



An
Bord
Pleanála

S. 4(1) of Planning and Development (Housing) and Residential Tenancies Act 2016

Inspector's Report ABP-313205-22

Strategic Housing Development

Demolition of existing warehouse, a ten year permission for the construction of 442 no. units (18 no. houses, 363 no. Build to Rent apartments and 189 no. student spaces), child care facilities and associated site works.

Location

Canal Bank, PA Healy Road, Co.
Limerick
(www.canalbanklimerick.com)

Planning Authority

Limerick City and County Council

Applicant

Revington Developments Limited

Prescribed Bodies

Irish Water
National Transport Authority
Transport Infrastructure Ireland

Observer(s)

1. Environmental Trust Ireland
2. John Conway and The Louth Environmental Group
3. Siobhan O'Brien

Date of Site Inspection

21.09.2022

Inspector

Mary Mac Mahon

Contents

1.0 Introduction.....	4
2.0 Site Location and Description	4
3.0 Proposed Strategic Housing Development	5
4.0 Planning History	10
5.0 Section 5 Pre-Application Consultation	11
6.0 Relevant Planning Policy	15
7.0 Third Party Submissions	27
8.0 Planning Authority Submission	31
9.0 Prescribed Bodies	34
10.0 Assessment.....	35
11.0 Environmental Impact Assessment.....	67
12.0 Appropriate Assessment.....	94
13.0 Conclusions.....	106
14.0 Recommendation	107
15.0 Recommended Order.....	107

1.0 Introduction

- 1.1. This is an assessment of a proposed strategic housing development submitted to the Board under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016. It includes an Environmental Impact Assessment Report (EIAR) and Natura Impact Statement (NIS). The application follows a refusal of planning permission for a Strategic Housing Development on the site on the 7th of May, 2020 (ABP-306541-20), due to deficiencies in the submitted Natura Impact Statement. Since the application was lodged, a new development plan has been adopted and the zoning of the site has changed from 'Mixed Use' to 'Residential'. The application was lodged on the 4th of April, 2022. The new development plan was adopted on the 17th of June, 2022 and came into effect on 29th July, 2022 – 16 weeks and 4 days from the submission of the application.

2.0 Site Location and Description

- 2.1.1. The subject site is circa 4ha and is located circa 800 metres northeast of Limerick City Centre. It is bounded on two sides by roads and on the third, by the Park Canal (this canal is variously described in the public notices and certain reports as the City Canal, but the official name is the Park Canal). The site is positioned immediately south of the Park Canal and towpath. The PA Healy Road forms a boundary of this triangular shaped site, separating it from O'Brien's Park. To the north of the canal is an area of wetlands, sport pitches and parkland. Beyond that is the Abbeylock housing estate and Richmond Park. The eastern boundary of the site is the Park Road. The Park Road is mainly industrial and warehousing in character. However, there are four residential properties to the northeast of the site on the far side of the Park Road. Three are single storey detached dwellings and one is two storey. The immediate neighbouring property is a warehouse building to the southeast – Clancy Lewis Fruit Distribution. To the northwest is Grove Island, which is the nearest area to provide a range of retail and other services, as well as student accommodation. The Limerick School of Art and Design is some 400 metres to the southwest. Limerick University is circa 3km from the site, but is connected directly via the cycleway on the towpath. A future campus for the university is planned circa a kilometre from the site.

- 2.1.2. There is an existing bus route on the PA Healy Road. While there is a physical stop in a bus layby in front of the site, the bus stop is not 'live'. There are bus stops on the Athlunkard Road and Dublin Road, (circa 5 minutes walk from the site) which are served by various bus routes, including the 304A, which connects the city centre to University of Limerick and the 301 and 323. There are cyclepaths provided on the public footpath on the PA Healy Road. The site is approximately 2.2km from Limerick Main Rail Station.
- 2.1.3. There is a warehouse building located on the site. The building is to be demolished. The site is currently served by two no. of vehicular access points. It is generally open to the canal towpath. Pedestrian access, via an underpass under PA Healy Road, is available to O'Brien's Park.
- 2.1.4. The Limerick Main Drainage Foul Sewer traverses the site below ground, running parallel to the canal.
- 2.1.5. Within the site, there is a deep dry ditch running parallel to the canal along the northern side of the towpath. The documentation associated with the application is unsure of its purpose or whether it is linked to the canal. This type of dry ditch running parallel to a canal, is likely to be an overflow channel. Such ditches are not uncommon and act as overflow when pounds (the stretch of water contained between the locks) become overly full of water and the excess is released into this side channel, which then returns the water to the canal at the lower pound – the next lock. The overflow channel on site may no longer be operational.
- 2.1.6. The survey drawing shows the levels of site vary from 6m OD to the north, with a dip to 4.5 m OD then rising to generally 5 mOD across the site. A clay embankment protects the boundary along the PA Healy Road.

3.0 Proposed Strategic Housing Development

- 3.1.1. The proposed development consists of the demolition of the warehouse on site (stated as 530 square metres) and the construction of a mixed-use development of housing, Build to Rent apartments, student accommodation and ground floor retail, café and a

community building where a childcare facility is located. The proposed development provides for eight blocks, ranging in height from three to ten storeys, with an area of two storey housing. The number of residential units is 381, excluding 61 student apartments. Of this, 18 no. are two storey, four bedroom dwellings, and 363 are apartment units. The apartments comprise of 66 no. studios (18%), 67 no. one bedroom units (18%), and 230 two bedroom units (64%). The number of student bedspaces is 189, which are allocated among 61 apartments. The number of car parking spaces is 149 and the number of bicycle parking spaces is 420. The proposed development also includes a new public park of 0.5 ha along the canal. The gross floor area is stated as 45,478.65m². The following tables summarises the development.

Table 1: Key Statistics

Site Area	4.0 hectares
No. of Houses	18
No. of Apartments	363
No. of Student Accommodation	61 (189 bedspaces)
Total	442 units
Density –	110 units per hectare (gross) 126 units per hectare (net).
Plot Ratio	1.14 (estimated)
Plot Ratio – Developable Area	1.3 (estimated)
Site Coverage	Not Stated
Site Coverage – Developable Area	Not Stated
Public Open Space Provision	12.5% of the site
Car Parking –	
Total	149
Bicycle Parking -	
Total	420

Table 2: Student Accommodation

Unit Type	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom	Total
Apartments	0	9	37	15	61
Total Bedspaces	0	18	111	60	189
% of Apartments	0%	15%	60%	25%	100%

Table 3: Breakdown of Apartments

Unit Type	Studio	1 Bedroom	2 Bedroom	3 Bedroom	Total
Apartments	66	67	230	0	363
% of Apartments	18%	18%	64%	0%	100%

Table 4: Breakdown of Houses

Bedrooms	2 Bedroom	3 Bedroom	4 Bedroom	Total
Number of Units	0	0	18	18
% of Houses	0%	0%	100%	100%

- 3.1.2. Block 1 is student accommodation over a ground floor café (144.6m²) and 3 no. retail units (each 86.59m²). The block ranges in height from three to six storeys. The student accommodation consists of 9 no. two bedroom units, 37 no. three bedroom units and 15 no, four bedroom units, providing 189 bedspaces. The block is built around a communal courtyard. Ancillary facilities include a laundry, refuse and bike store.
- 3.1.3. Block 2 is a ten storey residential block. Block 3 is an eight storey residential block. Blocks 4, 5 and 6 are seven storey residential blocks. Block 5 is a seven storey residential block. Block 7 is six storeys. Building I is three storey and is communal and

commercial in use. It provides for the creche (catering for 70 children) café, management offices and the residential facilities associated with the apartments.

- 3.1.4. The 18 no. four bedroom houses are 194.6m² each: two are detached and 16 no. are terraced.
- 3.1.5. In addition, the proposed development provides for a new vehicular entrances onto PA Healy Road and pedestrian and cycle links to Pa Healy Road, Park Road and the Park Canal. Bin storage is provided. The new vehicle entrance requires the relocation of the existing bus layby and changes to the layout of the public road, which is not referred to in the public notices
- 3.1.6. A new public park of 0.5 ha is to be provided in the northwest section of the site as well as both ground level and roof level communal open space, public lighting and one substation.
- 3.1.7. The proposed development seeks a 10 year permission. Construction is to take place over three phases, with the student accommodation and facilities buildings (which front onto Pa Healy Road), housing communal open space and access to the towpath in Phase 1. Phase 2 will provide for Blocks 4 and 5 in Phase 2a and Blocks 6 and 7 in Phase 2b. Phase 2 is to the rear of Phase 1. Phase 3 consists of Blocks 2 and 3 which face onto Pa Healy Road.
- 3.1.8. The information submitted includes the following:
- Newspaper Notice – Limerick Leader
 - Developers Covenant – Revington Developments Ltd.
 - Build to Rent Management Plan – RW Nowlan
 - Letter of Consent from Current Landowners of lands within the red line of the site
 - S.247 Pre Application Consultation Report – Limerick City & County Council
 - Planning Report and Statement of Consistency – RW Nowlan and Associates
 - Statement of Response – RW Nowlan and Associates

- Site Context Report – RW Nowlan and Associates
- Childcare Rationale Report – RW Nowlan and Associates
- Student Demand and Concentration Report – RW Nowlan and Associates and Associates
- Student Accommodation Management Plan – RW Nowlan and Associates
- Private Residents Management Plan – RW Nowlan and Associates
- Architecture Report and Urban Design Statement – OCA Architects
- Materials and Finishes Report – OCA Architects
- Schedule of Accommodation – OCA Architects
- Compliance Schedule – OCA Architects
- CGI and Montage Report – OCA Architects
- House Architectural Design Statement – Gleeson McSweeney Architects
- House Computer Generated Images – Gleeson McSweeney Architects
- Daylight and Sunlight Assessment Report – 3D Design Bureau
- Landscape Report – PC Roche & Associates
- Landscape Specification Report – PC Roche & Associates
- Part V Confirmation Letter – Limerick City and County Council
- Civil Engineering Report – PHM Consulting
- Construction Environmental & Waste Management Plan – PHM Consulting
- Irish Water Confirmation of Feasibility and Statement of Design Acceptance – Irish Water
- Flood Risk Assessment – JBA Consulting

- Exterior Lighting Report – RM Breen & Associates
- Building Lifecycle Report and Exterior Lighting Plan – RM Breen & Associates Environmental
- Appropriate Assessment and Natura Impact Statement – SLR Consulting
- Tree Survey – SLR Consulting
- Phase 2 Environmental Due Diligence Report – Verde
- Asbestos R&D Survey – Precision Group EIAR
- Environmental Impact Assessment Report
- Confirmation of EIAR Submitted to EIA Portal.

4.0 Planning History

Subject Site

- 4.1. **ABP-306541-20** The proposed development at the time was an almost identical development for which planning permission was refused. The reason for refusal related to deficiencies in the Natura Impact Statement. The reason for refusal is as follows:

“Having regard to the deficiencies in the information provided in the submitted Natura Impact Statement, in particular the lack of information in relation to the baseline ecology of the site and of the surrounding area, and in relation to potential impacts on the qualifying interests of the Lower River Shannon Special Area of Conservation (site code 002165), including, but not limited to, ‘Otters’ [1355] and ‘Water courses of plain to montane levels with the Ranunculus fluitans and Callitriche-Batrachium vegetation’ [3260]; and having regard to the inadequate information provided within the Natura Impact Statement in relation to the potential impacts on the special conservation interests associated with the River Shannon and River Fergus Estuaries Special Protection Area (site code 004077), resulting from development on the site and from potential impacts both on the adjacent Park Canal and on the wetlands to the north of the Park Canal, the Board is not satisfied that the proposed development would not

adversely affect the integrity of the Lower River Shannon Special Area of Conservation (site code 002165) or of The River Shannon and River Fergus Estuaries Special Protection Area (site code 004077), in view of the sites' conservation objectives. In such circumstances the Board is precluded from granting permission for the proposed development."

Surrounding Sites

- 4.2. **19/8002** – Part 8 consent for a new two-way vehicular bridge 140 metres east of the existing Park Road Bridge, approved 22.09.2020. The existing bridge would revert to a pedestrian and cycle bridge only.
- 4.3. **ABP-309360-21** – EIA determination in relation to a proposed two-way vehicular bridge 140 metres east of the existing Park Road Bridge. That bridge would revert to a pedestrian and cycle bridge only. The Board determined that no EIA required.
- 4.4. **19/1252** – post primary school permitted 23.07.2020 of the site. The school will be served by a new vehicular entrance to the PA Healy Road and is under construction.

5.0 Section 5 Pre-Application Consultation

- 5.1. A Section 5 pre-application virtual consultation took place on the 9th December 2020, in respect of the demolition of the warehouse, 18 no. houses, 363 no. Build To Rent Apartments, 189 student bedspaces, child care facility and associated site works. Representatives of the prospective applicant, the planning authority and An Bord Pleanála were in attendance. The main topics discussed at the meeting were :–

- Response to Previous Refusal Reason on foot of ABP-306541-20;
- Ecology, Biodiversity and Tree Survey;
- Residential Amenity – (For Existing Residential Property and Proposed). This included Aspect of Units, Daylight and Sunlight, Communal Facilities;
- Transportation, Permeability, Access and Car Parking;
- Site Services;
- Other Matters.

Copies of the record of the meeting and the inspector's report are on this file.

5.2. In the Notice of Pre-Application Consultation Opinion dated 15th December, 2020 (ABP-307956-20) An Bord Pleanála stated that it was of the opinion that the documents submitted constitute a reasonable basis for an application for strategic housing development. It was considered that the following specific information should be included in an application for permission: -

1. A robust Ecological Impact Statement Report, AA screening report and NIS which support and have regard to one another, and which inter alia, consider potential impacts on all of the Qualifying interests (QI's) of the Lower River Shannon Special Area of Conservation (SAC) and River Shannon and River Fergus Estuaries Special Protection Area (SPA).

2. Further clarification regarding site specific information in relation to biodiversity including a dedicated bat survey carried out within the optimal season for bats.

3. A detailed schedule of accommodation which shall indicate clearly dual and single aspect units. Colour coded drawings which clearly indicates individual clusters within the student accommodation element of the proposal and apartment types within the BTR element.

4. A detailed Daylight and Shadow Impact Assessment of the proposed development, specifically with regard to impact upon adequate daylight and sunlight for individual units, public open space, courtyards, communal areas, private amenity spaces and balconies.

5. A report that specifically addresses site context, the locational attributes of the area, boundary treatments, open / gated / controlled linkages through the site, pedestrian and cycle connections to the wider area, in particular, along the canal, Park Road and Pa Healey Road cognisance being had to national and local planning policy.

6. As per SPPR7 of the Sustainable Urban housing: Design Standards for New Apartments Guidelines for Planning Authorities, March 2018 the development must be described in the public notices associated with a planning application

specifically as 'Build to Rent' housing development and a covenant/legal agreement is required at application stage for BTR development.

7. Justification for a 10 year planning permission and a detailed and justified phasing plan for the construction of the development.

8. A site-specific student management plan.

9. A response to matters raised within the PA Opinion and Appended City and County Council Department comments submitted to ABP on the 11th September 2020.

5.3. A list of authorities that should be notified in the event of making an application were also advised to the applicant and included:

- Irish Water
- National Transport Authority
- Transport Infrastructure Ireland
- Department of Culture, Heritage and the Gaeltacht
- An Taisce
- The Heritage Council

5.4. ***Applicant's Statement***

5.4.1. A statement of response to the Pre-Application Consultation Opinion was submitted with the application, as provided for under section 8(1)(iv) of the Act of 2016. The applicant addressed items 1-9 of the specific information to be submitted with the application. Items of specific information are summarised below: -

5.4.2. ***Item 1:*** A robust Ecological Impact Statement Report, AA Screening and NIS which address the potential impacts on all Qualifying Impacts (Qis) of the Lower River Shannon Special Area of Conservation (SAC) and the River Shannon and River Fergus Estuaries Special Protection Area (SPA). The applicant's planning consultant includes a combined AA Screening Report and NIS and an Environmental Impact Assessment Report (EIAR), which includes a chapter on Biodiversity.

- 5.4.3. **Item 2:** Further site specific information in relation to biodiversity, including a dedicated bat survey, carried out within the optimal season for bats. The planning consultant states that this is included in the EIAR, but I could not find the detail of the survey in relation to bat species and number.
- 5.4.4. **Item 3:** A detailed schedule of accommodation which shall indicated dual and single aspect units. Colour coded drawings identifying individual clusters in the student accommodation and apartment types. The planning consultant states that these are available in the Schedules of Accommodation.
- 5.4.5. **Item 4:** A detailed Daylight and Shadow Impact Assessment of the proposed development, which considered the adequacy of the daylight and sunlight for individual units, public open space, courtyards, communal areas, private amenity spaces and balconies. The planning consultant directs the Board to the Daylight and Shadow Impact Assessment Report.
- 5.4.6. **Item 5:** A report that specifically addresses site context, the locational attributes of the area, boundary treatments, open / gated controlled linkages through the site, pedestrian and cycle connections to the wider area, in particular along the canal, Park Road and PA Healy Road, cognisance being had to national and local planning policy. A specific Site Context Report has been included by the planning consultant to address this issue.
- 5.4.7. **Item 6:** That the public notices describe the apartments as 'Build to Rent'. This has been carried out.
- 5.4.8. **Item 7:** Justification for a 10 year planning permission and detailed and justified construction phasing plan for the development. The planning consultant refers to the three phases of construction. The first phases is to provide for the student accommodation, housing, facilities building and central access route between Pa Healy Road and the towpath. Phase 2 provides for the apartment blocks 4, 5, 6 and 7 (subsequently subdivided into two phases with two blocks in each subdivision) and the third phase provides for apartment blocks 2 and 3.
- 5.4.9. **Item 8:** A Site Specific Student Management Plan. One has been provided by the planning consultant.
- 5.4.10. **Item 9:** Response to matters raised within the PA Opinion and Council Department comments, submitted to the Board on 11th September, 2020. The planning consultant

notes that the construction phases are now in reality four phases, acknowledging the planning authority's concern that more than three phases of construction. The access is considered appropriate, notwithstanding the planning authority's concerns. The approach will prevent unauthorised and ad hoc car parking in front of the retail units on PA Healy Road. Additional hydraulic analysis has been undertaken in relation to stormwater drainage (for the 1/30 and 1/100 year return). A noise management plan has been prepared to protect the residential amenity of the residential accommodation from excessive noise during construction. This is included in the noise chapter in the EIAR. The planning consultant states that the survey for floating river vegetation has been undertaken and included in the Natura Impact Statement [this is contained in the EIAR rather than the NIS]. A project ecologist will be appointed. In operation, a planning condition is invited to reduce access to the towpath in the hours of darkness to maximise biodiversity, by closing the gates to the towpath. A planning condition is invited in relation to archaeological monitoring. The Landscape Design Report incorporates the materials, lighting and access links along the boundary with the towpath. A commentary is provided in the Daylight / Sunlight Report.

- 5.5. I note that the applicant has notified the prescribed bodies as listed in the Board Opinion and these were provided with a copy of the application. Of the six listed, three have responded. The responses are considered in Section 9.0 of this report.

6.0 Relevant Planning Policy

6.1. *National Planning Framework (2018)*

6.1.1. The *National Planning Framework* addresses the issue of 'making stronger urban places' and sets out a range of objectives which it considers would support the creation of high quality urban places and increased residential densities in appropriate locations while improving quality of life and place.

6.1.2. Table 2.1 sets out a summary of the key national targets. With regard to Limerick city and suburbs it sets an additional population target of 50,000 – 55,000 to provide an overall population of 145,000 by 2040. It also states that to create compact, smart and sustainable growth 50% of new housing should be provided within the cities and suburbs and 30% elsewhere within the existing urban footprint.

6.1.3. Relevant Policy Objectives include:

- 6.1.4. **National Policy Objective 4:** Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.
- 6.1.5. **National Policy Objective 13:** In urban areas, planning and related standards, including in particular building height and car parking, will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.
- 6.1.6. **National Policy Objective 33:** Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- 6.1.7. **National Policy Objective 35:** Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.
- 6.1.8. **National Policy Objective 57:** Enhance water quality and resource management by ... ensuring flood risk management informs place making by avoiding inappropriate development in areas at risk of flooding in accordance with The Planning System and Flood Risk Management Guidelines for Planning Authorities...

Climate Action Plan (2021)

6.1.9. This plan notes the need to encourage modal shift away from the private car.

6.2. Section 28 Ministerial Guidelines

6.2.1. Having considered the nature of the proposal, the receiving environment, the documentation on file, including the submissions from the planning authority, I am of the opinion that the directly relevant Section 28 Ministerial Guidelines are:

- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, 2020
- Building Height Guidelines, 2018
- Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities, 2009.

- Urban Design Manual, A Best Practice, 2009
- Design Manual for Urban Roads and Streets, 2019
- The Planning System and Flood Risk Management Guidelines, 2008
- Regulation of Commercial Institutional Investment in Housing Guidelines, 2021
- Childcare Guidelines for Planning Authorities, 2001.

6.3. **Regional Spatial and Economic Strategy for the Southern Region (2020)**

6.3.1. The site is located with the 'Limerick-Shannon Metropolitan Area'. The RSES incorporates Metropolitan Area Strategic Plans (MASP) to ensure coordination between local authority plans. A key component of the RSES is building partnerships and a collaborative approach between the cities and metropolitan areas to realise combined strengths and potential, and to support their development as a viable alternative to Dublin.

6.3.2. The MASP notes that Limerick City is the largest urban centre in the Mid-West and the country's third largest city. Limerick City and Shannon are interdependent, with their complementary functions contributing to a combined strength that is a key economic driver for the Region and Ireland. Limerick Regeneration, the amalgamation of Limerick City and County and the Limerick 2030 initiative have all contributed to enhancing Limerick's growth potential. There is capacity to build on recent successes and add to the ambitious vision for this Metropolitan Area.

