and the likely speed of traffic along this section of the L-7178, I am satisfied the proposed development complies with the provisions of section 4.4.5 and Table 4.2 of DMURS and the site access as proposed is acceptable.

8.2.7.7. **Development Contributions**

- a) The R1 zoning details that contributions and ‘other contributions’ as appropriate will be sought towards the upgrade of the existing local road network, together with the junction near the north-west corner.
- b) Standard development contributions have been sought through condition 22 of Clare’s grant of permission. They have also sought a ‘Special Contribution’ in condition 24 specifically relating to the widening of the L-7178 and the provision of a footpath along same together with the upgrade of the junction between the L-7178 and the L-3170 to facilitate the development of the site.
- c) In this regard the Planning Authority’s grant of permission is consistent with the R1 zoning requirement. I note the applicants have appealed the ‘Special Contribution’ and this will be considered separately in section 8.5 below.

8.2.8. **Requirements of COM1 Zoning**

- a) Part of the application site to the south west is zoned COM1. This part of the application site will provide service routes for wastewater and storm water.
- b) This zoning requirement details a planned approach shall be taken to the development of the remaining area of COM1 to avoid piecemeal development like that which exists along the eastern boundary.
- c) It is a stated objective to facilitate development / redevelopment proposals for appropriate commercial developments in the context of:
 - Maintaining the vitality and viability of Shannon town centre
 - Achieving an attractive frontage onto Smithstown Road, An Bothar Mór and the eastern access road
 - Ensuring the residential amenities of any future residential development on adjoining R1 lands are safeguarded
- d) Drawings 21-003-007 and 21-003-008 show that the proposed development within the COM 1 lands will be underground. Siting of this part of the works as proposed will not compromise the COM1 zoning objective.

8.2.9. **Requirements of ‘Open Space’ Zoning**

- a) A very small part of the site is located within lands zoned open space. The LAP does not provide any specific requirements pertaining to the application site. Section 19.4 of the County Development Plan describes the individual zonings proposed in Local Area Plans. For 'Open Space' it details such lands will be retained as undeveloped open space, mainly for passive open space related activities.
- b) This proposed development within open space lands will provide service routes for wastewater and storm water. Drawings 21-003-007 and 21-003-008 show that these services will be underground. I am satisfied the development as proposed is consistent with the zoning and will not compromise the provision of passive open space related activities.

8.2.10. Conclusion

- a) The subject site is largely zoned Residential with specific R1 zoning requirements. The proposed development of 19-20 units per ha does not achieve a 'high density scheme of residential units' as required by the R1 zoning. However, having considered the submitted Masterplan for the overall landholding and the R1 zoned lands, the assumptions that form the core strategy of the County Development Plan, Sections 5.9 and 5.12 of the SRDUA Guidelines 2009 and the contents of Circular Letter: NRUP 02/2021 as regards to compact development which may include residential densities at a lower level than would be considered appropriate in a large town context I am satisfied that the proposed development should be permitted.
- b) However, should the Board consider a density of 19-20 units per ha would materially contravene the zoning requirement for a 'high density scheme of residential units', the Board is not precluded from granting permission in these circumstances. In this regard specific zoning and density objectives in the Development Plan and Local Area Plan are not clearly stated and permission for the proposed development should be granted having regard to Sections 5.9 and 5.12 of the SRDUA 2009 guidelines.
- c) The proposed development would provide an acceptable density and quantum of development and a high standard of layout appropriate to the

existing large town context of Shannon. It provides a reasonable buffer to commercial lands along its site boundaries and acceptable access arrangements. The proposed development does not compromise lands zoned COM1 or Open Space. In terms of zoning I am satisfied the development is acceptable in principle.

8.3. Noise Impacts and Proposed Residential Amenity

- 8.3.1. The Appellant has raised considerable concerns in relation to the extent to which the proposed development may impact on the current operation and day to day running of the hotel with particular reference to the function room, night time uses and subsequent noise impacts. The proximity of residential units and rear gardens, including their levels abutting the hotel boundary is highlighted. The appellants consider it would have been prudent to require the submission of a Noise Impact Assessment to establishing mitigation measures to prevent the existing use of the hotel function room impacting negatively on the amenities of future residents. They also refer to the provisions of the Clare County Council Noise Action Plan 2018.
- 8.3.2. The applicants generally contend that the location of the function room and the rear access roadway encroach on lands not in the ownership of the hotel. They also highlight difficulties in accessing noise impacts given that the Appellants would be the only party in a position to identify when a noise study could be carried out based on their use of the premises. They also detail that a Noise Impact Assessment would not be representative of the noise levels experienced due to Covid 19 restrictions and the associated increased use of external space. The appellants refer to noise impacts on residents of the hotel and how they can be reduced by alterations to the hotel.
- 8.3.3. The Planning Authority raised noise impact concerns at Further Information Stage. They sought sound reduction measures for dwellings no. 5-11 and 23-32 to ensure the normal hotel uses do not detract from residential amenities of the identified houses. In their response the applicants propose additional trees along the boundary with the hotel, provision of a 2m retaining wall to the rear of houses 1-11, all purchasers of houses will be informed under contract of the existing hotel activities, dwellings 1-11 will comply with the requirements of Part E of the Building

Regulations for noise levels. They also propose carrying out a noise assessment during construction and installing acoustic glass to rear windows of numbers 1-11.

- 8.3.4. The Planning Authority considered these measures sufficient to address their concerns. In their response to the appeal they consider that the proposal would not have a negative impact on the amenities of future occupiers of the houses or of the operations of the hotel. They highlight the site has been zoned for residential development since 2012 and is located within the settlement boundary of Shannon. Various uses can be accommodated side by side within this context.
- 8.3.5. During my site inspection I observed development works taken place to the western side of the hotel. These works appear to be for the provision of an external function space/beer garden. They include a low level existing stone wall with a recently installed wooden fencing atop of the wall enclosing the space from the vehicular access route to the rear of the hotel.
- 8.3.6. I have reviewed the site layout plan as permitted by Clare's grant of permission (i.e. the layout of 20/04/21). I note the siting of houses 23-32 with their front elevations facing south towards the boundary of the hotel. These houses are to be in excess of 25m from the boundary and I note this part of the hotel does not appear to provide any functional or outside spaces for its patrons. I have no residential amenity concerns for these houses.
- 8.3.7. Proposed houses 1-11 have their private rear garden spaces along the northern hotel boundary. A number of these gardens have long garden depths well in excess of 11m. House numbers 4, 5,6 and 7 would in my opinion appear to be most at risk from potential noise impacts of the hotel but spillage to private garden spaces could be likely to impact houses 1-11 although the timing of such impacts will vary.
- 8.3.8. I acknowledge the Appellant's concerns as regards to noise impacts from the hotel activities potentially impacting residential amenity of future occupiers living closest to the hotel. However, the site and hotel are located within the Shannon 'Central Area' as identified in the Local Area Plan. The application lands have been zoned for residential use since 2012 and the presence of residential and commercial uses adjoining each other is entirely acceptable in the context of most urban settings. In my opinion, hotel and residential uses are compatible in this context. This is not to say they cannot negatively impact upon each other.

