Inspector's Report ABP 313096-22.

Development	Construction of student housing development comprising 196 no. student bedspaces and all associated site works.
Location	Courtbrack, Limerick City, Co. Limerick
Planning Authority	Limerick City & County Council
Planning Authority Reg. Ref.	211833
Applicant	1 Courtbrack Land Limited
Type of Application	Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant	1 Courtbrack Land Limited
Observers	Vogue Property Limited
Date of Site Inspection	16th June 2022
Inspector	Siobhan Carroll

Contents

1.0 Site Location and Description

1.1. The appeal site is situated at Courtbrack, Limerick City. It lies to the south of Dock Road and to the west of Courtbrack Avenue. Dock Road links the N18 with the Quays to the southern side of Limerick City. Dock Road contains a mix of uses comprising light industrial, commercial and residential. Courtbrack Avenue contains predominantly residential properties.

1.2. The subject site which is roughly L shaped has an area of 0.64 hectares. The site is grassed with reeds and other mature trees and shrubs also present. The site boundary is defined by Ibex fencing and there is a gate in the fencing at the western side.

1.3. The eastern boundary of the site adjoins an Oil Storage Depot and also Ashford Student Village. Ashford Student Village contains a number of three-storey apartment buildings within a gated scheme. Ashford Shopping Centre is situated immediately to the east of the student accommodation. It contains a convenience store, medical centre, dental practice, barbers, pharmacy, take-away pizza outlet and bar. Alandale Orchard residential scheme containing apartments and duplexes is located to the south of Ashford Student Village. The third level institution Mary College located at South Circular Road is situated circa 0.9km from the appeal site.

1.4. The western boundary of the site extends along the existing road. The road has been built within an access point provided to service the site. The northern boundary of the site adjoins undeveloped lands, and the southern boundary adjoins the existing road which serves Ashford Student Village.

2.0 Proposed Development

2.1. Permission is sought for the construction of student housing development comprising a total of 196 no. student bedspaces. The proposed scheme comprises;

(1) the construction of two separate buildings consisting of; (a) 'Block A'- 5 storey structure providing (i) 156 no. student bedspaces in 20 no. apartments, with each apartment consisting of a 'common room' kitchen/living area; and (ii) communal laundry facility and reception area at ground floor serving the proposed student housing complex; (b) 'Block B'- 2 storey structure over basement providing (i) 40 no.

student bedspaces in 8 no. apartments with each apartment consisting of 'common room' kitchen/living area; (ii) water storage tank, sprinkler (fire water) storage, heating and generator plant infrastructure situated at basement level; and (iii) roof mounted building service infrastructure;

(2) surface carparking including dedicated disabled bays and electric vehicle charge points, and covered and uncovered bicycle parking;

(3) (a) Connection to public water supply in the public road, and connection to foulwater and surface water networks which traverses the site and; (b) on-site surface water management including attenuation tanks, hydro brake and petrol interceptor;

(4) modification of existing vehicular access from the existing public link road to facilitate vehicular and pedestrian access/egress to that link road, and associated vehicular signage as necessary;

(5) Provision of second pedestrian entrance onto Ashdown situated on the southern boundary of the site,

(6) electrical unit substation;

(7) landscaping including modification of ground levels and associated planting;

(8) public lighting and associated infrastructure; and

(9) all associated site development works.

2.1.1. The application is accompanied by the following documents;

- Appropriate Assessment Screening & Natura Impact Assessment
- Site Specific Flood Risk Assessment
- Internal Daylight Report
- Planning Compliance Statement
- Schedule of Accommodation
- Design Statement
- Project Image
- Landscaping Report

- Biodiversity Plan
- DMURS compliance
- Mobility Management Plan
- SUDS Plan

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority refused permission for the following reason.

1. The proposed development is in an area at risk of flooding and as such would be contrary to Policy WS.9 Flood Risk as set out in the City Development Plan 2010-2016 and the Planning System and Flood Risk Management – Guidelines for Local Authorities, November 2009. The development would therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The report of the Planning Officer concluded that the proposal does not meet the requirements of national guidelines on flood risk, would be contrary to Policy WS.9 of the Limerick City Development Plan and would therefore be contrary to the proper planning and development of the area.

3.2.2. Other Technical Reports

3.2.3. Roads Section – Further information required in relation to traffic and pedestrian issues.

3.2.4. Active Travel Section – Further information required in relation to the submission of revised details concerning cycle storage, cycle lanes and mobility management plan.

3.2.5. Archaeologist – Further information required in relation to the submission of an Archaeological Impact Assessment.

3.2.6. Environment Section – Comment made in relation to construction waste.

3.2.7. Fire Authority – Further information required.

3.2.8. Physical Section – (1) The proposed development is located in Flood Zone A (and a small portion of Flood Zone B) as per draft Limerick Development Plan 2022-2028 Flood extent maps. (2) The proposed development is classed as highly vulnerable in nature in accordance with the Planning and Flood Risk Management Guidelines for Planning Authorities published by DoEHLG, 2009. (3) The Site Specific Flood Risk Assessment and Planning reports on file refer to the 2010-2016 Limerick City Development Plan (as extended) in terms of the zoning extents for the site which was noted as Mixed Use and Residential zoning of lands to Enterprise and Employment. As the proposed development (Highly Vulnerable) is proposed to be located within Flood Zone A/B on zone lands of Enterprise and Employment (as per the draft LDP 2022-2028), this development does not pass no. 1 of the Justification Test. Therefore, PEPM would have significant concerns of the appropriateness of the proposed development within Flood Zone A/B on such lands zoned as Enterprise and Employment with regard to flood risk.

3.2.9. Mid-West Roads – No comment.

3.2.10. Irish Water – No objection

3.2.11. Transport Infrastructure Ireland – No comment.

3.2.12. HAS – No objection.

3.3. Third Party Observations

3.3.1. The Planning Authority received 3 no. submissions/observations in relation to the application. The issues raised referred to concerns regarding potential antisocial behaviour, the height of the proposed development relative to the existing buildings within Alandale Orchard, the increased traffic the proposed scheme would generate would result in traffic congestion. The matter of the need for connectivity between the site and the Greenpark Lands where under ABP 311588-21 – Strategic Housing Development application the Board granted permission for the development of 371 no. residential units. It is stated that the Council should prioritise the connectivity in terms of pedestrian access and cycleways to open up the applicants lands to facilitate permeability and connectivity for the benefit of all adjoining lands. In relation

to the Site Specific Flood Risk Assessment it is considered that it provided an inadequate assessment of impact of risk on adjoining lands.

4.0 Planning History

Appeal Site

- None

Adjacent lands

ABP 311588-21 – Strategic Housing Development Application. The Board granted permission for the development of 371 no. residential units (157 no. houses, 214 no. apartments), creche and associated site works at lands at the Former Greenpark Racecourse, Dock Rock, Limerick City.

