



An
Bord
Pleanála

Inspector's Report ABP 312534-22.

Development	Construction of a multi-storey build to rent residential development comprising of 50 no. apartments. The application is accompanied by an NIS.
Location	Clonmacken Road, Caherdavin, Limerick.
Planning Authority	Limerick City & County Council
Planning Authority Reg. Ref.	21560
Applicant	Clarisford Investment Ltd.
Type of Application	Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant	Clarisford Investment Ltd.
Observers	(1) Joe and Attracta Lee (2) John and Mary Mortell (3) Sean Grant (4) Dave Griffin acting on behalf of Residents of Aylesbury Estate

Date of Site Inspection

17/6/2022

Inspector

Siobhan Carroll

Contents

1.0 Site Location and Description	5
2.0 Proposed Development	6
3.0 Planning Authority Decision	6
3.1. Decision	6
3.2. Planning Authority Reports	7
3.3. Prescribed Bodies	10
3.4. Third Party Observations	11
4.0 Planning History.....	11
5.0 Policy Context.....	12
5.1. Project Ireland 2040 - National Planning Framework.....	12
5.2. Section 28 Ministerial Guidelines	12
5.3. Limerick City Development Plan 2010 – 2016 (as Extended)	12
5.4. Limerick Development Plan 2022-2028	13
5.5. Natural Heritage Designations	13
5.6. EIA Screening	13
6.0 The Appeal	15
6.1. Grounds of Appeal	15
6.2. Planning Authority Response	21
6.3. Observations	21
7.0 Assessment.....	25
7.1. Density, Height and Design.....	25
7.2. Residential Amenity/Residential Standards	30
7.3. Impact on amenities	34
7.4. Access and traffic.....	39

7.5. Flood Risk	42
7.6. Appropriate Assessment	47
7.7. Mitigation Measures	71
8.0 Recommendation.....	76
9.0 Reasons and Considerations.....	76
10.0 Conditions	77

1.0 Site Location and Description

- 1.1. The appeal site is situated immediately to the south-west of the roundabout at Clonmacken Road, Caherdavin, Limerick. The old Clonmacken Road bounds the site to the south-east and the Clonmacken Road L8579 bounds the site to the west. The R445 the Ennis Road is situated circa 330m to the north of the site. The R527 the Clondell road links the north-western side of the Limerick with the city centre. It is located 420m to the south-west of the site. Junction 3 of the N18, Coonagh West is situated circa 2.1km to the west of the site.
- 1.2. Jetland shopping centre and retail park is located to the north-east of the site. Jetland shopping centre contains Dunnes Stores supermarket and a mix of other retail/commercial units including clothing stores, pharmacy, barbers, book store and post office. The centre and retail park is served by cafes and fast food restaurants including a Drive-Thru fast food outlet. Jetland retail park situated immediately to the east of the shopping centre contains a mix of comparison bulky good retail units including a toy store, pet store, furnishing store and DIY, home and garden store. There is a cinema and Drive-Thru fast food outlet also located within the retail park.
- 1.3. The site has a stated area of 0.3 hectares there is ibex fencing along the boundary and there is a gate in the fencing at the north-eastern side. The site is grassed and also contains an area of hard surface. The neighbouring property to the south-west of the site is a large, detached dwelling. To the north and north-west of the site on the opposite side of the L8579 lies the Aylesbury housing estate which contains detached two-storey properties.
- 1.4. The neighbouring property to the south of the site located on the old Clonmacken Road is a large, detached dwelling. The property comprises an original cottage which has been extend to the southern side by a large modern design part single storey part two-storey extension. There are a number of other dwellings to the south of this property on the old Clonmacken Road comprising a mix of single storey, dormer and two-storey detached properties.

2.0 Proposed Development

- 2.1. Permission is sought for the Construction of a multi-storey build to rent residential development comprising of 50 no. apartments. The application is accompanied by an NIS.
- 2.2. The scheme as originally proposed comprising of the construction of 50 no. apartments with the following mix: 26 no. One bedroom apartments, 20 no. Two Bedroom apartments and 4 no. Studio apartments within a single block ranging in height from 3-6 storeys over basement with all apartments provided with private balconies. Residential amenities within the development to include a Gym, Communal Lounge Area, laundry facilities and accessible green roof. The proposed development will provide 37 no. car parking spaces at basement level and 108 no. bicycle spaces at basement and surface level with primary vehicular and pedestrian access via the Old Clonmacken Road and secondary pedestrian access from the L8570. The proposal also incorporates a management room, plant room, bin storage, ESB sub-station, public lighting, boundary treatments, external landscaped open space, connections to utilities and all associated engineering and site works necessary to facilitate the proposed development.
- 2.3. At further information stage the scheme was revised with the reduction in apartments proposed from 50 no. units to 42 no. units.
- 2.4. The applicant proposes further revisions to the scheme under the appeal with the number of units revised from 42 no. apartments to 38 no. apartments.

3.0 Planning Authority Decision

3.1. Decision

Permission was refused for the following reason.

Having regard to the bulk, scale, density, mass and overbearing nature of the proposed, on a restricted site together with the proximity to adjoining low-density properties, it is considered that the proposed development would constitute overdevelopment of the site and would result in the building being unduly obtrusive and out of character when viewed in the context of the

existing streetscape at this location. It is considered that the proposal would seriously injure the amenities, depreciate the value of properties in the vicinity and would be contrary to the provisions of the Limerick City Development Plan specifically Policy H6 and the Ministerial Guidelines “Sustainable Urban Housing: Design Standards for New Apartments; Guidelines for Planning Authorities” and would be contrary to the proper planning and sustainable development of the area in question.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Further information requested in relation to the following;

1. The Planning Authority has very serious concerns with regard to the bulk, scale, density and overbearing nature of the proposed development in such close proximity to existing low level buildings. The Planning Authority is of the opinion that the proposed development as presented does not apply a graduated response or tailored approach to the residential density at this location and to permit the height and density proposed would not lead to sustainable or proportionate development.

It is not clear how this building can integrate with the existing buildings and streetscape that exist at this location. The applicant is strongly advised to submit a significantly revised proposal which carefully considers the site constraints and presents a building that is proportionate with regard to the above concerns.

2. In relation to car parking the applicant was requested to demonstrate that car parking numbers are in line with the Development Plan. The following was required
 - Submit auto tracking for the development
 - Provide a Road Safety Audit
 - Provide a Longitudinal road section.
 - Provide drawing indicating revised sightlines

- Submit revised plans with road/footpath widths, car parking dimensions etc in line with the “Recommendations for Site Development works for Housing Areas” and “DMURS”.
3. Revised details were requested in relation to public lighting.
 4. Details required in relation to surface water sewer and manholes, they shall be in line with IW Code of Practice.

The attenuation tank must have Agreement Certification. Confirm that the Attenuation Tank shall be designed for the site specific conditions, installed, tested and certified by the approved supplier.

Submit longitudinal sections showing ground levels, manhole with numbering to match surface water disposal plan, cover/invert levels pipe lengths, pipe diameter, pipe gradients, attenuation tank, flow control manhole and Class 1 By-Pass Interceptor.

5. Flood risk details
 - (i) Exact layout of culvert in vicinity of the site should be surveyed and proximity to the site identified. An assessment of risk of work on site to the culvert to be provided.
 - (ii) Correct table 3-2 of FRA – change 1% coastal level to 0.5% AEP.
 - (iii) The breach analysis quoted is for a 1% AEP event and not a design event of 0.5% AEP. Extent of flooding during a breach event would likely be greater during 0.5% AEP.
 - (iv) FFL of 5.5mOD is acceptable in principle.
 - (v) It is noted that any opes/conduits connected to basement should be above flood defence level.
 - (vi) It would be prudent that the proposed automatic flip up barrier is adaptable to climate change. Is there back up power provided in an emergency?
 - (vii) There appears to be an inconsistency on the planning drawings as the height of the proposed barrier is shown as 5.2m OD on the Water

Services Layout but indicated as 0.5% AEP level/1.1m high in Section 4.21 of the FRA.

- (viii) The applicant to confirm that the basement will be 'tanked'/made of impermeable design & construction to flood defence level.
- (ix) Provide ramp detail before entry to the basement.
- (x) Road levels appears to be at 3.62mOD in the vicinity of the ramp whereas the threshold of the ramp is at 3.60mOD. This should be at least 150mm above road level to provide a passive defence against pluvial levels.
- (xi) All services should be sealed which penetrate the building at ground floor level/below flood defence level.
- (xii) The proposed surface water aco drain appears to cross the proposed flood defence barrier into the basement to a sump pump at the western extent of the basement. This would appear to lead to surcharging of the drainage network within the basement level.
- (xiii) The proposed substation FFL should be a minimum of 5.50mOD and all plant/electrical equipment to be above 5.5mOD.
- (xiv) There is no reference to an emergency access/egress plan within the FRA. The applicant should address the risk of emergency access to the proposed development during a flood event.

6.

- i. The applicant shall address in writing the issues raised by the Irish Aviation Authority in relation to noise impact, wildfowl strike, wind turbulence, crane operation etc.
- ii. Submit the missing two cross sections of the site.
- iii. The applicant shall address issues raised by the third party objections submitted on file.

7.

- (i) Area considered to be an intermediate urban location as per Specific Planning Policy Requirement 4. In suburban or intermediate locations,

it is an objective that there shall generally be a minimum of 50% dual aspect apartments in a single scheme. The applicant was required to address this matter.

- (ii) Level of overlooking of adjoining low density dwellings amenity space is not acceptable. Revised proposals were required to this address this.
- (iii) As per the key objectives set out in the City Development Plan for the Caherdavin Area – the applicant shall clarify how the revised development will comply with the following – To promote a high standard of urban design with a clear sense of place and architectural quality that respects the existing character of the area.
- (iv) The applicant is proposing works outside the red line boundary. Please submit relevant letter(s) of consent giving the applicant consent to carry out these works.

Following the submission of a response to the further information the Planning Authority decided to refuse permission.

3.2.2. Other Technical Reports

Environment Section – Report dated 3/6/21: No objection subject to conditions.

Operations & Maintenance Section – Report dated 10/6/21: Further information sought.

Physical Section (Flood Risk) – Report dated 8/6/21: Further information sought.

3.3. Prescribed Bodies

Irish Aviation Authority – Report dated 31/05/2021 – It is noted that the site is located approximately 900m east of Coonagh which is a long established nationally licenced aerodrome. While the development does not cause a penetration of the Obstacle Limitation Surfaces established for the aerodrome, the Planning Authority should give regard to noise impact on local residents, wind turbulence, crane operation and wildlife strike hazard reduction.

OPWS – The site is adjacent to Channel C2/3 of the Shannon Embankment North (Coonagh) Estuarine Embankment Scheme. Please be advised that historic development occurring downstream of this location at the Clonmacken Road crossing has severed continuity of the drainage channel and as such effective surface water drainage of this location is no longer provided by the Arterial Drainage Maintenance scheme. Due to development surrounding the channel and restricted access it is no longer possible to carry out maintenance of this channel. The planning authority may wish to consider whether this has any implications for the proposed development in particular the proposed surface water drainage.

3.4. Third Party Observations

- 3.4.1. The Planning Authority received 22 no. submissions/observations in relation to the application. The issues raised concerned traffic congestion, impact upon residential amenity, overshadowing, overlooking, overbearing, excessive density and that the development would be out of character with the surrounding development.

4.0 Planning History

Reg.Ref.99/2511 & PL13.118517: Permission was refused for an extension to provide 9 no. extra guest bedrooms, replace front porch with new reception and bathroom over dining room, escape stairs. Clonmacken House, Clonmacken, Co. Limerick.

Adjacent site to the south

Reg. Ref. 14/790: Permission was granted for a new two storey dwelling house connected to an existing cottage which is to undergo refurbishment and alterations to include the following: (a) External barbeque area (b) Garden shed (c) New front boundary wall (d) Revised landscaping to include two car parking spaces and a new garden wall (e) Refurbishment and alterations/extension to the existing cottage including raising the roof to allow for first floor accommodation.

Reg. Ref. 04/2872 & PL13.210047: Permission was refused for vehicular entrance to link road at Mistfield, Clonmacken Road, Caherdavin.

5.0 Policy Context

5.1. Project Ireland 2040 - National Planning Framework

- 5.1.1. The NPF includes a Chapter, No. 6 entitled 'People, Homes and Communities'. It sets out that place is intrinsic to achieving good quality of life. National Policy Objective 33 seeks to "prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location".
- 5.1.2. National Policy Objective 35 seeks "to increase residential density in settlements, through a range of measures including restrictions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights".

5.2. Section 28 Ministerial Guidelines

- 5.2.1. The following is a list of section 28 Ministerial Guidelines considered of relevance to the proposed development. Specific policies and objectives are referenced within the assessment where appropriate.
- 'Urban Development and Building Heights' Guidelines for Planning Authorities
 - 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (including the associated 'Urban Design Manual')
 - 'Design Manual for Urban Roads and Streets' (DMURS)
 - 'The Planning System and Flood Risk Management' (including the associated 'Technical Appendices')
 - 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities'

5.3. Limerick City Development Plan 2010 – 2016 (as Extended)

- 5.3.1. Chapter 15 refers to Land Use Zoning Objectives
- 5.3.2. The appeal site is located on lands which are zoned '2A'. The objective of which is "to provide for residential development and associated uses."

- 5.3.3. Appendix A refers to Ministerial Guidelines
- 5.3.4. Policy H.5 - promotes increased density where appropriate to do so, having regard to the existing or proposed public transport provision and proximity to the City Centre.
- 5.3.5. Policy H.6 - seeks a balance between the reasonable protection of existing residential amenities, the established character of the area, and the need to provide for sustainable residential development.