8.3.9. However, I am satisfied the enclosure of the functional hotel space as apparent during my site inspection, the presence of the access route dividing the functional space from the rear of the proposed houses, a rear boundary wall of at least 2m to the proposed houses, the depth of the rear gardens and the measures proposed in response to the Further Information request are sufficient to adequately safeguard against significant noise impacts upon residential amenity of houses 1-11. I also consider it appropriate to impose a condition requiring minimum internal noise levels, when measured at the rear windows of proposed houses 1-11. Finally, it should also be acknowledged that future residents of houses No. 1 -11 will be likely to consider the presence and proximity of the hotel and its likely activities when deciding where they live.

8.4. Project Splitting

- 8.4.1. The Appellant has raised concerns in relation to the proposed development as the first phase of the overall Masterplan for the R1 zoned lands. They highlight the Masterplan provides for 158 units and a development of this extent would be more appropriately addressed under the provisions of Strategic Housing Development (SHD).
- 8.4.2. In the Applicants response to the appeal they argue they are not required under legislation to submit an SHD application. They have however, since submitted an additional planning application incorporating Phase 2 of the Masterplan area which will provide for 55 houses and a creche (21/1397).
- 8.4.3. In their response to the third party appeal the Planning Authority contend that the application forms just one part of the overall site and the Masterplan as submitted was considered as part of the assessment of the application and the proposal would not prejudice the wider development of the site whilst also providing for new homes.
- 8.4.4. Requirements for Strategic Housing Development (SHD) Planning Applications were set out in the Planning and Development (Housing) and Residential Tenancies Act 2016 and the Planning and Development (Strategic Housing Development) Regulations 2017. They include planning applications for housing developments of more than 100 residential units. Such applications are to be made directly to An Bord Pleanála. Applications that do not meet the prescribed thresholds such as that

subject to this appeal i.e. less than 100 units are to be made to the local Planning Authority and can be subject to an appeal to An Bord Pleanála.

- 8.4.5. I acknowledge the Appellant's concern in this regard as it is clear from the submitted Masterplan that the overall landholding could be subject to 158 residential units. The LAP zoning requirement for the lands specifies a Masterplan should be prepared for all the lands to ensure that a coordinated approach is taken and that this important, centrally-located site maximises its full potential. This requirement does not impose an obligation for the lands to be developed as one or through one application nor does it require the developer to enter into section 47 agreements to regulate development or use of land. Generally the provision of a Masterplan is to show how all the lands can be developed in such a way so as not to compromise future development potential. I note the applicants have subsequently submitted an application for phase 2 of the landholding and this proposes the provision of a creche. This is considered entirely consistent with the concept of Masterplanning.
- 8.4.6. I note the Appellants reference to 'Project Splitting'. The submission of more than one application to develop a large landholding is not the same as a deliberate splitting of a large project. In this regard 'Project Splitting' in a planning context generally, relates to developments that when combined would otherwise exceed a threshold of development that would require the preparation of an Environmental Impact Assessment (EIA) and whereby a number of applications individually would not exceed such EIA thresholds.
- 8.4.7. Having regard to section 6.8 above and having considered schedule 5 of the Planning and Development Regulations 2001-21 (as amended) in relation to requirement for EIA and subthreshold developments, I am satisfied on the basis of the submitted application only that the proposed development on R1 zoned lands is not 'project splitting' as described by the Appellant and the need for EIA has been excluded at preliminary examination and a screening determination is not required in this instance.
- 8.4.8. I note the Appellant's concern in relation to the scope of the submitted Traffic and Transportation Assessment (TTA). The Planning Authority sought a TTA through Further Information and it is clear from this, the applicants were required to consult

(scope) with the Planning Authority in advance and to include for the overall development of the R1 zoned lands.

- 8.4.9. The submitted TTA clearly details scoping with the council occurred prior to the preparation of the TTA and submission of the FI response. Section 5.0 of the TTA deals with Trip Generation and Distribution. It details use of available traffic count data 'pre covid' under planning application 20/311 (nearby Aldi application) and estimates trip generation for the proposed development of 48 units and also the overall Masterplan proposal of 158 units and a 200 sq.m creche.
- 8.4.10. The TTA assesses the impact of the proposed development and the overall Masterplan area on the junction of the R471 and the L7178 and the L-7178 with the Shannon Town Roundabout/Smithstown Link road. In both cases it concludes that for the proposed development and the Masterplan development there will be minor increases in delay and queuing but the junctions will operate well within capacity.
- 8.4.11. I am satisfied that the scope, assumptions, allowances and traffic count used to inform the submitted TTA are reasonable in order to review the potential transport impacts of the proposed development on the existing transport network, public transport, cycling and pedestrian networks. The information submitted in the TTA appears detailed, robust and generally adheres with Transport Infrastructure Ireland's 'Traffic and Transport Assessment Guidelines May 2014'. Clare County Council have raised no concerns in this regard. I do not consider there to be any ambiguity in terms of the scope of the TTA.
- 8.4.12. I note the Appellant's concern in relation to the scope of the submitted Natura Impact Statement (NIS) and the proposed mitigation measures including a Construction and Environmental Management Plan. This will be given further consideration in section 8.6 below.

8.5. First Party Special Contribution Appeal

8.5.1. Introduction

- a) The First Party Appeal is solely against Condition 24 of the planning permission, relating to a Special Financial Contribution under section 48 (2)

(c) of the Act. Condition 24 requires the payment of a special contribution of €232,000

“...towards the widening of the L-7178-0 road and the provision of a footpath along same, together with the upgrading of the junction between the L-7178-0 and the L-3170, all of which are necessary to facilitate the development of the subject site.....”

- b) Condition 22 attached to the permission requires the payment of a general financial contribution of €266,352 in respect of public infrastructure and facilities benefitting development in the area under Section 48 (1) of the Act.