Reg. Ref. 15/428 & PL91.246035 – Permission was refused by the Board for 110 housing units comprising of 31 4-bed detached, 4 3-bed semi-detached, 3 3-bed terraced units for which a waste licence maybe required, and all ancillary site development works at the former Greenpark Racecourse, Dock Road, Limerick.

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 Development Plan 2022 − 2028

5.3.1. 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.

5.3.2. Under the provisions of the plan the appeal site is located on lands which are zoned 'Enterprise & Employment'.

5.3.3. Objective: To provide for and improve general enterprise, employment, business and commercial activities.

5.3.4. Purpose: To provide for enterprise, employment and general business activities and acknowledge existing/permitted retailing uses. To accommodate compatible industry and employment activities that are incapable of being situated in the City Centre, in a high-quality physical environment. Marine related industry shall be allowed on Enterprise and Employment zoned lands on the Dock Road.

5.3.5. New enterprise and employment developments shall be provided in high quality landscaped park style environments, incorporating a range of amenities. These zones may accommodate light industry, low input and emission manufacturing, logistics and warehousing, campus style offices and commercial services with high

space and parking requirements. The form and scale of development on these sites shall be appropriate to their location, having regard to surrounding uses and scale. A proliferation of retail uses will not be permitted.

5.3.6. The uses in this zone are likely to generate a considerable amount of traffic by both employees and service vehicles. Sites should be highly accessible, well designed and permeable with good pedestrian, cyclist and public transport links. The implementation of mobility management plans will be required to provide important means of managing accessibility to these sites.

5.4. Natural Heritage Designations

5.4.1. 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.

5.4.2. 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.

5.4.3. Tory Hill SAC (Site Code 000439) circa 11.9.km to the south-west of the site.

5.4.4. Askeaton Fen Complex SAC (Site Code 002279) circa 13.2km to the south-west of the site.

5.4.5. Glenomra Wood SAC (Site Code 001013) circa 12km to the north-east of the site.

5.5. EIA Screening

5.5.1. The proposed development comprises student housing development containing 196 no. student bedspaces arranged in 28 no. student units on a 0.64 hectare site.

5.5.2. 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.

5.5.3. The number of dwelling units proposed at 28 is well below the threshold of 500 dwelling units noted above. Whilst the site is located within Courtbrack, Limerick

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

5.5.4. The proposal for 28 residential units is located within the development boundary of Limerick City on lands zoned Enterprise and Employment in the Limerick Development Plan 2022-2028. 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 Design Assessment and Mobility Management Plan. These address the issues arising in terms of the sensitivities in the area.

5.5.5. 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 enterprise and employment under the provisions of the Limerick Development Plan 2022-2028 and the results of the strategic environmental assessment of the Limerick Development Plan 2022-2028, 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 and industrial/commercial 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),

5.5.6. 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 appeal has been submitted by HRA Planning on behalf of the applicant 1 Courtbrack Land Limited. The issues raised are as follows.

- The Planning Authority refused permission for the stated reason as follows;

1. *The proposed development is in an area at risk of flooding and as such would be contrary to Policy WS.9 Flood Risk as set out in the City Development Plan 2010-2016 and the Planning System and Flood Risk Management – Guidelines for Local Authorities, November 2009. The development would therefore be contrary to the proper planning and sustainable development of the area.*

- The decision is based exclusively on the matter of flood risk, specifically due to the location of the proposed development in an area at risk of flooding. The decision refers to the provisions of the Limerick City Development Plan specifically Policy WS.9 and also the Flood Risk Management Guidelines.

- It is contended that the permission should not have been refused purely on the location of the proposed development within ‘an area of flood risk’. It is considered that the decision to refuse permission is contrary to the provisions of Limerick City Development Plan and the Flood Risk Management Guidelines.

- It is submitted that the decision of the Planning Authority is at odds with the provisions of Policy WS.9. It is set out in the appeal that Policy WS.9 does not state and does not indirectly imply that development proposals 'in an area at risk of flooding would be contrary to Policy WS.9 Flood Risk as set out in the City Development Plan 2010-2016.
- There is no other stated policy in the Limerick City Development Plan which expressly or indirectly implies that or upon which the decision of the Council could be reasonably construed to be based.
- It is noted that the decision to refuse permission as set out in the report of the Planning Officer in relation to the matter of flood risk, places considerable emphasis on and reference to the internal report of the Physical Section of LCC. The report of the Physical Section recommended refusal, "Overall the Physical Section of LCCC have reviewed the site and the applicants submission and have recommended refusal."
- It is submitted that whilst the Physical Section of the Council reported to the Planning Authority its "significant concerns", this cannot be construed as to represent a recommendation for refusal in the manner implied by the Planning Authority in its report.
- The applicant notes that the internal assessment and recommendations of the proposed development by the Physical Section to the Planning Authority is based on the provisions of the draft Limerick Development Plan 2022-2018 and not the current development plan which was in force at the time the decision was made. It is noted that the decision of the Council on flood risk grounds reflects expressly the recommendation of the Planning Authority in relation to flood risk, where the Planning Authority's assessment in relation to flood risk was based decisively on the internal report provided by the Physical Section.
- It is submitted that the report of the Planning Officer did not filter the recommendation provided by the Physical Section in terms of their reference to the Draft Limerick Development Plan 2022-2028. The first party also submit that the Planning Authority did not properly technically assess the actual FRA and Justification Test lodged with the application.

- It is submitted that any ordinary and reasonable reading and interpretation of Policy WS.9 sets out a test for the proposed development. The test is to ensure that the proposal should not itself be subject to an inappropriate risk of flooding and that the proposed development should not cause or exacerbate such a risk at other locations.
- In relation to the first test the proposal should not itself be subject to an inappropriate risk of flooding. A Site Specific Flood Risk Assessment prepared by Byrne Lobby was submitted with the application. The approach to flood risk management was reflected consistently in both the Flood Risk Assessment and the Planning Compliance statement.
- In consultation and agreement with Limerick City and County Council it was agreed that the level of predicted flood risk, derived from a worst-case coastal flood event, where the probability of flooding from the sea is highest (greater than 0.5% AEP for coastal flooding, would occur in the area of the subject site at 4.87m OD (Malin).
- The proposed development is consistent with the Flood Risk Management Guidelines and specifically the recommended approach set out in Section 5.16 of these guidelines. The proposed development adopts the precautionary approach to the setting of proposed floor levels in order to avoid, mitigate and manage flood risk throughout the site to an acceptable level.
- The proposed building finished floor level (FFL) and courtyard design level of 5.75m OD (Malin) based on 0.5% AEP for coastal flooding. This provides a level difference of +880mm above the worst case predicted flood risk level. The proposed FFL is above the 1% flood level and it ignores the effects of the flood defences and it includes provision for climate change.
- The Flood Risk Assessment takes into account a breach scenario of the existing OPW embankments and considered the potential for residual flood risk elsewhere as a consequent to the precautionary approach applied to the proposed development.
- It is confirmed in the FRA that the site is accessible by emergency services in a worst case scenario as water level at access and carpark is not expected to exceed 300mm depth.