5.4. Limerick Development Plan 2022-2028

- 5.4.1. The Limerick Development Plan 2022-2028 was adopted by the Elected Members of Limerick City and Council's at a Special Meeting on the 17th of June 2022. The Plan comes into effect six weeks from the date of adoption on the 29th July 2022.
- 5.4.2. Under the provisions of the plan the appeal site is located on lands which are zoned 'Existing Residential'.

5.5. Natural Heritage Designations

- 5.5.1. Lower River Shannon SAC (Site Code 002165) lies to the south, east and west of the appeal site at the closest point it is located circa 983m from the site.
- 5.5.2. River Shannon and River Fergus Estuaries SPA (Site Code 004077) lies to the south, east and west of the appeal site at the closest point it is located circa 983m from the site.

5.6. EIA Screening

- 5.6.1. The proposed development comprises 50 no. residential units on a hectare site.
- 5.6.2. The development subject of this application falls within the class of development described in 10(b) Part 2, Schedule 5 of the Planning and Development Regulations, 2001, as amended. EIA is mandatory for developments comprising over 500 dwelling units or over 10 hectares in size or 2 hectares if the site is regarded as being within a business district.
- 5.6.3. The number of dwelling units proposed at 50 is well below the threshold of 500 dwelling units noted above. Whilst the site is located within Caherdavin, Limerick it is

not in a business district. The site is, therefore, materially below the applicable threshold of 10 hectares.

5.6.4. The proposal for 50 residential units is located within the development boundary of Limerick City on lands zoned residential in the Limerick City Development Plan 2010-2016 (as Extended). The site comprises a green field site. It is noted that the site is not designated for the protection of the landscape or of natural or cultural heritage. The proposed development will not have an adverse impact in environmental terms on surrounding land uses. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The site is not within a European site. The issues arising from the proximity/connectivity to a European Site can be adequately dealt with under the Habitats Directive. The application is accompanied by an Urban Design Assessment with a Traffic and Transport Assessment submitted with the appeal. These address the issues arising in terms of the sensitivities in the area.

5.6.5. Having regard to

- the nature and scale of the proposed development, which is below the threshold in respect of Class 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- the location of the site on lands within the development boundary of Limerick City on lands zoned town centre under the provisions of the Limerick City Development Plan 2010-2016 (as Extended) and the results of the strategic environmental assessment of the Limerick City Development Plan 2010-2016 (as Extended), undertaken in accordance with the SEA Directive (2001/42/EC).
- the location of the site within the existing built-up urban area, which is served by public infrastructure, and the existing pattern of residential development in the area.
- the location of the site outside of any sensitive location specified in article 109 of the Planning and Development Regulations 2001 (as amended),

- The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003),
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended),

I have concluded 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 on preliminary examination an environmental impact assessment report was not necessary.

6.0 The Appeal

6.1. Grounds of Appeal

A first party was submitted by AK Planning on behalf of the applicant Clarisford Investment Ltd. the issues raised are as follows;

- The applicant has submitted proposals for a revised scheme to the Board. At further information stage the number of units was revised from 50 no. apartments to 42 no. apartments.
- The applicant proposes further revisions to the scheme under the appeal with the number of units revised from 42 no. apartments to 38 no. apartments. This equates to 127 units per hectare. 71 no. bicycle storage spaces and 37 no. car parking spaces are proposed including EV and car sharing spaces.
- It is submitted that the omission of 4 no. additional apartments on the northern elevation serves to create a more pronounced height transition from the dormer style dwelling south-west of the proposal to the Clonmacken Road.
- The reasons for refusal states,

Having regard to the bulk, scale, density, mass and overbearing nature of the proposed development, on a restricted site together with the proximity to adjoining low-density properties, it is considered that the proposed development would constitute overdevelopment of the site and would result in the building being unduly obtrusive and out of character when viewed in the

context of the existing streetscape at this location. It is considered that the proposal would seriously injure the amenities, depreciate the value of properties in the vicinity and would be contrary to the provisions of the Limerick City Development Plan specifically Policy H6 and the Ministerial Guidelines “Sustainable Urban Housing: Design Standards for New Apartments; Guidelines for Planning Authorities” and would be contrary to the proper planning and sustainable development of the area in question.

- Regarding the matter of overdevelopment at further information stage the proposed development was reduced from 50 no. units to 42 no. units involving the omission of the top storey reducing the proposed height to 5 storeys.
- Following the refusal of permission by the Planning Authority the scheme has been further revised. This provides a transition from the crown of the roundabout to the low rise residential to the south and south-west. It is 5 storey at its heights point and steps down to two storeys.
- It is submitted that the scale, height and layout of the development satisfactorily addresses the existing residential properties in the area and that it is an appropriate scale on this strategic vacant site.
- The site is located on a roundabout accessing a designated District Centre comprising Jetland Shopping Centre and Retail Park.
- It is stated that the roundabout is a primary entry point to the city for sports and concert goers attending Thomond Park Stadium and Gaelic grounds. It is stated that the proposal for a landmark building provides an appropriate transition from outer suburb to the commercial hub/inner suburban area.
- It is noted that the site is located adjacent to a frequent bus route along Ennis Road which is also proposed as a Bus Connects Corridor. The site will be located in close proximity to two high frequency corridors which will utilise the Condell Road and the Northern Distributor Road as detailed in the Limerick Shannon Metropolitan Area Transport Strategy.
- It is stated that the proposed development is located at a prominent roundabout site on a key arterial route into Limerick City from the M18 motorway/Shannon tunnel.

- The scale, massing and appearance of the proposed development would make it a visually distinct structure contributing to the creation of a strong design response to the site.
- In relation to the National Planning Framework regarding National Objective 11 it states, 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.
- National Policy Objective 12 states that in urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well designed high quality outcomes in order to achieve targeted growth.
- National Policy Objective 32 seeks to target the delivery of 550,000 additional households to 2040.
- National Policy Objective 33 seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- National Policy Objective 35 seeks to 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.
- The appeal refers to the Section 28 Ministerial Guidelines – Urban Development and Building Height Guidelines 2018. Paragraph 3.1 states that “There is therefore a presumption in favour of buildings of increased height in our town/city cores and in other urban locations with good public transport accessibility.” It is stated that the site is located in an urban area with good public transport accessibility.
- In relation to Section 3.2 of the Guidelines it is submitted that the proposed development has had regard and responded to the planning policy framework. The provision of residential development at this location at 5 no. storeys

reducing to 2 no. storeys is supported by the height guidelines which encourages increased density and building heights.

- In relation to the provisions of the Section 28 Ministerial Guidelines – Sustainable Urban Housing: Design Standards for New Apartments 2020, the guidelines provide further criteria for the determination of the locational context of development sites. The site is located within an accessible urban location on a high frequency bus route 2.5km from the city centre.
- The Apartment guidelines state these locations are generally suitable for large scale apartment development and higher density development. These locations are –
 - Sites within walking distance (i.e. up to 15 mins 1,000 – 1,500m of city centres, or significant employment locations, which may include hospitals and third level institutions.
 - Sites within reasonable walking distance (i.e. up to 15 mins or 1,000-1,500m to/from high capacity urban public transport stops and;
 - Sites within easy walking distance (i.e. up to 5 mins or 400-500m) of reasonably frequent (minimum of 10 minutes per hour frequency) urban bus service.
- In relation to significant employment locations, it is stated that the nearby retail park, shopping centre and peripheral retail/commercial/healthcare facilities (Lidl, Laya and creche) employs 500-1,000 people.
- The site is located within 5 minutes of Jetland Shopping Centre and the Ennis Road retail centre. It is submitted that the site qualifies as “An Accessible Urban Location.”
- In relation to the Limerick City Development Plan 2010-2016 the site is zoned “Existing Residential”.
- Policy H.3 states it is policy to encourage the establishment of sustainable residential communities by ensuring that a mix of housing and apartment types, sizes and tenures is provided within the city.

- Policy H.5 states that it is policy to promote increased density where appropriate to do so, having regard to the existing or proposed public transport provision and proximity to the city centre.
- Policy H.6 states that it is policy to ensure a balance between the reasonable protection of existing residential amenities, the established character of the area and the need to provide for sustainable residential development.
- Under the provisions of the Limerick City and County Council Draft Development Plan 2022-2028 the site is zoned existing residential with a minimum density in the Core Strategy of 45 units per/ha.
- It is noted that the site is located within density Zone 2 which is Intermediate Urban Locations/Transport Corridors: a minimum net density of 45+ dwellings per hectare are required at appropriate locations within 800 metres of (i) the University Hospital (ii) Raheen Business Park (iii) National Technology Park (iv) University Limerick (v) Limerick Institute of Technology (vi) Mary Immaculate College, 500m of high frequency existing or proposed urban bus service and 400m of reasonably frequent urban bus services.
- Policy CSP P1 refers to Core Strategy it is a policy of the Council to implement the Core Strategy for Limerick to ensure consistency with policies at a national and regional level in particular population targets and distribution.
- Policy CSP P2 refers to Compact Growth. It is a policy of the Council to support the compact growth of Limerick City Metropolitan Area, towns and villages by prioritizing housing and employment development in locations within and contiguous to existing city and town footprints where it can be served by public transport and walking and cycling networks, to ensure that development proceeds sustainably and at an appropriate scale, density and sequence in line with the Core Strategy Table.
- Policy SS P2 refers to Development of Limerick in accordance with the Settlement Hierarchy, it is policy to develop Limerick in accordance with the Settlement Strategy and Hierarchy and to require future residential development to locate at and be of a scale appropriate to the settlement and growth levels identified in the Core Strategy.

- Policy CGR P1 refers to Compact Growth and Revitalisation it is Council policy to achieve sustainable intensification and consolidation in accordance with the Core Strategy.
- Objective CGR 03 Urban Lands and Compact Growth, it is an objective of the Council to (a) deliver 50% of new homes within the existing built up footprint of Limerick City and suburbs and 30% of new homes within the existing built up footprint of settlements, in a compact and sustainable manner in accordance with the core and housing strategies of this Draft Plan (b) Encourage and facilitate sustainable revitalisation and intensification of brownfield, infill, underutilised and backland urban sites, subject to compliance with all quantitative Development Management Standards set out under Chapter 11 of the Plan.
- The report of the Planning Officer in relation to the application places emphasis on the existing low density and low-rise nature of the surrounding area.
- It is considered that the report does not have sufficient regard to overarching National Policy and Section 28 Guidance or reference to the Limerick City and County Council Draft Development Plan 2022-2028. The report of the Planning Officer refers to the dwelling to the 'west'. It is highlighted that there is a dwelling immediately south west and another dwelling south of the proposal.
- The proposed apartment building is north and north-west of the nearest dwellings and there is little potential for overshadowing due to the orientation of the proposal and the further omission of 12 no. apartments after the compilation of the Daylight and Shadow analysis which forms part of the original application.
- The report of the Planning Officer refers to Policy H.6 of the 2010 Limerick City Development Plan. The first party state that the proposal complies with Policy H.6 as it ensures a reasonable balance is struck by transitioning the storey height from five storeys to two storeys thereby respecting the existing proximate residential dwellings.

- National policy to increase and provide for sustainable densities in a high growth urban area has been adhered to in this regard.
- In conclusion it is submitted that the proposed development seeks to provide for a quality “Build to Rent” residential development in an existing urban area within circa 1km of Technological University Shannon (TUS) Moylish Campus and New Coonagh Campus and 2.5km from Limerick City Centre and adjoining the proposed high quality public Bus connects radial route on the Ennis Road and the proposed Orbital route on the Condell Road.
- The zoning of the site supports residential development. It is respectfully submitted that the proposed development will provide an appropriate form of high quality residential development for the site. The proposed development is consistent with the national, regional and local planning policy framework and it will provide for an effective and efficient use of this vacant site which is highly accessible in terms of footpaths and cycle lanes and well served by public transport.
- The proposed height and massing has been assessed in respect of the Urban Development and Building Height Guidelines 2018 and other criteria such as visual impact and impact on daylight/sunlight of the surrounding areas.
- It is submitted that the proposed quality of the building and the strong urban form it creates makes a positive contribution to the streetscape at this location and provides much needed residential accommodation in a highly accessible area well served by public transport.

6.2. Planning Authority Response

- None received

6.3. Observations

Observations to the appeal have been received from (1) Joe and Attracta Lee (2) John and Mary Mortell (3) Sean Grant (4) Dave Griffin acting on behalf of Residents of Alyesbury Estate.

(1) Joe and Attracta Lee

- It is submitted that the proposed development represents over development of the site. The site area is 0.3ha and with 38 no. housing units proposed it would result in a density of 127 units per hectare. While the density is reduced it is considered way in excess of the prevailing density of housing in the area.
- It is stated that Clonmaken is characterised as low density suburbia.
- The observers property is located directly to the south-west their dwelling is located on a 0.2ha site. The proposed development is considered to be out of character with the surrounding development.
- In relation to the matter of residential amenity the observers state that they welcome the proposed reduction in the proposed height of the apartment building.
- The observers have concerns regarding that the proposed FFL of the ground floor of the building which would be above the FFL of their property.
- It is stated that users of the open space around the apartment complex would directly overlook the observers house and garden.
- It is stated that 14 no. windows and 4 no. balconies are orientated towards the observers property.
- Concern is expressed in relation to the proximity of the air vents to the undergrounds car park and the observers property.
- It is submitted that the proposed development would block eastern and south-eastern sunlight to the observers property. It is considered that the Sunlight, daylight and Shadow Assessment submitted with the application failed to illustrate the actual impact on the observers property.
- Concern is expressed in relation to potential subsidence to the observers property which could occur during the construction.
- The observers consider that inadequate car parking has been proposed to serve the scheme. They consider that a shortfall of car parking would not be appropriate as there is no bus route which directly passes the site.
- The observers consider that a shortfall of car parking would give rise to parking along the surrounding roads which would lead to congestion.