8.5.2. **Legislation and Guidance**

- a) Section 48 (2) (c) of the Act states-

“A planning authority may, in addition to the terms of a scheme, require the payment of a special contribution in respect of a particular development where specific exceptional costs not covered by a scheme are incurred by any local authority in respect of public infrastructure and facilities which benefit the proposed development.”

- b) Further guidance on Development Contributions and Special Contributions is provided in the Development Management Guidelines, 2007 (Section 7.12) and the Development Contributions Guidelines for Planning Authorities of 2013 and Departmental Circulars PD 4/2003 and PD 5/2007 and summarised where relevant in section 6.3 above.
- c) It is clear from the legislation and the guidance that a requirement for a Special Contribution should only be made in respect of a particular development, whereby demands likely to be placed on the public services and facilities are deemed to be exceptional, thereby incurring costs not covered by the General Development Contribution Scheme.

8.5.3. **Clare County Council’s Justification**

- a) The specific breakdown of works and costs are not specified in detail in Condition 24, but the Roads Design Engineers Report dated 08/06/21 states-

“The RDO is concerned L-7178 from the junction with the L-3170 to the junction with the L-31721-0 is not of sufficient width to cater for increased traffic due to the proposed development. A special contribution should be sought along with proposed plans to facilitate road widening along this extent. Exact cost to be agreed with the Municipal District Engineers Office.”

b) A further report from the Roads Design Engineers Report dated 06/10/21 after the submission of further information states-

- *“It is the opinion of the Road Design Office that the increase in predicted traffic numbers as submitted in the Traffic and Transport Assessment will require an upgrade of the existing L-7178-0 to a minimum of 5.5m with a 2m footpath to accommodate. Design to be agreed with the Road Design Office. Road widths of 3.7m to 5.3m were measure on site.*
- *A contribution should be sought, amount to be agreed with the Municipal District Engineers office for the realignment of the junction between the L-7178 and the L-3170.”*

c) An email report dated 20/10/21 from the Area Engineer (Shannon MD) and on file recommends a contribution of €232,000 towards the upgrade of the existing public road adjoining the site. Costs based on the following-

- 250m of 2m wide concrete path- €45,000
- 250m of 5.5m wide road- €137,000
- Junction upgrade- €50,000

d) The Planning Authority’s response to the appeal dated 17/12/21 details that the local road network serving the site is poor in terms of capacity and width. They are concerned that the proposed development will lead to the wider use of the road network to the north which links to the N19. They highlight the existing road is narrow and not served by public footpaths. They also refer to the R1 ‘site specific zoning objective’ which seeks “*development contributions along with other contributions as appropriate*”. They repeat the breakdown of

costs as set out in the Area Engineer email and the content of the Roads Design Office email in this regard.

- e) The clear intention of Condition 24 is to seek a contribution from the developer of the costs of works to upgrade the section of local road L-7178-0 to the west of the site but only from the north west corner of the site to its junction with the L-3170 Smithstown Road and the provision of a footpath along same. The costs also include for the upgrading of the junction between the L-7178-0 and the L-3170.

8.5.4. Requirement for the works

- a) In the applicants response to the Planning Authority's submission to the appeal they argue that the Traffic and Transport Assessment submitted in response to the FI request considered the impact the proposed development will have on the existing road network. It looked at ways to promote non-car access to the development including pedestrian and cycle interconnection. Existing public transport was also examined. They also refer to the Inspectors Report for ABP-306417-20 (Vacant Site) where it was considered "*the site is located in an established urban area and no constraints in terms of servicing by public infrastructure and facilities have been identified*" and to the recently adopted Shannon Town Centre Masterplan where a new road is proposed which will reduce down the impact or importance of the existing road network. They appear to be suggesting the works are not required.
- b) During my inspection, I travelled the length of the road in question. I concur with the opinion of the Planning Authority that this part of the road is poor in terms of its capacity and width. I have also had particular regard to the road's siting within the settlement boundary of Shannon and the 'Central Area' as outlined in blue on the Shannon zoning maps. Use of the road by both pedestrians and vehicles will undoubtedly increase as a result of 48 new dwellings as proposed in this application.
- c) Having considered the wording and provisions of section 48 (2) (c) it would appear the necessity of the works is not a consideration. In my opinion the main considerations are as follows-

- Are the works 'specific exceptional costs'
- Are the works 'public infrastructure and facilities which 'benefit the proposed development'.

8.5.5. 'Specific Exceptional Costs'

- a) The requirements of section 48 (2) (c) detail 'specific exceptional costs' that are not specifically covered by Clare County Councils Development Contribution Scheme 2017-23. I refer to the 'projected capital programme' detailed in Appendix 1 of the same scheme. Appendix 1, Section 2 details a number of road schemes to be included. The road works set out in Condition 24 are not included here and are therefore applicable for consideration as a Special Contribution.
- b) Section 2 also details the following as covered under the general contribution scheme-
 - Footpaths- Extensions to and remediation of existing footpath infrastructure
 - General Improvement Schemes- Streetscape improvement works and pedestrian linkages in the 4 Municipal Districts
- c) The 2m footpath detailed in condition 24 is not considered an extension of existing footpath infrastructure in the area. However, it would provide pedestrian linkages from the L-3170 (Smithstown Road) along the L-7178-0 road (sectioned to be widened) and connecting to the footpath to be provided by the applicant along the western boundary of the application site as per the drawing WDS-20-PL21 (submitted on the 26/08/21). I consider the provision of pedestrian linkages in this context is provided for under the General Contribution Scheme and the provision of 250m of 2m wide concrete path at a cost of €45,000 should therefore not be included for in Condition 24.
- d) Having considered the above I am satisfied the elements of works are that are 'Specific Exceptional Costs' and that should be sought in condition 24 are the following only-
 - 250m of 5.5m wide road- €137,000

- Junction upgrade- €50,000

8.5.6. Are the works ‘public infrastructure and facilities which benefit the proposed development’.

- a) The area of the works specified in Condition 24 are not located within the applicants landholding and would have to be completed by the local authority. The fact that the works would be ‘public infrastructure and facilities’ is not questioned. I note the applicants do question if land take will be required. I am satisfied that such a need is not one for consideration as part of this assessment.
- b) The works specified in condition 24 relate to the widening of the L-7178-0 road and the provision of a footpath along same, together with the upgrading of the junction between the L-7178-0 and the L-3170.
- c) Following the request for Further Information in which the requirement for a special contribution was raised, the applicants submitted a revised layout drawing WDS-20-PL21 (26/08/21) which identifies part of a proposed footpath along the western boundary of the application site that is located outside the control of the applicants and that does not form part of condition 24. The applicants submission that accompanied the FI response considers that the extension of any footpaths, public lighting and traffic calming measures are generally infrastructure classes, provided for under the development contribution scheme.
- d) I tend to agree with the applicants assertion in the context of the footpath proposed along the sites western boundary. However, the area of footpath proposed in the application but shown outside of the planning application site on the drawings submitted on the 26/08/21, would in my opinion, become an extension of the footpath to be developed as part of the permitted development. Such an extension, would then be applicable under the general development contribution scheme. I note that this matter does not form part of this appeal.
- e) As already discussed, I concur with the opinion of the Planning Authority that this part of the road is poor in terms of its capacity and width and that the use

of the road by both pedestrians and vehicles will undoubtedly increase as a result of 48 new dwellings as proposed in this application. Therefore, there is no question in my mind that the works specified in condition 24 would be public infrastructure and facilities which benefits the proposed development.