- The FRA concludes that the proposed development does not flood in either a breach or overtopping scenario even when climate change is taken into account and that a high standard of protection is provided. Implications to services and infrastructure has been mitigated by ensuring ESB pillar substation is sited at level of 5.75m OD(Malin). On site water storage and surface water attenuation tanks are designed to be sealed to prevent inundation by flood water and other practicable mitigation and emergency plan measures. There is no reliance on existing flood defences to protect the development.
- At peak flood events, the modelling includes commentary that the non-raised areas would be inundated at peak water levels but that the building and outdoor spaces and the public road access point remain above flood level.
- In relation to the second test it requires that the proposed development should not cause or exacerbate such a risk at other locations.
- It is confirmed in the flood risk assessment that the ground raising will not impact of flood extent, depth, risk or flood routes elsewhere. The FRA included a flood extent model for the 0.5% AEP event at different timesteps for the pre-development and post-development scenarios. Calculated observations in the FRA set out that the subject site does not appear to be a flood route to adjacent properties, parts of the Dock Road, the (newly constructed) link road and Ashdown road would in parts be inundated by flood waters, the road link from where access to the proposed development site will be made will not be submerged and the maximum duration of peak flood events at the site would be 7 hours.
- In a predevelopment context, the modelling illustrates flooding of the site at peak flood events. In a post development scenario, the modelling illustrates that at peak water level for the 0.5% AEP tidal event, the proposed development is not flooded due to the proposed raising of ground levels, and that the proposed development does not impact on flood routes or flood extent on the adjacent surrounding properties arising from a breach along the Shannon River and the Ballinacurra stream.

- The applicant respectfully submits that the proposed development is in fact consistent with the provisions of Policy WS.9 in that the proposed development does and would not itself be subject to an inappropriate risk of flooding nor should it cause or exacerbate such a risk at other locations.
- In relation to the decision of the planning authority in reference to the location of the proposed development in an area of flood risk, it is stated by the applicant that it is contradictory to the stated approach set out in Limerick City Development Plan 2010-2016(as extended). The applicant notes that City Development Plan was amended on 6 occasions between 2012 and 2017.
- It is submitted that there is no express or indirect provision set out in the Draft Limerick Development Plan which states that proposed development should be refused exclusively on the basis of its location in an area of flood risk.
- In relation to the Flood Risk Management Guidelines, the applicant notes that the provisions of the guidelines do not state that development in areas of flood risk would be contrary to those guidelines such that would warrant a clear-cut basis for refusal of permission as suggested in the Council's decision.
- Section 5.1 and 5.2 of the Guidelines place emphasis on the development proponent having to determine and address the level of risk to the development and any residual risk through site specific flood risk assessment. The applicant is satisfied that the site specific flood risk assessment lodged with the application is fit for purpose in that it addresses the information recommended in Section 5.9 of the Guidelines.
- The applicant submits that the appropriateness of the proposed development is justified by its compliance with the landuse zoning objectives under which student housing is a permissible landuse activity, and that the proposed development is necessary at this location having regard to its immediate proximity to a third level institution where the report on 'Student Demand and Concentration' lodged with the application has demonstrated a demand for student accommodation locally.
- It is noted that the flood risk management guidelines do facilitate development within areas of flood risk which contribute to compact sustainable growth of established urban city areas, where the type and extent of flood risk has been

established and where the potential flood risk can be mitigated and where the proposed development would not give rise to residual flood risk effect to the proposed development or to the surrounding people, environment and economy.

- It is submitted that the site is appropriately zoned for development use and the application includes a site specific flood risk assessment and Development Management Justification Test. The potential risk of flooding proportionate to the nature of development has been identified and mitigated by way of avoidance, design and operational measures. The residual risk has been evaluated and is not considered to give rise to effects arising within the proposed development site or to adjoining lands.
- Reference is made to a recent decision by An Bord Pleanála to grant permission for a scheme under Reg. Ref. 21/398553 & ABP 309974-21 comprising a four-storey student accommodation building in the Mardyke area of Cork City, adjacent to the River Lee and UCC.
- Cork City Council and the Board in their assessments of the proposal acknowledged that the site was identified as being the subject of 1% AEP fluvial flood risk and a 0.5% AEP tidal flood risk and categorised the site as being within Flood zone A and residential use is a highly vulnerable development under the Flood Risk Management Guidelines. The flood risk management Justification Test was applicable to that application and considered by both Authorities. In its assessment of the Justification Test the Board acknowledged that the site was suitably zoned for residential use and that proposed design levels were raised to exceed predicted worst case flood levels under the 1% AEP flood event scenario, that an emergency plan was proposed which included evacuation of occupants during worst case events, and it considered that the proposed building would represent good urban design, vibrancy and activity of the streetscape. On that basis the Board stated that the proposed development passed the 'Justification Test' and the proposed development would be consistent with The Planning System and Flood Risk Management Guidelines.

- It is submitted that there are material parallels between the cited approved scheme and the proposed development. This includes the urban location and proximity of the proposed development to both the city and the university, the demonstratable need for student accommodation, the defined flood risk sensitivity of location and the same potential coastal flood risk, the suitability of raising the design level and its tie in with the urban landscape.
- In relation to the cited Cork case it is noted that the River Lee flood relief scheme is not in place and there are no current urban protection measures other than design and mitigation and this is similar to the subject site. It is noted that the potential flood risk to the Cork Mardyke proposal was of clear significance that it warranted an operational evacuation plan as a site specific flood protection measure. It is highlighted that the current proposal is not reliant upon emergency evacuation given the design of the proposed development facilities flood resilient internal and external areas and provision of safe emergency areas.
- It is submitted that the proposed development is consistent with the proper planning and sustainable development of the area. Regarding non “flood-risk” related matters the applicant is satisfied that the proposed development in terms of the nature, scale and form of development is consistent with the proper planning and sustainable development of the area.
- In conclusion, in acknowledging the flood risk sensitivity of the location of the proposed development, the applicant respectfully contests the decision of the Council is flawed by its failure to apply properly the provisions of the Limerick City Development Plan Policy WS.9 or the Flood Risk Management Guidelines to the proposed development in the manner in which they are required to be.
- It is submitted that it has been demonstrated that the proposed development is compatible with the zoning objective and that the proposed development is appropriately located for a development activity which is compatible to the urban location adjacent to a third level education campus where a demonstratable need for student housing has been identified.