- It is submitted that the Old Clonmacken road does have capacity to accommodate the traffic which would be generated by the proposed development.

(2) John and Mary Mortell

- The observers state that they live directly opposite the site within 10m of the east facing elevation of the proposed apartment building.
- The ground level at the entrance/exit of the proposed car park is raised. It is considered that surface water run-off will cause pooling which could result in flooding of their entrance and driveway.
- It is noted that on drawing no. 113 bollards are indicated on the public road and opposite the entrance to the observers property. Concern is expressed that the road layout would therefor be altered and that access to their vehicular entrance would be made hazardous due to reduced sightlines.
- Concern is expressed in relation to proposed access arrangements for bin trucks to service the proposed apartment building.
- The observers consider that construction traffic would cause congestion and disruption to the surrounding roads.
- Concern is raised that the traffic generated would impact the flow onto the existing roundabout and would also impact proposals to provide future road improvements.
- Concern is raised in relation to impact from dust arising during construction of the proposed scheme.

(3) Sean Grant

- Concern is raised in relation to potential overlooking of neighbouring residential properties.
- The proposed development is considered out of character with the surrounding residential development.
- Concern is expressed that the proposed development would cause traffic congestion on the old Clonmaken Road both during construction and when the scheme is built.

- The construction of the scheme would generate noise which would negatively impact residents of adjacent properties.
- Concern is expressed whether the existing foul sewer can accommodate the additional loading the development would generate.

(4) Dave Griffin acting on behalf of the Residents of Alyesbury Estate

- It is submitted that the site is not suitable for the density of development proposed.
- The proposed height and scale of development is not appropriate for the subject site. It is submitted that the National Planning Framework and the Urban Development and Building Height Guidelines for Planning Authorities do not support the provision of a 5.5 storey development on the site.
- Concern is expressed in relation to vehicular and pedestrian access arrangements to proposed development also the level of car parking proposed. The matter of impacts upon the surrounding roads is raised in respect of construction traffic.
- The issue of potential shadowing of neighbouring properties is raised.
- The matter of flood risk is raised.
- Concern is raised in relation to the proposed bin storage and bin collection arrangements.
- The matter was raised that due to the confined nature of the site that potential impacts could arise during the construction phase which could give rise to adverse effects on Lower River Shannon SAC (Site Code: 002165) and also the River Shannon and Fergus Estuaries SPA (Site Code: 004077).
- In relation to the impact of the development on Alyesbury estate it is submitted that residents will be impacted negatively by an outlook onto the proposed apartment building with a height of between 3.5 and 6.5 storeys.
- It is considered that the proposed tree planting will not ameliorate the visual impact of the proposed development.

7.0 Assessment

The main issues in this appeal are those raised in the grounds of appeal and the observations to the appeal. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Density, Height and Design
- Residential Amenities/Residential Standards
- Impact on amenities
- Access and traffic
- Flood risk
- Appropriate Assessment

7.1. Density, Height and Design

Density

- 7.1.1. The lands in question are zoned '2A' under the provisions of the Limerick City Development Plan 2010-2016 (As extended and varied). The objective of which is "to provide for residential development and associated uses." In relation to the Limerick Development Plan 2022-2028 which was been adopted by the Elected Members of Limerick City and Council's on the 17th of June 2022. The site is zoned 'Existing Residential' under the provisions of the plan. This Plan comes into effect on the 29th July 2022.
- 7.1.2. The proposal as submitted with the application entails the construction 50 no. built to rent apartments in a part 3-storey, part 6-storey building. The site has an area of 0.3hectares the proposed density would be equivalent to 166 units per hectare. At further information stage the design was revised with the number of apartments reduce to 42 no. units. The density of the scheme under that revised design would be equivalent to 140 units per hectare. The first party appeal includes proposals to further revise the design of the scheme with the number of units proposed reduced to 38 no. units. The density of the scheme under that further revised design would be equivalent to 126 units per hectare.

- 7.1.3. Caherdavin is defined as the area which contains the last substantial undeveloped residential land bank in the City, in the Limerick City Development Plan 2010-2016 (As extended and varied). Key Objectives for Caherdavin are set out in Chapter 14. These include to promote a high standard of urban design with a clear sense of place and architectural quality that respects the existing character of the area, to ensure an appropriate mix of uses in the area to support the primary residential function of the area and to seek the sustainable development of the existing under utilised lands in the area. Policy H.5 of the Development Plan promotes increased density where appropriate to do so, having regard to the existing or proposed public transport provision and proximity to the City Centre
- 7.1.4. The Planning Authority in their assessment of the proposal considered that the scheme represented overdevelopment of the site. In terms of the site context, it is located at the Clonmacken Road in Caherdavin, Limerick. It is situated 2.8km from Limerick City Centre. The Jetland Shopping Centre is located circa 130m from the site with the Retail Park are located circa 280m from the site. In relation to public transport provision in the area, while I would note that no bus route directly passes the site, Caherdavin is served by routes no. 343 and no. 346 operated by Bus Éireann. The nearest bus to the appeal site is circa 460m away located on the Ennis Road to the front of the Jetland Shopping Centre. Furthermore, I note that as part of BusConnects, there are future plans for improved bus services within Limerick city.
- 7.1.5. The Ministerial Guidelines, Sustainable Urban Housing: Design Standards for New Apartments (2020), identify the types of locations in cities and towns that may be suitable for apartment development. Three categories of location are identified (1) Central and/or Accessible Urban Locations (2) Intermediate Urban Locations (3) Peripheral and/or Less Accessible Urban Locations.
- 7.1.6. Having regard to the distance to the city centre and proximity of Jetland Shopping Centre/Retail Park, I would consider that the site can be identified to be an 'intermediate urban location', as per the Sustainable Urban Housing: Design Standards for New Apartments (2020). Such a location as detailed in the Guidelines, are generally suitable for smaller-scale (will vary subject to location), higher density development that may wholly comprise apartments, or alternatively, medium-high density residential development of any scale that includes apartments to some extent (will also vary, but broadly >45 dwellings per hectare net).

7.1.7. Accordingly, in relation to the proposed density which ranges between 166 units per hectare and 126 units per hectare depending on the number of units proposed. Having regard to the site context, I would consider that a higher density such as proposed under this scheme can be considered subject to the development being acceptable in terms of all other relevant planning considerations.

Height

7.1.8. The issue of the height of the proposed development is referred to in a number of the observations to the appeal. The building as originally proposed ranges in height from six to three storeys. The Planning Authority in their assessment of the proposal considered that the proposed development would have an overbearing impact.

7.1.9. As part of the further information the design of the scheme was revised with the omission of the top storey reducing the proposed height to 5 storeys. The further revisions to the scheme proposed with the appeal submission would provide a 5 storey building with the height stepped down to two storeys at the south and south-west.

7.1.10. In response to the matter of the height of the proposed scheme, it is noted in the appeal that paragraph 3.1 of the Ministerial Guidelines – Urban Development and Building Height Guidelines (2018) states that “There is therefore a presumption in favour of buildings of increased height in our town/city cores and in other urban locations with good public transport accessibility.”

7.1.11. The first party also submitted in their appeal that regarding Section 3.2 of the Building Height Guidelines that the proposed development has had regard and responded to the planning policy framework. They consider that the proposed residential scheme at this location at 5 no. storeys reducing to 2 no. storeys is supported by the height guidelines which encourages increased density and building heights.

7.1.12. Regarding the matters of building height and adherence to existing pattern of residential development in the area as raised in the observations to the appeal, Ministerial policy as set out in ‘Urban Development and Building Heights’ Guidelines for Planning Authorities advises that the constant expansion of low-density suburban development around our cities and towns cannot continue. The Guidelines set out to provide the scope to consider general building heights of at least three to four

storeys, coupled with appropriate density, in locations outside what would be defined as city and town centre areas, and which would include suburban areas.

- 7.1.13. Section 3.4 of the Guidelines refers to Building height in suburban/edge locations (City and Town) and it advises that for newer housing developments outside city and town centres and inner suburbs, i.e. the suburban edges of towns and cities, should now include town-houses (2-3 storeys), duplexes (3-4 storeys) and apartments (4 storeys upwards). The site context is that it is located on a corner adjacent to the roundabout, the Jetland Shopping Centre is situated to the north-east, the housing to the north in the Aylesbury estate and to the south comprises a mix of two-storey and single storey properties.
- 7.1.14. The Guidelines advise that such developments also address the need for more 1 and 2 bedroom units in line with wider demographic and household formation trends, while at the same time providing for the larger 3, 4 or more bedroom homes across a variety of building typology and tenure options, enabling households to meet changing accommodation requirements over longer periods of time without necessitating relocation. Accordingly, having regard to the provisions of the Ministerial Guidelines in relation to Building Heights, I would accept that the principle of an apartment building of five storeys can be considered subject to all other relevant planning considerations being satisfactorily addressed.

Design

- 7.1.15. In relation to the design of the proposed apartment building, it is a Built to Rent scheme. Specific Planning Policy Requirement 7 of Sustainable Urban Housing: Design Standards for New Apartments (2020) refers to BTR schemes. It is set out in the guidelines that proposals should include residential support facilities such as laundry facilities, concierge and management facilities and residential services and amenities comprising of facilities for communal recreational and other activities by residents including sports facilities, shared TV/lounge areas, work/study spaces, function rooms for use as private dining and kitchen facilities, etc. Regarding these requirements I note that the scheme includes proposals for a gym, communal lounge area, accessible green roofs and laundry facilities.
- 7.1.16. Regarding the design of the building, it is of a contemporary design it is contemporary it includes a flat roof and features a mix of balcony design including

cantilevered balconies to the side elevations and projecting elements of the building to the front and rear elevations which contain balconies at first to sixth floor levels. The building as originally proposed has a maximum frontage length of 44m at ground to second floor level. The third, fourth and fifth floors are proposed to be inset from the southern side of the building with the section of the building with the northern side and directly addressing the roundabout. The third floor is inset 4m at the southern side of the building with the fourth floor inset a further 4m and the fifth floor inset a further 8.5m. Having regard to the site size and context specifically the existing surrounding development which is predominately two-storey it is important that the proposed apartment building will integrate with the surrounding development. Accordingly, in relation to the overall mass and form of the building as originally proposed, I would share the concerns of the Planning Authority that the subject development would be unduly obtrusive and out of character when viewed in the context of the existing streetscape at this location.

- 7.1.17. At further information stage the design of the scheme was revised with the reduction in the number of units from 50 to 42. This resulted in the omission of the proposed top floor and also the further inset of the building at fifth and fourth storey level. In response to the refusal of permission issued by the Planning Authority the scheme has been further revised with the number of units reduced to 38. The first party set out in their appeal that revised design provides a transition from the crown of the roundabout to the low rise residential to the south and south-west. It is 5 storey at its heights point and steps down to two storeys. They submit that the scale, height and layout of the development satisfactorily addresses the existing residential properties in the area and that it is an appropriate scale on this strategic vacant site.
- 7.1.18. In relation to the revised design submitted with the appeal I would consider that the proposed stepping down of the building height at the southern side serves to reduce the massing of the proposal. The increased separation distance provided with the stepping down and tapering of the building at the southern side provides an acceptable separation distance between the closest point of the fifth-storey section and closest adjacent dwellings to the south. The dwelling immediately to the west with frontage onto the L8579 would be situated over 35m from the fifth-storey section of the building. The neighbouring dwelling to the south with frontage onto the Old Clonmacken Road would be situated over 27m from the fifth-storey section of the

building. Accordingly, I consider that this addresses concerns relating to overbearing impact.

7.1.19. The proposed apartment building will be in a prominent location. Accordingly, it is important that it is of a high architectural design quality. I consider that it is of a relatively high quality design. The proposed stepping down of the building from five to two storeys serves to reduce the massing of the proposal. I consider that there is reasonable variety to the elevational treatment of the building and the materials and colour pallet of the external finish provide a good mix of high quality finishes. The proposed finishes include brick, with grey window and door frames, glass panels and stainless steel railings to the balconies and zinc cladding to selected walls and the upper sections of the building Overall, in terms of the visual impact of the proposed scheme on the surrounding area I consider that the development has been designed well to integrate with the surrounding development.

7.2. Residential Amenity/Residential Standards

Daylight and Sunlight in relation to the proposed development

7.2.1. The provisions of BS 8206-2:2008 (British Standard Light for Buildings- Code of practice for daylighting) and BRE 209 – Site Layout Planning for Daylight and Sunlight – A guide to good practice (2011) are relevant in the assessment of this development. Neither document is specifically referenced in the Limerick City Development Plan 2010 – 2016 (as Extended and varied). The Plan states in section 16.24 that all buildings should receive adequate daylight and sunlight. Careful design of residential buildings, where the amount of incoming light is important, can ensure that sufficient sunlight can enter habitable rooms to provide comfort and also reduce the need for artificial lighting. Development shall be guided by the principles of ‘Site Planning for Daylight and Sunlight: A Good Practice’ (British Research Establishment Report, 1991). In relation to the Limerick Development Plan 2022-2028, Section 11.4.3 refers to Aspect and Natural Light, it states that as a standard all habitable rooms within new residential units shall have access to appropriate levels of natural/daylight and be guided by the principles of Site Layout Planning for Daylight and Sunlight, A guide to good practice (Building Research Establishment Report, 2011) and/or any updated guidance.