6.3.3. The MASP highlights the need to increase residential density in Limerick City and Shannon through a range of measures including, reductions in vacancy, re-use of existing buildings, infill and site-based regeneration. The MASP supports the densification of Limerick City Centre, the assembly of brownfield sites for development and City Centre rejuvenation and consolidation.

6.4. **Limerick Development Plan 2022 -2028**

6.4.1. During the process of this application, a new development plan was adopted on the 17th of June, 2022 and brought into effect on the 29th of July, 2022. The land use zoning objective for the site is currently '**New Residential**' and **is no longer 'Mixed Use'**. The objective of the zoning is: '*To provide for new residential development in*

tandem with the provision of social and physical infrastructure.’ The purpose of the zoning is:

“This zone is intended primarily for new high quality housing development, including the provision of high-quality, professionally managed and purpose built third level student accommodation. The quality and mix of residential areas and the servicing of lands will be a priority to support balanced communities. New housing and infill developments should include a mix of housing types, sizes and tenures, to cater for all members of society. Design should be complimentary to the surroundings and should not adversely impact on the amenity of adjoining residents. These areas require high levels of accessibility, including pedestrian, cyclists and public transport (where feasible). This zone may include a range of other uses particularly those that have the potential to facilitate the development of new residential communities such as open space, schools, childcare facilities, doctor’s surgeries and playing fields etc.”

- 6.4.2. Residential use, student accommodation, childcare and community facilities, are permitted in principle. **Restaurant/café, retail use and leisure/recreational facility are generally not permitted. A generally not permitted use is one that would be incompatible with the zoning policies or objectives for the area** [my emphasis].
- 6.4.3. The residential capacity of the site is expected to be 45+ units per hectare. It is outside the area indicated for densities of 100+ units per hectare.
- 6.4.4. The flood map indicates that the north-eastern and southern parts of the site as subject to flooding.
- 6.4.5. An existing cycleway / walkway exists along the towpath and PA Healy Road. An indicative cycleway / walkway is proposed along Park Road.
- 6.4.6. The site is identified in the Spatial Strategy as an Opportunity Site within the city centre. It is No. 1 Housing Opportunity site on Map 3.2. It is Site P – The PA Healy Road site on Map 3.3. Map 3.4 identifies that the canal is part of an existing greenway. The PA Healy Road is a primary route. An area of green space is shown connecting the greenway to the PA Healy Road. On Map 3.5, a proposed cycleway runs along the PA Healy Road and Park Road (please note that there are existing cycleways either side of the PA Healy Road).
- 6.4.7. A Building Height Strategy in the development plan is set out. There is a general presumption against tall buildings outside of the areas identified in the development

plan. The site is located within the inner city, but there is no tall building associated with it. The area is described as *UCA 02 - Surrounding Suburban Area*. This area covers the suburbs immediately adjoining the Inner-City Area. It includes the neighbourhoods of Ballysimon, Garryowen, Singland and Rhebogue. The plan notes that this area is substantially residential in character with a range of services. It recommends that infill and brownfield development patterns to be favoured. The Building Height Strategy is to inform the design of higher buildings.

Policy TB2: *Tall Buildings outside the City Centre Limerick City and County Council will aim to protect the character and characteristics of the City by limiting the locating of tall buildings outside the City Centre (inner and outer areas). Generally tall buildings will only be permitted outside of the City Centre at designated District Centres and in accordance with the locations and 'Tall Building Classifications' shown on Map 6.8 of this Building Height Strategy for Limerick City.*

There is no indicator of a tall building on the site on Map 6.8 and the site is not located in a district centre.

Objective CGR 09 Building Heights It is an objective of the Council to:

b) Focus delivery of tall buildings in the City Centre, in particular the areas that have been identified as having potential for increased building height. In particular, tall building clusters will be encouraged at The Quays, Colbert Station Quarter, Cleeves Site and The Docklands in accordance with the building classification criteria set out in the Building Height Strategy. There shall be a general presumption against tall buildings in other areas, except at designated areas and the gateway locations identified in the Tall Buildings at City Level Map below

6.5. The site is discussed in relation to height in Volume 6 of the development plan. It notes that an 8-12 storey proposed development had been rejected on environmental grounds.

6.6. The site is not located in a strategic view. It is described as being within the rest of the Inner City Area, which forms part of the City Centre area where tall buildings can be considered (a tall building is defined as one that is significantly higher than the building height in the surrounding area).

6.7. The University of Limerick has a campus proposed at Sarsfield Bridge, a little over a kilometre from the site.

6.8. Map 3.2 (Opportunities and Destinations) identify the site as a Housing Opportunity. Map 3.3 (City Spatial Opportunities) states that the site is available for housing in the short term. It is referred to as 'P' on the map. There are two other PA Healy Road opportunity sites referred to the development plan – one of 1.7ha (Dawn Dairies) and the other 0.9ha (Former Shannon Minerals Site). Neither appears to apply to this site and neither are mapped on Map 3.9 (City and Suburbs (in Limerick), Mungret and Annacotty Consolidation and Opportunity Sites). The current site is not mapped either on this map.

6.9. The following policies are considered relevant: -

- 6.9.1. **Policy TR P3 Integration of Land Use and Transport Policies** *It is a policy of the Council to support and facilitate the integration of land use and transportation policies ensuring the delivery of sustainable compact settlements served by sustainable modes of transport.*
- 6.9.2. **Objective TR O8 Walking and Cycling Infrastructure** *It is an objective of the Council to:*
- a) *Improve and provide clear, safe and direct pedestrian linkages, cycle networks, including the greenways and primary segregated cycle routes, between the employment zones, shopping areas and residential areas throughout Limerick;*
 - b) *Maintain and expand the pedestrian route network, infrastructure and where possible, retrofit cycle and pedestrian routes into the existing urban road network, to provide for accessible safe pedestrian routes within Limerick.*
- 6.9.3. **Objective TR O9 Limerick Cycle Network** *It is an objective of the Council to implement in full, the Cycle Network, which will be set out in the final LSMATS, with priority given in the short term to delivering the primary cycle network and cycle routes serving schools.*
- 6.9.4. **Objective IN O21 Construction and Demolition** *It is an objective of the Council to:*
- a) *Require construction Waste Management Plans to be submitted as part of planning applications, to address waste management on site during construction and mitigation measures to address waste generation, in accordance with the principles of the circular economy and the principles of prevention, renewal and recycle.*

b) Require a Refurbishment/Demolition Asbestos Survey (RDAS) with full details of disposal of the asbestos to be submitted with any planning application. The RDAS should be carried out in accordance with Section 8 of the Health and Safety Authority, Asbestos Guidelines (Practical Guidelines on ACM Management and Abatement) by a suitable qualified professional with expertise in asbestos disposal.

6.9.5. Objective CAF O4 Climate Proofing *It is an objective of the Council to ensure climate proofing measures are incorporated into the design, planning, layout and orientation and construction of all developments, including the use of sustainable materials, selection of suitable locations and the use of renewable energy sources.*

6.9.6. Objective CAF O9 Achieving Climate Resilience *It is an objective of the Council to promote climate resilience in development and economic activities that are regulated by planning. It is important to ensure that any developments are climate resilient as they will need to function in a climate altered environment. This means that they will be able to withstand increased intensity of storm events and rainfall and through adequate design, location and drainage elements, would not contribute to problems elsewhere, such as increased run off.*

6.9.7. Policy CAF P5 Managing Flood Risk *It is a policy of the Council to protect Flood Zone A and Flood Zone B from inappropriate development and direct developments/land uses into the appropriate lands, in accordance with The Planning System and Flood Risk Management Guidelines for Planning Authorities 2009 (or any subsequent document) and the guidance contained in Development Management Standards and the Strategic Flood Risk Assessment (SFRA). Where a development/land use is proposed that is inappropriate within the Flood Zone, but that has passed the Plan Making Justification Test, then the development proposal will need to be accompanied by a Development Management Justification Test and Site-Specific Flood Risk Assessment in accordance with the criteria set out under The Planning System and Flood Risk Management Guidelines for Planning Authorities 2009 and Circular PL2/2014 (and any subsequent updates). This will need to demonstrate inclusion of measures to mitigate flood and climate change risk, including those recommended under Part 3 (Specific Flood Risk Assessment) of the Site Specific Plan Making Justification Tests detailed in the SFRA. In Flood Zone C, the developer should satisfy themselves that the probability of flooding is appropriate to*

the development being proposed and should consider other sources of flooding, residual risks and the implications of climate change.

6.9.8. Objective CAF O20 Flood Risk Assessments *It is an objective of the Council to require a Site-Specific Flood Risk Assessment (FRA) for all planning applications in Flood Zones A and B and consider all sources of flooding (for example coastal/tidal, fluvial, pluvial or groundwater), where deemed necessary. The detail of these Site-Specific FRAs (or commensurate assessments of flood risk for minor developments) will depend on the level of risk and scale of development. The FRA will be prepared taking into account the requirements laid out in the SFRA, and in particular in the Plan Making Justification Tests as appropriate to the particular development site. A detailed Site-Specific FRA should quantify the risks, the effects of selected mitigation and the management of any residual risks. The assessments shall consider and provide information on the implications of climate change with regard to flood risk in relevant locations.*

6.9.9. Development management objectives include:

- A minimum of 10% of the site may be required for open space on Brownfield sites.
- Where a proposed development adjoins a river or canal bank, a linear walkway/ cycleway access for the public may be required. The overall layout of the scheme will not compromise the future development of blue and green infrastructure proposals.
- Inner urban houses are required to have 25 square metres of open space.
- Where noise is identified as an issue on a site, planning applications should be supplemented by an Acoustic Design Statement carried out by a suitably qualified person. The Acoustic Design Statement should demonstrate that all facets of ProPG have been followed.
- A dual aspect apartment shall be designed with openable windows on two or more walls, allowing for views in more than just one direction. The windows may be opposite one another, or adjacent around a corner. The use of canted

windows on single external elevations is not acceptable to be considered dual aspect and these units, will be assessed as single aspect units.

6.9.10. **The location of student accommodation:** *The Council will prioritise student accommodation on campus or within 1km distance from the boundary of a Third Level Institute, followed by locations within close proximity to high quality public transport corridors, cycle and pedestrian routes and green routes;*

- *The potential impact on residential amenities: The provision and location of student accommodation will not be permitted where it would have a detrimental effect on established residential amenities;*

- *The provision of on-site facilities, including storage facilities, waste management, quality and quantum of cycle parking and associated showers and lockers, leisure facilities, car parking and amenity areas;*

- *The architectural quality of the design and integration with the wider streetscape with respect to scale, mass, external finishes and landscaping;*

- *The number of existing similar facilities in the area (applicable only to off campus accommodation). In assessing a proposal for student accommodation, the Planning Authority will consider the cumulative impact of student accommodation, which exists in the locality and will resist the overconcentration of such schemes in any one area, in the interests of sustainable development and residential amenity. A student management plan is required in all applications.*

6.9.11. On-site car parking must comply with the requirements set out in Section 11.8.3 Car and Bicycle Parking Standards, DM Table 9a/9b. In all instances, the applicant shall clearly demonstrate that the BTR development is located within a 10-minute walking time from high frequency public transport routes.

6.9.12. Car parking and bicycle standards: Build to Rent, including students – one car parking space per 15 beds, one car club space and one cycle space per 5 beds. Plus 3 bedroom house requires 1.5 car parking spaces and 2 no. bicycle place plus 1 visitor cycles spaces per unit.

6.10. **Limerick 2030 (2013)**

6.10.1. This plan sets out a vision for the county as a whole and a framework for public sector action and private sector investment in the County until 2030. It prioritises the City Centre with a focus on redevelopment of particular sites.

6.11. **Draft Limerick Shannon Metropolitan Area Transport Strategy (2022)**

6.11.1. The City Centre will become the focus for regeneration, with an emphasis on Transport Orientated Development (TOD). New mixed-use development will be encouraged at appropriate densities with high capacity public transport infrastructure and combined with more attractive walking and cycling networks and public realm improvements. All new development areas will be fully permeable for pedestrians and cyclists and opportunities to improve permeability for these modes in existing developed areas will be sought. The layout of new developments will prioritise walking and cycling and enable the efficient provision of public transport services.

6.11.2. The canal forms part of the Greenway. PA Healy Road will form part of the Secondary Cycle Network. Park Road is to form part of the feeder route to the Greenway.

6.11.3. The revision of the bus network will see Dublin Road and Athlunkard Road form parts of the bus network, with routes A and C running these roads.

6.11.4. Suburban rail stations at Parkway and Corbally are planned.

6.12. ***Applicants Statement of Consistency***

6.12.1. The applicant has submitted a Statement of Consistency (as part of the Planning Report) as per Section 8(1)(iv) of the Act of 2016, which indicates how the proposal is consistent with the policies and objectives of the relevant Development Plan or local area plan. It should be noted that the relevant development plan has changed since the submission of the application and the Statement of Consistency addresses the plan in operation at the time and so is no longer current.

6.12.2. The Statement of Consistency also refers to the National Planning Framework, Section 28 Guidelines and regional policy. It remains relevant in relation to these overarching plans and guidelines. The following points are noted:

National Planning Framework (NPF) (2018)

- 6.12.3. Limerick is one of the four cities, along with Dublin, which form the primary tier of the national settlement strategy. Under the NPF 50% of all new housing within Limerick City is to occur within the existing city and suburbs footprint, through brownfield, infill and regeneration. The proposed development is consistent with this approach and will increase population in an appropriate area. It rejuvenates a brownfield site, close to the centre of Limerick City. It provides both residential accommodation and retail/cafe use, providing services and employment opportunities on site, consistent with compact growth. The new buildings will achieve significant energy efficiency levels.

Urban Design Manual – A Best Practice Guide (2009)

- 6.12.4. The proposed development is consistent with the above guideline as it provides an appropriate high density and urban character for a site, in close proximity to the city centre. It provides both permeability to the site and connectivity to the wider area, including the University of Limerick. The scheme provides a high quality urban form including a landmark building and public park. The mixture of houses, build to rent apartments, student accommodation, creche facility and neighbourhood retail facilities, ensures that necessary facilities (play areas, childcare, local shop) are provided within walking distance within an attractive public realm that is overlooked.
- 6.12.5. Appendix B of the Statement provides an assessment of the proposed development under the twelve criteria set out in the guidelines.

The Planning System and Flood Risk Management (2011)

- 6.12.6. A justification test and site-specific flood risk assessment was carried out and submitted with the application.

Design Manual for Urban Roads and Streets (2019)

- 6.12.7. The access junctions and internal roads have been designed in accordance with these standards.

Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020)

6.12.8. The 'Build to Rent' units complies with Specific Planning Policy Requirement 1 under the Guidelines which states that no more than 20-25% of the total proposed development shall be studio apartments and no more than 50% of the total proposed development shall be one bedroom or studio apartments. A compliance schedule, indicating compliance with minimum standards has been submitted. Residential facilities have been provided. Car parking has been minimised and a mobility management plan included. A draft legal covenant is submitted.

Part V Guidelines

6.12.9. The proposed development provides 38 units for Part V purposes, including two houses. The units are pepper potted through the scheme.

Urban Development and Building Heights Guidelines for Planning Authorities (2018)

6.12.10. The site's location and accessibility to public transport and the absence of residential development in the vicinity makes it appropriate for taller buildings. The planning consultant states that specific assessments required by the guidelines relevant to the site have been undertaken and are summarised in Appendix B of the Statement.

Childcare Facilities Guidelines (2001)

6.12.11. A childcare facility has been provided as part of the proposed development. The facility has been sized to accommodate childcare demand on the site and to facilitate the wider community. The facility caters for 70 children. The estimated demand from the proposed development, according to the *Childcare Demand Analysis* prepared by RW Nowlan and Associates, is 66 child places. The Statement of Consistency refers to 56 child places.

Appropriate Assessment Guidelines for Planning Authorities (2020)

6.12.12. An NIS has been prepared for the site.

National Student Accommodation Strategy – Rebuilding Ireland (2017)

6.12.13. Seven thousand student accommodation places are needed nationally. The site is well located in Limerick to facilitate access to third level colleges. A Student Accommodation Management Plan has been submitted.

6.12.14. Other policy documents referenced in the Statement of Consistency are:

- Rebuilding Ireland – Action Plan for Housing and Homelessness (2016);
- Delivering Homes, Sustaining Communities (2008) and the accompanying Best Practice Guidelines- Quality Housing for Sustainable Communities;
- Quality Housing for Sustainable Communities (2007);
- Smarter Travel – A New Transport Policy for Ireland (2009-2020).

Regional Economic and Spatial Strategy for the Southern Region (RSES) (2020)

- 6.12.15. The proposed development is consistent with the '10 minute city' concept (Regional Policy Objective 176). The removal of a vacant site is consistent with MASP Policy Objective 5 to identify suitable sites for regeneration and development by a quality site selection process that addresses environmental concerns.
- 6.12.16. The proposed development is consistent with MASP Policy Objective 10, which seeks to support the environmentally sustainable densification of Limerick City Centre, the assembly of brownfield sites for development and the regeneration of suburbs to accommodate residential use.
- 6.12.17. The proposed development is consistent with MASP Policy Objective 18 as the proposed student accommodation with associated support services contributes to support the existing educational facilities in the Limerick Shannon Metropolitan Area as critical drivers of economic development.
- 6.12.18. *Limerick 2030 Vision: An Economic and Spatial Plan for Limerick* is also mentioned in the Statement of Consistency.

Material Contravention Statement

- 6.12.19. For clarity and notwithstanding third party submissions to the contrary, no material contravention statement has been submitted.

7.0 Third Party Submissions

Three no. third party submissions were received. The submissions are summarised overleaf.

7.1. **John Conway and The Louth Environmental Group (BKC Solicitors)**

Section 28 Guidelines:

- 7.1.1. The Board should refuse and cannot grant permission for the proposed development where such a grant would be justified by the *Urban Development and Building Height Guidelines* and *Apartment Guidelines*, reliant on Specific Planning Policy Requirements. Section 28(C) of the Planning and Development Act, 2000, purports to authorise these guidelines, but such provision is unconstitutional. The guidelines are also contrary to the SEA Directive as they authorise contraventions of the development plan without SEA or screening for SEA being conducted.
- 7.1.2. The proposed development materially contravenes the density requirements, housing mix, public open space, building height, car parking of the development plan and local area plan. This cannot be justified by reason of S. 37 of the Act or Section 28 Guidelines.
- 7.1.3. The visual impact cannot be justified.
- 7.1.4. The proposed development's documentation does not comply with the Specific Planning Policy Requirements of the Height Guidelines, as set out in the Material Contravention Statement as submitted and the Board is precluded from granting permission.
- 7.1.5. Material contravention of the development plan and local area plan, due to non-compliance with the Local Area Plan/Masterplan/Urban Design Framework, which cannot be overcome by reference to S. 37 of the Act.
- 7.1.6. The proposed development is not strategic or of national importance in itself.
- 7.1.7. The capacity of the area to absorb the proposed development has not been demonstrated in relation to public transport, drainage, water services and flood risk.
- 7.1.8. Reliance on S. 27 of the Act is unlawful as it would constitute a breach of the SEA Directive.
- 7.1.9. The proposed development is in breach of the Mixed Use Zoning in the 2016 City Development Plan represents a traffic hazard for existing residents and would contribute to traffic congestion.

Screening For Environmental Impact Assessment

- 7.1.10. The EIAR is inadequate and deficient and does not permit an assessment of the potential environmental impacts of the proposed development.
- 7.1.11. The site should have been subject to EIAR, notwithstanding its subthreshold status. The screening ecological report is inadequate and deficient and does not permit an assessment of the potential environmental impacts of the proposed development.
- 7.1.12. The application and application documents do not comply with the Planning Acts, Regulations or EIA Directive and are inadequate.
- 7.1.13. Insufficient information to assess the impacts of the proposed development, during construction and operational phases, on birds, otters and bats, including collision and other specific assessments have not been carried out. The direct and indirect effects on Biodiversity for habitats and species, have not been identified, described or assessed.
- 7.1.14. The criteria considered in the EIA Screening Report does not comply with the requirements of the planning legislation.
- 7.1.15. The cumulative impacts considered in the EIAR are not adequate.
- 7.1.16. The Population and Health Chapter of the Screening Report did not consider the capacity of schools, childcare and medical care.
- 7.1.17. The impact on biodiversity and human health of the proposed development during construction and operation is inadequate and deficient.

Screening for Appropriate Assessment

- 7.1.18. The development does not comply with the requirements of the 2000 Act and the Habitats Directive due to inadequacies, gaps and not based on appropriate scientific expertise in the AA Screening Report. The Board, therefore, cannot complete an appropriate assessment screening.
- 7.1.19. The AA Screening Assessment contained within the NIS does not provide sufficient reasons or findings required under the Habitats Directive. The conclusions / statements made do not identify any clear methodology and no analysis is offered in respect of sites screened out at the AA screening stage.
- 7.1.20. Construction is not adequately dealt with.

- 7.1.21. Insufficient surveys have been carried out, particularly in relation to collision risk. There is an absence of site specific evidence.
- 7.1.22. The Screening Assessment is flawed as it rules out certain designated sites on the basis of mitigation measures.
- 7.1.23. The cumulative effects are not adequately dealt with.
- 7.1.24. Over saturation with 'Build To Rent' apartments, with 100% of the site being 'Build To Rent', family sized units being excluded and no childcare facilities provided.

7.2. Siobhan O'Brien

- 7.2.1. Concern for the impact of the proposed development on the ecology of the area, which should be left intact to provide for a natural oasis in the city.
- 7.2.2. Traffic congestion along the PA Healy Road is already severe, with long tailbacks, particularly at peak hours.