f) Section 7.12 of the Development Management Guidelines states-

“...where the benefit deriving from the particular infrastructure or facility is more widespread (e.g. extends to other lands in the vicinity) consideration should be given to adopting a revised development contribution scheme or, as provided for in the Planning Act, adopting a separate development contribution scheme for the relevant geographical area.”

The provisions of section 48 (2) (c) do not however, exclude the benefit of such works to the more local area outside of the permitted development. For me, and with the exception of the likely local area benefit outside of the application site, the ‘widespread benefits’ of the works would not be as significant as the benefits to the residents of the proposed houses. Finally, the consideration of adopting a revised or separate scheme is not one for the Board.

8.5.7. Other Appeal Considerations

- a) The applicants challenge the calculation of the costs of the road widening at €137,000. They refer to the existing average road width of 4.5m giving an area of 1,125 sq.m based on a length of 250m against the councils claim of 1,375 sq.m based on a 5.5m width.
- b) While I appreciate the applicants argument, I note the Planning Authority intend to provide a 250m length of road that is 5.5m wide. Section 48 (12) of the Planning and Development Act provides for circumstances where refunds can be paid to the applicant including in respect of a proportion of the works which have not been carried out. If the Council cannot deliver a 250m long, 5.5m wide road it appears to me that they would be required to refund the applicant.

- c) In terms of the junction upgrade the applicants contend that the identified works must be apportioned to the particular development and that the basis for the calculation of the condition is not explained in the decision. They refer to refer to section 7.12 of the Development Management Guidelines.
- d) The Planning Authority state the costs of the works will be €50,000. They have not provided any other information. I tend to share the applicant view that the basis of the calculation has not been explained in great detail. However, it is considered that the intention of condition 24 is clear, is supported by the planning and technical reports and is clarified further in the Planning Authority's submission to the Board on the appeal.
- e) Notwithstanding the above, Section 7.12 of the Development Management Guidelines states-

“...it will be necessary to identify the nature/scope of works, the expenditure involved and the basis for the calculation, including how it is apportioned to the particular development.”

Having considered this, it appropriate to give further consideration to how all the works set out in Condition 24 are apportioned to the particular development.

- f) The application site forms only a part of the R1 zoned lands. The zoning requirement states-

“Development contributions, along with other contributions as appropriate, shall be sought towards the upgrade of the existing local road network, together with the junction near the north-west corner.”

In this context I am satisfied condition 24 relates to the upgrade of the 'local road network' and I understand the 'junction near the north-west corner' to be the corner of the application site along its western and northern boundary and not the junction of the L-7178-0 and the L-3170.

- g) This zoning requirement clearly relates to the overall R1 lands and not just the application site but does form one of the Planning Authority's justifications for the inclusion of condition 24.

- h) It could be argued that it is not reasonable, that the full cost of upgrading the 'local road network' should be attributed to this application as per condition 24 where the R1 zoning requirement is for the overall R1 lands. The Board may wish to consider if the cost of a 'contribution' which is also a zoning requirement should be applicable to the overall R1 zoned lands (i.e. the Masterplan provides for c. 158 units) and should not be borne solely within this application for only 48 units.
- i) In my opinion, it is not appropriate to consider the potential delivery of 158 residential units on the overall Masterplan lands (e.g. payment on a pro rata basis based on the number of units per the application) and its implications on condition 24. This application proposes 48 units only and this development will benefit from the works set out in Condition 24 as provided for in Section 48 (2) (c) of the Act.
- j) It would be unreasonable to seek a reduction in the amount required to complete the works and potentially create a scenario where only part of the road works are complete while the Planning Authority await further applications to develop the R1 lands to then seek further special contributions. Accordingly, it would also not be appropriate to apply a special contribution for the same works to further applications on the R1 zoned lands should they be granted.

8.5.8. Conclusion

- a) It is considered that the following proposed works are specific exceptional costs not covered by the Clare County Council Development Contribution Scheme 2017-2023 and would be incurred by the local authority in respect of public infrastructure and facilities which would benefit the proposed development-
- 250m of 5.5m wide road- €137,000
 - Junction upgrade- €50,000
- b) The costs associated with the provision of-
- 250m of 2m wide concrete path- €45,000

should however be omitted. It is considered that the provision of 'pedestrian linkages' is covered by the terms of the Clare County Council Development Contribution Scheme, 2017-2023 as set out in Appendix 1, Section 2, Roads, General Improvement Schemes.

- c) Thus, the amount of the contribution set out in Condition 24 should be reduced from €232,000 to €187,000.

8.6. Appropriate Assessment

8.6.1. Introduction

- a) The original application was accompanied by a Stage 1 Screening Report and Stage 2 Natura Impact Assessment both prepared by Ecofact Environmental Consultants.. Both documents are dated the 07th of April 2021.

8.6.2. Stage 1 – Screening

- a) The applicant's AA Screening Report concludes that-

“.....it has been demonstrated that there is the potential or possibility for indirect or cumulative effects on both the Lower River Shannon SAC and the River Shannon and River Fergus SPA in the absence of mitigation. It is therefore concluded that a Natura Impact Statement (Appropriate Assessment) is required. A Construction Environmental Management Plan is likely to be required for NIS.”

- b) 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.

8.6.3. The Proposed Development and Receiving Environment

- a) The application site can be described as a greenfield site within the established settlement boundary of Shannon. The proposed development is for 48 houses and ancillary works. The site is not located within a designated

European site however it is note the site is located c. 1.5km from the closest designated sites.