7.2.2. The Section 28 Ministerial Guidelines on Urban Development and Building Heights 2018 refer to both BS 8206-2:2008 (British Standard Light for Buildings- Code of practice for daylighting) and BRE 209 – Site Layout Planning for Daylight and Sunlight – A guide to good practice (2011). While I note and acknowledge the publication of the updated British Standard (BS EN 17037:2018 ‘Daylight in buildings’), which replaced the 2008 BS in May 2019 (in the UK), I am satisfied that this document/UK updated guidance does not have a material bearing on the outcome of the assessment and that the more relevant guidance documents remain those referenced in the Urban Development & Building Heights Guidelines.

7.2.3. No Sunlight Analysis was submitted as part of the planning documentation by the applicant. The proposed development consists of a total of 50 no. apartments with proposed revisions reducing the number of units to 42 and then to 38 under the proposals submitted with the appeal. In relation to the original proposal of the 50 no. apartments 27 no. apartments are dual aspect and this includes all the proposed studio apartments. The revised scheme with 42 no. apartments provides 24 no. dual aspect units. The further revised scheme with 38 no. apartments provides 21 no. dual aspect units. The proposed floor to ceiling heights of the units at ground floor level are 3.050m and the floor to ceiling heights proposed for all the other units is 2.452m. There is nothing apparent in the documents and drawings submitted that would highlight any issue here. Therefore, while there is no documentary evidence to demonstrate compliance with BRE209 requirements, based on the planning documentation submitted, I am satisfied that this is not a material or likely potential impact/deficit in information.

Specific Planning Policy Requirement 8

7.2.4. As set out in SPPR 8 of the Sustainable Urban Housing: Design Standards for New Apartments (2020) for proposals that qualify as specific BTR development there is

- (i) No restrictions on dwelling mix and all other requirements of these Guidelines shall apply, unless specified otherwise;
- (ii) Flexibility shall apply in relation to the provision of a proportion of the storage and private amenity space associated with individual units as set 29 out in Appendix 1 and in relation to the provision of all of the communal amenity space as set out in Appendix 1, on the basis of the provision of alternative, compensatory communal

support facilities and amenities within the development. This shall be at the discretion of the planning authority. In all cases the obligation will be on the project proposer to demonstrate the overall quality of the facilities provided and that residents will enjoy an enhanced overall standard of amenity;

(iii) There shall be a default of minimal or significantly reduced car parking provision on the basis of BTR development being more suitable for central locations and/or proximity to public transport services. The requirement for a BTR scheme to have a strong central management regime is intended to contribute to the capacity to establish and operate shared mobility measures.

(iv) The requirement that the majority of all apartments in a proposed scheme exceed the minimum floor area standards by a minimum of 10% shall not apply to BTR schemes;

(v) The requirement for a maximum of 12 apartments per floor per core shall not apply to BTR schemes, subject to overall design quality and compliance with building regulations

7.2.5. In relation to these matters the unit mix with the proposed scheme comprises with the 50 no. apartments originally proposed 26 no. one bedroom apartments, 20 no. two Bedroom apartments and 4 no. studio apartments. With the revisions to the design with 42 no. apartments proposed there would be 26 no. one bedroom apartments, 20 no. two Bedroom apartments and 4 no. studio apartments and with the scheme reduce to 38 no. units there would be 20 no. one bedroom apartments, 14 no. two bedroom and 4 no. studio apartments. Accordingly, notwithstanding the provisions of SPPR8 in respect of the lack of a requirement for a specified mix of unit type, I consider that there is a satisfactory mix of unit size proposed. Regarding the floor areas of the apartments, I note that as detailed in the schedule of accommodation submitted with the application as part of the Design Statement prepared by Michael Fitzpatrick Architects & AK Planning Consultants that all proposed apartments have floor areas in excess of the minimum overall apartment floor areas set out in Appendix 1 of the Apartment Guidelines.

Dual aspect

7.2.6. SPPR4 as detailed in the Apartments Guidelines (2020) refers to the requirement for dual aspect units within scheme. It sets out that in relation to the minimum number of

dual aspect apartments that may be provided in any single apartment scheme that a minimum of 33% of dual aspect units will be required in more central and accessible urban locations, where it is necessary to achieve a quality design in response to the subject site characteristics and ensure good street frontage where appropriate in. In suburban or intermediate locations, it is an objective that there shall generally be a minimum of 50% dual aspect apartments in a single scheme.

- 7.2.7. In relation to the number of dual aspect units proposed I note that under the scheme as originally proposed with 50 no. apartments 54% of the units would be dual aspect. Under the revised scheme with 42 no. apartments 57% of the units would be dual aspect and with the scheme further revised with 38 no. apartments 55% of the units would be dual aspect.
- 7.2.8. Accordingly, I consider that the provision of dual aspect units with the scheme acceptable in this instance, and it is compliant with SPPR4 of the Apartment Guidelines.

Private amenity space

As detailed in the Housing Quality Assessment Table contained in the Architectural Drawings submitted with the application, the proposed private open space areas to serve the residential units range from a minimum of 5.5sq m to 14.8sq m. The minimum requirements for private range between 4sq m to 9sq m as per Appendix 1 of the Apartment Guidelines. Accordingly, the apartment units are provided with either a terrace or balcony of sufficient size which is in accordance with the standards set out in the Apartment Guidelines.

Communal open space

- 7.2.9. Communal open space provision is proposed within the scheme. As detailed in the Apartment Guidelines the communal amenity space may be provided as a garden within the courtyard of a perimeter block or adjoining a linear apartment block. Designers must ensure that the heights and orientation of adjoining blocks permit adequate levels of sunlight to reach communal amenity space throughout the year. Roof gardens may also be provided but must be accessible to residents, subject to requirements such as safe access by children. As per the minimum requirements set out in Appendix 1 of the Apartment Guidelines a minimum area of 286sq m of communal amenity space would be required to serve the scheme as originally

proposed. Drawing No: DR-A-509 illustrates the proposed location of communal open space within the scheme. A grassed public open area of 768sq m is proposed to the south-east corner of the site. This area includes a courtyard with proposed external seating to the southern side of the building. Two areas of communal open space to be accessible to residents are proposed on the roof as green roof space. Area A has an area of 52.4sq m. Area B has an area of 87.5sq m. Therefore, overall amenity space provision within the scheme is 907.9sq m. Accordingly, a satisfactory level of communal open space has been provided within the scheme.

7.3. Impact on amenities

- 7.3.1. It is stated in the refusal reason that the proposed development would be contrary to the provisions of the Limerick City Development Plan specifically Policy H6 and the Ministerial Guidelines “Sustainable Urban Housing: Design Standards for New Apartments; Guidelines for Planning Authorities”.
- 7.3.2. Policy H6 of the Limerick City Development Plan states, ‘It is the policy of Limerick City Council to ensure a balance between the reasonable protection of existing residential amenities, the established character of the area, and the need to provide for sustainable residential development.’
- 7.3.3. In relation to potential impact upon existing residential amenities it is necessary to examine if the proposed development would impact neighbouring properties in terms daylight, sunlight and overshadowing.

Daylight, sunlight and overshadowing

- 7.3.4. It is set out in the Limerick City Development Plan 2010-2016 (as Extended and varied) that development shall be guided by the principles of ‘Site
- 7.3.5. Planning for Daylight and Sunlight: A Good Practice’ (British Research Establishment Report, 1991). In relation to the Limerick Development Plan 2022-2028, section 11.4.2 refers to Residential Quality Standards, it states that any residential development proposals exceeding three or more storeys shall demonstrate adequate separation distances having regard to occupier’s amenity including privacy, sunlight and daylight.

- 7.3.6. The Building Height Guidelines seeks compliance with the requirements of the BRE standards and associated British Standard (note that BS 8206-2:2008 is withdrawn and superseded by BS EN 17037:2018), and that where compliance with requirements is not met that this would be clearly articulated and justified.
- 7.3.7. The Building Research Establishments (BRE) 'Site Layout Planning for Daylight and Sunlight – A guide to good practice' describe recommended values (eg. ADF, VSC, APSH, etc) to measure daylight, sunlight and overshadowing impact, however it should be noted that the standards described in the BRE guidelines are discretionary and not mandatory policy/criteria (para.1.6). The BRE guidelines also state in paragraph 1.6 that:
- 7.3.8. *“Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design.”*
- 7.3.9. The BRE note that other factors that influence layout include considerations of privacy, security, access, enclosure, microclimate etc. in Section 5 of the standards. In addition, industry professionals would need to consider various factors in determining an acceptable layout, including orientation, efficient use of land and arrangement of open space, and these factors will vary from urban locations to more suburban ones. The BRE guidelines state that in relation to daylight to existing buildings:
- 7.3.10. *“Loss of light to existing windows need not be analysed if the distance of each part of the new development from the existing window is three or more times its height above the centre of the existing window. In these cases the loss of light will be small...” (para. 2.2.4)*
- 7.3.11. An Assessment of Daylight Levels Associated with the development was submitted with the application dated 29th April 2021. In relation to daylight, the BRE Guidelines recommend that neighbouring properties should retain a VSC (this assesses the level of skylight received) of at least 27%, or where it is less, to not be reduced by more than 0.8 times the former value (i.e. 20% of the baseline figure). This is to ensure that there is no perceptible reduction in daylight levels, requiring electric lighting to be needed more of the time.

Daylight

- 7.3.12. The submitted assessment prepared by Chris Shackleton Consulting considers the impacts on daylight on the following surrounding properties, Building no. 1 the dwelling immediately to the west of the site, Building no. 2 the dwelling immediately to the south of the site, Building no. 3 the dwelling immediately to the east of the site and Building group no. 4 the properties to the west at Aylesbury housing estate.
- 7.3.13. In relation to Building no. 1, Building no. 2, Building no. 3 and Building group no. 4 the VSC for all the tested windows was greater than 27% or not breaching the 0.8 times its former value limit for habitable rooms. Accordingly, it is possible to conclude that with the development in place the advisory minimums recommended by the BRE would be satisfied in all cases.

Sunlight

- 7.3.14. The impact on sunlight to neighbouring windows is generally assessed by way of assessing the effect of the development on Annual Probable Sunlight Hours (APSH). The BRE Guidelines suggest that windows (to living rooms and conservatories) with an orientation within 90 degrees of due south should be assessed. According to the BRE Guidelines a dwelling or non-domestic building which has a particular requirement for sunlight will appear reasonably sunlit provided the centre of at least one window in the main living room can receive 25% annual probable sunlight hours, including at least 5% of annual probable sunlight hours in winter.
- 7.3.15. The report sets out in tabulated form the impact of the development on sunlight to surrounding windows. Having regard to the analysis illustrated on the Table titled 'Sunlight on windows to living room space check' on page 9 of the report it is evident to conclude that all tested windows comply with the annual APSH and 100% with the winter WPSH requirements for sunlight. Accordingly, it is possible to conclude that with the development in place the advisory minimums recommended by the BRE would be satisfied in all cases.

Shadow Analysis

- 7.3.16. The BRE guidelines recommend using the 21st March for plotting shadow diagrams. In relation to overshadowing, the BRE guidelines state that an acceptable condition is where external amenity areas retain a minimum of 2 hours of sunlight over 50% of the area on the 21st March.

7.3.17. Having regard to the orientation of the site relative to existing surrounding development the only garden with the potential to be impacted is the rear garden of the property immediately to the west of the site. The area is illustrated on the plans on page 10 of the report. The plans indicate that with the proposed development in place there would be no change in terms of shadowing of the rear garden. The results are provided in tabulated form on page 10 of the report. Accordingly, as detailed in the report the tested neighbouring amenity space passes the BRE requirement relating to the area receiving 2 hours of sunlight on the 21st March > 50% or not breaching the 0.8 times its former value limit.

Overlooking/loss of privacy

7.3.18. In relation to the issue of overlooking the closest residential properties to the proposed apartment building are the neighbouring dwellings to the south and west.

7.3.19. The separation distance between the proposed apartment building at the closest point and the property to the south is 5m. The proposed apartment building is two-storey at this location. The existing dwelling has two first floor gable windows which face north towards the appeal site. I note that no directly opposing windows are proposed to the south facing elevation of the apartment building. In relation to the closest neighbouring dwelling to the west, I note that there would be a separation distance of 10m between the closest point of the apartment building and the northern gable of the existing dwelling. Regarding potential overlooking I note that there would be a separation distance of circa 13m between the closest first floor window and the gable of the existing dwelling and that the windows in the west facing elevation at second floor level and above are set back 25m from the gable of the dwelling. Accordingly, I consider that the separation distance provided ensures that the proposed development would not result in any undue overlooking.

7.3.20. The closest dwellings within the Aylesbury housing estate are located over 43m from the proposed apartment building. Having regard to the separation distance provided I am satisfied that that no material overlooking or loss of privacy will occur.

Overbearing

7.3.21. Regarding the matter of overbearing impact, the report of the Planning Officer stated that the Planning Authority had serious concerns with regard to the bulk, scale and overbearing nature of the proposed development in such close proximity to existing

single and two-storey dwellings on what is a restricted site in terms of the scale of development proposed. Notwithstanding the proposal to revised scheme in response to the further information with the reduction in apartments from 50 no. to 42 no. the report of the Planning Officer in respect of the further information stated that the scale of the proposed building will have a significant visual impact on that there are no existing comparative developments at this location. It was concluded in the report that the development would significantly impact on existing residential amenities including that it would have overbearing impacts.