- The nature and extent of the flood risk has been qualified and quantified to an acceptable level by way of site specific flood risk assessment and Flood Risk Management Justification Test lodged with the application and which has been carried out in accordance with the provisions of the Limerick City Development Plan 2010-2016 (as extended) and the Flood Risk Management Guidelines for Planning Authorities 2009.
- On this basis the applicant respectfully requests that the Board grant permission for the proposed development.

6.2. Planning Authority Response

- None received

6.3. Observations

An observation to the appeal was received from Vogue Property Limited. The issues raised are as follows.

- Vogue Property Limited wish to reiterate that they are not opposed in principle to the proposed development. It is considered that the development of the lands provides an excellent opportunity to create linkages with the adjoining lands and therefore facilitating the development of the wider area.
- The observers wish to highlight that they consider linkages/connections/permeability between the former Greenpark racecourse lands and the adjoining lands is an issue of major importance in the context of the wider development of lands.
- It is considered that the current application for student accommodation provides an excellent opportunity for the Planning Authority to facilitate linkages/connections/permeability between the former Greenpark racecourse lands and the adjoining lands in the interest of the proper planning and sustainable development of the area.
- The Greenpark Masterplan prepared by Vogue Property Limited in December 2020 makes provision for connectivity between the former racecourse lands

and the Courtbrack lands. It is stated that there is no similar link planned for the applicant's lands.

- It is submitted that the Board has a duty to ensure that the proper planning and development of the entire lands and the wider area is fully considered.
- It is considered that the proposal for a piecemeal standalone application which does not provide due consideration for linkages with adjoining lands and which is clearly a stated requirement of the Planning Authority in relation to this part of Limerick and where these can be delivered does not accord with proper planning principles.
- It is requested that the Board give careful consideration to this issue in its assessment of the appeal.

7.0 Assessment

The main issues in this appeal are those raised in the grounds of appeal and the observations to the appeal. The issues of policy context and zoning needs to be addressed as the Limerick Development Plan 2022-2028 was recently adopted and appropriate assessment also needs to be addressed as the application includes a NIS. The issues can be dealt with under the following headings:

- Policy context and zoning
- Flood risk
- Other issues
- Appropriate Assessment

7.1. Policy context and zoning

7.1.1. The Limerick Development Plan 2022 – 2028 was adopted by the Elected Members of Limerick City and Council's on the 17th of June 2022 and the Plan came into effect on the 29th of July 2022. On the 28th of July 2022, Limerick City and County Council received notification from the Minister for Housing, Local Government and Heritage of his intention to issue a Direction pursuant to Section 31 of the Planning and Development Act 2000 (as amended). In accordance with Section 31(4) of the

Planning and Development Act 2000 (as amended), those parts of the Limerick Development Plan 2022-2028 referred to in the notice shall be taken not to have come into effect, been made or amended. Having regard to this notice from the Minister for Housing, Local Government and Heritage, I note that it refers to a number of specific zonings and that it does not refer to the subject site at Courtbrack, Limerick. Accordingly, I am satisfied that the provisions of the Limerick Development Plan 2022 – 2028 apply to the subject site.

7.1.2. When the Planning Authority issued the decision to refuse permission the Limerick Development Plan 2022-2028 had not yet been adopted and the proposed development was subject to the provisions of the Limerick City Development Plan 2010-2016 (as extended). Under the provisions of the previous plan the subject site was located on lands zoned for 'mixed use' and 'residential'.

7.1.3. Map 3 of the Limerick Development Plan 2022-2028 is the zoning map of Limerick City and Suburbs (in Limerick), including Mungret and Annacotty. As illustrated on Map 3 the appeal site at Courtbrack, Limerick City is located on lands zoned – Enterprise & Employment.

7.1.4. Accordingly, the subject site is located on lands zoned Enterprise & Employment under the provisions of the Limerick City and County Development Plan 2022-2028, which has the objective "to provide for and improve general enterprise, employment, business and commercial activities."

7.1.5. In relation to the purpose of this zoning it is set out in the development plan that it is to provide for enterprise, employment and general business activities and acknowledge existing/permitted retailing uses. To accommodate compatible industry and employment activities that are incapable of being situated in the City Centre, in a high-quality physical environment. Marine related industry shall be allowed on Enterprise and Employment zoned lands on the Dock Road.

7.1.6. Chapter 12 of the development plan refers to Land Use Zoning Strategy and Section 12.4 of the plan refers to the Land Use Zoning Matrix. As set out in the Land Use Zoning Matrix under Enterprise & Employment zoning student accommodation is generally not permitted. A generally not permitted use is defined in the plan as a used that would be incompatible with the zoning policies or objectives for the area,

would conflict with the permitted/existing uses and would be contrary to the proper planning and sustainable development of the area.

7.1.7. I note the appeal site at Courtbrack, Limerick as set out in the appeal is located in close proximity to the third level institution Mary College, and I also note that a report on 'Student Demand and Concentration' was provided with the application which demonstrates a demand for student accommodation locally. In respect of this I would highlight that the zoning of the appeal site was 'mixed use' and 'residential' under the provisions of the previous development plan and that the proposed residential use would have been of a use compatible with those zoning provisions. However, the proposal must be assessed having regard to the provisions of the current plan where the zoning of the appeal site has been changed.

7.1.8. Therefore, having regard to the zoning of the lands on which the subject site is located I conclude that the proposed student accommodation is not permitted within these lands zoned Enterprise & Employment. Therefore, the proposed development would, contravene materially the Enterprise & Employment development objective indicated in this development plan for the zoning of land, and would, therefore be contrary to the proper planning and sustainable development of the area.

7.1.9. In conclusion, I am satisfied that the proposal is contrary to the zoning objective and policies of the Limerick Development Plan 2022-2028.

7.2. **Flood risk**

7.2.1. The reason for refusal refers flood risk. It states that proposed development is in an area at risk of flooding and as such would be contrary to Policy WS.9 Flood Risk as set out in the City Development Plan 2010-2016 and the Planning System and Flood Risk Management – Guidelines for Local Authorities, November 2009. The development would therefore be contrary to the proper planning and sustainable development of the area.

7.2.2. The site at Courtbrack, Limerick City, is located within an area designated as primarily within Flood zone A and a section of the site is within Flood zone B. The application was accompanied by a Site Specific Flood Risk Assessment (SSFRA). The SSFRA was prepared by Byrne Looby Consulting Engineers.