7.3. Environmental Trust Ireland

- 7.3.1. The proposed development will not provide for persons seeking to purchase their own homes at an affordable price, which is not socially sustainable.
- 7.3.2. The EIAR is inadequate – the site is brownfield, the proposed development involves demolition and construction, there is Asbestos and contaminated soil.
- 7.3.3. In relation to Natura 2000 sites, the site is 30 metres from an SAC. The site is opposite a wetland area and there are qualifying habitats in the Park Canal. These have not adequately assessed in relation to either Annex II species or in relation to potential habitat fragmentation which has been ignored. Species within the Annex I qualifying interests have not been assessed properly for the adjacent Natura 2000 sites.
- 7.3.4. A combination document of Appropriate Assessment Screening and Natura Impact Statement prevents proper assessment or evaluation of the qualifying interests or the impacts or potential impacts upon them under the Habitats Directive and is not appropriate. It is noted that the Planning Regulator in its Guidelines on AA Assessment expressly drew attention to this issue and the need for separate AA Screening and NIS.

- 7.3.5. The information provided by the developer demonstrates that groundwater is close to the surface on this site. Impacts on groundwater pose a threat to European Sites, as identified in the AA Screening assessment.
- 7.3.6. There is a risk of flooding on the site. Residential development is not appropriate in these circumstances. The Planning Regulator specifically referred to PA Healy Road as an unsuitable location for development having regard to flood risk.
- 7.3.7. Mitigation measures were taken into account without an adequate and complete EIAR.
- 7.3.8. The cumulative effects of impending development were not properly taken into account.
- 7.3.9. The height is excessive and will give rise to a poor standard of residential amenity.

8.0 Planning Authority Submission

- 8.1. The Chief Executive's **(CE) Report**, in accordance with the requirements of Section 8(5)(a) of the Act 2016, was received by An Bord Pleanála on the 30th May, 2022. The report includes a summary of the proposed development, description of the site and surrounding area, planning history, zoning of the site, a summary of submissions by third parties, prescribed bodies and policy context. I note that in the Limerick Development Plan has been adopted since the submission of the CE's Report. Therefore, the report, in relation to specific policy, has been overtaken by the new development plan. The report identifies that the site is changed to residential zoning in the draft development plan. It states that the principle of development, including student accommodation, is acceptable at this location.
- 8.2. Internal reports from the Archaeologist, Active Travel Department, Architectural Conservation Officer, Environment Section (Waste), (Noise), PEPM (Flooding), Heritage Officer, Service Operations (Parks and Open Space), (Roads, Lighting, Surface Water) and Housing Section, are included as appendices.
- 8.3. A summary of the views of the **Elected Members** of the Metropolitan District of Limerick as expressed at a special meeting held on the 16th May, 2022. The elected members requested that the Board consider the adequacy of the existing infrastructure in the area. Congestion at PA Healy Road and Dublin Road results in people living in Rhebogue have difficulty getting onto the Dublin Road. A Traffic Management Plan is

needed for the general area. Public transport and active travel provisions are needed. The Northern Distributor Road proposals will impact on the area. Concern is expressed about the potential to discharge from the site to the canal during construction. Access to the canal could be blocked during construction. There is an excessive amount of 'Build To Rent' apartments and the composition should be changed.

- 8.4. The observations from prescribed bodies and submissions from observers are summarised in the CE Report.
- 8.5. The key planning considerations of the CE's report are summarised below.
 - 8.5.1. **Principle of Development:** Residential development is permitted in principle. The apartments, student accommodation with ancillary retail and childcare is compatible with the then mixed use zoning. The provision of student accommodation does not represent an over concentration of student accommodation in the area.
 - 8.5.2. **Demolition of Buildings:** The demolition of the existing building on site is noted.
 - 8.5.3. **Site Layout:** The planning authority is satisfied with the proposed layout in general terms. Details of design will be discussed. The second access from PA Healy Road adjacent to the Student Accommodation should be omitted on road safety grounds.
 - 8.5.4. **Density:** The site can be described as a 'Central and/or Accessible Urban Location'. The density is 110.5 units per ha. This is not considered excessive at this location and is in line with the *Apartment Guidelines*.
 - 8.5.5. **Apartment Blocks:** The proposed units are considered to be consistent with the standards as set out in the *Apartment Guidelines*.
 - 8.5.6. **Design, Height, Scale, Materials and Finishes:** It is considered that the development makes a positive contribution to place making and incorporates new public spaces, particularly along the canal frontage. It provides passive surveillance of the proposed park and communal spaces. It provides a strong edge to the development with generous spaces between the blocks. The external finishes are well considered and high quality.
 - 8.5.7. **Residential Amenity:** The lands to the north are vacant. Park Road has the nearest sensitive receptors. The proposed development will give rise to shadowing in the

evening during summer months, however this is limited. No significant impact on Average Daylight Factor on existing properties arise.

- 8.5.8. **Public Open Space / Landscape Strategy:** Open space is circa 26% of the site (public park and communal open space). The site layout ensures that the areas of communal open space benefit from sunlight penetration. Public open space is overlooked. Communal roof gardens are provided. The apartments benefit from balconies. The student accommodation benefits from ground floor communal open space, at a ratio of 7.27 square metres per bedspace, which is greater than the 4 square metres required. Public open space and communal open space are proposed in Phase 2. A play area is provided in the public park.
- 8.5.9. **Childcare Facility:** A childcare facility that can cater for 70 no. children is proposed, with a secure play area (110.5 square metres).
- 8.5.10. **Unit Mix, Build to Rent Apartments, Student Accommodation, Retail Element:** The unit mix should be altered to provide for more three bedroom apartments. The proposed retail element is ancillary to the primary use as a residential complex. No takeaway or off-licence provision should be permitted at this location.
- 8.5.11. **Information for Appropriate Assessment Screening / Environmental Impact Assessment:** There is a gap of year between site survey and submission. Surface water measures will avoid damage to water quality and aquatic life and plants. Natural regeneration should be allowed and retention of trees and scrubland. Insufficient information in relation to *Ranunculus fluitantis* and *Callitriche-Batrachion* vegetation in both NIS and EIAR.
- 8.5.12. **Internal Reports:** No objection in principle. Some suggestions are made in relation to layout changes and clarifications. Suitable conditions are recommended for attachment, subject to a grant of permission.
- 8.5.13. **Part V:** A condition is recommended that the Part V element for the Build to Rent apartments is not restricted to leasehold only.
- 8.5.14. **Development Contributions:** rates and estimates are provided.
- 8.5.15. **Conclusion and Recommendation:** The proposed development is consistent with the then applicable development plan.

It is recommended that permission be granted for the following reason: -

Having regard to the site's location on lands zoned ZO.5 (A) Mixed Use, The National Planning Framework and Rebuilding Ireland (Project Ireland 2040), Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009, Urban Design Manual A Best Practice Guide 2009, Sustainable Urban Housing – Design Standards for New Apartments, 2020, Design Manual for Urban Road and Street, 2013 and The Planning System and Flood Risk Management Guideline 2009, the proposed development subject to conditions below is in accordance with the proper planning and sustainable development of the area.

If permission is being contemplated the planning authority also set out 35 recommended conditions.

9.0 Prescribed Bodies

9.1. The list of prescribed bodies, which the applicant was required to notify prior to making the SHD application was issued with the Section 6(7) Opinion and included the following: -

- Irish Water
- National Transport Authority
- Transport Infrastructure Ireland
- Department of Culture, Heritage and the Gaeltacht
- An Taisce
- Heritage Council

9.2. The applicant notified the relevant prescribed bodies listed in the Board's Section 6(7) opinion. The letters were sent on the 1st of April, 2022. A summary of the comments received are summarised below:

9.2.1. **Irish Water:** Confirms that connection to water supply and wastewater can be achieved without any upgrades. The Limerick Main Drainage Foul Sewer traverses the site. There is an existing wayleave in place over the 1000mm foul sewer. The applicant has confirmed that this infrastructure is being preserved with no structures proposed within the said wayleave. Conditions are recommended.

9.2.2. **National Transport Authority:** Suggests that a higher residential component could be achieved on site, notwithstanding the density of 110.5 units per hectare, given the

locational attributes and levels of public transport, pedestrian and cycle connectivity enjoyed by the site. The housing element of 18 houses accounts for circa 10% of the site area and is the only residential provision within the first phase. This is an underutilisation of this part of the site.

9.2.3. It is recommended that the eastern access is redesigned and signalised, to facilitate the proposed development and the permitted school. Queries are raised in relation to access to the cyclelane and its obstruction by boundary treatment.

9.2.4. The NTA recommend that clarification of access points details including signage, levels and demarcation onto the proposed cycle lane at both its northern and southern ends including 'tie-in' with the existing footpath and road carriageway on Park Road and the cycle track/footpath on the Canal Bank in accordance with the National Cycle Manual is made and that a condition which ensures that the cycle track is fully accessible and fully visible from Park Road. Long-stay bicycle parking should be secure, covered and positioned within close proximity to entrances, and where it benefits from passive surveillance. The number of spaces provided should, at a minimum, be in accordance with Development Plan standards.

9.2.5. **Transport Infrastructure Ireland:** Confirms that no observations are made.

9.2.6. **DAU:** Archaeological monitoring condition recommended.

9.2.7. No submission was received from **An Taisce** or the **Heritage Council**.

10.0 **Assessment**

10.1. The Board has received a planning application for a housing scheme under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016. Having regard to the nature and scale of the proposed development, which is in the form of 189 student bedspaces, 381 residential units, and circa 1,299 square metres of other uses on lands zoned for residential development, I am of the opinion that the proposed development falls within the definition of Strategic Housing Development as set out in Section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016.

10.2. My assessment focuses on the National Planning Framework, the Regional Economic and Spatial Strategy and all relevant Section 28 guidelines and policy context of the

statutory development plan and has full regard to the CE's Report, Third Party observations and submission by prescribed bodies. The assessment considers and addresses the following issues: -

- Principle of Development
- Quantum of Development
- Design Approach
- Building Height
- Open Space
- Residential Amenity
- Water Services
- Flood Risk
- Connectivity and Transportation
- Part V
- Phasing
- Chief Executives Report

10.3. Principle of Development

10.3.1. The land use zoning objective for the site is 'New Residential'. The objective of the zoning is: *'To provide for new residential development in tandem with the provision of social and physical infrastructure.'* The purpose of zoning provides for residential accommodation, including student accommodation, a mix of housing type and tenure and childcare facilities. It should be noted that under the land use matrix, a leisure/recreational facility, restaurant/café and retail units of any size, are not generally permitted in principle. Therefore, some of the ground floor uses of Block 1 could be considered as generally not permitted. It is not clear if the café in Block 1 is solely for student use or if it is open to the wider population. Similarly, the café in the community building would have to be for residents only, to accord with the land-use zoning. However, if these units are to be open to the visiting public, this would materially contravene the zoning objective of the land use. The extent of commercial development (excluding the childcare facility) is a minimum of circa 260 square metres, but may also apply to the café in the student's accommodation (circa 145 square metres) and the café in the community building – 92 square metres. The **CE**

Report refers to the mixed use zoning of the site in the previous development plan. The principle of the development is considered compatible with the ZO.5 Mixed Use objective.

- 10.3.2. The current land-use zoning objective of 'New Residential' states that a range of other uses may be included, that facilitate the development of new residential communities such as open space, childcare facilities and playing fields. A community facility is open to consideration. I would consider that shops, cafes, gyms and other local services also facilitate the development of new residential communities. However, the land-use matrix indicates that such uses are generally not permitted in this zoning. In my opinion, the land-use matrix is not aligned with Specific Planning Policy Requirement 2 of the *Urban Development and Building Height Guidelines*, 2018 which state:

“SPPR 2: In driving general increases in building heights, planning authorities shall also ensure appropriate mixtures of uses, such as housing and commercial or employment development, are provided for in statutory plan policy. Mechanisms such as block delivery sequencing in statutory plans² could be utilised to link the provision of new office, commercial, appropriate retail provision and residential accommodation, thereby enabling urban redevelopment to proceed in a way that comprehensively meets contemporary economic and social needs, such as for housing, offices, social and community infrastructure, including leisure facilities.”

- 10.3.3. Were this an ordinary appeal or an appeal on a Largescale Residential Development, under Section 37 (2) of the Planning and Development Act, 2000, as amended, would be able to materially contravene the land use zoning objective, on the basis of conflicting with national Section 28 guidance. However, the Board has the authority to materially contravene a development plan, save for in relation to the zoning of the land, under Section 9 (6) (b) of the 2016 *Planning and Development (Housing) and Residential Tenancies Act, 2016*

(b) The Board shall not grant permission under paragraph (a) where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned, in relation to the zoning of the land.

- 10.3.4. I am therefore of the view that the Board is precluded from granting permission for the proposed development. The proposed development is essentially residential in nature

in nature. It is largely compliant with the land use zoning of the site. However, Section 9 (6) (b) specifically refers to where part of the proposed development materially contravenes the development plan in relation to the zoning of the land, permission is to be refused. I refer the judicial review case No. 248, 2020, *Dublin Cycling Campaign CLG vs An Bord Pleanala*, where the issue of the use of land in an SHD application is considered. The commercial car park in that case formed a structural element of the proposed development, as do the commercial units in this case. I also note that the retail units have a Finished Floor Level below that recommended for residential development on the site and that those units are located in Flood Zone B.

- 10.3.5. **John Conway and the Louth Environmental Group** have raised the issue of material contravention of the development plan, which is fundamental in relation to zoning.
- 10.3.6. Notwithstanding the above opinion, that the Board is precluded from granting planning permission, I will continue to assess the proposed development.

Demolition

- 10.3.7. The proposed development involves the demolition of the existing warehouse on site. There is no objection in principle to the demolition of this structure. I note the Asbestos R&D Survey Report prepared by Precision Group, which accompanies this application. Asbestos has been found in the building. Precision Group do not consider that there is currently any significant threat to human health. Should permission be granted, a site specific method statement will be produced to remove the asbestos by a specialist contractor and properly dispose of it and any other hazardous materials. I am satisfied that this can be dealt with by way of condition.
- 10.3.8. The Verdé Phase 2 Environmental Due Diligence Report (hereafter referred to as the Verdé Report), notes the presence of asbestos in 12 of the 15 excavated trail pits. Mitigations measures are proposed in the EIAR and the CEWMP, to deal with contamination on the site.

Student Accommodation

- 10.3.9. The proposed development provides for student accommodation. This is acceptable in principle in the land use zoning objective. The development plan prioritises student

accommodation on campus or within 1km distance from a Third Level Institute. The site is within 1 km of the Limerick School of Art and Design and will be within a kilometre from the new University of Limerick campus at Sarsfield Bridge. There is student accommodation in Grove Island, some 200 metres to the northwest of the site. The proposed development can accommodate some 300 students. The proposed development will provide for 189 bedspaces, bring the student population to circa 500 in the area. A *Student Demand and Concentration Report* by RW Nowlan & Associates was submitted with the application. Referring to data from the *National Student Accommodation Strategy (2019)* – there remains an overall shortfall of student accommodation, nationally. In relation to Limerick, this shortfall was estimated to be 2,169 bedspaces. In 2019, there were some 21,000 full time student spaces (and likely to increase in the future), with around 5,000 new entrants each year. The report estimates that there are a minimum of 2,956 bedspaces in Limerick. I do not consider that the proposed 189 bedspaces would significantly increase the overall number of bedspaces. The concentration in this particular area would be of the order of 500 students. The area is well served by open space and playing fields, which make it well suited for this type of use. There are few dwellings in the immediate vicinity of the site, therefore the cumulative impacts on the resident population will be limited. A Student Management Plan has been submitted with the application.

- 10.3.10. The **CE Report** states that the extent of student accommodation does not represent an overconcentration of student accommodation in the area. The provision of student accommodation is acceptable in principle.

Build-To-Rent

- 10.3.11. The Build to Rent apartments form the bulk of residential development on the site. These apartments are referred to in the public notices. A draft covenant is submitted with the application by the applicant, to remain in use for a period as 'Build to Rent' units under an institutional owner for a period of 15 years. Subject to detailed analysis of the proposed apartments, the residential use is acceptable in principle in the land use zoning objective. I note that the third party, the **Environment Trust Ireland** has raised the social sustainability of Build To Rent developments. That is a matter for government policy and the proposed development complies with the current guidelines. I note that the Minister has indicated that Build to Rent will be removed from government guidelines, but a revised Apartment Guidelines has yet to issue. The

Elected Members consider that there is an excessive number of Build To Rent apartments. The **CE Report** requests that the residential mix be altered in the Build to Rent Apartments to provide for more three bedroom units, by way of condition. Having regard to the *Regulation of Commercial Institutional Investment in Housing Guidelines, 2021*, which prohibits the use of dwellings as Build to Rent units, and the size of some of the two bedroom apartment, which exceed 90 square metres in area, there is a case for the provision of some three bedroom apartments. However, SPPR8 (i) of the Apartment Guidelines 2020 states that no restrictions on dwelling mix shall apply to Build To Rent Apartments.

Dwelling Units

10.3.12. The proposed development includes 18 no. dwelling houses. Subject to detailed analysis of the proposed apartments, the residential use is acceptable in principle in the land use zoning objective. I note the concerns expressed in the **NTA Submission**, which consider the provision of dwelling houses on these lands to represent an underutilisation of this part of the lands. I am of the view that a mix of housing typologies is required in urban areas and the opportunity to remain living in an area while in the early stage of the family life cycle, is positive in terms of social sustainability. There are a very limited number of houses in the area, until one crosses the canal to the northeast. Therefore, I consider the provision of dwellings on site to be appropriate.

Community Building

10.3.13. The proposed development provides for a three storey community building in Block I. A community facility is open to consideration in the land use zoning objective. The facility provides for the management offices and a gym, as well as the childcare facility. Residential amenities for residents are required in the Build to Rent model, so I have no difficulties with the principle. The childcare facility located therein, is similarly acceptable.

Open Space and Connectivity

10.3.14. The provision of public open space is acceptable in principle in the zoning. The concentration of open space in the north of the site, to link in and broaden the depth of greenery adjoining the towpath is to be welcomed, both from visual and biodiversity perspectives.

- 10.3.15. The connectivity of the site, by way of public transportation, cycleways and footpaths is to be welcomed and in accordance with the zoning. I note concerns raised in relation to the detailed design of the cycleways and pedestrian gates and these will be considered later.
- 10.3.16. The proposed development provides for a mixed use development, which is predominately residential in nature. The quality of the design will be discussed further in Section 10.5.7 of this report. Walking, cycling and the use of public transport are fundamental to the scheme. There is a large public park provided and a significant portion of the site is in soft landscaping. The site provides access onto PA Healy Road and the towpath.
- 10.3.17. Access is provided to the adjoining Carl Lewis Properties site. However this is via a second, left in access from the PA Healy Road, which the **CE Report** find unsafe. The proposed development is a large scale residential development and I would be of the view that a second access would be beneficial, from an accident / emergency perspective. This will be discussed in further detail under Para 10.5.7. I am satisfied that connectivity is provided to the towpath, which in turns provides access to O'Brien Park. A Site Specific Floor Risk Assessment has been provided and this will be considered in detail in Section 10.10 of this report.

10.4. ***Quantum of Development***

- 10.4.1. The proposed scheme is stated in the Planning Report and Statement of Consistency as having a net density of circa 110 units per ha. I consider that this is more accurately described as a gross density figure, as it includes the public park of 0.5 ha. Excluding this element (as per the definition of net density in the *Sustainable Residential Development in Urban Areas*, 2009, which excludes areas of open space serving a wider area), the net density is circa 126 units. The **CE Report** considers the density to be in line with the Apartment Guidelines of 2020, for this location. The current development plan considers that the site is suitable for a density of more than 45 units per hectare, when considering the residential capacity of the site. The site is not located in an area where densities in excess of 100 units are located and this could be considered a material contravention of the development plan.

- 10.4.2. The site is location in *ICA 02 – Surrounding Suburban Area*, immediately adjoining the Inner-City Area. Given the site’s strategic position, within walking distance of the city centre, on a public transport route and a network of cycleways, with a significant area of open space and retail services in close proximity, I would concur that the site is suitable for a high density development, notwithstanding its location in the Surrounding Suburban Area. The proposed development complies with Policy TR P3 which seeks to deliver sustainable compact settlements served by sustainable modes of transport.
- 10.4.3. The site coverage and plot ratio figures are not stated. In relation to site coverage, approximately 26% of the site is open space, according to the Architectural and Urban Design Statement. Allowing for a rule of thumb of 15% for roads and footpaths, the site coverage may be of the order of 49%. I estimate the gross plot ratio be 1:14 approximately. There are no limiting standards for these measures in the current development plan. I am satisfied that the estimated site coverage and plot ratio figure not excessive for this type of location.
- 10.4.4. Section 5.7 of the *Sustainable Residential Development in Urban Areas Guidelines* (2009) states that where significant brownfield sites exist and, in particular, are close to existing or future public transport corridors, the opportunity for their redevelopment to higher densities should be promoted. Section 5.8 of the guidelines also recommends that increased densities should be promoted within 500 metres walking distance of a bus stop. In general, minimum net densities of 50 dwellings per hectare, subject to appropriate design and amenity standards, should be applied within public transport corridors.
- 10.4.5. Table 2.1 of the *National Planning Framework* provides for an additional population target of 50,000 – 55,000 for Limerick city and suburbs to provide an overall population of 145,000 by 2040. It also states that to create compact, smart and sustainable growth, 50% of new housing should be provided within the cities and suburbs and 30% elsewhere within the existing urban footprint. Furthermore, Objectives 4, 13, 33 and 35 of the *National Planning Framework* and RPO10 (Compact Growth in Metropolitan Area), RPO34 (Regeneration, Brownfield and Infill Development) and RPO35 (Support for Compact Growth) of the *Regional Spatial and Economic Strategy for the Southern Region* (RSES), all support higher density developments in appropriate locations, to avoid the trend towards predominantly low-density commuter-driven

developments. It is my view that the proposed density would support the aims and objectives of the NPF or the RSES to consolidate the urban area.