8.6.4. European Sites

- a) Given the location of the site, and the nature and scale of the proposed development, I consider the following designated European sites as set out in Table 1 to be within the zone of influence of the application site-

Table 1-

Site Name & Code	Qualifying Interest / Special Conservation Interest	Distance
Lower River Shannon SAC 002165	1029 Freshwater Pearl Mussel <i>Margaritifera</i> 1095 Sea Lamprey <i>Petromyzon marinus</i> 1096 Brook Lamprey <i>Lampetra planeri</i> 1099 River Lamprey <i>Lampetra fluviatilis</i> 1106 Atlantic Salmon <i>Salmo salar</i> (only in fresh water) 1110 Sandbanks which are slightly covered by sea water all the time 1130 Estuaries 1140 Mudflats and sandflats not covered by seawater at low tide 1150 *Coastal lagoons 1160 Large shallow inlets and bays 1170 Reefs 1220 Perennial vegetation of stony banks 1230 Vegetated sea cliffs of the Atlantic and Baltic coasts 1310 Salicornia and other annuals colonizing mud and sand 1330 Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) 1349 Bottlenose Dolphin <i>Tursiops truncatus</i> 1355 Otter <i>Lutra</i> 1410 Mediterranean salt meadows (<i>Juncetalia maritimi</i>) 3260 Water courses of plain to montane levels with the <i>Ranunculum fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation 6410 <i>Molinia</i> meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>) 91E0 *Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i> , <i>Alnion incanae</i> , <i>Salicion albae</i>)	c. 1.5km to the south.
River Shannon and River Fergus Estuaries SPA 004077	A017 Cormorant <i>Phalacrocorax carbo</i> breeding + wintering A038 Whooper Swan <i>Cygnus</i> wintering A046 Light-bellied Brent Goose <i>Branta bernicla hrota</i> wintering A048 Shelduck <i>Tadorna</i> wintering A050 Wigeon <i>Anas penelope</i> wintering A052 Teal <i>Anas crecca</i> wintering A054 Pintail <i>Anas acuta</i> wintering A056 Shoveler <i>Anas clypeata</i> wintering A062 Scaup <i>Aythya marila</i> wintering A137 Ringed Plover <i>Charadrius hiaticula</i> wintering A140 Golden Plover <i>Pluvialis apricaria</i> wintering A141 Grey Plover <i>Pluvialis squatarola</i> wintering	c. 1.5km to the south.

	A142 Lapwing <i>Vanellus</i> wintering A143 Knot <i>Calidris canutus</i> wintering A149 Dunlin <i>Calidris alpina</i> wintering A156 Black-tailed Godwit <i>Limosa</i> wintering A157 Bar-tailed Godwit <i>Limosa lapponica</i> wintering A160 Curlew <i>Numenius arquata</i> wintering A162 Redshank <i>Tringa totanus</i> wintering A164 Greenshank <i>Tringa nebularia</i> wintering A179 Black-headed Gull <i>Chroicocephalus ridibundus</i> wintering A999 Wetlands	
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b) Conservation Objectives-

- SAC- Available to view at- https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO002165.pdf
- SPA- Available to view at- https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004077.pdf

c) I have considered European Sites in the general area including Figure 1 of the applicants screening report which sets out European sites with 15km of the application site. I am satisfied that other European sites proximate to the appeal site can be ‘screened out’ on the basis that significant impacts on such European sites could be ruled out, either as a result of the separation distance from the appeal site, the extent of marine waters or given the absence of any direct hydrological or other pathway to the appeal site.

8.6.5. Test of Likely Significant Effects

- a) The project is not directly connected to or necessary to the management of any European site. The proposed development is therefore, examined in relation to any possible interaction with European sites to assess whether it may give rise to significant effects on any European Site in view of the conservation objectives of those sites.
- b) I have reviewed Section 5 (Table 2) of the submitted screening report which identifies particular Qualifying Interests within the identified European Sites and which the proposed development has the potential to significantly impact upon.
- c) Based on the source-pathway-receptor model and taking account of the characteristics of the proposed development in terms of its nature, location

and the scale of works, the sites proximity to European sites and having regard to the NIS carried out for the County Development Plan and implications for this site, the following issues are considered for examination in terms of likely significant effects on European sites-

- Potential for impacts on water quality and from invasive species as a result of inadequate wastewater treatment through connection to Shannon WWTP and discharge to the SAC.
- Potential for impacts on water quality and from invasive species as a result of proximity to a surface water stream which discharges into the Shannon Estuary.

8.6.6. Potential Effects

The Screening Report identifies the following-

- Direct Impacts to Lower River Shannon SAC
 - Construction Stage-
 - No potential pathways for significant direct impacts identified
 - Operational Stage-
 - No potential pathways for significant direct impacts identified
- Direct Impacts to River Shannon and River Fergus SPA
 - Construction Stage-
 - No potential pathways for significant direct impacts identified
 - Operational Stage-
 - No potential pathways for significant direct impacts identified
- Indirect Impacts to Lower River Shannon SAC
 - Construction Stage-
 - There is an unnamed stream c.150m to the east of the site and is a potential pathway for indirect water quality impacts to arise. This could affect listed qualifying interests.
 - As with any construction site there is potential for pollution including oils, fluids, concrete, cement, sediment and site works run off to the stream

- There is no potential for disturbance impacts including noise and human activity. The site is significantly separated from the habitats that qualifying interest species use.
 - Potential pathway for invasive species on machinery and tools to the site could be spread via seeds in the stream and flow to the SAC.
 - Operational Stage-
 - Due to proximity of stream there is a potential pathway for water quality impacts from run off including oils/fuels from access roads and parked cars. Household waste can also contribute.
 - The development will connect to the Shannon Wastewater Treatment Plant which discharge to the SAC. The domestic plant has a capacity for 12,500 and an additional design capacity of 3,500m³/day for the industrial stream. The total estimated p.e. going through the Shannon wwtp in 2010 was recorded at 22,043. The wwtp is being upgraded and due for completion by Q1 of 2021. Updates on capacity are not available.
- Indirect Impacts to River Shannon and River Fergus SPA
 - Construction Stage-
 - There is an unnamed stream c.150m to the east of the site and is a potential pathway for indirect water quality and invasive species impacts to arise. This could affect Wetland and Waterbirds habitats that the bird species in the SPA utilise.
 - The impacts are the same as for construction impacts on the SAC.
 - In terms of disturbance the site is significantly separated from the habitats with the urban developed area between. There is no potential for disturbance impacts including noise and human activity.
 - Operational Stage-

- Due to the presence of the stream there is potential for water quality impacts that could affect Wetland and Waterbirds habitats downstream that the bird species in the SPA utilise.
- The Shannon wwtp discharges directly into the SPA. There is uncertainty around the plant to adequately treat wastewater arising from the development during the operational stage.