7.2.3. The report of the Council's Physical Directorate Section in relation to the subject application referred to the draft Limerick Development Plan 2022-2028 Flood extent maps and noted that the development is located in Flood Zone A (and a small portion of Flood Zone B). It was noted in their report that proposed development is classed as highly vulnerable in nature in accordance with the Planning and Flood Risk Management Guidelines for Planning Authorities published by DoEHLG, 2009. It was also noted in their report that the Site Specific Flood Risk Assessment and Planning reports on file refer to the 2010-2016 Limerick City Development Plan (as extended) in terms of the zoning extents for the site which was noted as Mixed Use and Residential zoning of lands. It was stated in the report that as the proposed development (Highly Vulnerable) is proposed to be located within Flood Zone A/B on zone lands of Enterprise and Employment (as per the draft LDP 2022-2028), this development does not pass 1 of the Justification Test. The Physical Directorate Section conclude that they would have significant concerns of the appropriateness of the proposed development within Flood Zone A/B on such lands zoned as Enterprise and Employment with regard to flood risk.

7.2.4. The Site Specific Flood Risk Assessment (SSFRA), notes that the site is within the benefitting area of the Ballynaclogh Arterial Drainage scheme. The scheme was constructed by the Office of Public Works (OPW) to provide protection to high probability (low magnitude) flood events. Since it was originally constructed the standard of protection has been increased by topping up the embankment crest levels to a degree that the embankment now provides protection to almost the 0.2% AEP Flood level. It is noted that the OPW are currently undertaking a review of the structural integrity of the embankment under the Limerick Flood Relief Scheme and have advised that development in the defenced areas should not rely on the presence of the embankments when assessing the flood risk.

7.2.5. In relation to the matter of flood history, it is identified in the report that following an internet search no specific accounts of flooding at the subject site were found. A search of the OPW floodmaps.ie identified that a single flood event occurred in December 1999, adjacent to Dock Road, Limerick. The flood extents were to the north of the appeal site and also to the racecourse to the south.

7.2.6. In relation to flood risk identification, it is stated in the SSFRA that based on analysis of historical flood information, topography survey, site investigation survey, geology,

CFRAM maps, PFRA maps and the Limerick City and County Council flood zone maps that there is the potential for flood risk from pluvial flooding and coastal flooding.

7.2.7. In relation to pluvial flooding, it is stated in the SSFRA that the site is relatively flat and that elevations vary from 3.11m OD to 4.6m OD. The road elevations in the surrounding area vary from approximately 4.2m OD to 4.7m OD. It is stated that the development will consist of open spaces and parking facilities which would be designed to capture onsite rainfall and run-off to be directed towards the discharge point on site. The immediate discharge from the site will be to the existing large diameter trunk storm drain to the south of the site. A small drainage channel located to the north of the site adjacent to Dock Road was identified not to be connected to the site and that it positively drains away from the site. It is concluded in the SSFRA that the site is not at risk of pluvial flooding from the surrounding area and that proposed development includes adequate measure to manage onsite pluvial risk without negatively impact risk elsewhere.

7.2.8. In relation to coastal flooding, it is stated in the SSFRA that the embankments along Ballina Creek were likely to have been constructed for agricultural purposes many decades ago and that it is not designed to the standard indicated in the CFRAM flood extent maps. The appeal site is located within the defended zone. It is noted that the OPW have advised that the proposed development should be treated as if no embankments were in place. It is set out in the SSFRA that maximum flood levels on the appeal site were checked by overlaying the ICPSS coastal flood levels on contours generated from OPW LiDAR. The ICPSS flood extent mapping indicates that the 200 year design tidal water level in the vicinity of the site is similar to the OPW peak water level in the Ballinacurra Creek channel at 4.87m OD. Accordingly, this confirms the suitability of using a level of 4.87m OD as maximum water level for the site in circumstances where there is no embankment present.

7.2.9. 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. Section 7.1 of the SSFRA sets out proposed flood mitigation measures. In determining the mitigation measures it was based on the existing flood defence embankments breaching based on a design event for 0.5% AEP for flooding from the sea including

climate change and consideration of an overtopping of the existing flood defences embankments for a design event of the 0.1% AEP flood event including allowance for climate change.

7.2.10. It is set out in the SSFRA that the minimum finished floor level for a “highly vulnerable” development should be in the 1 in 200 year tidal flood level with a suitable allowance for climate change of 550mm and suitable freeboard of 300mm.

7.2.11. In relation to the proposed finished floor level of residential uses it is set out that they shall be a minimum of 5.72m OD (4.87+0.55+0.3). It is noted that while the development type which is residential is considered highly vulnerable that the occupants of the development must be considered in terms of residual risk. The proposed occupants of the development are students are not considered particularly vulnerable. It is set out in the SSFRA that students are less likely to become distressed during a flood event and therefore the requirement for attendance of emergency services during a flood event is lower than for a nursing home or hospital.

7.2.12. Regarding the effect of proposed measures on flood risk elsewhere, it is stated in the SSFRA that the flood extent modelling confirms that the proposed building would not be flooded for the coastal 0.5% AEP event. In relation to the impact of raising floor levels on surrounding properties for the coastal 0.5% AEP event, the modelling found that the proposed development does not appear to be a flood route to other adjacent properties and that the flood depths elsewhere are not impacted by the development.

7.2.13. In relation to residual risk assessment based on ground raising with the development the modelling found that the development does not flood for either breach or overtopping scenarios even when climate change is considered. If there is sea level rise greater than 520mm the building would be at risk for the 0.1% AEP event. For flooding to occur in the 0.5% AEP event sea level rise would have to be in excess of 880mm for this is arise.

7.2.14. Section 7.5 of the SSFRA sets out Residual Risk and Mitigation Measures including that a flood risk management plan for the site should be developed and maintained, that any development below 0.5% AEP level should be considered and designed in the knowledge that it may be inundated by water, early warning shall be used to

keep students informed of any potential flooding, any onsite attenuation of water storage tanks shall be fully sealed to prevent the ingress of groundwater and that a back-up generator shall be provided on site to provide power in the event of a black out.

7.2.15. Section 8 of the SSFRA refers to the Justification Test. It is set out that as per Section 3.2 of the Flood Risk Management Guidelines a justification test is required where highly vulnerable development is proposed in Flood Zone A or B. Accordingly, the justification test is required. Part 1 specifies that 'subject lands have been zoned or otherwise designated for the particular use of form of development in an operative development plan, which has been adopted or varied taking account of these Guidelines.' It is stated in response to this in the SSFRA that the site is zoned for residential development. Part 2 specifies that 'the proposal has been subject to an appropriate flood risk assessment that demonstrates that the development proposed will not increase flood risk elsewhere and if practicable will reduce overall flood risk. It is set out in the SSFRA that the assessment demonstrates and concludes that the development will be protected by raising the ground level to 5.75m OD and that flood depths, routes and or extent surrounding the site are not impacted and therefore the proposal will not increase flood risk elsewhere. It is required under 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 that the proposal ensures that the highly vulnerable development has a minimum floor level of 5.75m OD which includes allowance for climate change and freeboard above the design standard of 0.5% AEP coastal event. It is considered these design measures reduce the risk to people, property and the economy without any negative impact on the environment.