- 10.4.6. In addition, Chapter 2 of the *Design Standards for New Apartments Guidelines 2020* (the Apartment Guidelines) notes that it is necessary to significantly increase housing supply, and City and County Development Plans must appropriately reflect this and that apartments are most appropriately located within urban areas, and the scale and extent should increase in relation to proximity to public transport as well as shopping and employment locations. The Apartment Guidelines consider central and / or accessible locations to be within easy walking distance to / from high frequency urban bus services. This is considered a 10 min peak hour frequency. There is a caveat included in the guidelines which states that the list is not exhaustive and would require local assessment. The Transport for Ireland website indicates that the area in the vicinity of the site is served by 3 no. bus routes (301, 304 and 323) with a maximum frequency of 15 min for the 304 in the peak periods. A number of regional buses also use these routes, but are unlikely to accept passengers from the local area at these stops and would be infrequent. It should be noted that there are no bus services within the Limerick city area that operate at a greater frequency than 15 min. It is my opinion that the subject site is located in an accessible area for Limerick.

10.5. **Design Approach**

- 10.5.1. The proposed development consists of a series of blocks that step down from a landmark 10 storey block (not 11 storey, as stated in the Architectural and Urban Design Statement) at the western section of the site. This building has been designed to address both approaches on the PA Healy Road. The series of blocks step down on a west to east basis on the PA Healy Road, so as the part 6 to part 3 storey student accommodation building is proximate to the warehouse on the neighbouring property. The PA Healy frontage is softened by open space and punctuated by two vehicular access. The student accommodation block is materially different from the two apartment blocks, which help visually create a sense of different neighbourhoods on the site.
- 10.5.2. The height of Blocks 2, 4, 5, and 7 increase on the canal towpath, creating an urban edge, with passive surveillance over this area. The blocks are orientated on a north-

south axis to maximise daylight and sunlight. Roof gardens face south, ensuring that these areas have the most sunshine. The roof gardens also help to visually soften the relatively dense area along the main spine road.

- 10.5.3. The community block containing the creche is centrally located. Communal open space is provided for in the student block, between blocks 2 and 3, and blocks 5 and 6. There are a series of pedestrian / cycle routes through the scheme. Public open space is provided in the norther-western section of site and the communal open spaces adds visually to the extent of the towpath. The Architectural and Design Statement Urban Design statement states that some 26% of the site area is either public or communal open space. This includes a plaza area in front of the community building.
- 10.5.4. The **CE Report** states that the inclusion of a landmark building provides a gateway structure into the Metropolitan Area and a focal point to the approach to the City Centre from this location. The site is proximate to public transport – both existing and future bus routes and easy walking distance of the city centre and Limerick Train Station. The proposed development is considered to positively contribute to place making, incorporates new public spaces and provides passive surveillance of the new park and towpath. The feature tower provides a strong edge to the development, there is appropriate spacing between the blocks to create a sense of scale. Please see Chapter 10 of the EIAR for the relevant views.
- 10.5.5. The dwellings are located in the eastern section of the site, abutting the existing neighbouring warehouse. These dwellings face each other in a home-zone style around a road, with a centrally located roundabout. The effect is to carve out an internally focused housing area from the rest of the estate. The disadvantage of this approach is that the rear gardens of the dwellings on the northern side of this road back on to a parking area (house numbers 11-18), which leaves the rear gardens somewhat vulnerable. I note the comments of the **CE Report** in this regard, which recommend that the rear gardens be sealed from public access.
- 10.5.6. A Materials and Finishes Specification Report was submitted with the application. The information is relatively limited. However, the standard of the materials shown is high quality and I am satisfied that this can be dealt with via condition where the developer

agrees the materials and finishes with the planning authority. The **CE Report** considers the approach to finishes to be well-considered.

10.5.7. The closure of the access onto Park Road and the provision of a second access onto PA Healy Road, reduces integration of the site into the wider community and misses the opportunity to reduce congestion on the PA Healy Road from the proposed development. On the day of my site visit (a Thursday afternoon), I noted significant queuing on the PA Healy Road, as referred to by the third party, **Ms. O'Brien**. From a safety perspective, a vehicular entrance other from the PA Healy Road would be desirable. The **CE Report** recommends that the left-in, left-out access on the eastern side of the student accommodation should be removed, in the interest of safety. The Road Safety Audit Stage 1 submitted with the application identifies a number of problems with this junction and the location of the bus layby and notes these have been exacerbated with the grant of permission for the school opposite the site. The removal of the bus layby is recommended. In my opinion, a second vehicular entrance is needed to the site, other than from the PA Healy Road, from a safety perspective and also having regard to DMURS, which encourages slow moving traffic through streets and discourages cu-de-sac development. On this basis, I would recommend this as a reason for refusal of permission.

10.6. ***Building Height***

10.6.1. The maximum height of the proposed development is 31 metres. The buildings range in height from two storey houses to ten storey blocks. Block 7 is 19 metres, 6 storeys, opposite single and two storey housing. A tall building is defined in the current development plan as one that is significantly higher than the building height in the surrounding area. The tallest building in the vicinity of the site is in Grove Island at six storeys. The proposed development comes under the criteria of tall buildings.

10.6.2. The current development plan has a very fine grained Building Height Strategy, with locations for tall buildings indicated on Map 6.8. Policy TB2 states that generally, tall buildings outside the City Centre will only be permitted at designated centres. The site is not identified as a location for a tall building and it is not in a designated centre. It is evident that the planning authority were aware of the previous application on the site when formulating the Building Height Strategy, as the site is mentioned in Volume 6. In the absence of designation of the site for a tall building in this process, I am therefore

of the view that the proposed development constitutes a material contravention of the Building Height Strategy in the current development.

10.6.3. No material contravention statement is provided, as the issue did not arise in the previous development plan, which was in place when the application was lodged

10.6.4. The impact of the proposed height of some of the blocks with the potential for collision/bird strike has not been considered in the NIS or EIAR. Such specific assessments are required under the *Urban Building Height Development Guidelines*, 2018, as noted by **John Conway and the Louth Environmental Group**.

10.6.5. No information has been provided as to whether there is any impact on telecommunications infrastructure in the vicinity of the site, as required under the *Urban Building Height Development Guidelines*, 2018.

10.7. **Open Space**

Public Open Space

10.7.1. The current development plan states that a minimum of 10% is required for open space. Where the proposed development adjoins a canal bank, a linear walkway/cycleway access for the public is required. The proposed development includes for a public park of 0.5 ha – 12.5% of the site. This complies with development plan standards.

10.7.2. The public park is located immediately south of the canal towpath near the PA Healy Road overbridge, which links through to O'Brien's Park on the other side of the overbridge. The public park includes a kick around area and children's playground. Access is via pedestrian gates at four locations – two from the overbridge ramp, one from the towpath and the final one from within the scheme. A steel railing, 1.5 metres high will surround the park. The fence rises to 1.8 metres on the boundary adjoining the proposed development. Access to the park is intended to be limited to the hours of daylight, in the interests of protecting biodiversity. The proposed park is an attractive addition to the area, supplementing O'Briens public park, on the far side of the bridge and physically connected by way of the towpath. It is to be delivered in Phase 3 along with Blocks 2 and 3. Having regard to the need for passive surveillance of this park, I consider the approach acceptable.

Communal Open Space

- 10.7.3. In relation to communal open space, 8,083 square metres is provided for the apartments. This is significantly in excess of the *Apartment Guidelines, 2020*, which would require 2,142 square metres. There are some areas included in this calculation that might be considered more incidental space, rather than communal open space in front of the apartments, but I am satisfied that the space is generous. This figure does not include the communal roof gardens. The communal roof gardens are all located on the southern side of the blocks and all by Block 7, are sheltered by the higher element of the block north of the roof garden. Some detail is missing from the architectural drawings regarding access to the roof gardens, but this is a minor matter that can be corrected at compliance stage, should permission be granted. The **CE Report** finds that the communal open space benefit from maximum sunlight penetration and are overlooked. The communal open space is to be provided in Phase 2, in tandem with the delivery of the adjacent apartment blocks.
- 10.7.4. The student accommodation block has an area of open space within this perimeter block. It is stated 1,051 square metres. Again, this is in excess of minimum requirements of 756 square metres. The sunlight penetration of this area is equal to or greater than 2 hours on March 21st.

Overflow Channel

- 10.7.5. The new parkland – both public and communal, requires the filling in of what appears to be the canal's overflow channel – the dry ditch in the site. It has not been established if the role of the overflow channel has been made redundant. The purpose of the channel is to take excess water from the canal during storm events, to prevent flooding and return it to the lower pound of water between the locks. In the absence of clarity in relation to the operation of the canal, the filling of the ditch is premature, in my opinion and could give rise to risk of flooding.
- 10.7.6. The levelling of the parkland and filling in of the drain will result in the loss of trees on the site. The third party, **Ms. O'Brien**, considers that the removal of the existing habitat is a significant loss. A tree survey has been provided by SLR Consulting Ireland. There are 9 individual trees along the drain and various groups of scrubland trees on the rest of the site. All the individual trees have been categorised as being in the 'C1' category.

The report states that aerial photography confirms that the woodland and scrub areas developed within the last 15 years or less. The habitat survey in the Biodiversity Chapter of the EIAR, also prepared by SLR Consulting Ireland found that the quality of the scrub areas is poor and lacking in diversity. The area may be used for foraging for bats, but the trees are not suitable for bat roosts. The NIS prepared by SLR Consulting Ireland states that none of the habitats on site are considered important from a biodiversity perspective.

10.7.7. The Landscape Design Report by PC Roche and Associates, outlines the location of structured play elements, national playful areas and fitness station points throughout the scheme. The submitted shadow diagrams by 3DDesign Bureau also indicate that all areas of public open space would receive in excess of the BRE Guidelines and, therefore, indicates that these spaces would be well lit throughout the year. The **CE Report** states that the landscaping plan indicates high quality finishes and planting throughout the site.

10.7.8. I am satisfied that the disposition of open space landscaping proposals for the proposed development will provide for an attractive environment for persons living in the proposed development and visitors to the proposed park. The landscaping locates the majority of the open space along the canal towpath that will provide a suitable corridor for biodiversity. The parkland is overlooked by the apartment, providing for passive surveillance. The other areas of open space within the development provide for a range of activity and will create an interesting and pleasant environment for future residents.

Private Open Space

10.7.9. The apartments have balconies or terraces for private open space. The Statement of Compliance by RW Nowlan and Associates state that the balcony sizes are in accordance with ministerial guidance. The full compliance statement by OCA Architects has not been submitted with the application. However, the areas of the balconies are shown on the drawings and these appear in accordance with the *Apartment Guidelines 2020*.

- 10.7.10. No private open space has been provided with the Student Accommodation. None is required under the *Guidelines on Residential Developments for 3rd Level Students 2005*.
- 10.7.11. The development plan sets out a recommended standard of 60-75sqm of private open space for a 3-5 bedroom house. The gardens exceed this size. It is noted that houses are also provided with front gardens with off street car parking.

10.8. Residential Amenity

Overlooking and Overbearing Impact

- 10.8.1. The nearest houses to the site are the four residences located on the eastern side of the Park Road. Block 7 is 19 metres in height and to the west of these houses. The distance between Block 7 and these dwellings varies between circa 30 to 33 metres. The **CE Report** considers that the separation distances are acceptable and will not lead to adverse impact. I am satisfied that this distance is sufficient to mitigate overlooking and overbearing.
- 10.8.2. Within the scheme, where blocks face each other, separation distances are generally of the order of 27 metres. Again, this distance is sufficient to protect residential amenities. Block 2 gable ends onto Block 3. Here, the separation distance is roughly halved. This distance is not dissimilar to the separation distance between building lines on a street. Again, I consider this acceptable. The limited extent of the elevation of Block 2 where it faces onto Block 3, with views obtainable to the street or canal means these elevations have an open aspect and are not unduly overbearing. The separation distance between Block 4 and Block 1 (the student block) is circa 25 metres. There is 19.5 metres between Block 5 and Block 1, with limited overlap.
- 10.8.3. Block 6 and Block 7 are circa 27 metres from the rear of the proposed dwelling houses. Again, this distance is acceptable. The southern row of dwellings are 10 metres from the southern boundary with the neighbouring warehouse. The existing warehouse is circa 14 metres from the boundary. This is considered acceptable to protect residential amenity. Having regard to the location of the future access to that site, any future redevelopment of the site is likely to have buildings set on a similar building line as

that proposed. Therefore I am satisfied that site can also be redeveloped at height, without having an excessive impact of the residential amenity of the proposed houses.

Floor Space

- 10.8.4. The Compliance Schedule submitted by OCA Architects state that all apartments are above minimum standards. I would concur with this. It states that there is a maximum of 7 units per core and all balconies and patios have a minimum depth of 1.8 metres. The areas of balconies and patios have been provided and all exceed minimum size requirements.
- 10.8.5. All units have an internal storage room. The detailed Compliance Schedule in relation to the *Apartment Guidelines 2020* was clearly intended to be submitted, but I could not find it in the documents submitted. The drawings do not show the area of storage other than for the storage room. There are additional stores in hallways other than the bedroom furniture in the apartments. Having examined a sample of the additional storage, it would appear that there is a shortfall in storage in some apartments having regard to the storage requirements set out in the *Apartment Guidelines 2020*. In relation to storage, SPPR8 (ii) of the *Apartment Guidelines 2020*, allow for flexibility in relation to storage and private open space for Build To Rent apartments, on the basis that additional communal support facilities and amenities has been provided.
- 10.8.6. The Build to Rent apartments will benefit from the community building, which provides a creche and café for the residents at ground floor, management offices and a social space (this is described as a gym on the drawings). The creche can cater for up to 70 children and has its own outdoor space of 110square metres. It is not solely for residents, which at a maximum, would only provide for 66 places. The management offices are stated as 185 square metres, which provide residential support facilities. The café and social space are circa 267 square metres, providing residential services and amenities. This equates to circa 0.735 square metres per units. This is low, in my opinion, where 2 square metres would be the minimum, generally, on an industry basis. This is combined with limited size of internal storage, is of some concern.
- 10.8.7. The apartments are generously sized with adequate private open space, which means that dedicated storage areas are less of a concern than normal. I consider that the roof top gardens are extensive and provide additional community open space, significantly

above communal open space standards, which ameliorates the relatively minimal indoor facilities. A Build to Rent Management Plan accompanies the application.

10.8.8. In relation to the Student Accommodation, a minimum floor area of 55 square metres is required. The Compliance Schedule states that 3 bedroom units are 84 square metres, 4 bedroom units are 100 square metres and that there are 3 no. two bedroom unit of 101 square metres (to the rear of the retail units). All bedrooms are en-suite and are a minimum of 15.38 square metres. An average of 5.5 square metres of living kitchen area per bedspace is provided, when 4 square metres is the minimum. Communal facilities are provided including reading room (475 square metres), staff facilities, post room, laundry room (in the single storey block for the bin store). The reception area is large at over 304 square metres. Between the reception area and reading room areas, some smaller space could be provided for meeting rooms. This can be dealt with by way of condition. There is internal access from this area to the café. Some 380 bicycle spaces are provided. A Student Management Plan accompanies the application. An Operational Waste Management Plan prepared by AWN Consulting is included as Appendix 12.2 in the EIAR and includes for the Student Accommodation. This accommodation is generally considered satisfactory.

Aspect and Floor to Ceiling Heights

10.8.9. The *Apartment Guidelines 2020* require that in standalone brownfield regeneration sites where requirements like street frontage are less onerous, it is an objective that there shall be a minimum of 50% dual aspect apartments. In the *Schedule of Accommodation and Area Schedule* by OCA Architects indicates that the Student Accommodation Block and BTR Apartments have circa 46% of units that are single aspect and the remainder are dual aspect or triple aspect (54%). This complies with the above guidelines.

10.8.10. Only the three ground floor units in the student block are single aspect north facing. These overlook the communal open space. The remainder of the single aspect units face either east or west, due to the orientation of the blocks. I am satisfied that the aspects of the apartments are acceptable.

10.8.11. In the Student Accommodation, the ground floor units have an internal floor to ceiling height of 3.7 metres, which exceeds the requirements with the *Apartment Guidelines*

2020, where a minimum of 2.7 metres is required. At other levels, the floor to ceiling height varies between 2.57 metres (2.4 metres is the minimum required) and 3.0 metres.

- 10.8.12. In the BTR apartments, the ground floor units are 3.0 metres floor to ceiling height and 2.7 metres for the remaining floors. These exceed minimum requirements.

Daylight, Sunlight and Shadowing

- 10.8.13. Section 3.2 of the *Urban Development and Building Height Guidelines* (2018) states that the form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light. The Guidelines state that appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the BRE '*Site Layout Planning for Daylight and Sunlight*' (2nd edition) or BS 8206-2: 2008 – '*Lighting for Buildings – Part 2: Code of Practice for Daylighting*'. Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and / or an effective urban design and streetscape solution. The *Apartments Guidelines, 2020* also state that planning authorities should have regard to these BRE or BS standards.
- 10.8.14. The applicant submitted a report entitled *Daylight and Sunlight Assessment Report*, prepared by 3DDesign Bureau. The report relies on the *BS 8206-2:2008: Lighting for Buildings - Part 2: Code of Practice for Daylighting* (the British Standard) and to the *Building Research Establishment's Second Edition of Site Layout Planning for Daylight and Sunlight: a Guide to Good Practice* (the BRE Guidelines). A new edition of the BRE Guidelines has been published. The report acknowledges this and notes that other documents, including EN 17037 *Daylight in Buildings – European Guidance* which pre-date the Apartment Guidelines 2020 and a British Annex, which adapts the European standards to the UK - *BS EN 17037*. Having regard to the *Apartment*

Guidelines 2020, which refer to the second edition, I consider that this reliance is consistent with the guidelines.

- 10.8.15. The report assesses the daylight and sunlight impacts to the existing residential properties and quantifies the extent of daylight likely to be experienced by some of the apartments and the sunlight in open space. In addition, the Annual Winter Probable Hours of Sunlight is assessed for the existing and some of the proposed residential units.
- 10.8.16. The assessment of daylight to be experienced in the proposed apartments does not include for every apartment. Instead, a worst-case scenario is adopted and only the ground and first floors are assessed.

Findings in Relation to Existing Residences

- 10.8.17. The existing four dwellings on Park Road are assessed in the report. The first test relates to the amount of daylight received by the windows facing the proposed dwelling. This is called the Vertical Sky Component (VSC) Test. Eleven windows were examined. For a proposed development to have a perceptible impact on a window, the amount of light falling on a window must be less than 27% and less than 0.8 of the ratio of the VSC that would have been received in the baseline situation. No window is affected by this extent and so the reduction in the amount of light being received on the windows after construction of the proposed development is not perceptible.
- 10.8.18. In terms of the amount of sunlight these windows would receive over the year and in particular during the winter months, the report notes that the value for the window needs to drop below the stated target value of 25% (annual hours of probable sunlight (AHPS)) or the target of 5% in winter (WHPS). The value of the window post development has to be less than 0.8 times the baseline value and it has to have a reduction in sunlight received over the whole year greater than 4% of annual probable sunlight hours for a perceptible impact to be noticed.
- 10.8.19. All but three of the windows will experience a reduction in sunlight, in excess of 0.8. The amount of sunshine received however, will not fall below 25% of the AHPS. In winter, the decrease in the amount of sunshine will be most significant for the most northerly dwelling on Park Road, Mondello. However, all the windows receive at least 5% of the WSPH.

- 10.8.20. The impact in relation to daylight and sunlight on windows in the existing houses remain within the acceptable parameters.
- 10.8.21. In relation to the amount of sunlight received into the gardens of these dwellings, the report demonstrates that there is little change and all received 2 hours of sunlight on the 21st of March.
- 10.8.22. As regards overshadowing by the proposed development, the report demonstrates that on March 21, the extent of shadowing in the front gardens of these dwellings is largely unchanged until 1500. By 1600, the front gardens are overshadowed. The baseline scenario shows that such shadowing currently is experienced normally at 1800.
- 10.8.23. In June 21, when shadows are shortest, the front gardens (save for Mondello) are overshadowed by 1800. In comparison, 2100 is the current time that these gardens would be overshadowed by.
- 10.8.24. In December 21, when shadows are longest, the front gardens become free of shadow at 1100 and currently remain free from shadow to circa 1400. With the proposed development in place, there is limited change (save for Mondello).
- 10.8.25. The shadow diagrams show that due to the height reduction in the buildings in the south-east of the site, overshadowing of the existing warehouse would be limited. I am satisfied that the shadowing impacts of the proposed development would not have an undue effect on future development on that site.
- 10.8.26. The **CE Report** considers that any shadowing impact will be limited. I am of the opinion that the proposed development will have impacts on daylight and sunlight, but that these impacts remain within acceptable limits.

Internal Daylight, Sunlight and Overshadowing

- 10.8.27. In general, Average Daylight Factor (ADF) is the ratio of the light level inside a structure to the light level outside of structure expressed as a percentage. The BRE 2009 guidance, with reference to BS8206 – Part 2, sets out target values for Average Daylight Factor (ADF) that should be achieved, these are 2% for kitchens, 1.5% for living rooms and 1% for bedrooms. Section 2.1.14 of the BRE Guidance notes that non-daylight internal kitchens should be avoided wherever possible, especially if the kitchen is used as a dining area too. If the layout means that a small internal galley-

type kitchen is inevitable, it should be directly linked to a well daylit living room. This guidance does not give any advice on the targets to be achieved within a combined kitchen/living/dining layout. It does however, state that where a room serves a dual purpose the higher ADF value should be applied. The proposed apartment layouts include a combined kitchen/living/dining room. As these rooms serve more than one function the 2% ADF value was applied to the kitchen / living /dining rooms.

