



An
Bord
Pleanála

Inspector's Report ABP-312428-22

Development

Castletroy Link Road
Scheme - Distributor Road
linking Golf Links Road,
Castletroy with Kilbane
Roundabout on Groody
Road, Ballysimon.

Location

Castletroy and Ballysimon,
Co. Limerick

Planning Authority

Limerick City and County
Council

Developer

Limerick City and County
Council

Applicant

Limerick City and County
Council

Type of Application

NIS Direction

1.0 Introduction

- 1.1. The subject development comprises a 650m distributor road which is proposed to be developed in a suburban area in Limerick. The proposed distributor road would provide a connection between two significant roads and its stated purpose is to ease traffic congestion, provide for sustainable transport modes and open up zoned greenfield lands for potential development.
- 1.2. Limerick City and County Council originally lodged a pre-application consultation request under section 51A of the Roads Act 1993, as amended. One meeting was held. The prospective applicant withdrew the pre-application consultation request on the recommendation of the Board's representative, who indicated that the process should only be utilised where it has been conclusively determined that an EIAR is required to be produced.
- 1.3. Limerick City and County Council has now submitted two applications seeking determinations on matters relevant to EIA and AA.
- 1.4. ABP-312437-22 relates to a request for a determination as to whether the Castletroy Link Road Scheme should be subject to Environmental Impact Assessment (EIA). This request for has been made under Section 50 of the Roads Act, 1993 (as amended).
- 1.5. ABP-312428-22 relates to a request for a determination as to whether the Castletroy Link Road Scheme would require the preparation and submission of a Natura Impact Statement (NIS). The application cover letter states that the request for an NIS direction has been made the Council under Section 177AE. In fact the relevant legislation is Article 250 of the Planning and Development Regulations 2001 (as amended).
- 1.6. The proposed development may be subject of a future Compulsory Purchase Order.

2.0 Site Location and Description

- 2.1. The site of the proposed development comprises greenfield lands located between Golf links Road and Groody Road in the suburban district of Castletroy / Ballysimon in south Limerick. The site is within a few kilometers of the M7 motorway at a section known as the Limerick Southern Ring Road. The Ballysimon Road provides the

connection for the area with the motorway. Golf Links Road passes under Ballysimon Road at a location close to the junction.

- 2.2. In general terms Castletroy is a residential district and Ballysimon has a more commercial/industrial character. The subject site passes through lands which are zoned for residential development and would define the southern boundary of existing and planned residential development. In the immediate vicinity of the site are existing low-density dwellinghouses including Fox Hollow, which is to the north of the site. In the wider area to the south / south-west of the site existing land uses include large commercial plots occupied by retail warehousing and other commercial uses. At this location also there are planned major facilities including a post primary school and a private hospital.
- 2.3. In terms of the natural environment the primary feature in the area is the river Rudy which passes as close as 5 m to the site at its western extreme. At this location the river passes under Kilbane roundabout and close to a small pocket of woodland. Within the subject site there are a range of drains one of which is fed by a spring and in general the site is damp and contains pockets of wetland as well as tree lines and sections of hedgerows.

3.0 Proposed Development

- 3.1. The proposed Castletroy Link Road Scheme would connect the Golf Links Road from the junction of School House Road to Groody Road at Kilbane Roundabout. Thus it will link the residential area of Castletroy and the employment hub of Ballysimon. In addition to easing traffic congestion and providing for sustainable modes of transport the road would open up for future development the adjacent zoned lands.
- 3.2. The Castletroy Link Road is described as being strategically important for connectivity in the Castletroy area and to provide access to zoned lands. The proposed link road is referenced in the context of a recently permitted school on a 12-acre site on the Groody Road and a 150 bed private hospital proposed for a 7 acre site adjacent the Ballysimon roundabout. These developments are considered likely to exacerbate the existing traffic situation. The new road will include cycle,

pedestrian and bus route facilities allowing for sustainable modes of transport and providing a vital public transport extension route.

3.3. I later provide a more detailed description of the proposed development, its nature and extent and its interactions with the environment.