7.2.16. It is required under the Justification Test that 'the development proposed includes measures 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'. In response to this it is set out that the proposed development will include reception/administration staff on site and these staff will raise alarm in the event of a flooding event. It is stated that vehicles can be moved from the lower car parking areas in sufficient time before a

flood event reaches the area. It is noted that the risk of the development being inaccessible to emergency services has been considered. The scheme includes a raised floor level and connecting walkways between the buildings, it is considered that these areas can be used as dry staging areas in the event of flooding.

7.2.17. It is required under the Justification Test that 'the development proposed addresses the above in a manner that is also compatible with the achievement of wider planning objectives in relation to development of good urban design and vibrant and active streetscape.' In response to this it is stated that the proposed development is in accordance with the planning objectives and also in accordance with the Planning System and Flood Risk Management Guidelines.

7.2.18. It is concluded in the SSFRA that with the implementation of the proposed mitigation measures that the site will be at a low risk of flooding and will not increase the risk of flooding to any adjacent or nearby areas.

7.2.19. 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 and Flood Zone B 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.

7.2.20. 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.

7.2.21. Having regard to the 'Justification Test for Development Management', I note that the appeal site at Courtbrack, Limerick City is located on lands which are zoned 'Enterprise & Employment', under the provisions of the Limerick Development Plan 2022-2028. The proposed development is Student Accommodation i.e., residential

use. Accordingly, the subject lands at are not zoned or otherwise designated for the subject use which is currently proposed. On that basis the proposed development does not fulfil this requirement of the Justification Test.

7.2.22. In relation to the SSFRA submitted with the application, I would note that the justification test as set out in the assessment relies upon the previous zoning objectives, mixed use and residential, set out under the Limerick City Development Plan 2010-2016 (As Extended), which has now been superseded by the Limerick Development Plan 2022-2028.

7.2.23. Accordingly, I conclude that the proposal does not pass the justification test to be located on lands which are zoned 'Enterprise & Employment' and located within Flood Zone A and Flood Zone B under the zoning provisions of the Limerick Development Plan 2022-2028.

7.3. **Other issues**

7.3.1. The observation to the appeal raised the issue of providing linkages from the subject site with the adjoining lands and therefore facilitating the development of the wider area. Specifically, the observation refers the lands at the former Greenpark racecourse which is located to the south of the appeal site. It is put forward in the observation that the current application for student accommodation provides an excellent opportunity for the Planning Authority to facilitate linkages/connections/permeability between the former Greenpark racecourse lands and the adjoining lands in the interest of the proper planning and sustainable development of the area.

7.3.2. I note these matters raised in the observation and I would concur that as per the key design principles set out in 'Design Manual for Urban Roads and Streets' (DMURS) that connected networks and pedestrian focus should be provided within schemes. Accordingly, while I would note that the subject site is zoned for enterprise and employment and therefore subject to this zoning is unlikely to be developed for residential purposes, the appropriate future development of the lands should be carried out having regard to the key design principles of DMURS.

7.4. Appropriate Assessment

Overview

7.4.1. Accompanying this application is an Appropriate Assessment Screening Natura Impact Statement prepared by Ash Ecology and Environmental.

Screening

7.4.2. 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.'

7.4.3. 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

The project description is given as the construction of (1) two separate buildings consisting of; (a) 'Block A'- 5 storey structure providing (i) 156 no. student bedspaces in 20 no. apartments, with each apartment consisting of a 'common room' kitchen/living area; and (ii) communal laundry facility and reception area at ground floor serving the proposed student housing complex; (b) 'Block B'- 2 storey structure over basement providing (i) 40 no. student bedspaces in 8 no. apartments with each apartment consisting of 'common room' kitchen/living area; (ii) water storage tank, sprinkler (fire water) storage, heating and generator plant infrastructure situated at basement level; and (iii) roof mounted building service infrastructure;

(2) surface carparking including dedicated disabled bays and electric vehicle charge points, and covered and uncovered bicycle parking; (3) (a) Connection to public water supply in the public road, and connection to foulwater and surface water networks which traverses the site and; (b) on-site surface water management including attenuation tanks, hydro brake and petrol interceptor; (4) modification of existing vehicular access from the existing public link road to facilitate vehicular and pedestrian access/egress to that link road, and associated vehicular signage as necessary; (5) Provision of second pedestrian entrance onto Ashdown situated on the southern boundary of the site, (6) electrical unit substation; (7) landscaping including modification of ground levels and associated planting; (8) public lighting and associated infrastructure; and (9) all associated site development works.

7.4.4. The screening report identified the following European sites:

- Lower River Shannon SAC (Site Code 002165) circa 430m to the north-west, north, north-east, east, south-east, south-west and south of the site.
- Askeaton Fen Complex SAC (Site Code 002279) circa 13.2km to the south-west of the site.
- Tory Hill SAC (Site Code 000439) circa 11.9.km to the south-west of the site.
- Glenomra Wood SAC (Site Code 001013) circa 12km to the north-east of the site.
- River Shannon and River Fergus Estuaries SPA (Site Code 004077) circa 430m to the north-west, north, north-east, east, south-east, south-west and south of the site.

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

Site Name & Code	**Distance**	**Qualifying Interests**	**Conservation Objectives**
Lower River Shannon SAC	430m NW, N, NE, E, SE, SW, W, NW	Sandbanks which are slightly covered by sea	To maintain and/or restore the favourable

(Site Code 002165)		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 colonising mud and sand [1310] Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330]	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

		Mediterranean salt meadows (Juncetalia maritimi) [1410] Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation [3260] Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) [6410] Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0] Margaritifera margaritifera (Freshwater Pearl Mussel) [1029]	

		Petromyzon marinus (Sea Lamprey) [1095] Lampetra planeri (Brook Lamprey) [1096] Lampetra fluviatilis (River Lamprey) [1099] Salmo salar (Salmon) [1106] Tursiops truncatus (Common Bottlenose Dolphin) [1349] Lutra lutra (Otter) [1355]	
River Shannon and River Fergus Estuaries SPA (Site Code 004077)	430m NW, N, NE, E, SE, SW, W, NW	Cormorant (Phalacrocorax carbo) [A017] Whooper Swan (Cygnus cygnus) [A038] Light-bellied Brent Goose (Branta bernicla hrota) [A046] Shelduck (Tadorna tadorna) [A048]	To maintain and/or restore the favourable conservation condition of the Annex I habitats and/or the Annex II species for which the SPA has been selected which are defined by lists of attributes and targets