- 7.3.22. In response to the matter the first party set out in the appeal that the revised design and reduction in the size of the building has addressed the concerns of the Planning Authority. In relation to the proposed revised design submitted with the appeal I note that the proposed five storey section of the building would be located 27m from the neighbouring dwelling to the south. Regarding the dwelling to the south-east with the revised scheme in place there would be a separation distance of 40m from the corner of the dwelling and the five storey section of the building. In relation to the neighbouring property to the west of the site, I note that a separation distance of 35m would be provided between it and the five storey section of the building. In relation to the dwelling to the north of the site within the Aylesbury estate, I note that there would be a separation distance of over 43m between the closest dwellings and the proposed five storey section of the building. Furthermore, I note that the Aylesbury estate is elevated above the Clonmacken Road and the appeal site and therefore this would serve to further reduce any potential overbearing.
- 7.3.23. The revised design comprises the proposed stepping down in the height of the building towards the southern site boundary with the section of the building to the southern boundary being two-storey. I consider this addresses any potential overbearing impact upon the existing neighbouring dwellings.
- 7.3.24. In conclusion, having reviewed the proposed design and layout of the scheme and specifically the revised scheme as submitted to the Board with the appeal, relative to the existing surrounding properties, I consider having regard to the proposed siting of the apartment building and relative separation distances to the existing property that the proposed scheme would not result in any material overlooking, overbearing or overshadowing of neighbouring residential properties.

7.4. Access and traffic

- 7.4.1. The observers raised the issues of traffic that the proposal would generate, the location and design of the vehicular access to the scheme and also car parking provision.
- 7.4.2. Firstly, in respect of the traffic which the scheme would generate a Traffic and Transport Assessment (TTA) was prepared by TTRSA and was submitted with the application. In relation to trip generation as detailed in the TTA and based on the original design of the scheme with 50 no. apartments, during the AM peak 08.00 – 09.00 10 no. vehicles would leave the development and 2 no. would arrive. During the PM peak between 17.00 – 18.00 9 no. vehicles would arrive at the development with 1 no. departure.
- 7.4.3. In relation to the results from the PICADY modelling the proposed development access junction will operate with 98% spare capacity in the AM peak hour and 99% spare capacity in the PM peak hour. In relation to the potential impact of the proposed scheme on the Old Clonmacken Road/Jetland Shopping Centre roundabout the ARCADY modelling indicates that the impact of the proposed development on the operation of the roundabout is negligible in all of the scenarios tested. Accordingly, having regard to the details provided in the TTA it is reasonable to conclude that the relatively modest level of traffic arising from the proposed development will not give rise to any significant impact upon the existing road network and junctions in the vicinity of the site.
- 7.4.4. Secondly regarding the vehicular access arrangements, the vehicular access to the scheme is proposed from the Old Clonmacken Road to the basement level car park. As detailed on Drawing No: 111 A2, sightlines of 45m with a setback of 2.4m are proposed to the south and sightlines of 39m with a setback of 2.4m are proposed to the north. Old Clonmacken Road is a cul-de-sac with a speed limit of 50kph. The Old Clonmacken Road/Jetland Shopping Centre roundabout is situated 40m to the north-east of the proposed entrance. I consider that the sightlines proposed are acceptable in the context of the 50kph speed limit on the Old Clonmacken Road and the fact that it is a cul-de-sac. Furthermore, I note that in respect of the proposed vehicular access arrangements, that the Planning Authority in their assessment of the scheme were generally satisfied.

7.4.5. Finally, in relation to car parking under the original proposal for 50 no. apartments, the car parking arrangements to serve the scheme comprise a total of 37 no. car parking spaces at basement level. The provision includes 2 no. disabled spaces and a space for a GoCar club vehicle. Accordingly, the car parking provision equates to approximately 1.33 spaces per unit. Car parking standards are set out under Table 16.1 of the Limerick City Development Plan 2010-2016 (As extended and varied). It is required that in Zone 3 (Suburban) that 1.25 car parking spaces per apartment are provided with 25% visitor provision. Therefore, under that requirement a minimum of 62.5 spaces per unit with 15.62 number visitor parking would be required to serve the scheme. The number of apartments within the scheme was revised under the further information with a reduction from 50 no. units to 42 no. units. Therefore, under requirements set out in Table 16.1 of the Limerick City Development Plan, the revised scheme would require 52.5 spaces per unit with 13.125 for visitor provision. The scheme as submitted to the Board has been further revised with the number of units reduced to 38 no. apartments. Therefore, under requirements set out in Table 16.1 of the Limerick City Development Plan, the further revised scheme would require 47.5 spaces per unit with 11.87 for visitor provision. Accordingly, in terms of the requirements set out in the Limerick City Development Plan there would be a shortfall in car parking provision.

7.4.6. In relation to the Limerick Development Plan 2022-2028, Table DM 9(a) refers to Car and Bicycle Parking Standards in Limerick City and Suburbs. In Zone 3 apartments with 1-2 bedroom require 1 space per unit with visitor parking at a rate of 1 space per 3 units. As originally proposed the scheme comprises 26 no. one bed units, 20 no. two bed units and 4 no. studio apartments. Therefore, under the provisions of the Limerick Development Plan the scheme would require a minimum of 50 spaces per unit with 16.66 number visitor parking spaces required to serve the scheme. With the revised scheme with 42 no. apartments it comprises 21 no. one bedroom units, 17 no. two bedroom units and 4 no. studio apartments, it would require 42 number car parking spaces for the units and 14 no. visitor parking spaces.

7.4.7. The applicant has proposed further revisions to the scheme in their appeal with the number of apartments reduced to 38 no. comprising 20 no. one bedroom units, 14 no. two bedroom units and 4 no. studio apartments, it would require 38 number car parking spaces for the units and 12.66 no. visitor parking spaces. Therefore, there

would be a shortfall of the proposed car parking of 1 no. space for the proposed units and also there would be a shortfall of car parking for visitors.

- 7.4.8. The proposed scheme is a BTR development and as such is subject to SPPR 8 as set out in the Sustainable Urban Housing: Design Standards for New Apartments (2020). SPPR 8 sets out that there shall be a default of minimal or significantly reduced car parking provision on the basis of BTR development being more suitable for central locations and/or proximity to public transport services. The requirement for a BTR scheme to have a strong central management regime is intended to contribute to the capacity to establish and operate shared mobility measures. Therefore, this does provide scope to consider the proposed car parking which does not provide any visitor parking on site. In relation to public transport provision as discussed previously in the report Caherdavin is served by routes no. 343 and no. 346 and the nearest bus to the appeal site is circa 460m away located on the Ennis Road. These routes provide relatively frequent services.
- 7.4.9. In relation to bicycle parking it is proposed to provide 95 no. spaces in the basement and at surface level. The scheme as revised and submitted to the Board provides 71 no. bicycle spaces. Bicycle parking standards are set out under Table 16.2 of the Limerick City Development Plan 2010-2016 (As extended and varied). It is required that in Zone 3 (Suburban) that 1 bicycle parking spaces per apartment are provided. In relation to the Limerick Development Plan 2022-2028, under Table DM 9(a) 1 bicycle space is required per unit for 1-2 bedroom apartments with 1 bicycle space per two units required.
- 7.4.10. Accordingly, having regard to the BTR nature of the scheme and the provisions of SPPR 8 which allow for a reduction in car parking where appropriate, the proximity to the bus routes no. 343 and no. 346 on the Ennis Road and the bicycle parking provision within the scheme I consider the shortfall in car parking in terms Development Plan standards would be acceptable.
- 7.4.11. Therefore, I am satisfied with the proposed car parking provision, bicycle parking provision and vehicular and pedestrian access arrangements.

7.5. Flood Risk

- 7.5.1. The matter of flood risk was raised in a number of the observations submitted to the appeal. I note that the matter of flood risk was not included in the refusal of permission.
- 7.5.2. The site at Clonmacken Road, Caherdavin, Limerick is located within an area designated as flood zone A. The application was accompanied by a Flood Risk Assessment (FRA). The FRA was prepared by JBA Consulting.
- 7.5.3. The report of the Council's Environmental Section sought further information in relation to the issue of flood risk on a number of matters including that the exact layout of culvert in vicinity of the site should be surveyed and proximity to the site identified. That breach analysis should be designed for an event of 0.5% AEP. That the proposed automatic flip up barrier is adaptable to climate change. That the basement will be 'tanked'/made of impermeable design & construction to flood defence level.
- 7.5.4. The FRA states that there is a risk from pluvial and tidal flooding to the area. Flood defence embankments are located along the River Shannon from Barrington's Pier to Co. Clare. The flood defences consist of earthen embankments which are maintained by the Office of Public Works. These embankments protect the Limerick area bound by the River Shannon estuary which includes the Toll Road. It is stated in the FRA that even though the site is defended there is still a risk of flooding to the site if the defences fail. The nearest watercourse to the site is the OPW drainage channel C2/3. The River Shannon is located circa 1.2km to the south of the site. In relation to flooding history, none was identified on the site. The closest recorded flood event to the site was stated as at Clonmacken Road in 2016 during storm Imogen when a temporary embankment was breached.
- 7.5.5. In relation to fluvial flooding, it is stated in the FRA that as ascertained from the modelling in the Shannon CFRAM the lands benefiting from the OPW channel C2/3 lie outside of the appeal site. In relation to tidal flooding, it is stated in the FRA that Limerick has been naturally susceptible to tidal flooding from the River Shannon and this would have the potential to inundate the site but only under a condition where defences are not considered or where there is a breach. The defence embankment offers protection of up to 1% AEP (1:100) year event. The CFRAM coastal defence

failure mapping indicates that in the event of tidal flooding that the appeal site will remain unaffected by a tidal surge. In relation to pluvial flooding it is noted in the FRA that there is no record pluvial flooding at the site or the surrounding area. The site is already covered by hard standing and therefore there will be no loss of permeable area. Significant improvement in the management of surface water should be incorporated into the drainage design. Regarding potential groundwater flooding it is stated in the FRA that there is no known risk of groundwater flooding in this area.

- 7.5.6. It is identified in the site specific flood risk assessment that there is a residual risk of tidal flooding due to a breach or failure in the existing flood defences. Therefore, mitigation measures are required in order to minimise flooding on the site. In relation to the proposed finished floor level of the building it is proposed at 5.5mOD. The level is above the 0.5% AEP modelled tidal level of 4.7m OD with 0.5m allowance for climate change and 0.3m freeboard. In relation to the basement, it is proposed at a level of 0.5m OD with the entrance level at 3.6m OD. It is stated that in the FRA that while the level is below the 0.5% AEP modelling tidal level it is well above the residual risk level which is identified in the CFRAM breach analysis. An automatic flood barrier is proposed to be installed at the entrance to the basement. Therefore, in the event of a severe defence breach and subsequent flooding the barrier would rise automatically reducing the risk of flood waters entering the basement.
- 7.5.7. Regarding surface water management, surface water from impermeable areas will be collected via a separate storm water gravity network and discharged to an existing surface water open drain at the south-west corner of the site. The drainage strategy for the site will be in accordance with the principles of Sustainable Urban Drainage Systems (SUDS). It is proposed to provide green roofs to a portion of the overall roof surfacing approximately 20% of the area. The green roof would attenuate to storms up to a two year return period event. It is proposed to attenuate run-off in concrete tanks integrated into the basement structure. A storage volume of 52.3m³ would be required for the critical four hours in a 1 in 100 years storm event.
- 7.5.8. The residual risks which remain after risk avoidance, substitution and mitigation measures have been taken are climate change and failure of on-site surface water system. It is detailed in the FRA that climate change could increase the flooding depth around the site as well as the frequency of the defences being overtopped which would make them more vulnerable to breach. It is highlighted that the FFL of

5.5m OD includes an allowance of 0.5m increase in flood levels as a result of climate change. It is also confirmed in the FRA that the proposed FFL accommodates the breach level modelled by the CFRAM study which occurred in August 2019. Failure of the stormwater system could occur due to exceedance of the stormwater system capacity or blockage of the surface water gullies or blockages of downstream outlets.

- 7.5.9. In the event of an exceedance of the system the flow path is expected to follow the topography of the site. It is stated that the lowest part of the site is located to the south. It is proposed to maintain the area as a green area and any overland flow will be routed to the nearby drain. The proposed automatic flood barriers at the entrance to the basement car park will prevent surface water ingress. In the event that this occurs the vents/openings to the basement will be raised to 5.5m OD. The FFL of buildings on the site will be 150mm above hardstanding and no FFL are lower than the surrounding road levels.
- 7.5.10. The Planning System and Flood Risk Management Guidelines (DoEHLG/OPW, 2009) provide guidance in respect of development and flood risk. Table 3.2 of the Guidelines advises the restriction of types of development permitted in Flood Zone A to that are 'appropriate' to each flood zone, as set out in the Guidelines. Developments that are an 'inappropriate' use for a flood zone area, as set out in Table 3.2 of the guidelines, this includes residential development which will not be permitted, except where a proposal complies with the 'Justification Test for Development Management', as set out in Box 5.1 of the Guidelines.
- 7.5.11. The following criteria must be satisfied in respect of the 'Justification Test for Development Management' that (1) The subject lands have been zoned or otherwise designated for the particular use or form of development in an operative development plan, which has been adopted or varied taking account of these Guidelines. (2) The proposal has been subject to an appropriate flood risk assessment that demonstrates: The development proposed will not increase flood risk elsewhere and, if practicable, will reduce overall flood risk.
- 7.5.12. Having regard to the 'Justification Test for Development Management', I note that the appeal site is located on lands which are zoned '2A' – Residential, under the provisions of the Limerick City Development Plan 2010-2016 (As Extended). The objective of which is "to provide for residential development and associated uses". In

relation to the Limerick City Development Plan 2010-2016 (As Extended), Variation No. 6 refers to the Strategic Flood Risk Assessment, this sets out that for high vulnerability classes including residential that the justification test is required. In accordance with part (2) of the justification test, it must be demonstrated that the development proposed will not increase flood risk elsewhere and, if practicable, will reduce overall flood risk. It is set out in the FRA that the site is a brownfield site and up until 2006 had a building on the site. This building was subsequently demolished. It is noted that the proposed new development has a larger footprint, however that the risk to the site is from potential tidal breach. Tidal breach would be unlikely on the site and due to the potential source of flooding being tidal the volumetric impact would not increase risk elsewhere. It is required in the justification test that the development proposal includes measures to minimise flood risk to people, property, the economy and the environment as far as reasonably possible. In response to this it is set out in the FRA that the proposed FFL of all buildings on site will be raised above the 0.5% AEP tidal level including 0.5m climate change and 0.3m freeboard allowance. It is required in the justification test that the development proposed includes measures to ensure that residual risks to the area and/or development can be managed to an acceptable level as regards the adequacy of existing flood protection measures or the design, implementation and funding of any future flood risk management measures and provisions for emergency services access. It is set out in the FRA in response to this that the site would only be impacted if a breach in the defence occurred in combination with an extreme tidal surge event. If a failure of the flood defence were to occur the highly vulnerable will not be impacted due to the proposed FFL's which are raised to the 0.5% AEP standard of protection from a tidal level on the Shannon Estuary. It is stated that the proposed development will also be protected against the potential impacts from climate change. It is required that the proposed development addresses the points in the justification test in a manner that is compatible with the achievement of wider planning objectives in relation to development of good urban design and vibrant and active streetscapes. In response to this it is set out in the FRA that the proposed development will provide a consistent building design and an environment and the development would have a satisfactory setback from the main road.