8.6.7. In-combination Impacts

a) The Screening Report identifies the following-

- Lower River Shannon SAC-
 - Medium impacts on the SAC include fertilisation, urbanised areas, human habitation, air pollution, air-borne pollutants, discharges, eutrophication (natural), grazing, polderisation, reclamation of land from sea, estuary or marsh.
 - There are pressures on water quality including the uncertainty over the Shannon wwtp. The proposal would cumulatively add to the loading on the wwtp which in turn could increase the potential for water quality impacts from the discharge.
- River Shannon and River Fergus SPA
 - High impacts on the SPA include industrial or commercial area, discharges, fertilisation, urbanised areas and human habitation.
 - The proposal has the potential to act in-combination with these existing pressures on water quality.
 - The proposal will increase residential housing and contribute to urbanisation and human habitation.
 - No significant cumulative impacts are likely to arise relating to increased urbanised areas and human habitation.

b) I consider the proposal should be considered as part of the wider development of Shannon as part of the LAP and the County Development Plan. These plans were also subject to AA by the Local Authority.

c) I note there is a current planning application on the site to the immediate east and closer to the stream. This application has not yet been determined by the Planning Authority. In this context I do not consider there to be any other

specific and permitted planning applications in the immediate area that could have in combination effects with the proposed development on the identified European Sites.

8.6.8. Conclusion

a) 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 and having regard to the submitted screening report which I consider to be robust and comprehensive, it has been concluded that the project individually (or in combination with other plans or projects) could potentially have significant effects on the following European Sites-

- Lower River Shannon SAC 002165
- River Shannon and River Fergus Estuaries SPA 004077

in view of these site's Conservation Objectives, and Stage 2 Appropriate Assessment is therefore required. The applicants have submitted a NIS with the application.

8.6.9. Stage 2 – Appropriate Assessment

a) The requirements of Article 6(3) as related to appropriate assessment of a project under part XAB, sections 177U and 177V of the Planning and Development Act 2000 (as amended) are considered in this section. The areas addressed in this section are as follows:

- Compliance with Article 6(3) of the EU Habitats Directive
- The Natura Impact Statement and associated documents
- Appropriate assessment of implications of the proposed development on the integrity of each European site

b) Compliance with Article 6(3) of the EU Habitats Directive

The proposed development 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).

8.6.10. Screening- the need for Appropriate Assessment

- a) Following the screening process, it has been determined that Appropriate Assessment is required as it cannot be excluded that the proposed development individually or in-combination with other plans or projects will not have a significant effect on the following European sites-
- SAC- Lower River Shannon 002165
 - SPA- River Shannon and River Fergus Estuaries 004077

8.6.11. The Natura Impact Statement (NIS)

- a) The application includes a NIS dated 07th of April 2021, prepared by Ecofact Environmental Consultants, which examines and assesses likely effects of the proposed development on the European Sites listed above. The NIS concludes that-

“..... following an examination, analysis and evaluation of the relevant information, including in particular the nature of the predicted impacts from the proposed works, and with the implementation of the mitigation measures proposed, that the proposed works do not pose a risk adversely affecting the integrity of any Natura 2000 site, either alone or in-combination with other plans or projects.

- b) Having reviewed the documents on file, I am satisfied that the information allows for an assessment of any adverse effects of the development, on the conservation objectives of the identified European sites alone, or in combination with other plans and projects.

8.6.12. Implications of the proposed development on the integrity of European sites

- a) The submitted NIS carries out an Impact Assessment on the two identified European Sites specifically the Annex I habitats and Annex II Species listed as qualifying interests.
- b) The identified habitats and species (and their conservation objectives) that could adversely be affected as a result of indirect impacts to Lower River Shannon SAC are-
- Estuaries

- Mudflats and sandflats not covered by seawater at low tide
 - Atlantic salt meadow
 - Mediterranean salt meadows
 - Sea lamprey
 - Brook lamprey
 - River lamprey
 - Salmon
 - Common Bottlenose Dolphin
 - Otter
- c) I have considered these against the NPWS identified conservation objectives and associated mapping⁷. I am satisfied the NIS identifies the appropriate habitats.
- d) The potential impacts to the SAC identified by the NIS at ‘Construction Stage’ can be summarised as follows-
- There is an unnamed stream c.150m to the east of the site that flows into the SAC. It is an indirect potential pathway for water quality impacts to arise. Such impacts could be caused by construction related pollution including oils, fluids, concrete, cement, sediment and site works run off to the stream. The NIS refers specifically to ‘community distribution’.
 - The stream is also a potential indirect pathway for invasive species on machinery and tools used within the site which could spread seeds to the stream and flow to the SAC.
 - In relation to estuaries the NIS refers to groundwater vulnerability at the site which is listed as ‘High’ and the implementation of Sustainable Urban Drainage Systems.
- e) The potential impacts to the SAC identified by the NIS at ‘Operational Stage’ can be summarised as follows-

⁷ https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO002165.pdf

- The stream is a potential pathway for water quality impacts from run off including oils/fuels from access roads and parked cars. Household waste could also contribute.
 - The completed development will connect to the Shannon Wastewater Treatment Plant with final treated discharge to the SAC. Concerns of the capacity and ability of the wwtp to treat additional wastewater from the development have been identified.
- f) The identified habitats (and their conservation objectives) that could adversely be affected as a result of indirect impacts to the River Shannon and River Fergus SPA are-
- Wetlands and Waterbirds
 - Cormorant
 - Whooper Swan
 - Shelduck
 - Wigeon
 - Teal
 - Golden Plover
 - Grey Plover
 - Lapwing
 - Knot
 - Dunlin
 - Black-tail Godwit
 - Bar-tailed Godwit
 - Curlew
 - Redshank
 - Greenshank
 - Black headed Gull
- g) I have considered these against the NPWS identified conservation objectives and associated mapping⁸. I am satisfied the NIS identifies the appropriate habitat and species.

⁸ https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004077.pdf

- h) The potential impacts to the SPA identified by the NIS at 'Construction Stage' can be summarised as follows-
- The nearby identified stream has the potential for indirect water quality pollution and invasive species impacts to arise as discussed above for the SAC. These impacts could also affect the Wetland and Waterbirds habitats that the bird species in the SPA utilise.
- i) The potential impacts to the SPA identified by the NIS at 'Operational Stage' can be summarised as follows-
- There is potential pollution from users of the site when complete e.g. cars and household waste. These could impact on water quality that could affect Wetland and Waterbirds habitats downstream that the bird species in the SPA utilise.
 - The concerns of the capacity and ability of the Shannon wwtp to treat additional wastewater from the development could impact on the SPA.