4.0 Request for direction and submitted documents

4.1. Limerick City and County Council has submitted this request for a direction relating to the requirement for any future application to be accompanied by a Natura Impact Statement. This application is running in parallel with another request for a direction in relation to EIA. The application documentation presented in support of both applications is identical and comprises:

- Application cover letter dated 6 January 2022.
- Screening Report for Environmental Impact Assessment
- Screening Report for Appropriate Assessment
- Extract from Castletroy Local Area Plan 2019-2025
- Preliminary Design drawings.

4.2. The Appropriate Assessment Screening Report was prepared by Doherty Environmental Consultants Ltd. and is dated September 2020. The report is structured as follows:

- Legislative context.
- Screening method.
- Project description.
- Identification of European sites likely to be influenced.
- European site overview.
- Conservation objectives.
- Examination of the potential for likely significant effects.
- Article 6(3) Appropriate Assessment Screening Statement and Conclusions.

- 4.3. The applicant's Appropriate Assessment Screening Report concludes that the proposed Castletroy Link Road it is not likely, alone or in combination with other plans or projects, to have a significant effect on any European sites in view of their Conservation Objectives and on the basis of the best scientific practice and there is no reasonable scientific doubt as to that conclusion.
- 4.4. An overview of baseline ecology of the project site is included in the AA Screening Report. There is a section of wetland complex between Chainage 300m and 500m and the site otherwise comprises improved agricultural grassland and disturbed ground habitat. There are a number of drainage ditches which are crossed by the proposed alignment at Chainage 0m and 60m and at chainage 300m. The ditch at chainage 300m is fed by a mineral spring in the wetland complex to the north-west at circa chainage 340m. The calcareous spring is described as exhibiting the characteristics of a petrifying spring habitat with calcium carbonate deposition representative of tufa formation occurring in a discrete area colonised by brown mosses. Calcareous springs with tufa formation are recognised as a priority habitat under the EU Habitats Directive and listed in Annex I of the Directive as petrifying springs with tufa formation. The wet grassland habitat has links to the EU Habitats Directive Annex I habitat Molina meadows on calcareous, peaty or clayey silt laden soils. There is marsh habitat which occurs in connection with the mineral spring between Chainage 320m and 400m. Near the Kilbane roundabout at Chainage 0m to 10m is wet willow alder ash woodland which also occurs in discrete stands at chainage 330m to 450m.
- 4.5. Regarding fauna which are present it is reported that the wetland habitat supports a range of passerine species but that no wetland bird species that are listed as special conservation interest bird species of the River Shannon and River Fergus Estuaries SPA were recorded at the project site during field surveys between November 2019 and December 2020. No evidence of Vertigo snail species or marsh fritillary larve or other protected invertebrate species were discovered in the wetland complex. Bat species reported include high levels of Soprano pipistrelle activity within the wetland area which is relied upon as a foraging habitat. Common pipistrelle and Leisler's bat were also recorded, and the Common pipistrelle is recorded as foraging along the small area of ash woodland to the east of Kilbane roundabout. Common frog was plentiful within the wetland habitat.

4.6. The River Groody is a direct tributary of the Shannon, and the confluence is 2.2km downstream. The river has been classified based on EPA monitoring upstream of the site as being of Moderate status. Further downstream at Ballysimon itself the lack of sensitive macroinvertebrate taxa, excessive siltation and enhanced macrophyte and algal growth indicated no improvement in ecological quality. The stream near the site is dominated by *Apium nodiflorum* which is indicative of excessive nutrients and the pressures identified under the WFD reporting include a range of diffuse urban pressures resulting in elevated concentrations of phosphate and ammonia. It is nevertheless stated that the River Groody supports a small population of breeding Atlantic Salmon and also supports brown trout.

5.0 Legislative & Policy Context

5.1. Appropriate Assessment - Legislation

The Planning & Development Regulations, 2000 (as amended)

5.1.1. Article 250(1), states that where a local authority proposes to carry out a development it is required to carry out a screening of the proposed development to assess if the development individually or in combination with other plans or projects would be likely to have a significant effect on a European site. If on the basis of a screening under Article 250(1), it cannot be excluded, on the basis of objective information, that the proposed development, individually or in combination with other plans or projects, would have a significant effect on a European site, the local authority is required to determine that appropriate assessment of the proposed development is required and to prepare an NIS and submit the proposed development for approval to the Board under section 177AE of the Planning and Development Act, 2000, as amended.