- 10.8.28. The ADF values in Block 1 comply with the BRE standards for all bedrooms at ground floor. Two of the LKD at ground floor are less than 2% but exceed 1.5%. The two LKD's are located facing onto the student communal area and adjoin an entrance core, which projects forward. They face north and south. At first floor, the equivalent LKD facing north is 1.94%. The southerly facing LKD achieves 2.17%. I am satisfied that all the remaining LKD achieve 2%. All the bedrooms would meet the 1% standards.
- 10.8.29. The ADF values in Block 2 at ground and first floor meet the BRE targets. I am satisfied that all the remaining units will do likewise.
- 10.8.30. In Block 3, two LKDs at ground floor do not meet the 2% standard. One falls slightly below at 1.93% and the other is 1.76%. The latter is in a mid-block location Both are higher than 1.5%. None of the bedrooms fail. At first floor, the same positioned mid-block LKD achieves 1.93% and the other passes. I am satisfied that all the remaining units will do likewise.
- 10.8.31. In Block 4, two LKD's at ground floor fail – one at 1.51% and the other at 1.84%. The same LKD's fail at first floor. The ADF achieved at this level is 1.59% and 1.52%. This block is 6 and 7 storeys in height. It is not clear at what floor the ADF for these units will meet 2%. The other LKD's and bedrooms meet the ADF standards.
- 10.8.32. In Block 5, three LKD's at ground floor do not meet the 2% ADF, coming in at 1.78% for two and 1.83 for the third. All three exceed 1.5%. The two at 1.78% are west facing and located mid-block.
- 10.8.33. At first floor, three LKD's do not meet the 2% ADF. At this level, one is at 1.72%, one at 1.53% and the final at 1.60%. All three exceed 1.5%. It is not clear at what floor the ADF for these units will meet 2%.

- 10.8.34. In Block 6 only one LKD achieves less than 2%, coming in at 1.72%, which exceeds 1.5%. However, at first floor, three LKD's achieve 1.79%, 1.93% and 1.70%. It is likely that the next floor, only two LKD's will not meet 2%. The remaining units achieve the minimum standards for LKDs and bedrooms.
- 10.8.35. In Block 7, there are no units that do not achieve minimum standards of ADF at ground floor level. At first floor, two LKDs achieve 1.65% ADF and 1.81% ADF, again, both over 1.5%. It is not clear at what floor the ADF for these units will meet 2%.
- 10.8.36. The report states that all bedrooms meet 1% standard for ADF. 42 no. LKD's do not meet the 2% standard of ADF. Three of these are located on the student block, with 39 no. in the remaining BTR apartments. This equates to circa 11% of the LKDs. I note that none of the LKD's fall below 1.5% of ADF, which I would consider a positive result for a scheme of this size, layout and density. I am satisfied that compensatory measures have been applied – noting that some ground floor apartments achieve higher LKD than their first floor equivalents. The overall scheme is successful in achieving a high level of urban design and regeneration of this brownfield site.
- 10.8.37. I note that no assessment of AHPS or WHPS has been submitted for the apartments. This is not required under the Apartment Guidelines.
- 10.8.38. The public open space and communal open space areas within the scheme all meet the sunlight requirements for these space in the BRE guidelines, of 50% of the space receiving more than 2 hours of sunlight on the 21st of March. The disposition of the open space is well considered and would enjoy the benefit of significantly longer periods of sunlight.
- 10.8.39. The shadows cast internally in the site are time-limited, ensuring that shadow free spaces are available at all times during the day.

Houses

- 10.8.40. The 18 no. houses located in the eastern quadrant of the site, are large, 4 bedroom, two storey dwellings. They have been located here to avoid overshadowing, according to the design statement prepared by Gleeson McSweeney. The design statement states that the area is designed as a traditional street. Communal bin stores have been

provided, where necessary. All dwelling houses have south facing living areas, to avail of solar gain. The area schedule prepared by Gleeson McSweeney Architects demonstrates compliance with *Quality Housing for Sustainable Communities Best Practice Guidelines 2007*. Each house has its back garden and car parking space.

- 10.8.41. The houses have a modern idiom, which sit well in the overall design approach to the development. They are well laid out internally. Private open space exceeds 65 square metres, the development plan minimum requirement for houses of this size. The car parking spaces for Houses no.s 1, 2, 3 and 18 are not ideally located around the junction with the main spine road. However, I am satisfied that detailed arrangements could be worked out by way of condition with the planning authority.
- 10.8.42. The private rear gardens of the more northerly row of houses backing onto an open area of car parking is not ideal, with the dwellings inwardly focused on the streetscape, as noted in the **CE Report**. However, any change would require a fundamental review of the road network within the scheme. Given the need for a second access onto Park Road, I am satisfied that this issue can be addressed in a new application.
- 10.8.43. A Private Residents Management Plan accompanies the application. I note that in the event of a grant of permission for the proposed development, the houses would require to be sold to individual purchasers, under the *Regulation of Commercial Institutional Investments in Housing – Guidelines for Planning Authorities 2021*, by way of condition.

10.9. **Water Services**

- 10.9.1. Concerns were raised by **John Conway and the Louth Environmental Group** that the submitted documentation has not demonstrated that there is sufficient infrastructure capacity to support the proposed development drainage and water services.

Water and Wastewater Networks

- 10.9.2. Irish Water has confirmed that there is adequate capacity for the proposed development at this time for both water and wastewater. No infrastructure upgrades are needed to accommodate the proposed development. A 300 dia trunk watermain

is shown on PA Healy Road. The Limerick Main Drainage Foul Sewer is shown traversing the site in the north. Irish Water require that no diversion of this sewer takes place. The Design Submission by PHM Consulting on behalf of the applicant is considered acceptable by Irish Water.

- 10.9.3. The PHM Civil Engineering Report refers to the above sewer and confirms the wayleave noting that there are no structures proposed on the wayleave. It states that foul sewers are sized for a peak flow of 6 DWF assuming a discharge of 160 Litres per person per day and an average of 2.7 and 1.7 persons per dwelling/apartment unit respectively. A minimum size of 225mm ϕ pipe uPVC SN8 is used for all foul sewers and minimum gradients are proposed, in accordance with DoEHLG '*Recommendations for Site Development Works for Housing Areas*'. The dwelling units are connected to a 100mm ϕ pipe, with individual private foul connections to the main system. Each dwelling unit will be provided with an inspection chamber located inside the front boundary of the property in accordance with Irish Water requirements. All main system sewers are located within roads or open spaces.
- 10.9.4. In relation to water supply, this will be taken from a supply in the PA Healy Road. The internal watermain network will comprise of 200mm ϕ DI, 150mm ϕ PE80 SDR17 and 100mm ϕ PE80 SDR17 spurs.
- 10.9.5. Having regard to the above and the information provided within the applicants Civil Engineering Report which is supported by Irish Water, I am satisfied that there is sufficient capacity within the network to accommodate the proposed development and there are no infrastructural aspects that present any conflicts or issues to be clarified with regard to the water or wastewater networks.

Surface Water

- 10.9.6. PHM Consultant's Civil Engineering Report notes that the presence of the dry ditch [potentially the canal's overflow channel] on the site. It appears that this drain is to be filled in as part of the proposed development. There is no information as to whether the overflow channel remains active or not. No culvert is proposed in this area. While the channel was dry on my site visit, this may not be the case during storms or periods of heavy rain. There is no commentary as to the appropriateness of the filling in of the

channel, as Waterways Ireland do not appear to be a prescribed body on the case, if they are the owners of the towpath and canal.

- 10.9.7. It is intended that storm water from the site would be collected and discharge to the Park Canal via a new outfall to the canal. I note that there is no letter of consent from Waterways Ireland for such works (or any other potential landowner).
- 10.9.8. The report notes the vulnerability of the receiving canal which flows into the Abbey River and so it is proposed to limit run-off below the Annual Peak Flow and limit flow to 2 litres per second per hectare (current flows are of the order of 11 litres per second per hectare). No water is proposed to discharge to ground. SUDS features include Blue Roofs on Blocks 2-7, which could cumulatively attenuate 165.5 cubic metres. The report states that all surface run-off from roofs, roads, paved areas, and open space areas which cross paved areas is to be captured, detained, treated, and discharged to the canal channel. An allowance for predicted increased rainfall intensities due to Climate Change has been incorporated, of 20%.
- 10.9.9. The decrease in storm water runoff requires on site storage. It is intended to hold water for a 12 hour period on site. In the 30 Year Storm Event, the storage required is stated as 840.5m³. In the 100 Year Event the storage required is stated as 1,178.5m³. This will be held in three areas, as well as the Blue Roofs. In total, 1,318.4m³ storage is provided, which is an excess of 12% over requirements.
- 10.9.10. The **CE Report** recommends that the appropriate rate should be 2 litres per second per hectare. It recommends that Climate Change of 30% plus 10% for urban creep is more appropriate (i.e. 40% as opposed to 20%). It finds that the storm water layout does not sufficiently address SUDS measures and is instead conventional drainage solutions are proposed. It recommends that SUDS measures be relocated to landscaped areas, in terms of swales, tree pits and ran gardens. It questions the details of the information provided.
- 10.9.11. Other than the Blue Roofs, there are no SUDS measures in the landscaped area, Instead, the surface water is contained in three basins under the parking areas in the vicinity of Block 4. I would concur with the **CE Report** that limited efforts have been made to address SUDS matters. However, I note the contents of the Verdé

Environmental Due Diligence report that discharge or permeation to ground is not recommended due to the contamination in the imported material on the site.

10.9.12. In relation to the absence of a letter of consent from Waterways Ireland, I refer the Board to Section 34(13) of the *Planning and Development Act 2000*, as amended.

10.10. **Flood Risk**

10.10.1. A Site Specific Flood Risk Report has been prepared for the site by JBA Consulting. The report notes that the embankment along the canal acts as a defence from overtopping. It does not refer to the role of the dry ditch in relation to catering for storm overflows from the canal. It notes that the subject site has not flooded. However, the lands underneath the PA Healy overbridge and lands to the north have been inundated. This arose from operational failure of the lock gates downstream. The Park Canal has flooded in the Corbally area, arising from extremely high discharge rates from Parteen Weir. Since 2015, levels along the canal bank have been raised.

10.10.2. The area has been subject to three flood modelling studies – two in 2011 and the Shannon CFRAM in 2016. The 2011 OPW Preliminary Flood Risk Assessment identified possible pluvial flooding in the southeast corner of the site. The report states that flows could probably impact the north-western part of the site, but that waters would flow in a south-westerly direction, following the general fall in the area. The impacts of fluvial flooding are considered minimal, with very shallow flood depths of 0-0.25m at the 0.1% AEP event over a very small margin of the site. The actual levels reached by the floodwater is likely to be circa 4.6mOD.

10.10.3. The site is defended from tidal flooding. The 0.1% AEP is 5.15m OD Malin.

10.10.4. There is a low risk of groundwater flooding on site.

10.10.5. The report finds that the site is predominately in Flood Zone C, but with some encroachment of Flood Zone A and Flood Zone B. It is defended from flooding, so any risk is residual. The extreme tidal levels of 4.75m OD and 5.15mOD across the site, is regardless of any defences. The corner of Block 3 falls within Flood Zone A and parts of Blocks 2 and 3 and 1 falls within Flood Zone B – less than 5.15 mOD. Houses 1

and 2 fall within this zone [the Finished Floor Level (FFL) of these houses are 6.0 mOD].

Page 13 of the report states that:

“The principal risk to the proposed site is from the canal overtopping the bank crest at 4.7mOD (circa 0.5% AEP level) to the west of Pa Healy Road, with spill flowing down St Lelia Place and onto Clare Street before reaching the southern margin of the site. This condition is represented by the Shannon CFRAM fluvial mapping, which assumes no operational influence on the closed lock gates. Since the overtopping in 2015 a revised protocol has been put in place to prevent a recurrence of unchecked high levels in the canal. The mitigation method involves releasing water into the Abbey River by operation of the lock gate.”

- 10.10.6. The mitigation measure is to ensure that final FFL for all buildings with highly vulnerable use (residential) is recommended to be a minimum of 5.75mOD. This is based on the 0.5% tidal level (4.75mOD) plus 0.5m climate change and 0.5m freeboard. The Blocks are set at a range of FFL from 5.75mOD to 6.5mOD, with the houses at 6.0mOD and Community Block at 6.1mOD. The Commercial Retail elements are set at 5.02 and 4.8mOD. No loss of flood storage occurs as open space and car parking levels are close to existing levels. The detention basins are sized to have circa 0.5 m freeboard over the 100 year design capacity.
- 10.10.7. As parts of the site fall within Flood Zones A and B, a Justification Test is required. The site was zoned for mixed use under the previous development plan and that plan has been subject to a Flood Risk Assessment. The current plan has zoned the site for 'New Residential'. The JBA Report addresses the previous development plan. As the site has been subject to an appropriate flood risk assessment, it should ensure that flood risk will not increase elsewhere and if practical, overall flood risk is reduced. The report finds that any encroachment into Flood Zones A or B will not result in any significant increase in flood risk. The dominant risk is tidal. The FFL have been raised above the 0.5% AEP tidal flood level, including 0.5m climate change and 0.5m freeboard allowance. In the event of failure of flood defences failing, the FFL of highly vulnerable parts of the development will not be impacted.

- 10.10.8. The **CE Report** notes that the zoning has now changed to 'New Residential'. Clarification on the FFL of the café and retail units is sought. The risk of inundation and whether the attenuation tanks have been adequately sized is questioned.
- 10.10.9. I note the concern of the third party, **Environmental Trust Ireland**, in relation to flooding. However, I could not find reference to the OPR having concerns about the residential zoning on this site in relation to flooding. Having regard to the current zoning on site and that the site has recently passed the justification test under the current development plan, I consider that the development of the site for residential purposes is acceptable in principle. However, I am not satisfied that the impact of the filling of the dry ditch has been fully explored. A conclusion on this matter is likely to be either that there is an impact or there is none. If there is no impact, then subject to clarity in relation questions raised by the CE Report, then this matter is resolved. If there is an impact, then further calculations and sizing of the attenuation tanks need to be considered. It is possible that this can be resolved via condition.

10.11. ***Connectivity and Transportation***

- 10.11.1. The 'New Residential' zoning requires high levels of accessibility for pedestrians, cyclists and public transport. The proposed development provides for this. There are some matters of detail in relation to the provision of pedestrian gates, the location of boundary walls in relation to cyclepaths, but I would consider that the proposed development generally accords with these elements.

Traffic Assessment

- 10.11.2. Chapter 11 of the EIAR considers Traffic and Transportation. It was prepared by TTRSA. PA Healy Road was constructed circa 2007. It is a 10.5 metre wide carriageway, with a central ghost island facilitating turning traffic for existing accesses to land yet to be developed (save for the school site currently under construction – the school is a secondary school due to cater for 750 pupils). The road rises from a signal controlled crossing with the junction of Park Road and curves around, gaining height over the canal overbridge and connecting on to Grove Island and the Corbally Roundabout. A zebra crossing is provided before the bridge. There are footpaths and a cycleway either side. A bus layby is provided for adjacent to the current site entrance. The speed limit is 50 kph. Park Road is an 8 metre wide two-way carriage with

footpaths either side of the road. The speed limit is reduced at the northern end of Park Road, where it meets the towpath and the skewed, single way canal bridge. A new bridge over the canal is permitted further east, so as the Park Road bridge can be limited to pedestrian and cycling only.

10.11.3. PA Healy Road is strategic in that it forms part of an informal inner relief road for Limerick, connecting Corbally to Rhebogoue and the Dublin and Clare Roads (R445). On the day I visited the site, traffic volumes were heavy in the afternoon and there was queuing on the PA Healy Road. The **Elected Members** and the **Third Parties**, refers to traffic congestion in their submissions.

10.11.4. The proposed development is to provide for 149 car parking spaces. Of these, 18 are located in the curtilage of the proposed dwellings. The remainder are located at surface in groups of spaces provided through the scheme. The car parking ratio is stated as the Build To Rent apartments is 0.35 spaces per residential unit. No car parking is provided for the students. Given the proximity of the site to the city centre, walking measures should ensure that residents would have limited need for a private car, in accordance with *Climate Action Plan 2021*. I am satisfied that this level of parking is acceptable.

10.11.5. The proposed development is estimated to generate circa 90 vehicular movements into the site in the AM peak and 120 vehicular movements out. During the PM peak, the proposed development would generate 78 movements into the scheme and 76 movements out. The impact would add 6% to traffic volumes at the junction with Park Road and 7.8% at the Corbally Roundabout. The EIAR finds that in 2023, the local road network will struggle to cope, with committed development and the proposed development. By 2028, the road will be over 90% saturated and by 2038, be at over capacity, due to general congestion on the road. The **CE Report** states that the Urban Traffic Control System in the area is operating at over capacity and recommends a condition be attached for a special financial contribution to revalidate the system. It is obvious that traffic congestion is a major issue in the area and that impact from the proposed development in terms of traffic volumes needs to be limited. This supports the low car parking ratio of the proposed development.

- 10.11.6. As discussed above, the **CE Report** is not in favour of the left-in vehicular access at the student accommodation and considers it unsafe. The **NTA** have also mentioned this concern. I concur and consider that a second access is required the proposed development on Park Road. This would constitute a reason for refusal of planning permission, as it would be inappropriate to condition such a material change.
- 10.11.7. Information provided in relation to public transport in the EIAR chapter is limited. It references that there is an objective of Limerick City and County Council to support 'the provision of a bus corridor link from the University of Limerick to the City Centre' including the upgrading of bus lanes on the R445 Dublin Road, and this scheme is also included within the Draft Limerick Shannon Metropolitan Area Transport Strategy (DLSMATS). I note that there are bus stops on the Athlunkard Road and on the Dublin Road, both in easy walking distance from the site. Bus routes on these roads include the 301, 323, 304A and 341. Regional bus routes are also available, public transport tends to be provided after populations in an area justify the business case for public transport. **TII** offered no comment on the proposed development. The implementation of the objectives outlined in the DLSMATS would bring an alternative modal choice. SPPR 8 (iii) of the Apartment Guidelines considers that a reduction in car parking for Build to Rent developments can only be justified where the site is in a central location and or there is proximity to public transport. Shared mobility measures are essential. The site is in close proximity to the city centre. A mobility management plan is provided in the EIAR.
- 10.11.8. 420 bicycle spaces are provided in the proposed development. This equates to less than one bicycle space per residential unit, including the 61 student units. The **NTA** considers that the level of bicycle parking should be at a minimum, development plan standards. I would agree that this could be conditioned.
- 10.11.9. The internal road network is 6 metres wide, with 2 metre wide footpaths. The CPHM Civil Engineering Report states that the network has been designed in accordance with DMURS standards. Traffic tables are provided at junctions to slow speeds. The **CE Report** considers the Shared Surface area is too wide at 8 metres and should be redesigned. The length of the internal roads are considered overly long (50 metres) for a refuse vehicle to reverse and that turning circles are required. The Statement of Consistency invites a condition for the same.

10.11.10. In relation to permeability, the Statement of Consistency and the Architectural Urban Design Statement consider that the proposed development significantly increases the permeability of the area. Eight pedestrian entrances to the site are shown. Connections are shown to the proposed cycleway networks. The management of the pedestrian gates from the residential areas to the towpath and Park Road has been questioned in the **CE Report**. Again, this could be dealt with by way of condition.

10.11.11. The **NTA** has made a submission supporting the density of the proposed development. However, it raises concerns about the proposed road layout of the PA Healy Road, having regard to the post-primary school under construction. The Statement of Consistency notes that the Road Safety Audit has raised questions about the relocation of the bus layby between the main and secondary accesses. I consider that is a matter that can be dealt with by way of condition agreed with the planning authority, which is also the Roads Authority.

10.11.12. The second issue is in relation to the proposed cycleway along the internal boundary with the Park Road and its connections to the canal towpath. The NTA considers that the boundary wall (1.8 metres in height) should not be provided and there should be surveillance of the cycleway from the Park Road. I would concur that the high boundary wall is inappropriate and that a low wall or railing would be more appropriate at this location, with access points to the Park Road, which are indicated in the Architectural Urban Design Statement. The cycleway adjoining Park Road is potentially one part of a longer cycleway that should the neighbouring site be redeveloped, the Park Road cycleway could be extended. The **CE Report** also considers that connections to the proposed cyclepath are necessary. A suitable condition could be worded for this.

10.12. **Childcare**

10.12.1. The proposed development provides for a childcare facility, centrally located in the site with its own dedicated outdoor area. The facility can cater for 70 children. The estimated demand from the proposed development is circa 66 children. A Childcare Demand Analysis is submitted by RW Nowlan and Associates.

10.13. **Part V**

10.13.1. It is proposed to provide 38 no. Part V units, representing 10% of the overall units in the scheme. It is noted that the Affordable Housing Act, 2021 requires that land purchased on or after the 1st of August 2021 or prior to September 2015 must have a 20% Part V requirement. In this case, the land has not been purchased so the higher Part V requirement would apply in the event of a grant of permission. The **CE Report** requests that a condition be imposed that notwithstanding that the proposed apartments are Build-To-Rent, that the Part V units be available for the council's purchase, rather than leasehold. Having regard to the Apartment Guidelines 2020, 6 types of Part V agreements may be made, which includes either lease or purchase of units. Section 5.16 of the guidelines state that the leasing option may be the most practical for Build To Rent developments. I am therefore of the opinion that the standard Part V condition should apply.