8.6.13. In-combination Effects

- a) The submitted NIS details the potential for in-combination effects on the SAC and SPA in relation to pollution to surface waters, fertilisation, human habitation and urbanised areas.
- b) Water quality run-off from the construction phase, operational phase surface water pollution, and an increased load at the Shannon Town WWTP could all act in-combination with existing background pressures on these Natura 2000 sites.
- c) By nature. the proposed residential housing development would also be contributing to an increase in human habitation in the area of Shannon town north of the SAC and SPA
- d) I note the NIS reference to a number of nearby planning applications. I also note a current planning application on the site to the immediate east and closer to the stream pl. ref. 21/1397 for 55 houses and a creche. This application has not yet been determined by the Planning Authority. Having considered these, I do not consider there to be any other specific and permitted planning applications in the immediate area that could have

significant in-combination effects with the proposed development on the identified European Sites.

- e) Having considered the above, I am satisfied the proposal should be considered as part of the wider development of Shannon as part of the LAP and the County Development Plan. These plans were also subject to AA by the Local Authority which would have taken into consideration land use zoning and development potential.

8.6.14. Mitigation Measures

- a) Section 7 of the NIS details mitigation measures for the protection of the Lower River Shannon SAC and the River Shannon and River Fergus Estuaries SPA and their qualifying interests. These measures are to address potential water quality and invasive species impacts affecting the qualifying interests of the sites.
- b) The NIS proposes a site specific Construction and Environmental Management Plan (CEMP) and Method Statement to be drawn up prior to commencement of development. This plan will detail precisely how the works will be carried out in compliance with the necessary mitigation measures. The CEMP and Method Statement will be prepared following best practice procedure and guidelines, having due regard to the relevant sections of the following:
- IFI, (2010) Biosecurity Protocol for Field Survey Work
 - IF1, (2016) Guidelines of protection of Fisheries during construction works in and adjacent to waters
 - NRA, (2010) The Management of Noxious Weeds and Non-Native Invasive Plant Species on
 - National Roads" CIRIA (2006) "Control of Water Pollution from Linear Construction Projects- Site Guide (C649)
 - CIRIA (2005) Environmental Good Practice - Site Guide (C650)
- c) Section 7 also proposes–

- The footprint of the works will be limited, and fencing will be used to delineate the works area.
- The site compound will be located at least 50m away from any watercourse or drain, and preferably on the existing hard stand area to the south-west of the proposed development site
- Works should be limited to daylight hours to avoid potential disturbance to nocturnal animals. Works should be limited to between 7am and 7pm.
- Any oiling or refuelling of machinery that may be required will be undertaken within the site compound, away from any watercourse or drain.
- Any oils or fuels that may be required for minor machinery used during the proposed works will be stored appropriately in bunded tanks in the site compound to ensure no spillages occur.
- Machinery will be well-maintained and checked for leaks prior to its use on site. Spill kits will be used and any leaks on site will be cleaned immediately.
- During excavations, levelling, or site clearance required for the works, the duration that subsoil layers will be exposed to the effects of weather will be minimised.
- Typical seasonal weather variations will also be taken account of when planning excavations with the objective of minimising soil erosion. A 5-day weather window prior to any site clearance works will be agreed in advance of the works to minimise any potential for flooding/excessively wet weather to reduce the potential for run-off from the site
- Disturbed subsoil layers will be stabilised as soon as practicable.
- Stockpiles of excavated subsoil material are anticipated to be minimal and will be covered and protected with sediment filter sock to base for the duration of the works and not located in areas where sediment laden runoff may enter existing surface water drains.
- Stockpiles will also be located so as not to necessitate double handling.

- Storage of material required for the yard will only be within site compound, covered and protected to ensure the risk of run-off is minimised.
- Waste from any vegetation removal will be dealt with away from any watercourse or drain.
- Silt fences will be placed on the drain downstream of the proposed development site and just upstream of the concrete headwall to reduce the potential for run-off during the works.
- Once complete, the silt fences may be removed appropriately, as detailed in the method statement.
- The effectiveness of the silt fence will be monitored throughout the works and checks will be carried out to ensure its correct installation
- Concrete / cement mixing will be carried out within a mixing area in the site compound and will be controlled by the contractor, with all wash water, tool washings and any waste / grey water stored securely and removed.
- Waste material will be stored on site temporarily, covered by appropriate tarp or similar material to prevent run-off. Following this, the waste will be taken off site and dealt with appropriately.
- Portaloos should be provided and regularly maintained by a licensed facility and all sewage appropriately removed from the site to an authorised treatment plant.
- Sustainable Urban Drainage Systems approaches are proposed to ensure a sustainable and natural management of drainage from the site, which by principle would not adversely affect the watercourses in the vicinity. These are outline din section 6.4 of the Engineering Services Report submitted with the application. These include permeable paving, an attenuation system with silt removal, petrol interceptor and hydrobrake flow control
- A swale should also be considered.
- Biosecurity measures will be incorporated into the CEMP as per NRA Guidelines. All equipment on site will be steam cleaned prior to and after use on site and wastewater will be appropriately dealt with. Tyres and

tracks of plants and construction vehicles will be checked for the presence of plant material i.e. non-native invasive species.

- d) In relation to the potential for indirect impacts resulting from wastewater during the operational stages of the development the Shannon Wastewater Treatment Plant has recently been subject to upgrade⁹. These works have improved the wastewater treatment performance, increased the capacity at the plant and ensure compliance with the Wastewater Treatment Regulations. The Irish Water website indicates these works have been completed and I note documentation on the Clare County Council website indicate the capacity is now 28,500 pe¹⁰. Given the nature of the site, and its location within Shannon, on residentially zoned land and the scale of the proposal, the proposed development would give rise to an insignificant increase in the loading at the Shannon Wastewater Treatment Plant, which now has sufficient capacity to facilitate the development.
- e) In any event, connection to the public system would be subject to Irish Water consent and would only be given where compliance with EPA licensing in respect of the operation of the plant would not be breached. I also consider that the distances are such that any pollutants in discharge post treatment from the Shannon WWTP would be minimal and would be sufficiently diluted and dispersed. I am satisfied that wastewater from the proposed development will not have a significant effect and would not adversely affect the integrity of the identified European sites.
- f) Section 8 of the NIS deals with Residual Impacts and details the implementation of the mitigation measures is considered sufficient to minimise any risk of impacts to the SAC and SPA to imperceptible in scale. There are no impacts arising from the proposed development which could affect the conservation status of Annex I habitats or Annex II species listed as qualifying interests of the SAC or SPA .