5.2. Planning Guidance

5.2.1. The publication by the Department of Environment, Heritage and Local Government '**Appropriate Assessment of Plans and Projects – Guidance for Planning Authorities**' assists in the application of Article 6(3) and 6(4) of the Habitats Directive in the undertaking of appropriate assessment for plans and projects including those which a public authority wishes to undertake or adopt. The

screening stage is described as an iterative process commencing with a description of the plan or project, including its nature, the size and location, and possible or likely effects. The second element is an examination of what Natura 2000 sites might be affected bearing in mind the potential for a plan or project to have direct, indirect or cumulative effects and taking a precautionary approach. Documentation of the screening exercise is important particularly when the conclusion is that no significant effects are likely. If significant effects are likely, likely or uncertain the plan must proceed to stage 2.

5.3. Castletroy Local Area Plan 2019-2025

- 5.3.1. The plan sets out a range of strategic policy provisions for the transport sector.
- 5.3.2. Policy T1 is to improve accessibility, reduce dependency on private transport and encourage the use of energy efficient forms of transport and alternatives to the private car.
- 5.3.3. Policy T3 is to promote the use of the smarter travel network within the wider Castletroy area.
- 5.3.4. The effectiveness and uses of the existing transport infrastructure area is described. The R445 passes through the centre of the area and acts as the main artery serving large population centres and residential developments. The area is described as being served by a limited capacity road network and there are also issues with capacity outside the plan area. The M7 functions in part as a bypass to the area. Traffic congestion remains a serious issue due to the concentration of large employment centres and residential estates. These issues are highlighted in the midwest regional planning guidelines and the midwest area strategic plan. The need to prioritise the provision of the northern distributor road as a major piece of infrastructure for the area is highlighted in the regional guidelines in addition. The transport policies refer to the need to provide for bus, cycle and pedestrian based transport.
- 5.3.5. Objective T3 refers to the provision or improvement of new link roads. These include the link road between Groody road and School House Road , which is shown on map C – 19/25 – 03. This map/ highlights tree and hedgerow belts and shows the Castletroy Link Road.

- 5.3.6. The zoning map shows the proposed link road in the context of lands zoned Residential Development Area and Education and Community facilities. The Groody Valley Green Wedge is also designated, and an indicative riverside walkway is shown.

6.0 Planning History

- 6.1. **ABP-311429-21** relates to a request for pre-application consultation in relation to this scheme as described earlier.
- 6.2. **Reg. Ref 191037** relates to a permitted development of 6 no. houses adjacent the link road at School house rear / rear of Fox Hollow.
- 6.3. **Reg. Ref 191061** relates to a permitted post primary school at a site off Groody Road to the north-west of the link road. The development was subject to Stage 2 appropriate assessment as it was considered that in a worst-case scenario there was potential for significant effects on 2 no. European sites as a result of pollution of surface water during construction. The application was accompanied by a number of technical reports but was not subject to EIA.
- 6.4. **Reg. Ref 211740** relates to an application for a private hospital at a 3.29-hectare site at Groody Road. Further information was requested on 16 February 2022. The submitted EIA Screening report concluded that submission of an EIAR was not required. This conclusion has not been queried in the further information requested by the planning authority. The site does not contain any watercourses and the Groody River is 181m from the site. The AA screening report considered that there would be no direct or disturbance effects and that dirty water in the construction phase would be contained by the topography and standard silt fencing. Although there was considered to be potential surface water and wastewater connectivity between the proposed development and the European sites it was concluded that given the nature of these connections there was no likelihood of significant effects on any Natura site. This conclusion has not been queried in the further information requested by the planning authority.

7.0 Screening for Appropriate Assessment

7.1. The assessment of the requirement for AA is undertaken below under the following headings:

- Introduction
- Appropriate Assessment Screening Report and Associated Documents
- Geographical Scope and Main Characteristics
- Screening for Appropriate Assessment
- Screening Determination.

7.2. Introduction

7.2.1. The proposed development would comprise the construction of the 650m long Castletroy Link Road and ancillary works including the diversion of existing services and utilities, the crossing of water courses and provision of new surface water drainage arrangements, landscaping, fencing and public lighting.