		Wigeon (Anas penelope) [A050] Teal (Anas crecca) [A052] Pintail (Anas acuta) [A054] Shoveler (Anas clypeata) [A056] Scaup (Aythya marila) [A062] Ringed Plover (Charadrius hiaticula) [A137] Golden Plover (Pluvialis apricaria) [A140] Grey Plover (Pluvialis squatarola) [A141] Lapwing (Vanellus vanellus) [A142] Knot (Calidris canutus) [A143] Dunlin (Calidris alpina) [A149] Black-tailed Godwit (Limosa limosa) [A156]	

		Bar-tailed Godwit (Limosa lapponica) [A157] Curlew (Numenius arquata) [A160] Redshank (Tringa totanus) [A162] Greenshank (Tringa nebularia) [A164] Black-headed Gull (Chroicocephalus ridibundus) [A179] Wetland and Waterbirds [A999]	
Askeaton Fen Complex SAC (Site Code 002279)	13.2km to the south-west	Calcareous fens with Cladium mariscus and species of the Caricion davallianae [7210] Alkaline fens [7230]	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
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

		on calcareous substrates (Festuco-Brometalia) (* important orchid sites) [6210] Calcareous fens with Cladium mariscus and species of the Caricion davallianae [7210] Alkaline fens [7230]	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
Glenomra Wood SAC (Site Code 001013)	12km to the north-east	Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]	To maintain the favourable conservation condition of Old sessile oak woods with Ilex and Blechnum in the British Isles in Glenomra Wood SAC which which are defined by lists of attributes and targets

7.4.5. 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.

7.4.6. 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.

7.4.7. 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.

7.4.8. 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.

7.4.9. In relation to the matter of changes to water quality and resources it is set out in the screening report that there is no hydrological connection between the appeal site at Courtbrack, Limerick City and Askeaton Fen Complex SAC. There is no hydrological connection between the appeal site and Tory Hill SAC. Furthermore, there is no hydrological connection between the appeal site and Glenomra Wood SAC. There is a hydrological connection between the appeal site at Courtbrack, Limerick City to the Lower River Shannon SAC (Site Code 002165) and River Shannon and River Fergus Estuaries SPA (Site Code 004077). The surface water drainage network on the site connects with the surface water drainage network which ultimately drains to the River Shannon located 430m to the north of the appeal site. Accordingly, 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

7.4.10. 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 arising from surface water runoff 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

7.4.11. 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)

7.4.12. 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 7.3.9 as detailed above.

7.4.13. On the matter of screening the need for 'Appropriate Assessment', this I have set out under Section 7.3.4 to Section 7.3.11 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)

7.4.14. 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 table 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

7.4.15. 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.

7.4.16. 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 pollution surface water and ground water quality during the operational phase.

7.4.17. 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. An accidental pollution event during construction or operation could potentially negatively affect aquatic habitats. In relation to the SPA a reduction in water quality could affect factors that support the breeding population, such as prey abundance/biomass. Such impacts could potentially affect nest occupation and productivity which in turn could affect the number and range of areas used by the bird species.

7.4.18. 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.

Table 2 – AA summary matric 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 Callitricho-Batrachion vegetation: To maintain the favourable conservation condition of Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-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 Petromyzon marinus	Greater than 75% of main stem length of rivers accessible from estuary; At least three age/size groups present; Juvenile density at least 1/m²; 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 4.2 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	Potential water pollution Potential sedimentation from surface water runoff	Mitigation measures required and detailed in full in Section 4.2 of the NIS	None	Yes

	density of brook/river lamprey at least 2/m²; No decline in extent and 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/m²; 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 4.2 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;	Potential water pollution Potential sedimentation from surface water runoff	Mitigation measures required and detailed in full in Section 4.2 of the NIS	None	Yes

	No significant decline; No decline in number and 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 Nucula nucleus community complex; Subtidal sand to mixed sediment with Nephtys 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 4.2 of the NIS	None	Yes
Bottlenose Dolphin Tursiops truncatus	Species range within the site should not be restricted by artificial barriers to site use. Critical areas, representing	Potential water pollution	Mitigation measures required and detailed in full in	None	Yes

	habitat used preferentially by bottlenose dolphin, should be maintained in a natural condition. Human activities should occur at levels that do not adversely affect the bottlenose dolphin population at the site	Potential sedimentation from surface water runoff	Section 4.2 of the NIS		
Otter Lutra lutra	No significant decline in distribution; No significant decline in extent of terrestrial Habitat; No significant decline extent of marine habitat; No significant decline extent of freshwater (river) habitat; No significant decline in extent of freshwater (lake/lagoon) habitat; No significant decline in couching sites and holts; No significant decline in fish biomass available; No significant increase in barriers to connectivity	Potential water pollution Potential sedimentation from surface water runoff	Mitigation measures required and detailed in full in Section 4.2 of the NIS	None	Yes

Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation	Habitat area stable or increasing, 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)	Potential water pollution Potential sedimentation from surface water runoff	Mitigation measures required and detailed in full in Section 4.2 of the NIS	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.					

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.

		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?**
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 affect the breeding population;	Potential water pollution Potential sedimentation from surface water runoff	Mitigation measures required and detailed in full in Section 4.2 of the NIS	None	Yes

	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 4.2 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.					

Mitigation Measures

7.4.19. In relation to the construction phase various mitigation measures are proposed to be introduced to avoid, reduce, or remedy the adverse effects on the integrity of the designated Sites. Mitigation measures proposed for the construction phase includes the following:

- All run-off will be prevented from directly entering any watercourse. No construction will be undertaken directly adjacent to open water.
- During the construction phase mitigation measures to prevent water pollution to any watercourse near the site will be implemented. The measures provide will refer to; Control of Water Pollution from Construction Sites, Guidance for consultants and contractors (C/532), Environmental Good Practice on Site (3rd edition) (C692) and Guidelines on Protection of Fisheries During Construction Works in and Adjacent to Waters (2016).
- Silt fencing will be installed around the perimeter of the site. The location of the silt fencing will be determined in the construction stage CEMP. The silt fence will prevent silt laden water leaving the site and entering neighbouring land with the potential to impact nearby watercourses.
- The silt fence will consist of a double layer of geotextile membrane fixed to wooden stakes approximately 600m high. The membrane will be anchored into the ground to form a continuous barrier to silt laden water from the works site. Silt fences will be monitored via a silt inspection log. Typical maintenance will consist of repairs to damaged sections of membrane and removal of a build-up of silt on the upslope side of the fence.
- Drainage ditches will be installed to intercept surface water where there is a risk of significant water flow into excavations or on the adjoining lands. Water will be pumped periodically from excavations. All collected and pumped water will have to be treated prior to discharge.
- Emergency contact numbers for the Local Authority Environmental Section, Inland Fisheries Ireland, the Environmental Protection Agency and the National Parks and Wildlife Service will be displayed in a prominent position

within the site compound. These agencies will be notified immediately in the event of a pollution incident.