10.13.2. I note the provisions of the *Regulation of Commercial Institutional Investment in Housing Guidelines*, in relation to the dwelling houses and that a suitable condition can be attached, in the event of a grant of planning permission, to make the dwelling houses available for private purchase, subject to Part V requirements.

10.14. **Phasing**

10.14.1. The applicant has requested a 10 year permission and referred to this in the public notice. The Statement of Response refers to a three phase construction process. Phase 1 would provide for the Student Accommodation, Community Building, houses and access to the towpath. Phase 2a provides for Apartment Blocks 4 and 5, with Apartment Blocks 6 and 7 in Phase 2b. This would include the communal open space for the apartments. Phase 3 provides for Blocks 2 and 3, the tallest blocks on site and the public park. The construction compound is located in the Phase 3 area. The construction phasing allows for the residential occupation of different parts of the site while work is ongoing.

10.14.2. I note that the scale of the project is significant and a three to five year buildout for the apartment blocks would not be unusual. There is work involved in mobilising to go

to site, including compliance submissions, tendering and financing, etc. I am also conscious that no Extension of Duration permission is available where an EIAR is involved. Therefore, while I consider that a ten year permission would undermine the purpose of the Strategic Housing Provisions, which seek the rapid delivery of housing, in practical terms a seven year permission would be appropriate, to ensure the completion of development within a realisable timeframe. Should permission be granted, I would recommend a condition for a seven year permission.

10.15. **Chief Executives Recommendation**

10.15.1. The planning authority recommended that permission be granted as it is considered that the proposed development is consistent with the relevant objectives of the *Limerick City Development Plan 2010 – 2016*, subject to condition. A set of conditions are recommended.

10.15.2. My recommendation is to refuse planning permission, having regard to the adoption of a development plan with a different zoning and policies since the lodgement of the **CE Report**.

11.0 **Environmental Impact Assessment**

Environmental Impact Assessment Report

11.1.1. This section examines the Environmental Impact Assessment Report submitted in relation to the proposed project. The proposed development provides for a mixed-use development, which is mainly residential (442 no. residential units, including student accommodation) in nature with supporting ancillary development – (creche, shops, café) on a site area of 4 ha. The site is located within the administrative area of Limerick City and County Council. Concerns are raised in the third party submissions from **John Conway and the Louth Environmental Group** and the **Environmental Trust Ireland** that the submitted EIAR is inadequate and does not sufficiently assess the potential negative impacts on the environment.

11.1.2. Item 10(b) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended and section 172(1)(a) of the Planning and Development Act 2000, as amended provides that an Environmental Impact Assessment (EIA) is required for infrastructure projects that involve:

- Construction of more than 500 dwelling units
- Urban Development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.

11.1.3. The proposed development relates to a site of 4 ha and is located within an area which falls under the definition of 'other parts of a built up area'. The number of residential units is less than 500. The extent of demolition is 520 square metres. The proposed development is therefore 'subthreshold'. It does not, therefore, come within the class of development described at 10(b) of Part 2 of Schedule 5 of the planning regulations, and the submission of an environmental impact assessment report is not mandatory. The EIAR is for a sub-threshold proposed development. The applicant's project team has decided to submit the EIAR at application stage. Development of a similar description has been considered by An Bord Pleanála under ABP-306541-20, which concluded, on the basis of preliminary screening, that there was no likely effects on the environment and that an Environmental Impact Assessment was not required. A screening report at Pre-application Consultation stage (ABP-307956-20) similarly concluded that EIA was not required. An Bord Pleanála, the competent authority, in its Opinion, recommended a robust Ecological Impact Statement Report. The applicant's project team has decided, that due to the nature and location of the project, to submit an EIAR.

11.1.4. The EIAR comprises a non-technical summary (Part 1), the Main Report (Part 2) and Appendices to Chapters in Part 3. Table 1.2 identifies the persons involved in the project team and their relevant qualifications and expertise.

11.1.5. Under Article 3(1) of the amending Directive, the EIAR is required to describe and assess the direct and indirect significant effects of the project on the following factors: (a) population and human health; (b) biodiversity with particular attention to the species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC;

(c) land, soil, water, air and climate; (d) material assets, cultural heritage and the landscape. It must also consider the interaction between the factors referred to in points (a) to (d). However, in relation to land, the zoning of the site has changed since submission of the EIAR and there is some confusion in regard to the zoning within the EIAR. At times, the site's zoning is referred to as residential and at other times, mixed use. Therefore, the report in relation to the zoning of the site, is inconsistent. The assessment of land, which includes land-use in the Environmental Impact Assessment Report is not current.

11.1.6. Article 3(2) includes a requirement that the expected effects derived from the vulnerability of the project to major accidents and / or disasters that are relevant to the project concerned are considered. This requirement has been addressed within certain chapters and in other reports submitted with the application, but there is no specific chapter where this information has been collated. I am satisfied that this issue has been addressed within the suite of documents as a whole, to enable an Environmental Impact Assessment to be carried out.

11.1.7. I am satisfied that the information contained in the EIAR has been prepared by competent experts.

11.1.8. This Environmental Impact Assessment (EIA) has had regard to the information submitted with the application, including the EIAR, and to the submissions received from Limerick City and County Council, the prescribed bodies and members of the public which are summarised in sections 7, 8 and 9 of this report above. I am satisfied that the participation of the prescribed bodies has been effective. I am also satisfied that the application has been made accessible to the public by electronic and hard copy means with adequate timelines afforded for submissions. I note that some third parties have raised issues concerning the various findings and conclusions of the EIAR and that they are flawed, particularly with regard to the assessment of population and human health, biodiversity, soils and geology, groundwater and traffic.

11.2. ***Vulnerability of Project to Major Accidents and/or Disaster***

11.2.1. The requirements of Article 3(2) of the Directive include the expected effect deriving from the vulnerability of the project to risks of major accidents and/or disaster that are relevant to the project concerned.

- 11.2.2. There is contamination on the site, (the site previously having been filled to current levels with construction and demolition waste in the 1990's, including asbestos fibres); the existing warehouse contains asbestos and groundwater is close to the surface on parts of the site. The site adjoins the Park Canal towpath, and surface water post construction is to discharge to the canal. There are environmental risks associated with construction of the proposed development, including in event of accident. The site's proximity to the Park Canal, the Rivers Shannon and Fergus requires that coastal and pluvial flooding be considered, at construction and operation phases. There is no reference to the risk of fire in the EIAR.
- 11.2.3. Chapter 3 refers to risks during construction and that a Health and Safety Plan will be prepared prior to commencement of development, which will include risk assessments, method statements and emergency protocols. The *Construction, Environmental and Waste Management Plan* and *Verde Environmental Due Diligence Report* identify mitigations measures in relation to soil, surface water and flooding. A Detailed Construction Traffic Management Plan will be submitted to ensure that traffic hazards are minimised during construction. A Road Safety Audit Stage 1 is submitted.
- 11.2.4. Furthermore, I note that the development site is not regulated or connected to or close to any site regulated under the Control of Major Accident Hazards Involving Dangerous Substances Regulations i.e. SEVESO. Therefore, this is not a source for potential for impacts.
- 11.2.5. Chapter 10 Hydrology – Surface Water of the EIAR address the issue of flooding. The site is protected from flooding by existing embankments along the Park Canal. The risk of flooding during the construction period is therefore limited to an embankment breach scenario and then only during the bulk earthworks operations. Once the earthworks are complete, the entire SHD site will be above the breach flood levels. An embankment breach is a catastrophic scenario with potential to cause widespread flooding, pollution and risk to life in the vicinity. The likelihood of flooding during the earthworks operations is extremely low. The likelihood of flooding is further minimised with adequate sizing of the on-site surface network and SuDS measures. Adequate attenuation and drainage have been provided for to account for increased rainfall in future years. The proposed development is primarily residential in nature and will not require large scale quantities of hazardous materials or fuels. I am satisfied that the proposed use is unlikely to be a risk of itself. However, as stated above, the effect of

filling the overflow channel to the Park Canal is not addressed and so this risk is not assessed.

11.3. **Alternatives**

11.3.1. Article 5(1)(d) of the 2014 EIA Directive requires:

(d) a description of the reasonable alternatives studied by the developer, which are relevant to the project and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the project on the environment;

Annex (IV) (Information for the EIAR) provides more detail on 'reasonable alternatives':

2. A description of the reasonable alternatives (for example in terms of project design, technology, location, size and scale) studied by the developer, which are relevant to the proposed project and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.

11.3.2. Chapter 2 Consideration of Alternatives of the EIAR, provides a description of the project and alternatives. A do-nothing scenario was considered in respect of the site, which would represent a permanent, negative and slight adverse impact, failing to deliver much needed housing in Limerick. Four alternative housing designs were considered before the final iteration was decided. Essentially, these designs become more dense over time, as more the site was given over from two storey dwelling houses to apartments. The penultimate design, which was most dense, was rejected due to the necessity to divert the Irish Water infrastructure (Limerick main drainage sewer). The retention of the infrastructure in place affected the disposition of open space on the site. The EIAR states that environmental considerations formed part of the consideration of the alternatives, as was vehicular and pedestrian movements; maximisation of pedestrian connectivity through the site and protection of adjoining residential amenity, technical considerations and specific issues raised in the Board's Opinion. I am satisfied that the alternatives have been adequately explored for the purposes of the EIAR, albeit the role of environmental considerations underpinning the choices is not clearly spelled out. In the prevailing circumstances the overall approach

of the applicant is considered reasonable, and the requirements of the directive in this regard have been met.

11.3.3. Chapter 3 describes the proposed development and the construction process. It sets out the three phases of construction, where the student accommodation, houses and the community building is built first. The second phase includes for four of the apartment blocks in tow sub-phases. The final phase provides for the two taller apartment blocks in the west of the site. A ten year construction programme is requested. The location of the construction compound, the haul route and other details are provided. The site preparation works, mitigation measures, construction waste management, treatment of surface water, etc. is set out. The most significant environmental impacts are expected to arise during construction.

11.4. **Consultations**

11.4.1. I am satisfied that the participation of the public has been effective, and the application has been made accessible to the public by electronic and hard copy means with adequate timelines afforded for submissions

11.5. **Likely Significant Direct and Indirect Effects**

The likely significant indirect effects of the development are considered under the headings below. which follow which is in accordance with Article 3 of the EIA Directive 2014/52/EU:

- population and human health;
- biodiversity;
- land, soil and geology
- water and hydrology
- Air Quality and Climate
- Noise and Vibration
- Landscape and Visual Impact Assessment
- Traffic and Transportation
- Material Assets - Waste

- Cultural Heritage
- Interactions
- Cumulative Impacts
- Mitigation Measures

11.6. ***Population and Human Health***

- 11.6.1. Population and Human Health is addressed in Chapter 4 of the EIAR. The methodology for assessment is described as well as the receiving environment. Recent demographic, socio-economic and health trends are examined. The chapter provides information on public transportation available in the area. It notes that the 2016 *Census of Population* found that there was a significantly higher percentage of persons travelling to work on foot that the rest of the county – 27% as opposed to 14%. There were fewer car drivers in comparison to the rest of the county – 33% as opposed to 14%. Public transport and bicycle use was similar to the rest of the county. Social infrastructure in the area is listed and the area would appear to be well provided for. In relation to childcare, the proposed development will be self-sufficient in this regard and surplus spaces will benefit the community.
- 11.6.2. The short term impacts during construction are considered to be neutral, not significant and temporary in nature. Locally, there may be some impacts which associated with construction traffic, nuisance and disturbance. The duration of the construction period is not considered.
- 11.6.3. The EIAR states that in operation, based on an average household size of 2.75 persons, the projected population for the new development is estimated as 1,048 for the build to rent and housing elements. When the student bedspaces are included, the total projected population is 1,237 no. residents. I would consider this estimate high, given the average household size of 2.1 for persons living in apartment units, but the higher figure provides a margin of safety in other assessments.
- 11.6.4. The principal findings are that the project will have a positive, significant and permanent impact on the local population. The construction phase will have a positive impact in terms of economic and employment activity in the local area. In operation, the creche and retail units will provide a small number of employment opportunities.

The development is considered to result in a long term, positive impact on economic and employment activity in the local area. Residents within the proposed development would support local businesses.

- 11.6.5. Human health is considered during construction and operation. Air quality, noise and vibration, water and soil matters are considered as most relevant during construction and are addressed in the relevant chapters of the EIAR. Health and safety risks for workers are considered under separate cover. No significant health impacts are considered to arise during operation.
- 11.6.6. Third parties have raised concerns that there is insufficient information to assess the impact on risk to human health. This chapter notes the interrelated topics assessed as part of the EIAR and notes that these have been addressed in greater detail in the relevant chapters. Where required mitigation measures are proposed in the relevant chapters. All of the proposed mitigations measures would be implemented in full, and no significant adverse effects would arise with regard to the population during the construction or operational phase of the development. I am satisfied that this provides an adequate basement for assessment with regard to the impact of the proposed development on population and human health.
- 11.6.7. Third parties have also raised concerns that this chapter is inadequate in that it fails to assess the impact of an increased population in the area on services in the area. I am satisfied that these concerns have been addressed as part of the scheme, which includes non-residential uses including a creche and areas of public open space. I have considered all the written submissions made in relation to population and human health and I am satisfied with regards the level of information before me in relation to population and human health.
- 11.6.8. I am satisfied that potential effects would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects on population and human health.

11.7. ***Biodiversity***

- 11.7.1. Chapter 5 of the EIAR addresses biodiversity. The biodiversity chapter details the methodology of the ecological assessment. It is noted that an Appropriate Assessment Screening Report and a Natura Impact Assessment were prepared as a standalone document. The proposed development site is not located within any designated nature conservation area. However, the Lower River Shannon SAC (002165) is located 30 metres from the site. The River Shannon and River Fergus Estuaries SPA (004077) is approximately 1.6 km southwest of the site. Both sites are considered to come within the Zone of Influence for the project. The main impacts are considered to potential arise are from surface water discharges and disturbance to species, due to noise and lighting. The River Shannon and River Fergus Estuaries SPA (004077) is ruled out from potential effects as the lock gates physically separate lamprey and salmon from the canal and any potential reduction in water quality is not likely to affect these species or their habitat. The otter is the only species that is considered to be effected during construction and operation. Mitigation measures are proposed in the NIS. Therefore, the chapter finds that Natura 2000 sites will not be effected by the proposed development.
- 11.7.2. The Fergus Estuary and Inner Shannon, North Shore pNHA is located approximately 0.83 km southwest of the site. No impacts are expected on the pNHA, due to the localised nature of any potential impacts and the distance between the site and the pNHA.
- 11.7.3. The habitats on site were examined. The dominant habitat within the site is Dry Meadows and Grassy Verges (GS2). It was found to be modified, disturbed and commonly occurring in abandoned urban areas. It is considered a poor example of this habitat. Scrub (WS1) was also found on site. It has arisen in the last 10 years and is also considered a poor example. Mixed Broadleaved Woodland (WD1) is present along the northern boundary of the site. The woodland is a maximum of 16 years old. The area of mixed broadleaved woodland within the site is small, with low diversity of species. All three habitats are considered important at Site level. Buildings and Artificial Surfaces (BL3) were scoped out from the survey.

- 11.7.4. In relation to protected birds, 14 species have been found within 2km of the site and are listed on the NBDC database. The starling was the only protected bird seen on site. Commonly occurring birds were seen on site and would be of significance at site level only.
- 11.7.5. In relation to flora, the EIAR states that in relation to the 'Water courses of plain to montane levels with *Ranunculion fluitantis* and *Callitriche-Batrachion* vegetation' no evidence of this plant seen during the field survey of the canal, i.e. during the survey for otter 150m up and downstream of the site, and there have been no records for this species registered on the NBDC database since 1986. Given the time of year that the survey was undertaken, April, I am satisfied that the flowers would be visible at this time of year. None was found in the vicinity of the site. Failing to deal with these items in the NIS was the previous reason for refusal of permission on the site. I note that this has been dealt with in the EIAR, but the NIS has not been properly updated to reflect the survey and findings.
- 11.7.6. NPWS records in 2012 showed the presence of opposite-leaved pondweed *Groenlandia densa*. This is a species which reappears after dredging of the canal. None was found during the field survey.
- 11.7.7. The EIAR states that the proposed development will connect into the public sewerage system and will only discharge clean surface water run-off into the canal, and so the water quality in the canal will not be affected.
- 11.7.8. Amphibian use of the site was considered. While suitable habitat for common frog and smooth newt is present within the canal and wetland to the north, no evidence of these species was recorded within the site. The drain located within woodland along the northern boundary was dry and carpeted in ivy when inspected during the walkover survey, offering no potential amphibian habitat. No effect in relation to surface water quality will arise.
- 11.7.9. The site is not suitable for otter use, but the canal and towpath are suitable. A survey was carried out 150 metres along the canal, which found evidence of otter use.
- 11.7.10. A bat survey was carried out on the existing building and trees on sites to assess their suitability for roosts. No roosts were found and the trees were not deemed suitable for

roosts. Bats were found commuting and foraging on site. The results of the bat survey in relation to bat species and bat numbers do not seem to be provided, and the quantity and type of bats using the site is not stated.

- 11.7.11. No evidence of badger use was found on the site. No invasive species was found.
- 11.7.12. I note that the EIAR is assumed that the landscape plan will include the retention of trees on site. I do not consider that the landscaping plan shows this to be the case.
- 11.7.13. The lighting plan has been designed so as bats will not be adversely affected by the proposed development.
- 11.7.14. Mitigation measures from the CEWMP and the Verdé report on contaminated ground are included. Guidance is referred to - CIRIA C532, '*Control of Water Pollution from Construction Sites: Guidance for Consultants and Contractors*' (CIRIA, 2001). CIRIA C741, '*Environmental Good Practice on Site Guide*' (CIRIA, 2015).
- 11.7.15. The potential impacts are considered on the otter, in terms of indirect impacts, due to disturbance from increased noise, light and human presence and increased recreational use of the canal pathway along the canal by residents and their dogs. The impact is considered significant at a local level. Mitigation measures proposed include limiting access to the canal to daylight hours, lighting and signage to request that dogs remain on leads.
- 11.7.16. In relation to bats, negative effects arising from loss of foraging and commuting habitat will be temporary due to the provision of landscaping measures, which should offset any loss of foraging/commuting habitat. Connectivity with the wider landscape will be maintained. A pre-demolition survey will be undertaken of the building. If bats are found, a derogation licence will be sought and no demolition will occur until that has been granted.
- 11.7.17. Cumulative effects were considered in the chapter, including the permitted bridge and there is no potential for cumulative or in-combination effects with these plans and projects. The chapter concludes that the habitats present within the Site are commonly occurring throughout Ireland and are evaluated to be either important at the Site level or not important. The proposed development will not result in any significant effects on

the biodiversity of the site and provided the recommended best practice and mitigation is implemented it is considered that development will not result in any residual significant effects on the biodiversity of the site.

11.7.18. The EIAR does not consider the issue of height on site and potential for collision by birds, particularly given that the canal may be used by protected birds, such as Whooper Swans, found in the SPA. This is referred to the AA section of my report (section 12) where the potential impact of the proposed development on designated European sites in the area is discussed in greater detail. Otherwise, I am satisfied the proposed development, subject to mitigation, would not have significant adverse impacts on biodiversity.

11.8. ***Land, Soils Geology and Hydrogeology***

11.8.1. Chapter 6 of the EIAR deals with land, soils, geology and hydrogeology of the site. The methodology for assessment is described in Section 6.2 as well as the receiving environment in Section 6.4.

11.8.2. The soils and subsoils underlying the site are described as made ground / built ground with marine/estuarine silts and clays located in the north-western corner. Bedrock for the majority of the site is Dinantian undifferentiated Visean limestones. The south-west corner of the site is underlain by volcanoclastic rocks, described as volcanoclastic rocks among the Dinantian limestones. The bedrock aquifer underlying the majority of the site is classified as Lm, Locally Important aquifer which is generally moderately productive. The south-west corner of the site is classified as LI, Locally Important Aquifer - bedrock which is moderately productive only in local zones. The GSI data shows that the average groundwater recharge for most of the site is between 105-108mm/year. The north-western corner of the site has an average groundwater recharge of 37mm/year. I note that the EIAR states Limerick City East groundwater body is classified as being Good 2013-2018 under the WFD, but the Verdé report states that the groundwater body beneath the site is classed as having "Poor" status and is at risk of deteriorating in the future. Groundwater vulnerability is low for most of the site but moderate on the eastern boundary.

11.8.3. Fifteen trial pits were excavated across the site. Construction and demolition waste was found on the site. Four groundwater monitoring wells were drilled. Volumes of

encountered shallow groundwater were significant in some locations including TP-106 and TP-110. Groundwater was encountered at depths between 0.7 and 2.8mbgl. Groundwater was also found at depths between 6.2 and 10.2mbgl. Save for one trial pit, the groundwater encountered was not contaminated. The groundwater flow is in a north-westerly direction towards the River Abbey. Groundwater levels recorded in both January 2019 and October 2021 showed the same groundwater flow direction. The EIAR states that groundwater in the limestone bedrock beneath the site was found to be of good quality with the exception of elevated concentrations of barium and localised elevated arsenic. Barium and arsenic groundwater compounds are confined to the bedrock aquifer and considered not to interfere with proposed development plans. Groundwater in the bedrock beneath the site is free of volatile substances. Barium and localised elevated Arsenic concentrations are considered to occur naturally in the nearby volcanic bedrock and have migrated in groundwater into the limestone bedrock.