⁹ <https://www.water.ie/projects/local-projects/shannon-sewerage-scheme-a/>

¹⁰ <https://www.clarecoco.ie/your-council/about-the-council/chief-executive-reports/2021/chief-executives-report-september-2021-44002.pdf>

g) Having regard to the above, I consider the proposed measures could generally be considered best practice construction methods that would be expected to be implemented at all or most construction sites especially of the subject scale. I am satisfied these measures are sufficient to address potential impacts from pollution during construction and operation and the potential for deterioration of habitats and species identified within the European Sites is not likely.

8.6.15. Conclusion

- a) The proposed development has been considered in light of the requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended. Following an Appropriate Assessment, it has been determined that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European sites-
- Lower River Shannon SAC 002165 and
 - River Shannon and River Fergus Estuaries SPA 004077,
 - or any other European site,
- in view of those site's Conservation Objectives.
- b) This conclusion is based on a complete assessment of all aspects of the proposed development alone (and in-combination plans and projects) including possible construction and operational related, wastewater treatment, surface water drainage and possible spread of invasive species.
- c) Specific mitigation measures designed to prevent adverse effects have been incorporated into the submitted NIS and a Construction Environmental Management Plan with Method Statement as required by the mitigation measures should be conditioned.
- d) I am satisfied there is no reasonable doubt as to the effectiveness of these measures and therefore no doubt as to the absence of adverse effects from the proposed development on the conservation objectives of the identified European Sites.

9.0 Recommendation

- 9.1. I recommend that permission is granted subject to the following conditions, including the attachment of Condition 23 in relation to a Special Contribution which amends a similar condition of the Planning Authority i.e. their condition 24-

10.0 Reasons and Considerations

Having regard to:

- a) the National Planning Framework including National Policy Objectives 9, 11, and 35,
- b) the designation of Shannon within the Limerick - Shannon Metropolitan Area as detailed in the Regional Spatial & Economic Strategy for the Southern Region, (RSES),
- c) Circular Letter: NRUP 02/2021, Residential Densities in Towns and Villages, as set out in Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009)
- d) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns & Villages) Sustainable Residential Development in Urban Areas Guidelines (DEHLG, 2009)
- e) the location of the majority of the application site in an area zoned R1 and for 'Residential' development within the Shannon Town and Environs Local Area Plan 2012-18 (as extended),
- f) the general pattern of development in the area and the nature and scale of the proposed development,
- g) Section 37(b)(2) of the Planning and Development Act 2000, as amended, whereby the Board is not precluded from granting permission for a development which materially contravenes a Development Plan

it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable quantum of development, housing mix and appropriate density for the area, would not seriously injure the residential or visual amenity of the area, would not detract from the character

and setting of the area, would be acceptable in terms of design and quantum of development and would be acceptable in terms of traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 20th day of April, 2021 and, as amended, by the further plans and particulars submitted on the 26th day of August, 2021 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. All mitigation measures in the Natura Impact Statement (including the submission of a Construction Environmental Management Plan and Method Statement) as submitted to the planning authority on the 20th day of April, 2021, shall be implemented in full and shall be supervised by a suitably qualified ecologist and bonded engineer.

Reason: In the interest of environmental protection, public health and orderly development.

3. The layout of proposed dwellings numbers 23-40 shall be completed in accordance with drawing no. WDS-01-PL21 submitted on the 26th day of April 2021.

Reason: In the interests of clarity and orderly development.

4. Details of the materials, colours and textures of all the external finishes to the proposed development, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

5. The internal noise levels, when measured at the rear elevation windows of house numbers 1-11, shall not exceed:

- (a) 35 dB(A) LAeq during the period 0700 to 2300 hours, and

- (b) 30 dB(A) LAeq at any other time.

A scheme of noise mitigation measures, which may include proposed planting in the rear gardens of house numbers 1-11, in order to achieve these levels, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The agreed measures shall be implemented before the proposed dwellings are made available for occupation.

Reason: In the interest of residential amenity.

6. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and

- (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and

- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

7. The road network serving the proposed development including turning bays, junctions, parking areas, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works and shall comply with all relevant aspects of DMURS.

Reason: In the interest of pedestrian and traffic safety.

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

(b) No car parking spaces shall be sold, rented or otherwise sub-let or leased.

Reason: in the interest of sustainable transportation.

9. Proposals for naming and numbering of the proposed scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and

street signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility.

10. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

11. Prior to commencement of development the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.

Reason: In the interest of public health.

12. The construction of the development shall be managed in accordance with a Construction and Environmental Management Plan and Method Statement (as per the mitigation measures of the submitted Natura Impact Statement), which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

- a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- b) Location of areas for construction site offices and staff facilities;
- c) Details of site security fencing and hoardings;
- d) Details of on-site car parking facilities for site workers during the course of construction;

- e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- f) Measures to obviate queuing of construction traffic on the adjoining road network;
- g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- i) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- j) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority. The developer shall provide contact details for the public to make complaints during construction and provide a record of any such complaints and its response to them, which may also be inspected by the planning authority.

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

13. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in

particular, recyclable materials and for the ongoing operation of these facilities within each house shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

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

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

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

Reason: In the interests of visual and residential amenity.

16. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The agreed lighting system shall be fully implemented and operational before any of the residential or commercial units are made available for occupation.

Reason: In the interests of amenity and public safety.

17. The areas of public open space shown on the lodged plans shall be reserved for such use. These areas and the site shall be landscaped in accordance with drawings no. WDS-01-PL21 submitted to the planning authority on the

20th day of April, 2021 and drawing no. WDS-20-PL21 submitted to the planning authority on the 26th day of August 2021. This work shall be completed before any of the units are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority.

Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

18. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: To ensure the satisfactory completion and maintenance of this development.

19. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

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

20. Prior to the commencement of any house in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house unit), pursuant to Section 47 of the Planning and Development Act, 2000, that restricts all houses permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

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

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

Reason: To ensure the satisfactory completion of the development

22. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the

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

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

23. The developer shall pay the sum of €187,000 (one hundred and eighty seven thousand euro) (updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office), to the planning authority as a special contribution under section 48 (2)(c) of the Planning and Development Act 2000, in respect of-

- the widening of 250m of the L-7178-0 road to 5.5m in width (€137,000) and
- the upgrading of the junction between the L-7178-0 and the L-3170 (€50,000)

This contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate. The application of indexation required by this condition shall be agreed between

the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.

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

Adrian Ormsby
Planning Inspector

22nd of March 2022