- Site personnel will be trained in the importance of preventing pollution and the mitigation measures set out in the NIS.
- The construction manager will be responsible for the implementation of these measures. They will be inspected on at least a daily basis for the duration of the works, and a record of these inspections will be maintained.
- Specific mitigation measures are set out in the NIS to address the matter of potential flooding in the case of a breach of existing embankments along the Ballynaclogh River and River Shannon.
- Stockpiles of soil shall be kept at the highest level possible within the site. Silt fencing and settlement ponds shall be placed at the highest level possible within the site. Silt fences shall be inspected as part of the daily inspection regime. Trapped silt shall be removed from silt fencing at regular intervals. Earthworks shall be left exposed for the minimum time possible. Landscaping and seeding of the perimeter embankments and retaining structures in accordance with the Landscaping Plan. An emergency response plan shall be development for the site.
- In relation to the control of cement run-off, the washing out of concrete delivery vehicles is a potential source of pollution and shall be carried out in designated areas only. On site batching of concrete is not envisage but ready to use mortar silos are often used for residential development. The following controls shall be put in place for the on site batching of mortar and render. The plant shall be maintained in good condition. Delivery of cement shall be by means of a sealed system to prevent escape of cement. Emergency procedures shall be put in place to deal with accidental spillages of cement or mortar.
- In relation to accidental spills and leaks, no bulk chemicals will be stored within the active construction area. Refuelling of vehicles and the addition of hydraulic oils or lubricants to vehicles will be undertaken offsite where possible. Where this is not possible, filling and maintenance will take place in a designated material storage compound. Any spillage of fuels, lubricants or

hydraulic oils will be immediately contained, and the contaminated soil removed from the site and disposed of in accordance with all relevant management legislation. Daily checks will be carried out and recorded in a Surface Water Management Log to ensure pollution control measures are being adhered to.

- Regarding noise generated during the construction phase, specific noise abatement measures shall comply with the recommendations of BS5228-1 2009. No plant used on site will be permitted to cause ongoing public nuisance due to noise. All vehicles and mechanical plant will be fitted with effective exhaust silencers and maintained in good working order. Compressors and generators will be attenuated models fitted with properly lined and sealed acoustic covers which will be kept closed whenever the machines are in use. Machinery that is used intermittently will be shut down or throttled back to a minimum during periods when not in use. Location of plant shall consider the likely noise propagation to nearby sensitive receptors.
- In relation to the matter of vibration, limits will be applied for the works will be those specified in the TII document Guidelines for the Treatment of Noise and Vibration in National Road Schemes (TII, Revision 1, 2004).
- Regarding dust, the aim is to ensure good site management by avoiding dust becoming airborne at source. This will be done through good design, planning and effective control strategies. Speed restrictions will be applied to unpaved areas to control dust for onsite vehicles. Any hard surface roads will be swept to remove mud and aggregate materials and unsurfaced areas will be restricted to essential site traffic only.

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

- In relation to surface water drainage, a new surface water sewer network will be provided which will be entirely separate from the foul sewer. Surface water will be collected and discharged via a mixture of traditional and Sustainable urban Drainage System to the existing 1000mm diameter surface water sewer. The surface water drainage network at this location flows west through Greenpark and discharges to the Ballynaclough River via an existing lagoon.

- In relation to the attenuation tank proposed to serve the development it will have BAA Agreement Certification and will be a site specific design and a maintenance plan and maintenance schedule shall be implemented.
- In relation to potential flooding, a Site Specific Flood Risk Assessment was prepared by Byrne Lobby. A portion of the site will be raised to ensure safe access to the buildings. Mitigation measures to reduce residual risk of flooding on the proposed development include that onsite attenuation tanks shall be fully sealed to prevent the ingress of groundwater and ESB substations and mini-pillars have all been sited on high ground above 5.75m OD which is 880mm above the 0.5% AEP coastal flood level.

In combination effects

7.4.21. The NIS refers to in combination effects in the context of existing plans and projects. The NIS refers to the Limerick City Development Plan 2010-2016 (as extended). In relation this I note that plan has been superseded by the Limerick Development Plan 2022-2028 which 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.

7.4.22. I note that a number of applications were granted in the area surrounding Courtbrack this includes a Strategic Housing Development granted under Ref. ABP 311588 for a scheme comprising 371 no. residential units. This scheme was accompanied by an NIS and the Board in their determination of the application concluded that they were satisfied the proposed development would not adversely affect the integrity of the European Sites in view of the sites conservation objectives.

7.4.23. Furthermore, I would note that other projects and plans in the surrounding area are subject to their own assessments that will need to ensure that they will not in themselves or in combination with other plans or projects have the potential to adversely impact upon the nearby designated sites. Potential cumulative effects in relation to other developments include construction related surface-water run-off, where qualifying interests associated with Lower River Shannon SAC and the River

Shannon and River Fergus Estuaries SPA could be subject to cumulative impact through hydrological or water quality impacts such as increased siltation, nutrient release and contaminated run-off arising from other developments. All of these projects have been considered on their own and in relation to the potential for any cumulative or in combination impacts arising from any combination of these projects proceeding in the future.

7.4.24. Having regard to the proposed environmental management and controls integrated into the project design and for other projects planned or proposed in the area cumulative and in-combination effects relating to other developments are not considered to be relevant in this case. I am satisfied that the proposed project will not have an effect individually or together with any other plan or project.

7.4.25. 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

7.4.26. 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 that permission be refused for the reasons and considerations set out below.

9.0 **Reasons and Considerations**

1. The subject site is located on lands zoned Enterprise & Employment under the provisions of the Limerick Development Plan 2022-2028, which has the objective “to provide for and improve general enterprise, employment, business and commercial activities”. Student Accommodation is not permitted within lands zoned Enterprise & Employment. The proposed development would, therefore, contravene materially the Enterprise & Employment development objective indicated in this development plan for the zoning of land, and would, therefore be contrary to the proper planning and sustainable development of the area.

2. Having regard to the nature of the proposed development Student Accommodation, the location of the subject site on lands zoned Enterprise & Employment under the provisions of the Limerick Development Plan 2022-2028 and the location of the site within Flood Zone A and Flood Zone B, the Board is not satisfied that the proposal would be in accordance with the provisions of ‘The Planning System and Flood Risk Management Guidelines (DoEHLG/OPW, 2009)’. On the basis of the submissions made in connection with the planning application and appeal and despite the Site Specific Flood Risk Assessment and Justification Test carried out the Board concluded that the proposed development failed the Justification Test as set out in Box 5.1 of the Guidelines. Accordingly, the proposed development, would constitute an unacceptable risk of flooding would conflict with the Ministerial Guidelines and would be contrary to the proper planning and sustainable development of the area.

Siobhan Carroll
Planning Inspector

30th of August 2022