- 11.8.4. In relation to soil sampling, chemical analysis identified local exceedances of lead, TPH and PAH human health GACs. Mitigation measures include capping with a suitable layer of clean soils to act as a barrier to receptors. Presence of asbestos fibres in soils was also identified, which is also to be managed / addressed by importing of clean soils and capping off the existing soil surfaces.
- 11.8.5. The canal is not considered at risk from contamination of groundwater from the site, as the canal bed is raised in relation to the site's groundwater from levels, which pass underneath it as the groundwater moves north-west. The base of the canal is expected to be at approximately 1m OD, whilst groundwater strikes in bedrock are reported at approximately -0.68m OD to -5.1m OD. The River Shannon and River Fergus Estuaries SPA approximately 2km away. No reference is made to the marshland northwest of the canal, which may be affected by groundwater flows from the site. However, these water flows are ongoing and to date, no contamination appears to have reached groundwater on site. There is low risk to groundwater wells in the area.
- 11.8.6. Construction risks arise from accidental spillage of fuels and lubricants by construction plant during demolition of the warehouse building and construction of the development, with the potential for contaminated run-off entering the limestone aquifer; an increase in suspended solids and potential for run-off with suspended

solids entering the limestone aquifer. These in turn, could have an indirect impact on the wetland habitat, which is part of the Lower Shannon River SAC.

11.8.7. At operation stage, the proposed development will be completed with designed capping layer, paved surfaces, engineered surface water and foul drainage including hydrocarbon interceptor all in place. In addition, the limestone aquifer will continue to be protected by the proposed capping layer and the presence of overburden, with 2.5 – 7.7m of subsoils confirmed at the site. The potential risk of groundwater pollution described above during the construction phase will be minimised during the operational stage. The direct risks to groundwater are generally of the low to imperceptible level and the indirect risks slight to imperceptible. At operation stage, these are imperceptible. A suite of mitigation measures are put forward from the CEWMP, the Verdé Report and the Civil Engineering Report. The mitigation measures principally relate to good construction practice in terms of surface water management and pollution control in relation to fuel, oils and chemicals. Basement are not proposed as part of the development. I am satisfied that subject to implementation of the mitigation measures, risk to groundwater is limited. Reference to human health in this chapter would have been helpful. I note that third parties have raised this matter as being inadequate and deficient. The quantification of the importation of soil to the site and before and after levels should have been included and relevant HGV movements. Notwithstanding these deficiencies, I am satisfied that no threat to human health arises due to the capping of soil on site.

11.8.8. The operational stage of the residential development consists of the typical activities in a residential area and will not involve significant disturbance on land, soils, geology and hydrogeology.

11.8.9. The cumulative impact of other adjacent developments has been assessed. No significant cumulative impacts on land, soil, geology and hydrogeology will occur due to the proposed development.

11.9. ***Water and Hydrology***

11.9.1. Chapter 7 of the EIAR addresses this subject. The methodology for assessment is described in Section 7.2 as well as the receiving environment in Section 7.3. The Park

Canal to the north of the site, is an engineered watercourse and has been lined with impermeable material, soils / clay in order to prevent any leakage and loss of water. Ground levels at the northern part of the site is stated to be at 5 mOD to 5.5 mOD, the top of the canal bank between the site and the Park Canal is at c. 5.94 mOD, while the canal surface water level is at c. 2.6 mOD. On the site, the Limerick Main Drainage System foul sewer traverses the site along its northern edge parallel with the Canal and comprises a 1000 mm diameter sewer with access chambers provided within the site. There is an existing Wayleave over the sewer and this is to be preserved with no structures proposed within the wayleave. The topography of the site has been significantly altered over time and is currently generally flat with a slight gradient towards the west. Storm water run-off is considered to percolate to ground. Water sampling from the canal was undertaken by Verdé. No contamination has been identified in surface water samples taken from The Park Canal. The chapter considers that there is no hydrological connection as the surface water level in the canal is c. 0.8m above the groundwater level recorded at the site and the groundwater strikes were deeper in the underlying bedrock. No mention is made of the potential overflow channel on site.

- 11.9.2. In relation to flooding, the chapter refers to the JBA flood risk report. Parts of the proposed development are in Flood Zone A and B and a justification test is provided. The final FFL for all buildings with highly vulnerable use (i.e. residential land use) is recommended to be a minimum of 5.75mOD. Less vulnerable land uses at the site, namely café & retail will be set at a minimum of 4.8mOD, which is 0.05m above the 0.2% AEP tidal level. The chapter states that levels for the landscaping / open space and car parking areas at the site will be kept at grade as far as possible. However, soil capping in relation to contamination is a mitigation measure, so it is unclear how these two positions can be reconciled.
- 11.9.3. Four surface water bodies are considered to be sensitive from the proposed development – the Park Canal; Lower River Shannon SAC; River Shannon and River Fergus Estuaries SPA; and the Fergus Estuary and Inner Shannon, North Shore pNHA. The sensitivity is Very High to Extremely High.
- 11.9.4. Storm water from the site will discharge to the canal. During construction, potential direct impacts on the surface water quality in the Park Canal could arise during storm

events from the discharge of water from the site, which may contain sediment and hydrocarbons. During site earthworks and construction works at the site there is a risk of surface water pollution from accidental spillage of fuels and lubricants by construction plant and increase in sediment erosion and suspended solids being discharged to the Park Canal. An indirect event may occur if surface water from the site enters the roads in the area and enters from the surface water system. The impacts are considered to be moderate to very significant, without mitigation. Reference is made to the CEWMP and mitigation measures are provided.

11.9.5. The SUDS measures during operational stage include: Storm water detention / attenuation on site for the 1:100 Annual Exceedance Probability (AEP) storm rainfall event; discharge to the Park Canal at a maximum greenfield runoff rate of 2 l/s/ha; provision of a hydrobrake to control the runoff rate; Hydrocarbon bypass separator to treat the storm water; and provision of grit traps on all road gulley's at the site. I note that the **CE Report** sought confirmation that the runoff rate is to be capped at this level. The outfall will be located above the water of the canal to prevent potential surcharging and will be fitted with a backflow prevention valve device.

11.9.6. At operational stage, once mitigation measures are in place, no significant adverse impacts are expected.

11.10. ***Air Quality and Climate***

11.10.1. Air Quality and Climate are outlined in chapter 8 of the EIAR. The methodology for assessment is described as well as the receiving environment in 8.2 and 8.4. I note that when operational, the proposed development and associated open spaces would not accommodate activities that would cause emissions that would be likely to have significant effects on air quality.

11.10.2. The predominant wind direction is south-westerly, with generally moderate wind speeds. For air quality monitoring purposes, the site is located in Zone C. A conservative estimate of the background NO₂ concentration for the proposed development is 13 µg/m³. The annual average limit value of 40 µg/m³. A conservative estimate of the background PM₁₀ concentration for the Zone C region of the proposed development is 17 µg/m³. The annual average limit value of 40 µg/m³. A conservative estimate of the background PM_{2.5} concentration for the Zone C region of the proposed

development is 11 µg/m³. The annual average limit value of 25 µg/m³. There are few high sensitivity residential receptors within 20 m of the site boundary. Human health impacts therefore are likely to be low. The sensitivity of the area to dust related ecological impacts is high. The chapter notes that most dust deposition occurs within 50 metres of the site. In addition, dust generation is considered negligible on days where rainfall is greater than 0.2 mm, which occurs approximately 57% of the time in the Shannon region.

- 11.10.3. There is a potential for dust and dirt emissions associated with demolition, earthworks, construction and trackout (movements of construction heavy vehicles). The proposed demolition can be classified as small. This results in an overall low risk of dust soiling impacts, a negligible risk of human health impacts [once the asbestos on the site has been properly dealt with] and a medium risk of ecological impacts as a result of demolition activities.
- 11.10.4. The proposed earthworks can be classified as large. This results in an overall medium risk of dust soiling impacts, a low risk of human health impacts and a high risk of ecological impacts as a result of earthworks activities prior to mitigation.
- 11.10.5. The volume of gross buildings volume of >136,000 m³ and is considered large. medium risk of dust soiling impacts, a low risk of human health impacts and a high risk of ecological impacts as a result of the proposed construction activities prior to mitigation. I would consider that due to the phasing plan, the actual construction period would give rise to lower levels of dust being experienced.
- 11.10.6. There is overall medium risk of dust soiling impacts, a low risk of human health impacts and a high risk of ecological impacts as a result of the proposed trackout activities prior to mitigation.
- 11.10.7. The construction stage traffic will have a neutral, imperceptible, localised and short-term impact on air quality due to the minor increase in site related traffic as a result of the proposed development.
- 11.10.8. The impact on climate is assessed to be neutral, localised, imperceptible and short term during construction. Overall, in the absence of mitigation human health impacts are considered short-term, localised, negative and imperceptible.

- 11.10.9. During operation, the overall impact of NO₂, PM₁₀ and PM_{2.5} concentrations on human health as a result of the proposed development is long-term, negative and imperceptible.
- 11.10.10. For the SAC, during construction, NO_x is not predicted to rise above 2 µg/m³ and so there is no potential for significant impacts to ecology from NO_x emissions. The maximum increase in the NO₂ dry deposition rate is 0.03 Kg(N)/ha/yr. This is well below the critical load for inland and surface water habitats of 5 - 10Kg(N)/ha/yr. the impact from air quality on the designated sites is negative, long-term and imperceptible.
- 11.10.11. The proposed development will not increase traffic by more than 10% AADT on any road links, so climate change can be scoped out of the assessment. The Flood Risk Assessment by JBA includes an allowance for climate change.
- 11.10.12. A dust management plan is provided for construction. A series of incorporated design mitigation measures are provided for in the proposed development, including NZEB design, Part L compliance and EV charging, during operation.
- 11.10.13. The mitigation measures are set out in Section 8.5 of the EIAR. They are likely to be effective. It is therefore concluded that the proposed development is unlikely to have significant effects on air quality and include climate change adaptation,
- 11.10.14. I am satisfied that the EIAR complies with all the relevant national and international requirements on climate change and air quality. Cumulative impacts have been considered in conjunction with future and current developments in the vicinity of the subject site. all developments would follow site specific Construction and Environmental Management Plans or Dust Management Plans and Construction Traffic Management Plans that would adequately control emissions. The cumulative effects are not considered significant.
- 11.10.15. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of air quality and climate.

11.11. **Noise and Vibration**

- 11.11.1. Noise and Vibration are outlined in chapter 9 of the EIAR. Section 9.2 sets out the methodology used and 9.3 describes the receiving environment. A noise monitoring survey was carried out in July 2020 and again in June 2021. Two noise monitoring locations were chosen – one on PA Healy Road and one on Park Road. Daytime noise levels were in the range 64 to 73 dB LAeq,15min and 40 to 61 dB LA90,15min. Traffic on PA Healy road was the dominant noise source. Park Road, in comparison was between 46-48 dB LA90,15min.
- 11.11.2. A road noise model was constructed. The existing Daytime noise levels range from 65 to 70 dB Lday at the southern edge of the site, to 55 to 60 dB Lday at the eastern edge of the site. Noise levels due to road traffic along the northern edge of the site are significantly lower. Similarly, night noise levels range from 60 to 65 dB Lnight at the southern edge of the site, to 50 to 55 dB Lnight at the eastern edge of the site. Noise levels due to road traffic along the northern edge of the site are significantly lower.
- 11.11.3. Specific façade zones were deemed necessary for different parts of the site where noise levels where medium or high risk noise levels would be experienced, on the southern and part of the eastern facades.
- 11.11.4. In relation to construction noise, there is potential for the maximum permissible daytime noise level to be exceeded at distances up to 30 m from the works. This indicates that additional mitigation measures will be required to prevent likely significant impacts at residential properties. These are set out in 9.5, dealing with the external and internal environment. Section 9.6 deals with construction noise mitigation measures.
- 11.11.5. In terms of noise from traffic, in order to increase traffic noise levels by 1dB, traffic volumes would need to increase by the order of 25% approximately. A review of the potential traffic level increases attributable to the proposed development indicates that the development will not give rise to increases of this magnitude on the surrounding road network
- 11.11.6. As regards vibration, vibration levels at the closest neighbouring buildings are expected to be orders of magnitude below the limits to avoid any cosmetic damage to

buildings. Vibration levels are also expected to be below a level that would cause disturbance to building occupants. The potential vibration impact during the construction phase is of short-term, neutral and imperceptible impact.

11.11.7. No significant sources of vibration are expected to arise during the operational phase of the development.

11.11.8. The application of binding noise limits and hours of operation, along with implementation of appropriate noise and vibration control measures, will ensure that noise and vibration impact is kept to a minimum. The resultant residual noise impact from this source will be of negative, moderate, short-term impact.

11.11.9. During the operational phase, the outward noise impact to the surrounding environment will be limited to noise from any proposed new building services plant, noise due to additional vehicular traffic on public roads and noise due to car parking on site. The residual impact of the operational phase of the proposed development will be of neutral, not significant, permanent impact.

11.11.10. I concur with the conclusions of the EIAR in relation to noise and vibration impacts from the proposed development during both construction and operational phases. I am satisfied with the level of information submitted and that construction impacts resulting from the proposed development are within acceptable limits and can be addressed by way of condition.

11.12. ***Landscape and Visual Impact Assessment***

11.12.1. Chapter 10 of the EIAR outlines landscape and the visual impacts that would arise from the development. There are no protected views recorded within the proposed site or within the immediate surrounding area. The chapter considered that the subject site has relatively Low Sensitivity in terms of development. It states that while the proposed development would significantly change the existing landscape of the site, this is deemed typical of any residential development that would occur on a site zoned for such a use.

11.12.2. Thirteen locations were chosen for photomontages. I note that these views are all relatively close to the site, so the impact of the proposed development can be seen

clearly. The sensitivity of the site is relatively low from PA Healy Road. At Viewpoint 1 the proposed development at 10 storeys is immediately visible. At Viewpoint 2, the design of the block significantly reduces the impact of the proposed development. At Viewpoints 3 and 4, the scale and mass of the buildings become obvious. I would have some concerns about the proximity of the buildings to the road, but having regard to the Board's previous decision on the site, which did not have any difficulties with this approach, I am not inclined to recommend any differently. In contrast, Viewpoint 5 shows how the proposed development is accommodated due to the changing height of the road levels. Viewpoint 6 illustrates how the height of the six and seven storey blocks works well at this location. In Viewpoint 7, the proposed two storey houses are contrasted against the apartment blocks. This is slightly visually jarring, but is reflective of changes where apartment blocks are built in infill locations and so not unusual in an urban location. Viewpoint 8 is further north on Park Road. I note that this area is described as more sensitive, due to existing houses at this location. I consider that the quality of the materials and finishes will be crucial in allowing the block to be absorbed in the environment. Viewpoint 9 is taken from the canal bridge, where the proposed development is visible along the towpath. St. John's Cathedral Spire is visible in the background. The sensitivity of the site is considered medium in the chapter and the magnitude of change is considered high and a high degree of significance. I would concur with this assessment. The depth of the planting in the communal space helps to visually link the space with the canal. I consider this a positive change in creating a new quarter. Viewpoint 10 is taken on the far side of the canal, heading in an easterly direction. The view marks the start of the journey to the city centre. While the apartment block is high in comparison to existing housing, it is set back from these dwellings. The magnitude and significance of change is high. Viewpoint 11 is from the Abbeylock estate. It is one of the few views where the northern extent of the site can be fully experienced. The magnitude of change is high and the quality of materials will be crucial to ensure that the effect is positive. The view from Richmond Park is shown in Viewpoints 12 and 13. The site is somewhat softened by the intervening landscaping. There are no direct views to the site from the houses in Viewpoint 12, due to their orientation. This does not arise in Viewpoint 13, but these dwellings are at a considerable distance from the site.

11.12.3. The LVIA chapter identifies the impact of change during construction, which will be negative, short term and generally low to medium, save for Viewpoint 10, from the canal. At operational stage, the proposed development is considered to be a slight negative impact, as the existing landscape is classified as generally low sensitivity given the overgrown nature of the landscape at present and the proposed development is in accordance with the zoning. The LVIA states that mitigation and avoidance measures have been designed into the proposed development and the landscaping plan and are an integral factor reducing the potential for adverse landscape effects of the proposed development. Given the zoning policy for the subject site, development of this site is inevitable and it is considered likely that any proposed viable development will give rise to similar impact as those described above.

11.12.4. I have considered the urban design and placemaking aspects of the proposed development in my planning assessment above. From an environmental impact perspective, I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of the layout and design of the proposed scheme. I am, therefore, satisfied that the proposed development would have an acceptable direct, indirect and cumulative effects on the landscape and on visual impact.

11.13. ***Traffic and Transportation***

11.13.1. Section 11.2 sets out the methodology and 11.4 the receiving environment. Consultations were held with the planning authority in 2018 and 2019. The area analysed includes the immediate environment and the Corbally Road roundabout and linked traffic signal junctions onto the R445 Dublin Road. Traffic counts were undertaken in April 2019. While this time period is quite dated, I would accept that traffic volumes are probably within similar parameters. The chapter refers to the proposed canal bridge and considers that the impact of the proposed development would not be significant.

11.13.2. The proposed construction of a 750 pupil post-primary school for Gaelcholáiste Luimnigh on a site between Clare Street and PA Healy Road, Limerick City and County Council grant of planning 19/1252 refers [now underway]. The proposed school is accessed from a new junction on the southern side of Pa Healy Road, immediately to

the south-east of the proposed left-in access to this development. Traffic for the school is included in the assessment.

- 11.13.3. Traffic in 2038 on the surrounding road junctions will not increase by more than 5% due to the proposed development, save for the Corbally Roundabout and the junction of PA Healy Road, where the impact is 7.8% and 6% respectively. By 2038, the junction of PA Healy Road and Park Road will be overloaded, with or without the proposed development. The impact of the proposed development on the assessed junctions is a permanent moderate/slight, being a low impact on a medium sensitivity environment where background traffic growth is the main driver of change. The chapter notes the difficulty in forecasting, where changes to public transport and personal mobility are highly likely over a thirteen year period.
- 11.13.4. There has been one reported collision on the PA Healy Road in 2012. A Road Safety Audit has been prepared. A mobility management plan has been included, which refers to public transport in the area. If permission is granted, a road structural survey will be carried out.
- 11.13.5. In relation to construction traffic, this is described as having an imperceptible effect. However, no figures are provided. Mitigation measures during construction are included.
- 11.13.6. I note that third parties and the Elected Members have raised concerns in relation to traffic. While it is evident that the proposed development will add to traffic congestion in area, I do not consider that the additional amount of congestion created is sufficient to refuse planning permission. The NTA have raised concerns about the road layout on the PA Healy Road and I consider that best dealt with by way of condition with the planning authority. The concerns in relation to the cycleway and boundary treatment on Park Road are well founded, but can be dealt with also by way of condition.

11.14. **Material Assets – Waste**

- 11.14.1. Chapter 12 considers waste management impacts associated with the construction and operational phases of the proposed development and the potential impact that it may have on the receiving environment and on local and regional waste management infrastructure. This chapter is informed by the site-specific Construction and Demolition Waste Management Plan (CDWMP) (following estimates from PHM

Consulting) and Operational Waste Management Plan (OWMP) prepared by AWN Consulting, the authors of the chapter. Both are contained in the Appendices.

- 11.14.2. Demolition waste is likely to be of the order of 2,143 tonnes, of which 720 tonnes will be recycled and 1,363 tonnes to be disposed of. Some 14.042 cubic metres of soil and stones will be removed from the site. Construction generated waste will be of the order of 2,706 tonnes, with only 254 tonnes to be disposed of – the rest recycled or reused. The CDWMP refers to dealing with contaminated soils and asbestos.
- 11.14.3. During operation, some 85 cubic metres of waste will generated from the student, residential units and commercial units. These will be segregated by waste streams at source. Mitigation measures are proposed for construction and operation phases.
- 11.14.4. Bulk earthworks are required to reprofile the site to the design levels of the development. It is proposed to keep all soils on site to achieve an earthworks balance and therefore minimise spoil generation. Construction and Demolition (C&D) waste will be generated during the construction process, the anticipated volumes of each waste stream have been estimated. Details on the management of waste during the construction phase are presented in the Construction Waste Management Plan (CWMP). Mitigation measures have been proposed to manage the impact of the development on waste management during construction. Overall, the construction phase of works is not expected to have any significant waste generation with a low to moderate and short-term impact.
- 11.14.5. The operational stage of the development will generate domestic waste streams that will be generally managed through good design practice and regular collection regimes. Details on the management of waste during the operational phase are presented in the Operational Waste Management Plan (OWMP). Mitigation measures have been proposed to manage the impact of the development on waste management during the operational phase. the effects during the operational phase will be cumulative and long term, however, the impacts will be low to moderate on the basis of good waste management practices
- 11.14.6. The cumulative impact during construction will be short term if construction of adjacent developments overlaps with construction of the SHD. The cumulative impact during

the operational phase will be an overall increase in waste generation and associated management over life of the development.

11.14.7. I consider that the EIAR has adequately assessed waste impacts and that the environmental impacts have been adequately detailed and appropriately mitigated against. I am satisfied that there are no significant permanent adverse impacts from waste management.

11.14.8. No information has been provided in the Material Assets Section on energy, gas or telecommunications infrastructure, which would be standard in an EIAR.

11.15. ***Cultural Heritage***

11.15.1. Chapter 13 of the EIAR considers archaeological, architectural heritage and cultural heritage. The Park Canal on the north side of the development was built from 1757–1799, under the stewardship of William Ockenden and linked the Shannon River at Plassey to the Estuary. It continued in commercial use until 1960. The First Edition Ordnance Survey Map showed the site as rural and liable to flood. Park Road was constructed and a Canal House was shown near the bridge. There are no recorded archaeological monuments on the site. There is therefore no direct impact on the known archaeological landscape. The site is now infilled with a maximum depth of 3.1m modern rubble which may mask buried archaeological features or finds. However, it is likely that the site was never suitable for permanent settlement. No predicted impacts are expected on archaeology.