7.2.2. The site is not located within or immediately adjacent to any European site. The proposed development of Castletroy Link Road is not directly connected with or necessary to the management of any European site and would therefore be subject to the provisions of Article 6(3).

7.3. Appropriate Assessment Screening Report and Associated Documents

7.3.1. The application for a determination from the Board regarding the proposed local authority development is accompanied by an Appropriate Assessment Screening Report dated September 2020 as revised on 4 January 2022.

7.3.2. This report sets out the methodology for Appropriate Assessment Screening based on relevant guidance and informed by a description of the proposed development, an overview of the receiving environment, a desktop data review and baseline surveys. The Screening Report has relied upon an Ecological Impact Assessment report, which has not been supplied but the key findings are summarised. The Screening Report includes an assessment of the effects on European Sites. It identifies the

European sites within the likely zone of impact and the qualifying interests and special conservation interests of the European sites.

- 7.3.3. The Screening Report was prepared in line with current best practice guidance and provides a description of the proposed development and identifies any European Sites within a possible zone of influence of the development. The Screening Report concludes that the proposed Castletroy Link Road it is not likely, alone or in combination with other plans or projects, to have a significant effect on any European sites in view of their Conservation Objectives and on the basis of the best scientific practice and there is no reasonable scientific doubt as to that conclusion.
- 7.3.4. In reaching this conclusion, the authors of the Screening Report have considered the nature of the project and its potential relationship with all European Sites within the zone of influence, and their Conservation Objectives.
- 7.3.5. Having reviewed the documents and submission on the application, I am satisfied that the information available allows for a complete examination and identification of any likely significant effects of the development, alone or in combination with other plans or projects, on European Sites.

7.4. Geographical Scope and Main Characteristics

- 7.4.1. The site is a greenfield plot of land which is traversed by a number of watercourses / drains which connect to the River Groody which is as close as 5m from the site. The Groody meets the Shannon 2.2km downstream at the Lower Shannon SAC, the nearest European site.
- 7.4.2. The scheme would comprise:
- A 650m long distributor road of typical width of 10.0m.
 - To include a 3.5m wide bus lane, 2x2m wide footpaths, 2x2m wide segregated cycleways, 2x2m wide planted verges with 1 in 2 road embankment side slopes.
 - Two large traffic signal-controlled junctions and a raised controlled pedestrian/cycle crossing.
 - Road surface drainage, lighting, signage, boundary treatment and landscaping.

- The road is likely to be substantially in fill and on a greenfield site.
- The project works will require importation of 150,000 tonnes of suitable fill material from stone quarries to create the road embankments, which will vary in height from 2m to 5m and will be up to 40 m in width.
- The project works will also include culverting of existing open water courses and construction of a road surface drainage system, directing surface water from the road pavement to outfall to a swale system, allowing attenuation of storm floods and percolation and flow through ground to eventually seep into the nearby River Groody.

7.4.3. In terms of the interactions with ecological resources the scheme design includes:

- Selection of the road alignment to avoid impacts on the main hedgerows and tree lines.
- Replacement planting at a ratio of 2 to 1 where mature trees are removed.
- Use of floating bog road technology where the route traverses wetlands.
- Replacement of the lost surface area of wetland habitat with a new area to the west of the Link Road and in the floodplain of the river.

7.4.4. In terms of the surface water interactions the scheme design includes:

- A surface water drainage scheme which will ensure that the surface water is diverted from the pavement, will facilitate free passage of existing watercourses and will ensure that groundwater does not infiltrate into the sub-grade and pavement layers. Surface water from adjoining lands will be conveyed to a suitable outfall.
- Application of SuDS principles as much as possible.
- Maintenance of at least a 5m buffer between the road and the river.
- Crossing of a minor stream.
- Diversion of existing drains.

7.4.5. The details provided relating to the construction phase include:

- Site compound area to be located close to residential development and at relatively distant from the river Groody.

- During construction of the road embankments filter drains will be installed to prevent contamination of groundwater by smaller aggregates from the rock fill and to prevent hydrocarbons or spillages from entering groundwater or the river.
- Use of typical road construction planned for earthworks and paving as described.
- Peak personnel on site of between 40 and 50 persons.
- Construction duration of up to 15 months.