- 7.5.13. Accordingly, I would note that the justification test as set out in the FRA relies upon the current (2010) zoning objectives, however, as detailed below the policy in respect of the zoning under the Limerick Development Plan 2022-2028 differs.
- 7.5.14. In relation to the Limerick Development Plan 2022-2028, the appeal site is located on lands which are zoned 'Existing Residential'. Volume 4 of the Plan refers to the Strategic Flood Risk Assessment. Section 7.3 of the Strategic Flood Risk Assessment refers to Caherdavin/Moyross it states, "where there is existing residential zoning within Flood Zone A or B, new development should be limited to minor development only with no new development permitted within this area." The appeal site is zoned 'Existing Residential'.
- 7.5.15. Accordingly, I conclude that the proposal would pass the justification test for residential development to be located on lands which are located within Flood Zone A under the zoning provision of the Limerick City Development Plan 2010-2016 (As Extended). It can be concluded that having regard to the Site Specific Flood Risk Assessment, submitted with the appeal, that the proposed development would not result in displacement of fluvial floodwaters, would not result in an adverse impact to the hydrological regime of the area nor an increase in flood risk elsewhere. The proposed development would therefore be acceptable in terms of flood risk in the area.
- 7.5.16. However, the Board should note that under the provisions of the Limerick Development Plan 2022-2028 which was adopted by the Elected Members of Limerick City and Council's at a Special Meeting on the 17th of June 2022 and which will come into effect on the 29th July 2022 that the subject site is located on lands which are zoned 'Existing Residential' and under the provisions of this plan specifically Section 7.3 of the Strategic Flood Risk Assessment which refers to Caherdavin/Moyross and it states, "where there is existing residential zoning within Flood Zone A or B, new development should be limited to minor development only with no new development permitted within this area. Accordingly, the subject proposal for 50 no. apartments would be contrary to this provision of the Limerick Development Plan 2022-2028.

7.6. **Appropriate Assessment**

Overview

- 7.6.1. Accompanying this application is a Natura Impact Statement prepared by Whitehall Environmental.

Screening

- 7.6.2. In accordance with the obligations under the Habitats Directive and implementing legislation, to take into consideration the possible effects a project may have, either on its own or in combination with other plans and projects, on a European site; there is a requirement on the Board, as the competent authority, to consider the possible nature conservation implications of the proposed development on the Natura 2000 network, before making a decision, by carrying out appropriate assessment. The first stage of assessment is 'screening.'
- 7.6.3. The methodology for screening for Appropriate Assessment as set out in EU Guidance and the Department of Environment, Heritage and Local Government is:
1. Description of the plan or project and local site or plan area characteristics.
 2. Identification of relevant European site and compilation of information on their qualifying interests and conservation objectives.
 3. Assessment of likely significant effect-direct, indirect, and cumulative, undertaken on the basis of available information.
 4. Screening Statement with conclusions.

Project Description and Site Characteristics

- 7.6.4. The project description is given as the construction of 50 no. apartment units (4 no. studio apartments, 26 no. one bedroom apartments and 20 no. two bedroom apartments) within a single block ranging in height from 3-6 storeys over basement with all apartments provided with balconies. Residential amenities within the development to include a Gym, communal lounge area, accessible green roofs and laundry facilities. The proposed development will provide 40 no. car parking spaces at basement level and 95 no. bicycle spaces at basement and surface level with primary access via the Old Clonmacken Road. The proposal also incorporates plant room and bin stores located at basement level. ESB sub-station, public lighting,

boundary treatment, external landscaped open space, connections to utilities and all associated engineering and site works necessary.

7.6.5. It is proposed to connect to the existing mains water supply and wastewater from the scheme will discharge to the public sewer. It is proposed that surface water from the scheme will be discharge to the drain to the southern section of the site. Attenuation is proposed on site which will provide for a 1:100 year storm event and this will discharge to the drain.

7.6.6. The screening report identified the following European sites:

- Lower River Shannon SAC (Site Code 002165) circa 1km to the south of the site and 1.4km downstream.
- River Shannon and River Fergus Estuaries SPA (Site Code 004077) circa 997m to the south of the site and 1km downstream.
- Glenomra Wood SAC (Site Code 001013) circa 11km to the north-east of the site.
- Ratty River Cave SAC (Site Code 002316) circa 11km to the north-east of the site.
- Danes Hole Poulnalecka SAC (Site Code 000030) circa 11km to the north-east of the site.
- Tory Hill SAC (Site Code 000439) circa 11km to the north-east of the site.
- Askeaton Fen Complex SAC (Site Code 002279) circa 11km to the north-east of the site.
- Curraghchase Woods SAC (Site Code 000174) circa 11km to the north-east of the site.

Table 1: European Sites within the Zone of Influence of the Appeal Site

Site Name & Code	Distance	Qualifying Interests	Conservation Objectives
<p>Lower River Shannon SAC (Site Code 002165)</p>	<p>1km 1.4km downstream</p>	<p>Sandbanks which are slightly covered by sea water all the time [1110] Estuaries [1130] Mudflats and sandflats not covered by seawater at low tide [1140] Coastal lagoons [1150] Large shallow inlets and bays [1160] Reefs [1170] Perennial vegetation of stony banks [1220] Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] Salicornia and other annuals</p>	<p>To maintain and/or restore the favourable conservation condition of the Annex I habitats and/or the Annex II species for which the SAC has been selected which are defined by lists of attributes and targets</p>

		<p>colonising mud and sand [1310]</p> <p>Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330]</p> <p>Mediterranean salt meadows (Juncetalia maritimi) [1410]</p> <p>Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation [3260]</p> <p>Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) [6410]</p> <p>Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae,</p>	
--	--	--	--

		<p>Salicion albae) [91E0]</p> <p>Margaritifera margaritifera (Freshwater Pearl Mussel) [1029]</p> <p>Petromyzon marinus (Sea Lamprey) [1095]</p> <p>Lampetra planeri (Brook Lamprey) [1096]</p> <p>Lampetra fluviatilis (River Lamprey) [1099]</p> <p>Salmo salar (Salmon) [1106]</p> <p>Tursiops truncatus (Common Bottlenose Dolphin) [1349]</p> <p>Lutra lutra (Otter) [1355]</p>	
River Shannon and River Fergus Estuaries SPA (Site Code 004077)	997m south 1.4km downstream	<p>Cormorant (Phalacrocorax carbo) [A017]</p> <p>Whooper Swan (Cygnus cygnus) [A038]</p>	To maintain and/or restore the favourable conservation condition of the Annex I habitats and/or the Annex II

		<p>Light-bellied Brent Goose (Branta bernicla hrota) [A046]</p> <p>Shelduck (Tadorna tadorna) [A048]</p> <p>Wigeon (Anas penelope) [A050]</p> <p>Teal (Anas crecca) [A052]</p> <p>Pintail (Anas acuta) [A054]</p> <p>Shoveler (Anas clypeata) [A056]</p> <p>Scaup (Aythya marila) [A062]</p> <p>Ringed Plover (Charadrius hiaticula) [A137]</p> <p>Golden Plover (Pluvialis apricaria) [A140]</p> <p>Grey Plover (Pluvialis squatarola) [A141]</p> <p>Lapwing (Vanellus vanellus) [A142]</p>	<p>species for which the SPA has been selected which are defined by lists of attributes and targets</p>
--	--	--	---

		<p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Curlew (<i>Numenius arquata</i>) [A160]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Greenshank (<i>Tringa nebularia</i>) [A164]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Wetland and Waterbirds [A999]</p>	
Glenomra Wood SAC (Site Code 001013)	11km to the north-east	Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0]	To maintain the favourable conservation condition of Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the

			British Isles in Glenomra Wood SAC which which are defined by lists of attributes and targets
Ratty River Cave SAC (Site Code 002316)	12.8km to the north-west	Caves not open to the public [8310] Rhinolophus hipposideros (Lesser Horseshoe Bat) [1303]	To restore the favourable conservation condition of Lesser Horseshoe Bat in Ratty River Cave SAC which is defined by a list of attributes and targets.
Danes Hole Poulnalecka SAC (Site Code 000030)	13.8km to the north	Caves not open to the public [8310] Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0] Rhinolophus hipposideros (Lesser Horseshoe Bat) [1303]	To maintain and/or restore the favourable conservation condition of the Annex I habitats and/or the Annex II species for which the SAC has been selected which are defined by lists of attributes and targets
Tory Hill SAC (Site Code 000439)	13.6km to the south	Semi-natural dry grasslands and scrubland facies	To maintain and/or restore the favourable

		<p>on calcareous substrates (Festuco-Brometalia) (* important orchid sites) [6210]</p> <p>Calcareous fens with <i>Cladium mariscus</i> and species of the <i>Caricion davallianae</i> [7210]</p> <p>Alkaline fens [7230]</p>	<p>conservation condition of the Annex I habitats and/or the Annex II species for which the SAC has been selected which are defined by lists of attributes and targets</p>
<p>Askeaton Fen Complex SAC (Site Code 002279)</p>	<p>12.8km to the south-west</p>	<p>Calcareous fens with <i>Cladium mariscus</i> and species of the <i>Caricion davallianae</i> [7210]</p> <p>Alkaline fens [7230]</p>	<p>To maintain the favourable conservation condition of the Annex I habitats and/or the Annex II species for which the SAC has been selected which are defined by lists of attributes and targets</p>
<p>Curraghchase Woods SAC (Site Code 000174)</p>	<p>14.9km to the south-west</p>	<p>Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, <i>Alnion incanae</i>,</p>	<p>To maintain and/or restore the favourable conservation condition of the Annex I habitats</p>

		Salicion albae) [91E0] Taxus baccata woods of the British Isles [91J0] Vertigo mouliniana (Desmoulin's Whorl Snail) [1016] Rhinolophus hipposideros (Lesser Horseshoe Bat) [1303]	and/or the Annex II species for which the SAC has been selected which are defined by lists of attributes and targets
--	--	--	--

7.6.7. An assessment of the significance of potential impact upon the European Sites within the zone of influence of the proposed development is determined on the basis of the following indicators;

- Habitat loss or alteration;
- Habitat/species fragmentation;
- Disturbance and/or displacement of species;
- Changes in population density; and
- Changes in water quality and resources.

7.6.8. In relation to the matter of habitat loss or alteration the proposed development site is not located adjacent to any European sites and therefore there will be no direct loss or alteration of the habitat. Regarding the issue of habitat/species fragmentation the proposed development would not result in any direct habitat loss or fragmentation.

7.6.9. In relation to the matter of disturbance and/or displacement of species as set out in the screening report the proposed development does not have the potential to cause

a disturbance and/or displacement to species of qualifying interest in the European sites identified within the zone of influence of the appeal site.

- 7.6.10. The proposed development is not considered to have the potential to result in the reduction in the baseline population of species associated with any of the European sites identified within the zone of influence.
- 7.6.11. In relation to the matter of changes to water quality and resources it is set out in the screening report that there is a hydrological connection between the appeal site at Clonmacken Road to the Lower River Shannon SAC (Site Code 002165) and River Shannon and River Fergus Estuaries SPA (Site Code 004077). There is potential for the proposed development to impact water quality in terms of surface water runoff carrying suspended sediment and contaminants from the subject site to enter the Lower River Shannon SAC and the River Shannon and River Fergus Estuaries SPA due to the close proximity and hydrological connection between the subject site and the European sites.

Assessment of likely Effects

- 7.6.12. Having regard to the 'source-pathway-receptor' model the submitted screening report identified potential effects on the Lower River Shannon SAC (Site Code 002165) and the River Shannon and River Fergus Estuaries SPA (Site Code 004077). The aquatic habitats/species in the Lower River Shannon SAC and the River Shannon and River Fergus Estuaries SPA would be sensitive to any deterioration of water quality by overland flow from the development site. In the absence of appropriate controls and mitigation measures the potential for significant adverse effects on the conservation status of the Lower River Shannon SAC and River Shannon and River Fergus Estuaries SPA cannot be ruled out.

Screening Statement and Conclusions

- 7.6.13. The screening assessment concludes that significant effects cannot be ruled out on the Lower River Shannon SAC (Site Code 002165) and the River Shannon and River Fergus Estuaries SPA (Site Code 004077) and that a Stage 2 Appropriate Assessment is required. In conclusion having regard to the foregoing, it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that significant effects cannot be ruled out and a Stage 2 Appropriate Assessment is therefore required.