7.5. Screening the need for Appropriate Assessment

7.5.1. Having regard to the information available, the nature, size and location of the proposed development and its likely direct, indirect and cumulative effects, the source pathway receptor principle and sensitivities of the ecological receptors, the European Sites below are considered relevant to include for the purposes of initial screening for the requirement for Stage 2 appropriate assessment on the basis of likely significant effects. A 15km study area from the proposed development is applied for this purpose. A total of 7 European sites are included (5 SACs and 2 SPAs).

7.5.2. European sites considered for Stage 1 screening:

- Lower River Shannon SAC (site code 002165)
- River Shannon and River Fergus Estuaries SPA (site code 004077)
- Clare Glen SAC (site code 000930)
- Glenomra Wood SAC (site code 001013)
- Glenstal Wood SAC (site code 001432)
- Tory Hill SAC (site code 000439)
- Slievefelim to Silvermines Mountains SPA (site code 004165).

The submitted AA Screening Report assesses potential hydrological pathways and aerial pathways as well as considering the potential that the project may interact with qualifying mobile species. Having regard to the nature and scale of the proposed

development which will not result in significant aerial emissions other than dust and minor additional vehicular emissions in the construction phase, I do not consider that this impact pathway is relevant in the context of the European sites within the zone of Influence.

I agree with the applicant's conclusions with respect to the following sites which I consider can be readily excluded from further consideration on the basis that there is no pathway as described.

Clare Glen SAC is located 11.9km east of the proposed development site (PDS), is in a separate surface water subcatchment and is designated for terrestrial species (Killarney fern). The NPWS website states that the qualifying interests also include Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]. Although this is not mentioned in the applicant's consideration of the site under Table 5.1, the same rationale applies. This site can be screened out.

Glenomra Wood SAC is located 11km to the north of the PDS and is in a separate surface water subcatchment and is designated for terrestrial habitat Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]. There is no hydrological or other pathway and the site can be screened out.

Glenstal Wood SAC is located 11km to the east of the PDS and is in a separate surface water subcatchment and is designated solely for Killarney fern. There is no hydrological or other pathway and the site can be screened out.

Tory Hill SAC is located 11km to the east and is in a separate surface water subcatchment and the qualifying interests are:

- Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites) [6210]
- Calcareous fens with Cladium mariscus and species of the Caricion davallianae [7210]
- Alkaline fens [7230]

The applicant's submission is that the qualifying habitats are not reliant on surface water but does not address the groundwater dependency of the fen habitats. The conclusion presented to screen out this European site is valid on the basis of lack of hydrological or other impact pathway. This site can be screened out.

Slievefelim to Silvermines Mountains SPA is designated for hen harrier. The proposed development site is remote from the SPA and does not contain suitable habitat for the species. This site can be screened out.

The applicant's initial screening of sites as presented in Table 5.1 concluded that as the PDS is hydrologically linked with the following European sites there is a requirement for further examination of the potential for the project's potential to result in likely significant effects to these European sites:

- Lower River Shannon SAC (site code 002165)
- River Shannon and River Fergus Estuaries SPA (site code 004077).

7.5.3. Lower River Shannon SAC (site code 002165)

7.5.4. The following are the qualifying interests of this European site:

Sandbanks which are slightly covered by seawater all the time
Estuaries
Mudflats and sandflats not covered by seawater at low tide
Coastal lagoons
Large shallow inlets and bays
Reefs
Perennial vegetation of stony banks
Vegetated sea cliffs of the Atlantic and Baltic coasts
Salicornia and other annuals colonising mud and sand
Atlantic salt meadows
Mediterranean salt meadows
Water courses of plain to montane levels with the Rancunculion fluitantis and Callitricho-Batrachion vegetation
Molinia meadows on calcareous, peaty or clayey-silt-laden soils
Alluvial forests with alnus glutinosa and Fraxinus excelsior
Freshwater pearl mussel
Sea lamprey
Brook lamprey
River lamprey
Atlantic Salmon

Common Bottlenose Dolphin

Otter.

- 7.5.5. Detailed Conservation Objectives have been adopted, the aim of which is to maintain or restore the favourable conservation status of the designated habitats and species.
- 7.5.6. The PDS is 2.2km upstream from the junction of the River Groody with the Shannon channel / SAC. There are watercourses and drains on site which feed into the Groody.
- 7.5.7. The submission made in the Screening Report is that the following qualifying interests, which are found in the middle to outer Shannon estuary are terrestrial or within a different catchment and would not be within the zone of influence of the proposed development for the following reason: due to the volume of water in the Shannon any pollutants would be significantly dispersed and the proposed development would not therefore have the potential to result in likely significant effects to these qualifying interests:

Sandbanks which are slightly covered by seawater all the time
Coastal lagoons
Large shallow inlets and bays
Reefs
Perennial vegetation of stony banks
Vegetated sea cliffs of the Atlantic and Baltic coasts
Salicornia and other annuals colonising mud and sand
Atlantic salt meadows
Mediterranean salt meadows
Molinia meadows on calcareous, peaty or clayey-silt-laden soils
Alluvial forests with alnus glutinosa and Fraxinus excelsior
Freshwater pearl mussel
Common Bottlenose Dolphin.

- 7.5.8. I accept the conclusion presented in the Screening Report with respect to these qualifying interests.
- 7.5.9. The Screening Report thus identifies the following qualifying interests as occurring within the zone of influence of the project:

Estuaries
Mudflats and sandflats not covered by seawater at low tide

Water courses of plain to montane levels with the Rancunculion fluitantis and Callitricho-Batrachion vegetation

Sea lamprey

Brook lamprey

River lamprey

Atlantic Salmon

Otter.

7.5.10. On the basis of the Screening Report and the maps which accompany the Conservation Objectives I consider that the following can be concluded with respect to the presence of these qualifying interests in proximity to the PDS:

- Estuaries – this habitat is downstream of the junction of the Groody and Shannon at Kings Island / Shannon Banks according to the Conservation Objectives map – the distance is 4.5km according to section 6.1 of the Screening Report although section 6.1.1 describes the nearest estuarine community of this qualifying habitat as occurring 10km downstream of the project.
- Mudflats and sandflats not covered by seawater at low tide – this habitat is to be found downstream of Kings Island. The distance is 10km according to the Screening Report.
- Water courses of plain to montane levels with the Rancunculion fluitantis and Callitricho-Batrachion vegetation – the closest record of this habitat is at the canal which meets the Shannon at a point 300m downstream of the junction with the Groody. The distance is 3km according to the Screening Report.
- Sea lamprey, Brook lamprey and River lamprey are described in the Screening Report as found in freshwater and tidal sections of the Shannon and juvenile lamprey habitat is likely to occur at and downstream with the junction of the Groody. The important spawning areas described in the Screening Report are upstream of the confluence of the Groody and Shannon.
- Atlantic Salmon would be in the main channel of the Shannon during summer-autumn return migration to spawning grounds upstream. Depending on water flow they may spend considerable time in the channel prior to migration and a favoured area is west of King's Island between Sarsfield's bridge and

Thomond Bridge. There is stated to be no suitable salmon spawning habitat in the vicinity of the PDS and the species does not spawn or feed in the section of the Shannon channel at or downstream of the confluence with the River Groody, the nearest spawning habitat being upstream. However, it is stated in the summary of baseline ecology that the River Groody does support a small population of breeding Salmon (AA Screening Report 3.11.3).

- Otter – the commuting otter buffer defined on the Conservation Objective maps includes the banks of the Shannon at Kings Island based on observed behaviour and habitat suitability. The Screening Report states that while there are no records of otter along the Groody they commute widely in the Shannon catchment and are likely to occur.

7.5.11. Having regard to the proximity of the works to the river channel, to the location of the works relative to the connecting watercourses and drains within the site and to the nature of the works involving diversion of drains and construction of an elevated roadway I consider that in the absence of mitigation there is potential for significant effects on a number of the qualifying interests of the Lower Shannon SAC having regard to their sensitivity to water quality changes. There is a clear pathway to these qualifying interests and the development is likely in the absence of mitigation to give rise to potential for silt runoff and other possible pollutants to the river and thereby to the SAC. A number of the qualifying interests are dependent on water quality and have the potential to be adversely affected particularly during the construction phase but also in the operation of the road including in the event of spillages. It is my conclusion taking into account the need for a precautionary approach that there is a requirement for a Stage 2 Appropriate Assessment in this case.