Stage 2 – Natura Impact Statement (NIS)

7.6.14. I propose to consider the requirements of Article 6(3) with regards to appropriate assessment of a project under Part XAB, Sections 177U and 177V of the Planning & Development Act, 2000, as amended, in this section of my report. In particular, the following matters:

- Compliance with Article 6(3) of the EU Habitats Directive.
- Screening the need for Appropriate Assessment.
- The Natura Impact Statement; and,
- An Appropriate Assessment of the implications of the proposed development on the integrity of each Natura site set out under Section 7.5.11 as detailed above.

7.6.15. On the matter of screening the need for ‘Appropriate Assessment’, this I have set out under Section 7.6.12 to Section 7.6.13 of my report above and in this case ‘Appropriate Assessment’ is required as it cannot be excluded on the basis of the information available to the Board that the proposed development individually or in combination with other plans or projects in its vicinity would have a significant effect on the following Natura sites:

- Lower River Shannon SAC (Site Code 002165)
- River Shannon and River Fergus Estuaries SPA (Site Code 004077)

7.6.16. A description of the site and their Conservation and Qualifying Interests/Special Conservation Interests, including any relevant attributes and targets for these sites, are set out in the NIS and summarised in tables no.1 of this report as part of my assessment. I have also examined the Natura 2000 data forms as relevant and the Conservation Objectives supporting documents for these sites available through the NPWS website (www.npws.ie).

Potential for direct and indirect effects

7.6.17. Having regard to the location of the site at a location where it does not form part of, is not adjacent too nor is it in the vicinity of any European sites with there being significant lateral separation distance between the appeal site and the nearest

European sites which are the Lower River Shannon SAC and the River Shannon and the River Fergus Estuaries SPA no direct effects on any European site will arise.

- 7.6.18. There is the potential for indirect effects on the Lower River Shannon SAC and the River Fergus Estuaries SPA. The indirect effects would be the potential for the proposed development to affect the qualifying interests and special conservation interests of these designated sites through deterioration of surface water quality arising from pollution from surface water run-off the during the construction phase and also through a deterioration of ground or surface water quality during the operational phase.
- 7.6.19. The construction phase will involve excavation of soil and the pouring of concrete for foundations and other hard surfaces. Possible indirect impacts include pollution of the water during construction with silt, oil, cement, hydraulic fluid, etc. These substances would have a toxic effect on the ecology of the water affecting certain species and their food supplies. An increase in siltation levels of the river could result in smothering of fish eggs an increase in the mortality rate in fish of all ages, a reduction in the amount of food available for fish and the creation of impediments to the movement of fish.
- 7.6.20. In relation to the operational phase the most likely source of pollution during the operation of the development is hydrocarbon contamination of surface water run-off. This may also have a negative impact upon local groundwater resources. The groundwater quality can impact upon surface water quality as the two mixing at the hyporheic zone located under a river or stream bed where there is a mixing of shallow groundwater and surface water.

Table 2 – AA summary matrix for the Lower River Shannon SAC

Lower River Shannon SAC: (Site Code 002165)

Summary of Key issues that could give rise to adverse effects

- **Potential water pollution - Water Quality and water dependant habitats**
- **Potential sedimentation from surface water runoff - Water Quality and water dependant habitats**

Conservation Objectives:

1095 – Sea Lamprey: To restore the favourable conservation condition of Sea Lamprey in the Lower River Shannon SAC, which is defined by a list of attributes and targets.

1096 – Brook Lamprey: To restore the favourable conservation condition of Brook Lamprey in the Lower River Shannon SAC, which is defined by a list of attributes and targets.

1099 – River Lamprey: To maintain the favourable conservation condition of River Lamprey in the Lower River Shannon SAC, which is defined by a list of attributes and targets.

1106 – Atlantic Salmon: To restore the favourable conservation condition of Salmon in the Lower River Shannon SAC, which is defined by a list of attributes and targets.

1130 – Estuaries: To maintain the favourable conservation condition of Estuaries in the Lower River Shannon SAC, which is defined by a list of attributes and targets.

1349 – Bottlenose Dolphin: To maintain the favourable conservation condition of Bottlenose Dolphin in the Lower River Shannon SAC, which is defined by a list of attributes and targets.

1355 – Otter: To restore the favourable conservation condition of Otter in the Lower River Shannon SAC, which is defined by a list of attributes and targets.

3260 – Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation: To maintain the favourable conservation condition of Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation in the Lower River Shannon SAC, which is defined by a list of attributes and targets.

		Summary of Appropriate Assessment				
Qualifying Interest feature	Conservation Objectives Targets and attributes	Potential adverse effects	Mitigation measures	In-combination effects	Can adverse effects on integrity be excluded?	
Sea Lamprey <i>Petromyzon marinus</i>	Greater than 75% of main stem length of rivers accessible from estuary; At least three age/size groups present; Juvenile density at least 1/m ² ; No decline in extent and distribution of spawning beds; More than 50% of sample sites positive;	Potential water pollution Potential sedimentation from surface water runoff	Mitigation measures required and detailed in full in Section 4 of the NIS	None	Yes	
Brook Lamprey	Access to all water courses down to first order streams; At least three age/size groups of brook/river lamprey present; Mean catchment juvenile density of brook/river lamprey at least 2/m ² ; No decline in extent and	Potential water pollution Potential sedimentation from surface water runoff	Mitigation measures required and detailed in full in Section 4 of the NIS	None	Yes	

	distribution of spawning beds; More than 50% of sample sites positive				
River Lamprey	Access to all water courses down to first order streams; At least three age/size groups of river/brook lamprey present; Mean catchment juvenile density of river/brook lamprey at least 2/m ² ; No decline in extent and distribution of spawning beds; More than 50% of sample sites positive	Potential water pollution Potential sedimentation from surface water runoff	Mitigation measures required and detailed in full in Section 4 of the NIS	None	Yes
Atlantic Salmon	100% of river channels down to second order accessible from estuary; Conservation Limit (CL) for each system consistently exceeded; Maintain or exceed 0+ fry mean catchment-wide abundance threshold value. Currently set at 17 salmon fry/5 min sampling; No significant decline; No decline in number and	Potential water pollution Potential sedimentation from surface water runoff	Mitigation measures required and detailed in full in Section 4 of the NIS	None	Yes

	distribution of spawning redds due to anthropogenic causes				
Estuaries	The permanent habitat area is stable or increasing, subject to natural processes; Conserve the following community types in a natural condition: Intertidal sand to mixed sediment with polychaetes, molluscs and crustaceans community complex; Estuarine subtidal muddy sand to mixed sediment with gammarids community complex; Subtidal sand to mixed sediment with <i>Nucula nucleus</i> community complex; Subtidal sand to mixed sediment with <i>Nephtys</i> spp. community complex; Fucoid-dominated intertidal reef community complex; Faunal turf-dominated subtidal reef community; and Anemone-dominated subtidal reef community	Potential water pollution Potential sedimentation from surface water runoff	Mitigation measures required and detailed in full in Section 4 of the NIS	None	Yes
Bottlenose Dolphin <i>Tursiops truncatus</i>	Species range within the site should not be restricted by artificial barriers to site use. Critical areas, representing habitat used preferentially by bottlenose dolphin, should be	Potential water pollution Potential sedimentation from surface water runoff	Mitigation measures required and detailed in full in Section 4 of the NIS	None	Yes

	<p>maintained in a natural condition.</p> <p>Human activities should occur at levels that do not adversely affect the bottlenose dolphin population at the site</p>				
Otter Lutra lutra	<p>No significant decline in distribution;</p> <p>No significant decline in extent of terrestrial Habitat;</p> <p>No significant decline extent of marine habitat;</p> <p>No significant decline extent of freshwater (river) habitat;</p> <p>No significant decline in extent of freshwater (lake/lagoon) habitat;</p> <p>No significant decline in couching sites and holts;</p> <p>No significant decline in fish biomass available;</p> <p>No significant increase in barriers to connectivity</p>	<p>Potential water pollution</p> <p>Potential sedimentation from surface water runoff</p>	<p>Mitigation measures required and detailed in full in Section 4 of the NIS</p>	None	Yes
Water courses of plain to montane	<p>Habitat area stable or increasing,</p>	<p>Potential water pollution</p>	<p>Mitigation measures required and</p>	None	Yes

<p>levels with the Ranunculus fluitans and Callitriche-Batrachion vegetation</p>	<p>subject to natural processes; No decline in habitat distribution subject to natural Processes; Hydrological regime: river flow maintain appropriate hydrological regimes; Maintain natural tidal regime; Maintain appropriate freshwater seepage regimes; The substratum should be dominated by the particle size ranges, appropriate to the habitat sub-type (frequently sands, gravels and cobbles)</p>	<p>Potential sedimentation from surface water runoff</p>	<p>detailed in full in Section 4 of the NIS</p>		
<p>Overall conclusion: Integrity test Following the implementation of mitigation, the construction and operation of this proposed development will not adversely affect the integrity of this European site and no reasonable doubt remains as to the absence of such effects.</p>					

Table 3 – AA summary matrix for River Shannon and River Fergus Estuaries SPA

River Shannon and River Fergus Estuaries SPA: (Site Code 004077)

Summary of Key issues that could give rise to adverse effects

- **Potential water pollution - Water Quality and water dependant habitats**
- **Potential sedimentation from surface water runoff - Water Quality and water dependant habitats**

Conservation Objectives:

A017 – Cormorant *Phalacrocorax carbo* : To maintain the favourable conservation condition of Cormorant in the River Shannon and River Fergus Estuaries SPA, which is defined by a list of attributes and targets.

A038 Whooper Swan *Cygnus cygnus* – : To maintain the favourable conservation condition of Whooper Swan in the River Shannon and River Fergus Estuaries SPA, which is defined by a list of attributes and targets.

A046 – Light-bellied Brent Goose *Branta bernicla hrota*: To maintain the favourable conservation condition of Light-bellied Brent Goose in the River Shannon and River Fergus Estuaries SPA, which is defined by a list of attributes and targets.

A048 – Shelduck *Tadorna tadorna*: To maintain the favourable conservation condition of Shelduck in the River Shannon and River Fergus Estuaries SPA, which is defined by a list of attributes and targets.

A050 – Wigeon *Anas penelope*: To maintain the favourable conservation condition of Wigeon in the River Shannon and River Fergus Estuaries SPA, which is defined by a list of attributes and targets.

A052 – Teal *Anas crecca*: To maintain the favourable conservation condition of Teal in the River Shannon and River Fergus Estuaries SPA, which is defined by a list of attributes and targets.

A054 – Pintail *Anas acuta*: To maintain the favourable conservation condition of Pintail in the River Shannon and River Fergus Estuaries SPA, which is defined by a list of attributes and targets.

A056 – Shoveler *Anas clypeata*: To maintain the favourable conservation condition of Shoveler in the River Shannon and River Fergus Estuaries SPA, which is defined by a list of attributes and targets.

A062 – Scaup *Aythya marila*: To maintain the favourable conservation condition of Scaup in the River Shannon and River Fergus Estuaries SPA, which is defined by a list of attributes and targets.

A137 – Ringed Plover *Charadrius hiaticula*: To maintain the favourable conservation condition of Ringed Plover in the River Shannon and River Fergus Estuaries SPA, which is defined by a list of attributes and targets.

A140 – Golden Plover *Pluvialis apricaria*: To maintain the favourable conservation condition of Golden Plover in the River Shannon and River Fergus Estuaries SPA, which is defined by a list of attributes and targets.

A141 – Grey Plover *Pluvialis squatarola*: To maintain the favourable conservation condition of Grey Plover in the River Shannon and River Fergus Estuaries SPA, which is defined by a list of attributes and targets.

A142 – Lapwing *Vanellus vanellus*: To maintain the favourable conservation condition of Lapwing in the River Shannon and River Fergus Estuaries SPA, which is defined by a list of attributes and targets.

A143 – Knot *Calidris canutus*: To maintain the favourable conservation condition of Knot in the River Shannon and River Fergus Estuaries SPA, which is defined by a list of attributes and targets.

A149 – Dunlin *Calidris alpina*: To maintain the favourable conservation condition of Dunlin in the River Shannon and River Fergus Estuaries SPA, which is defined by a list of attributes and targets.

A156 – Black-tailed Godwit *Limosa limosa*: To maintain the favourable conservation condition of Black-tailed Godwit in the River Shannon and River Fergus Estuaries SPA, which is defined by a list of attributes and targets.

A160 – Curlew *Numenius arquata*: To maintain the favourable conservation condition of Curlew in the River Shannon and River Fergus Estuaries SPA, which is defined by a list of attributes and targets.

A162 – Redshank *Tringa totanus*: To maintain the favourable conservation condition of Redshank in the River Shannon and River Fergus Estuaries SPA, which is defined by a list of attributes and targets.

A164 – Greenshank *Tringa nebularia*: To maintain the favourable conservation condition of Greenshank in the River Shannon and River Fergus Estuaries SPA, which is defined by a list of attributes and targets.

A179 – Black-headed Gull *Chroicocephalus ridibundus*: To maintain the favourable conservation condition of Black-headed Gull in the River Shannon and River Fergus Estuaries SPA, which is defined by a list of attributes and targets.

A999 – Wetlands: To maintain the favourable conservation condition of wetland habitat in the River Shannon and River Fergus Estuaries SPA, which is defined by a list of attributes and targets.