7.5.12. The AA Screening Report adopts a different conclusion and sets out a range of reasons why there is considered to be no pathway and no potential for significant effects and I address these points below.

7.5.13. In the Screening Report there is heavy reliance on the assessment of the River Groody's potential to function as an 'effective' pathway as discussed in section 8.1. This sets out a number of reasons why according to the applicant there is 'very limited potential for accidental contamination of the River Groody from hydrocarbon, cementitious or sediment inputs'. I examine these points below.

7.5.14. It is stated that the River Groody is separated from the construction footprint of the project by an area of level grassland and a raised embankment along its entire length and that there will be no potential for surface water to runoff to the river by overland flows. I am not convinced with this argument based on my site inspection and having regard to the elevated nature of the road structure and its proximity to the river. The water level was significantly below the level of the area of level grassland at the time of my inspection. However, the river is not presently separated from the adjacent lands by a high embankment. In addition, at Chainage 0m (Kilbane Roundabout) where a large embankment will be in place the river is very close to the works area – the works will be elevated above the ground and river at this location. I accept that to some extent the topography would help to separate the works from the river insofar as the water level may well be below the works. I do not agree that the topography together with any can be relied upon to cut off any overland flow pathway including for the reason that there are a number of drains / watercourses traversing the site and taking into account the proximity of the works and the elevated nature of the works at the roundabout (chainage 0m).

7.5.15. The Screening Report describes the requirement to remove a drain which is present under the proposed alignment footprint between Chainage 0 and 60m (which will be diverted) and the minor drain which is along the route of the southern embankment at Chainage 100m to 200m (which will be infilled). The applicant notes that these works will be required to be completed prior to the construction works commencing. The Screening Report does not assess the potential for significant effects on the qualifying interests of the Lower Shannon SAC as a result of this element of the works in the absence of mitigation. On completion of the diversion / removal of these two drains the separation distance will be a minimum of 40m of level grassland and the Screening Report submission is that this is sufficient to eliminate the potential for migration of any fuels / cementitious materials from the construction footprint to the river. Notwithstanding the 40m separation, I do not accept that conclusion can be upheld in the absence of mitigation in the form of a CEMP or otherwise. Furthermore, I note that there will not be a 40m separation at all points along the scheme. With respect to the consideration of mitigation it is relevant to point out that the AA Screening Report does not include an explicit statement to the effect that the conclusions presented have not taken mitigation into account.

- 7.5.16. Regarding the potential for accidental spillage and subsequent discharge of potentially polluting material to the road drainage network and onwards to the river I note that the applicant refers to the low risk of accident and low speed limits. The applicant also references the incorporation of a SUDs flood design which it is stated will effectively impede flows to the receiving drains and river. The conveyance in the drain is noted to be impeded by growth of luxuriant aquatic vegetation, which I noted on site. I would agree that this may result in slowing the dispersal of pollutants.
- 7.5.17. I refer the Board to the detailed consideration of the qualifying interests and their sensitivity to declines in freshwater quality and pollution which is presented in section 8.2 of the Screening Report. I consider that this level of analysis is more suited to being included in a Natura Impact Statement and is excessive detail for Stage 1.
- 7.5.18. Regarding the projects relevant for the purposes of in-combination effects, the AA Screening Report does not explicitly list the projects considered and given the date of the original draft Screening Report (September 2020) it would not appear to have taken into account the permitted post-primary school which is a large development, which is nearby and in the Groody catchment.
- 7.5.19. In conclusion, in relation to the potential for significant effects on the Lower Shannon SAC I consider that the AA Screening Report presents some arguments of merit to support the overall claim that there is no pathway. I am not wholly convinced with some of the points made and it is not clear to me that some aspects of the works would not be described as mitigation measures. It is necessary for there to be no doubt whatsoever if the Board is to conclude that the potential for significant effects on the European site can be ruled out at this stage and the Board must be satisfied that no mitigation measures have been relied upon. I therefore uphold my earlier conclusion in relation to Lower Shannon SAC. I do not consider that significant effects on this site can be ruled out in the absence of mitigation having regard to the pathway to qualifying interests which are sensitive to water quality effects and are within the zone of influence of the PDS.
- 7.5.20. **River Shannon and River Fergus Estuaries SPA (site code 004077)**
- 7.5.21. This European site is 10km downstream. The special conservation interests listed under section 6.1.7 of the AA Screening Report (Table 6.2) does not appear to be complete.

7.5.22. The full list which I have taken from the NPWS website is:

Cormorant (*Phalacrocorax carbo*) [A017]
Whooper Swan (*Cygnus cygnus*) [A038]
Light-bellied Brent Goose (*Branta bernicla hrota*) [A046]
Shelduck (*Tadorna tadorna*) [A048]
Wigeon (*Anas penelope*) [A050]
Teal (*Anas crecca*) [A052]
Pintail (*Anas acuta*) [A054]
Shoveler (*Anas clypeata*) [A056]
Scaup (*Aythya marila*) [A062]
Ringed Plover (*Charadrius hiaticula*) [A137]
Golden Plover (*Pluvialis apricaria*) [A140]
Grey Plover (*Pluvialis squatarola*) [A141]
Lapwing (*Vanellus vanellus*) [A142]
Knot (*Calidris canutus*) [A143]
Dunlin (*Calidris alpina*) [A149]
Black-tailed Godwit (*Limosa limosa*) [A156]
Bar-tailed Godwit (*Limosa lapponica*) [A157]
Curlew (*Numenius arquata*) [A160]
Redshank (*Tringa totanus*) [A162]
Greenshank (*Tringa nebularia*) [A164]
Black-headed Gull (*Chroicocephalus ridibundus*) [A179]
Wetland and Waterbirds [A999].

7.5.23. The potential for significant effects on these special conservation interests relates to the hydrological pathway. The nearest known waterbird roost to the project site in the main channel of the Shannon is to the west of King's Island which is a considerable distance downstream. The conservation objectives relating to wetlands lists the area as the relevant target and does not reference water quality. I accept the conclusion drawn in the AA Screening Report that although there is a pathway from the PDS there is no likelihood that the proposed development would result in likely significant effects to the special conservation interests of River Shannon and River Fergus Estuaries SPA.

7.5.24. **Conclusion on AA Screening**

7.5.25. Having regard to the foregoing, it is reasonable to conclude on the basis of the available information, which I consider adequate in order to issue a screening determination, that taking into account the nature and scale of the proposed development and likely effects, the separation distances and hydrological connections between the proposed works and the European site, a Stage 2 Appropriate Assessment is required for the following European Sites in view of the Conservation Objectives of the site:

- Lower Shannon SAC (site code 002165)

7.5.26. I am satisfied that no additional sites need to be brought forward for Appropriate Assessment. I confirm that no mitigation has been taken into account in reaching this conclusion.

8.0 **Recommendation**

I recommend that Limerick City and County Council be directed to prepare a Natura Impact Statement in respect of the proposed Castletroy Link Road Scheme for the reasons and considerations set out below.

9.0 **Reasons and Considerations**

Having regard to:

- a) The location of the proposed development and the separation distance with the adjoining a river which provides a hydrological connection to Lower Shannon SAC and its qualifying interests,
- b) The nature and scale of the proposed development including excavation and earthwork operations, importation of construction materials, road and embankment construction works, the undertaking of works to existing watercourses and the installation of new drainage systems,
- c) The proximity of the proposed development to the River Groody,
- d) The uncertainty with regards to in-combination effects with other plans and projects,

- e) The submission made on behalf of the local authority, including Appropriate Assessment Screening Report received by the Board on 10th January 2022,
- f) The report and recommendation of the Inspector,

It is considered reasonable to conclude that on the basis of the information available, which is considered adequate to issue a screening determination, that it cannot be ruled out that the proposed development, either individually and in combination with other plans or projects, would not be likely to have a significant effect on Lower Shannon SAC (Site Code 002165), in view of the Conservation Objectives of the site and that a Stage 2 Appropriate Assessment and the submission of a Natura Impact Statement for the proposed development is, therefore, required.

Mairead Kenny

Senior Planning Inspector

1 March 2022