Qualifying Interest feature	Conservation Objectives Targets and attributes	Summary of Appropriate Assessment			Can adverse effects on integrity be excluded?
		Potential adverse effects	Mitigation measures	In-combination effects	
Cormorant	No significant decline in breeding population abundance: apparently occupied nests; No significant decline in productivity rate; No significant decline in Distribution: breeding colonies; No significant decline in Prey biomass Available; No significant increase Barriers to connectivity; Human activities should occur at levels that do not adversely	Potential water pollution Potential sedimentation from surface water runoff	Mitigation measures required and detailed in full in Section 4 of the NIS	None	Yes

	affect the breeding population; Long term population trend stable or increasing;				
Whooper Swan	Long term population trend stable or increasing; There should be no significant decrease in the range, timing or intensity of use of areas by this bird species of qualifying interest other than that occurring from natural patterns of variation	Potential water pollution Potential sedimentation from surface water runoff	Mitigation measures required and detailed in full in Section 4 of the NIS	None	Yes
Light-bellied Brent Goose	As detailed above	As detailed above	As detailed above	None	Yes
Shelduck	As detailed above	As detailed above	As detailed above	None	Yes
Wigeon	As detailed above	As detailed above	As detailed above	None	Yes
Teal	As detailed above	As detailed above	As detailed above	None	Yes
Pintail	As detailed above	As detailed above	As detailed above	None	Yes
Shoveler	As detailed above	As detailed above	As detailed above	None	Yes

Scaup	As detailed above	As detailed above	As detailed above	None	Yes
Ringed Plover	As detailed above	As detailed above	As detailed above	None	Yes
Golden Plover	As detailed above	As detailed above	As detailed above	None	Yes
Grey Plover	As detailed above	As detailed above	As detailed above	None	Yes
Lapwing	As detailed above	As detailed above	As detailed above	None	Yes
Knot	As detailed above	As detailed above	As detailed above	None	Yes
Dunlin	As detailed above	As detailed above	As detailed above	None	Yes
Black-tailed Godwit	As detailed above	As detailed above	As detailed above	None	Yes
Bar-tailed Godwit	As detailed above	As detailed above	As detailed above	None	Yes
Curlew	As detailed above	As detailed above	As detailed above	None	Yes
Redshank	As detailed above	As detailed above	As detailed above	None	Yes
Greenshank	As detailed above	As detailed above	As detailed above	None	Yes
Black-headed Gull	As detailed above	As detailed above	As detailed above	None	Yes
Wetlands	The permanent area occupied by the wetland habitat should be stable and not significantly less than the area of 32,261ha, other than that occurring from natural patterns of variation	As detailed above	As detailed above	None	Yes
Overall conclusion: Integrity test Following the implementation of mitigation, the construction and operation of this proposed development will not adversely affect the integrity of this European site and no reasonable doubt remains as to the absence of such effects.					

7.7. Mitigation Measures

7.7.1. Various mitigation measures are proposed to be introduced to avoid, reduce, or remedy the adverse effects on the integrity of the designated Sites. This includes the following during the construction phase:

- Site preparation and construction must be confined to the development site only and it must adhere to all the mitigation measures outlined in the NIS. Work areas should be kept to the minimum area required to carry out the proposed works and the area should be clearly marked out in advance of the proposed works.
- Upon appointment of the construction contractor the team will be made aware of the sensitivity of the site and the mitigation measures required to protect surface water quality.
- Prior to commencement of development the site engineer and the contractors should be made aware of the ecological sensitivity of the site and its surrounding habitats.
- Strict controls of erosion, sediment generation and other pollutants associated with the construction process should be implemented including the provision of attenuation measures, silt traps or geotextile curtains to reduce and intercept sediment release into any local watercourses.
- Guidelines in the following best practice documents should be adhered to:
 - Construction Industry Research and Information Association (CIRIA) (2005) Environmental Good Practice on Site (C692)
 - Construction Industry Research and Information Association (2001) Control of Water Pollution from Construction Site, Guidance for Consultants and Contractors (C532)
 - Construction Industry Research and Information Association (2000) Environmental Handbook for Building and Civil Engineering Projects (C512)
 - Environmental Protection Agency (2015) List of Waste and Determining if Waste is Hazardous or Non-Hazardous

- Environment Agency et al. (2015) Guidance on the Classification and Assessment of Waste, Technical Guidance WM₃
- Environmental Protection Agency (2013) Guidance (and Templates) on the Management of Contaminated Land and Groundwater at EPA Licenced Site
- Environment Agency (2004) Model Procedures for the Management of Land Contamination (CLR₁₁)
- All guidelines within the document Inland Fisheries Ireland Requirements for the Protection of Fisheries Habitats during Construction and Development Works and River Sites and the updated guidelines entitled Guidelines on Protection of Fisheries During Construction Works in and Adjacent to Waters (2016) should also be adhered to and they include:
 - Consultation with Inland Fisheries Ireland (IFI) to ensure that the development proceeds with due regard to the provisions of the Fisheries Acts and Habitats Regulations;
 - Consultation with IFI in order to determine the correct timing of works on the site;
 - There should be no in stream works carried out within the streams without prior approval from IFI.
- A 5m buffer zone should be left along the margins of the drain within the site. Vegetation in this zone should be left intact.
- A Construction and Environmental Management Plan shall be implemented. The CEMP must include measures to prevent the release of hydrocarbons, aggregates, polluting chemicals, sediment and silt and contaminated waters into the River Shannon and its tributaries.
 - Surface waters from the construction site should be managed using a system of temporary on-site attenuation features if necessary, and these should be fitted with silt barrier devices such as silt fences or silt busters.
 - Silt fences and berms should be installed prior to the commencement of construction on site. These should be set back at a minimum of 5m from the drain on site. The silt fences should be sturdy and constructed of a

suitable geotextiles membrane to ensure that water can pass through, but that silt will be retained. An interceptor trench will be required in front of this interceptor fence. The silt fence must be capable of preventing particles of 425µm from passing through.

- The silt fence be monitored daily to ensure that they remain functional throughout the construction of the proposed development. Maintenance of the fences should be carried out regularly. Fences should be inspected thoroughly after periods of heavy rainfall.
- Discharge water generated during laying of concrete should be removed off site for treatment and disposal.
- Pollution control measures must be employed on site and shall include;
 - A dedicated re-fuelling location must be established on site, and this must be situated away from any watercourse on site.
 - Spill kits stations must be provided at the fuelling location for the duration of the works.
 - Staff to be provided with training on spill control and the use of spill kits.
 - All fuel storage containers must be appropriately bunded, roofed and protected from vehicle movements.
 - All chemicals must be stored as per manufacturer's instructions. A dedicated chemical bund will be provided on site.
 - Storage of fuel and servicing and refuelling of equipment or machinery must be at least 20m from ground clearance or rock-breaking activities.
 - The dedicated refuelling areas must be underlain by concrete hard standing. All fuel and oil tank should be inspected on a regular basis for signs of spillages, leaks and damage during use. A record of these inspections must be kept and any improvements needed be carried out immediately.
 - Only designated trained and competent operatives should be authorised to refuel plant on site.

- Chemicals used on site must be returned to the site compound and secured in a lockable and sealed container overnight in proximity to the fuel storage area.
- Drip trays must be utilised on site for all pumps situated within 20m away from ground clearance areas.
- Procedures and contingency plans must be established on site to address cleaning up small spillages as well as dealing with an emergency incident.
- Daily plant inspections must be completed by all plant operators on site to ensure that all plant is maintained in good working order.
- Best practice concrete/aggregate management measures must be employed on site. These will include:
 - A designated concrete wash out area should be set up on site, this will involve washing the chutes, pumps into a designated IBC before removing the waste water off site for disposal.
 - Best practice in bulk-liquid concrete management should be employed on site addressing pouring and handling, secure shuttering, adequate curing times etc.
 - Stockpile areas for sand and gravel must be kept to a minimum size, well away from the drains and watercourses.
 - Where concrete shuttering is used, measures must be put in place to prevent against shutter failure and control storage, handling and disposal of shutter oils.
 - Activities which result in the creation of cement dust must be controlled by dampening down the areas.
 - Raw and uncured waste concrete must be disposed of by removal from the site.
 - Stockpile areas for sands and gravels will be kept to a minimum size, well away from the River Shannon or its tributaries.

7.7.2. Mitigation measures proposed for the operational phase includes the following:

- The SUDS proposals outlined for the site must be adhered to in full and only clean surface water from the site should be discharged to the drain within the site, at the appropriate greenfield run-off rate. Silt and oil interceptors must be incorporated to ensure clean discharge, and these must be serviced regularly.
- Bare soil should be seeded as soon as possible with grass seed. This will minimise erosion into local drains and watercourses.
- Any landscaping should involve the planting of native Irish species that are indigenous to the site.
- Site verges and garden should be managed at a low intensity level to provide maximum availability for pollinators.

In combination effects

7.7.3. The NIS refers to in combination effects in the context of existing plans and projects. In relation to future plans and other projects a planning search was carried out for applications within the last five years. It was stated that a large number of applications were granted in the Caherdavin area and where necessary those applications were accompanied by AA screening reports and NIS.

7.7.4. In relation to plans it is stated in the NIS that the Limerick Co. Development Plan 2010-2016(as extended) was accompanied by a Natura Impact Report. I note that the Limerick Development Plan 2022-2028 was adopted by the elected members on the 17th of June 2022 and comes into effect on the 29th of July 2022. The Plan includes a Natura Impact Report. The mitigation measures identified in the Stage 2 Appropriate Assessment (Natura Impact Report) have been incorporated into the Plan. Accordingly, the implementation of this plan will not lead to any cumulative impacts when considered in-combination with the development proposed under this application.

7.7.5. The NIS concluded that with the mitigation measures carried out and incorporated into the design of the proposed development that there would be no in-combination effects from the proposed development.

7.7.6. Therefore, following the appropriate assessment and the consideration of mitigation measures, I am able to ascertain with confidence that the project would not adversely affect the integrity of Lower River Shannon SAC (Site Code 002165) and

the and River Shannon and River Fergus Estuaries SPA (Site Code 004077) in view of the Conservation Objectives of these sites. This conclusion has been based on a complete assessment of all implications of the proposed development and in combination with plans and projects.

Appropriate Assessment Conclusions

- 7.7.7. I consider on the basis of the information on file that the applicant in this case has demonstrated in the submitted Natura Impact Statement that with the implementation of mitigation measures including robust construction management and also operational measures that are to the required standards, that the proposed development, individually or in combination with other plans and projects would not adversely affect the integrity of the Lower River Shannon SAC (Site Code 002165) and the River Shannon and River Fergus Estuaries SPA (Site Code 004077) or any other such designated European, in view of the their Conservation Objectives.

8.0 Recommendation

- 8.1. I recommend a grant of permission.

9.0 Reasons and Considerations

- 9.1. Having regard to the zoning objective for the site as set out in the Limerick City Development Plan 2010 – 2016 (as Extended), the National Planning Framework, 2018 –2040, the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (2009), Urban Development and Building Heights, Guidelines for Planning Authorities, (2018), Sustainable Urban Housing: Design Standards for New Apartments, (2020), and the overall scale, design and height of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would achieve an acceptable standard of urban design and would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect the existing character of the area and would be acceptable in terms of traffic and pedestrian

safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 14th day of October 2021 and by the further plans and particulars received by An Bord Pleanála on the 21st day of January, 2022, 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. 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.

3. The developer shall enter into water and wastewater connection agreements with Irish Water prior to the commencement of this development.

Reason: In the interests of the proper planning and sustainable development of the area.

4.

(a) The developer shall consult with the Irish Aviation Authority in respect to developing a strategy in relation to the use of cranes during construction, and the Irish Aviation Authority requirements in this regard shall be submitted to the planning authority for the written agreement prior to commencement of development.

(b) Prior to the commencement of the development the developer shall contact the Irish Aviation Authority in relation to all crane operations, with a minimum of 30 days prior notification of their erection.

Reason: In the interest of aviation safety.

5. Prior to the commencement of the development, the applicant shall submit to the Planning Authority for its written agreement proposals for the implementation of Mitigation measures identified in the approved Site Specific Flood Risk Assessment for the application. Final details of the appearance of flood flow-path areas shall also be provided and approved by the Planning Authority prior to the commencement of the development.

Reason: In the interest of public health.

6. The site access arrangements and the internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall be in accordance with the detailed requirements of

the planning authority for such works. All residential parking spaces shall be constructed so as to be capable of accommodating future electric vehicle charging points with a minimum 10% of spaces to be fitted with functional electric vehicle charging points.

Reason: In the interests of amenity and of pedestrian and traffic safety.

7. 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.

8. Details of all boundary treatments shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of visual and residential amenity.

9. The developer shall appoint and retain the services of a qualified Landscape Architect (or qualified Landscape Designer) as a Landscape Consultant, throughout the life of the construction works and shall notify the planning authority of that appointment in writing prior to commencement of development. A practical completion certificate shall be signed off by the Landscape Architect when all landscape works are fully completed to the satisfaction of the planning authority and in accordance with the permitted landscape proposals.

Reason: To ensure full and verifiable implementation of the approved landscape design.

10. 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. All existing over ground cables crossing or bounding the site shall be relocated underground as part of the site development works, at the developer's expense.

Reason: In the interests of visual and residential amenity.

11. Proposals for the development name and apartment numbering scheme and associated signage shall be submitted to and agreed in writing with the planning authority prior to commencement of development. Thereafter, signs and numbers, shall be provided in accordance with the agreed scheme. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

Reason: In the interest of urban legibility, and to ensure the use of locally appropriate place names for new residential areas.

12. 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 residential amenities of property in the vicinity.

13. A plan containing details for the management of waste 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 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: In the interests of residential amenity and proper waste management.

14. 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. Such lighting shall be provided prior to the making available for occupation of any unit.

Reason: In the interests of residential amenity and public safety.

15. 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 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to the Board 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 for the area.

16. 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.

17. 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.

Siobhan Carroll
Planning Inspector

19th of July 2022