11.15.2. In relation to architectural heritage, historic buildings (Protected Structures) are some distance from the development site. The proposed buildings will be seen from the complex of late nineteenth/early twentieth century buildings on the LIT campus, albeit the view will be partially obscured by intermediary housing and retail units. St. Patrick's Church is south of the development and the higher buildings will be visible from the church.

11.16. ***Interactions and Cumulative Impacts***

11.16.1. Chapter 14 considers interactions.

Population and human health interact with land, soils, geology and hydrogeology; water and hydrogeology, air and climate; noise and vibration; landscape and visual impact; daylight and waste mainly arising from the construction phase.

Biodiversity interacts with land, soils, geology and hydrogeology; water and hydrology and landscape and visual impact. As the water environment and impact on water quality has the potential to impact on water dependent habitats and species in the water bodies affected and therefore there is a strong interaction with biodiversity.

Land, soils, geology and hydrogeology interacts with population and human health and water and hydrology, particularly in relation to contaminated land. The earthworks for the site have the potential to impact on the surface water quality, by silt generated from runoff or chemicals/oils from construction vehicles carrying out the works. Potential health effects arise mainly through the potential for soil and ground contamination.

Air Quality and Climate interacts with population and human health; biodiversity; and roads and traffic due to dust soiling and possible exposure to air quality pollutants.

Noise and Vibration interacts with population and human health; and roads and traffic during the construction phase.

Landscape and Visual Impact interact with population and human health; and biodiversity.

Waste interacts with population and human health.

Cultural Heritage, Archaeology and Architectural: No interactions are identified.

11.17. **Cumulative Impacts**

11.17.1. Chapter 14 addresses the potential cumulative impact arising from the proposed development in combination with other developments permitted or proposed in the surrounding area. The two relevant are the school under construction and the proposed bridge.

11.18. **Mitigation Measures**

Chapter 15 of the EIAR provides a consolidated list of all of the environmental commitments / mitigation measures that have been recommended by the various specialists throughout the Chapters of the EIAR. The mitigation and monitoring measures have been recommended on that basis that they are considered necessary to protect the environment during both the construction and operational phases of the proposed project. A summary table is provided in Table 15.1 of the 49 recommendations.

11.19. ***Reasoned Conclusion on the Significant Effects***

Having regard to the examination of environmental information set out above, to the EIAR and other information provided by the applicant, and to the submissions from the planning authority, prescribed bodies and third parties in the course of the application, it is considered that the main significant direct and indirect effects of the proposed development on the environment are as follows:

- Significant direct positive effects with regard to population and material assets due to the increase in the housing stock that it would make available in the urban area.
- A significant direct effect on land by the change in the use and appearance of a relatively large area of underutilised brownfield land to residential. Given the location of the site c. 1km from Limerick city centre and the public need for housing in the region, this would not have a significant negative impact on the environment.
- Potential significant effects on soil during construction, which will be mitigated by the re-use of material on the site and the removal of potentially hazardous material from the site, and the implementation of measures to control emissions of sediment to water and dust to air during construction.
- Potential effects arising from noise and vibration during construction which will be mitigated by appropriate management measures.
- Potential effects on air during construction which will be mitigated by a dust management plan including a monitoring programme.
- Potential indirect effects on water which will be mitigated during the occupation of the development by the proposed system for surface water management and

attenuation with respect to stormwater runoff and the drainage of foul effluent to the public foul sewerage system, and which will be mitigated during construction by appropriate management measures to control the emissions of sediment to water.

- A positive effect on the streetscape as the proposed development would improve the amenity of the land through the provision of dedicated public open spaces and improved public realm.

However, the EIAR has not consistently considered the land use zoning on the site. It has not considered material assets in terms of energy supply or telecommunications. Neither has it fully explored the relationship between the overflow channel and the canal and the environmental and flood effects, if any, the filling in of this action would have. While some of the assessments provided in many of the individual EIAR chapters are satisfactory, I have noted where gaps in information arises. Having regard to other reasons for refusals, I am not inclined to seek further information to remedy the deficiencies in the EIAR.

12.0 **Appropriate Assessment**

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

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

12.2. **Compliance with Article 6(3) of the Habitats Directive**

12.2.1. The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management

of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given. The proposed development is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3). The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.

Context

- 12.2.2. In ABP-306541-20, planning permission was refused in the site due to deficiencies in the Natura Impact Statement (NIS).

“Having regard to the deficiencies in the information provided in the submitted Natura Impact Statement, in particular the lack of information in relation to the baseline ecology of the site and of the surrounding area, and in relation to potential impacts on the qualifying interests of the Lower River Shannon Special Area of Conservation (site code 002165), including, but not limited to, ‘Otters’ [1355] and ‘Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation’ [3260]; and having regard to the inadequate information provided within the Natura Impact Statement in relation to the potential impacts on the special conservation interests associated with the River Shannon and River Fergus Estuaries Special Protection Area (site code 004077), resulting from development on the site and from potential impacts both on the adjacent Park Canal and on the wetlands to the north of the Park Canal, the Board is not satisfied that the proposed development would not adversely affect the integrity of the Lower River Shannon Special Area of Conservation (site code 002165) or of The River Shannon and River Fergus Estuaries Special Protection Area (site code 004077), in view of the sites’ conservation objectives. In such circumstances the Board is precluded from granting permission for the proposed development.”

12.2.3. The applicant has submitted a report entitled 'Appropriate Assessment Screening Report and Natura Impact Statement' by SLR Consulting. It combines both stages of appropriate assessment into one document. The **Environment Trust Ireland** does not agree with this approach and refers to OPR Guidance on the matter. I have read the guidance and am satisfied that the competent authority has to make separate decisions in relation to the screening stage and the Appropriate Assessment stage. Two separate reports are not essential to enable this, in my opinion.

12.3. **Screening the need for Appropriate Assessment**

12.3.1. The Report provides a description of the proposed development. It notes that two field surveys were carried out, one on 15 June, 2020 and another on 29 April, 2021. The former included an otter survey and the latter visit included a bat survey.

12.3.2. The European Sites within a possible zone of influence (in this case 15km radius) of the development. While there are 3 no. Natura 2000 sites within this radius, there are only two which might be impacted by the proposed development (The Glenomra Woods SAC, Site Code 0001013, 9.8km to the north being excluded due to the absence of a pathway to the site). The two remaining are the Lower River Shannon SAC (LRSSAC) Site Code: 002165 which is 30 metres to the north and The River Shannon and River Fergus Estuaries (RSRFSPA) Site Code 004077, 1.6km to the southwest. I note that there is a minor error in the report, where the SAC and SPA are mislabelled on the relevant drawing. The report identifies that the proposed development is connected via surface water pathways to the two Natura 2000 sites. I have accessed the EPA Appropriate Assessment Mapping Tool (on 04.10.2022) and would concur with the finding that only these two sites are affected.

12.3.3. The report identifies three potential impacts on the Natura 2000 sites. These are: loss of habitat; discharge of surface water to the canal and disturbance to species. The potential impact on the canal, which is part of the LRSSAC, in relation to the infilling of the overflow channel is not discussed. Neither is the issue of bird strike, given the height of the proposed development and the site's proximity to the Park Canal, which may be used by Whooper Swans, a qualifying interest in the SPA.

12.3.4. In relation to loss of habitat, the AA Screening Section finds that there will be no loss of land or habitat which lists a feature of interest for either Natura 2000 site. The

habitats on site are not likely to be used by any bird species of as whooper swan and brent geese do not utilise or forage in this type of habitat. Significant effects are ruled out on in relation to habitat loss.

- 12.3.5. The proposed development will discharge surface water both during construction and operation. The report considered that the significance of the effects are uncertain and emissions to water should be carried forward to the Stage 2 Assessment as it could affect the integrity of the qualifying features of the two Natura 2000 sites.
- 12.3.6. Disturbance to species from noise and lighting associated with construction and operation of the proposed development is considered. The species identified as likely to be effected are otter and bird species. The SPA bird species are considered too distant so as to remain unaffected. Otters may be affected by noise from construction works and during operation, when more people using the canal and the lighting of the area. A Stage 2 Appropriate Assessment is considered warranted.
- 12.3.7. The report considered cumulative effects with other applications in the area. None are considered likely. The report concludes that in the absence of implementation of suitable mitigation, the proposed development could pose a risk of likely significant effects on the Lower River Shannon SAC. I would be of the view that there is a possibility of potential impact on the Whooper Swan having regard to the height of the proposed development and not concur with the ruling out of the River Shannon and River Fergus Estuaries SPA. I note that the EIAR considered both within the zone of influence of the project.

Screening Determination

- 12.3.8. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, the Screening Report has concluded at 4.7 that the potential for significant effects on one European Site, the Lower River Shannon SAC (002165) an as a result, the project individually or in combination with other plans or projects cannot be excluded in view of the Conservation Objectives of that site, and Appropriate Assessment is therefore required.

12.3.9. The possibility of significant effects on other European sites has been excluded in the AA Screening on the basis of objective information by the authors. As stated above, I would not concur with this, given the absence of consideration of bird strike. Having regard to the building height of part of the proposed development, and the potential use of the Park Canal by Whooper Swans, I consider that the Appropriate Assessment Screening Report is deficient in not considering the potential for bird strike as a potential impact of the proposed development. The River Shannon and River Fergus SPA should have been included in the NIS, so that appropriate mitigations measures, in relation to materials, could have been referred to.

In-combination Effects

12.3.10. Cumulative Effects are ruled out in Section 4.6 of the report. However, the permitted bridge (19/8002) has not been considered in relation to cumulative impacts. Having regard to the Screening Statement associated with that development, which rules out any potential impact on the Natura 2000 sites in the vicinity of the site, I am satisfied that this omission is inconsequential.

12.4. **The Natura Impact Statement and Other Documents**

12.4.1. The submissions and observations from the Local Authority, Prescribed Bodies, and third parties are summarised in sections 7, 8 and 9 of this Report. I have read the NIS in conjunction with the Environmental Impact Assessment Report, Verdé Report, Construction Environmental and Waste Management Plan (CEWMP) (PHM Consulting 2021). These documents provide mitigation measures in relation to contaminated soil, groundwater and surface water management. The NIS submitted with the application while light in information, references other site specific documents which contained mitigation measures. I note all the information in on file and therefore available for my appropriate assessment.

12.4.2. The **CE Report** has raised concerns in relation to the time elapsed from the carrying out of the second survey of the site and submission of the application. The use of a sediment and hydrocarbon interceptor would assist in avoiding impacts on water quality, aquatic life and plants. The proposed public lighting is designed to reduce intensity and avoid light spill onto the canal, which I would concur with. Natural regeneration of grassland is recommended. Insufficient attention has been paid to

Ranunculon fluitantis and *Callitricho-Barachion* vegetation and there is a lack of survey for this vegetation was a reason for refusal. No specific site survey is referred to in the NIS. The Otter Survey is not referenced in the NIS. The NIS It would be beneficial if some of the tree stock and scrub areas could be retained.

- 12.4.3. The **Third Party** submission from **John Conway and The Louth Environmental Group** (BKC Solicitors) considers that the submitted documentation is inadequate in relation to birds, otters and bats, including collision, during construction and operation of the proposed development. The AA Screening and NIS does not provide sufficient reasons for findings under the Habitat Directive and that no regard and/or inadequate regard has been given to the cumulative effects of the proposed development in combination with other developments. The submission also raised concerns that certain designated sites have been ruled out on the on the basis of mitigation measures. The **Third Party, Ms. O'Brien** is concerned that the ecology of the site is being interfered with. The **Third Party, Environment Trust Ireland**, notes that the site is opposite a wetlands area and there are qualifying habitats in the Park Canal. There are concerns about fragmentation of habitats and Annex I species have not been assessed properly. Impacts on groundwater pose a threat the Natura 2000 site. Cumulative effects were not taken properly into account.

12.5. **European Sites**

- 12.5.1. The development site is not located in a European site. However, it is 30 metres from the Park Canal, which is a section of the Lower River Shannon SAC. There is a direct connection as the surface water from the site will enter the canal. While the proposed development site is not located immediately adjacent to a European site. In addition, the connection between the overflow channel which is located on site and the Park Canal is not explored or explained.
- 12.5.2. The Qualifying Interests / Special Conservation Interests of the Lower River Shannon SAC are set out below. I have also appended the Qualifying Interests / Special Conservation Interests of the River Shannon and River Fergus Estuaries SPA.

<p><i>European Site</i></p> <p><i>Site Code</i></p>	<p>List of Qualifying interest/Special conservation Interest</p>
<p>Lower River Shannon SAC</p> <p>002165</p>	<p>Sandbanks which are slightly covered by sea water all the time [1110]</p> <p>Estuaries [1130]</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Coastal lagoons [1150]</p> <p>Large shallow inlets and bays [1160]</p> <p>Reefs [1170]</p> <p>Perennial vegetation of stony banks [1220]</p> <p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation [3260]</p> <p>Molinia meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>) [6410]</p> <p>Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i>, <i>Alnion incanae</i>, <i>Salicion albae</i>) [91E0]</p> <p><i>Margaritifera margaritifera</i> (Freshwater Pearl Mussel) [1029]</p> <p><i>Petromyzon marinus</i> (Sea Lamprey) [1095]</p> <p><i>Lampetra planeri</i> (Brook Lamprey) [1096]</p> <p><i>Lampetra fluviatilis</i> (River Lamprey) [1099]</p> <p><i>Salmo salar</i> (Salmon) [1106]</p> <p><i>Tursiops truncatus</i> (Common Bottlenose Dolphin) [1349]</p> <p><i>Lutra lutra</i> (Otter) [1355]</p>

<p>River Shannon and River Fergus Estuaries SPA</p> <p>Site Code 004077</p>	<p>Cormorant (<i>Phalacrocorax carbo</i>) [A017] Whooper Swan (<i>Cygnus cygnus</i>) [A038] Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Shelduck (<i>Tadorna tadorna</i>) [A048] Wigeon (<i>Anas penelope</i>) [A050] Teal (<i>Anas crecca</i>) [A052] Pintail (<i>Anas acuta</i>) [A054] Shoveler (<i>Anas clypeata</i>) [A056] Scaup (<i>Aythya marila</i>) [A062] Ringed Plover (<i>Charadrius hiaticula</i>) [A137] Golden Plover (<i>Pluvialis apricaria</i>) [A140] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Lapwing (<i>Vanellus vanellus</i>) [A142] Knot (<i>Calidris canutus</i>) [A143] Dunlin (<i>Calidris alpina</i>) [A149] Black-tailed Godwit (<i>Limosa limosa</i>) [A156] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Curlew (<i>Numenius arquata</i>) [A160] Redshank (<i>Tringa totanus</i>) [A162] Greenshank (<i>Tringa nebularia</i>) [A164] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] Wetland and Waterbirds [A999]</p>
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Potential Impacts

- 12.5.3. The NIS considers that during construction, the surface water run-off from the site during periods of heavy rainfall, and leaks or spills from construction plant and equipment, have the potential to release contaminated surface water. Any contaminants in this surface water may enter the River Shannon via the existing surface water network and this has the potential to cause negative effects on aquatic species such as and habitats associated with the SAC.
- 12.5.4. The NIS finds that key aquatic species such as sea, brook and river lamprey, salmon and otter could be affected by a deterioration of water quality, changes in water chemistry and reduction in habitat which could affect the prey species they depend on and degradation of their foraging and breeding habitats. Silt release could settle on the bed of the canal and Lower River Shannon reducing its suitability for spawning. The release of silt could also cause reduction in the oxygen levels within the water.
- 12.5.5. Otter may suffer disturbance due to increased human activities along the canal and potential light spill could prevent it from using the canal for foraging. This could result in the reduction of available foraging habitat to the species and ultimately affect the population numbers within the SAC.
- 12.5.6. No description of the bats using the site is provided.
- 12.5.7. The NIS, unlike the EIAR, does not refer to a survey for *Ranunculion fluitantis* and *Callitriche-Batrachion*

Mitigation Measures

- 12.5.8. The NIS draws on the PHM Construction Environmental and Waste Management Plan (CEWMP) to set out appropriate mitigation measures during construction, to avoid adverse impact on surface waters and otters. These include and are not limited to:
- Surface water and groundwater encountered during excavations will be treated using appropriate measures in advance of discharge to the canal. If contaminated groundwater is encountered these measures would include those set out in the Verdé Report. Mitigation measures to prevent discharge of contaminated and / or silt laden water will include, but are not limited to, hydrocarbon interceptors, silt barriers, settlement ponds / tanks and silt traps.

The equipment used in the management of surface water will be subject to weekly checks and a regular maintenance schedule.

- The construction site will be fenced off prior to commencement of development works and no construction activities will be permitted outside designated works area. No access will be gained from the construction site to the canal.
- Noise and vibration control will follow BS 5228: Code of Practice for Noise and Vibration Control on Construction and Open Sites.
- Work will be completed during daylight hours. There will be no constant artificial lighting of the construction site at night. Motion triggered security lighting may be used but this will be directed downwards and sited so as to avoid any light spill onto the towpath and canal.

12.5.9. During operational phase, the mitigation measures include and are not limited to:

- The surface water drainage design for the development incorporates silt traps, a hydrocarbon interceptor (Kingspan NSBE040 Class I Interceptor or similar) and hydrobrake to control surface water run-off from the development to the canal during the operational phase.
- During the operational phase, access to the canal walkway will be limited to daylight hours. The development's management company will be responsible for locking pedestrian access gates each day.
- The lighting design for the development provides for reduced effect of lighting on wildlife, while meeting current safety standards. The lighting design for the development includes low lux and directional lighting that will avoid any light spill onto the canal area (refer to Lighting analysis plan included in Appendix A). External security lighting will be set on motion-sensors and short (1min) timers.

12.5.10. The NIS considers that if the mitigation measures in the CEWMP and the mitigation measures relating to Biodiversity are implemented, the project is not predicted to give rise to adverse effects on the integrity of the Lower River Shannon SAC either alone or in-combination with other projects or plans. The report states that it is considered that there will be no adverse effects on the integrity of River Shannon and River Fergus Estuaries SPA and Lower River Shannon SAC as a result of the proposed residential

development at Canal Bank, Co. Limerick. I note that the AA Screening Report had screened out the River Shannon and River Fergus Estuaries SPA. However, it is referred to in the conclusion, while not being assessed in the NIS. The Biodiversity Chapter in the EIAR considers that the River Shannon and River Fergus SPA comes within the zone of influence of the project and states that the NIS assesses this Natura 2000 Site. It does not.

12.5.11. The EIAR notes that the CEWMP has been prepared in consultation with SLR, Precision, who undertook the Asbestos R&D Report, RW Nowlan and Verdé, who undertook the due diligence report. Mitigation measures are recommended, which are consistent with the NIS.

12.5.12. I note from the EIAR that there is contamination in the soil on site but that this has not generally affected groundwater. The EIAR states that the base of the canal is approximately 1m OD, while groundwater strikes between -0.68m OD and -5.1mOD. There would appear to be no hydrological connection therefore, between the canal and ground water. Groundwater flows move northwest, so there may be some groundwater connection to the marsh area opposite the site, which forms part of the SAC. The Verdé Report confirms that there is no current impact on groundwater from contamination on the site. No basement is proposed in the scheme and the surface water system for the site is designed so as surface water does not permeate through to groundwater, therefore there is no risk to groundwater or the SAC from existing contamination on site.

12.5.13. ***Evaluation of Effects***

12.5.14. I consider that the proposed mitigation measures relating to the protection of surface water and ground water set out in the NIS, CEWMP, EIAR, Verdé report, PHM Civil Engineering Report and Asbestos R&D Survey report are clearly described, are reasonable, practical and enforceable. I am also satisfied that the measures outlined address most potential impacts arising from the proposed development and that it is reasonable to conclude on the basis of objective scientific information, that the proposed development would not be likely to have an adverse effect on the Lower River Shannon SAC (002165). In relation to the absence of a second survey for *Ranunculion fluitantis* and *Callitricho-Batrachion* vegetation, it would have been helpful if it could have been confirmed again that this was not present in the site.

However, I am satisfied that once the surface water mitigation measures are in place, the surface water from the site will not adversely affect the quality of the water in the canal and so would have no impact on *Ranunculion fluitantis* and *Callitricho-Batrachion* vegetation. I am not satisfied that the River Shannon and River Fergus SPA has been properly considered in the NIS, which does not consider the potential for bird strike.

12.5.15. In relation to in-combination effects with works on the permitted bridge (19/8002) circa 140 metres further east of Park Bridge, I note that this was subject to a screening assessment by Mott and MacDonald in 2019. Like the current AA Screening Determination, it screened out the River Shannon and River Fergus Estuaries SPA. It found that there was no likely impact on the qualifying features of the Lower River Shannon SAC. 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.

12.6. **Appropriate Assessment Conclusion**

12.6.1. The proposed development has been considered in light of the assessment requirements of Section 177 of the Planning and Development Act, 2000 (as amended).

12.6.1 Having regard to the deficiencies in the information provided in the submitted Natura Impact Statement, in relation to potential impacts on the qualifying interests of the River Shannon and River Fergus Estuaries SPA, I am not satisfied that the proposed development would not adversely affect the qualifying interests, in view of the site's conservation objectives. In such circumstances, the Board is precluded from granting planning permission.

13.0 Conclusions

- 13.1. The application was made under the auspices of the previous development plan, where the site was zoned for mixed use development and building height policy relied on national policy. The new development plan has rezoned the site to residential use, where no shops, cafes or restaurants are permitted in principle. There is a presumption in the current development plan against tall buildings in locations not identified in that plan. The site is not located in an area where a density of more than 100 units is considered acceptable in principle. There is no statement of consistency for the current development plan and no material contravention statement, in relation to height or density in the application.
- 13.2. The commercial element is integral to the structure of the buildings where they are located. The Board is constrained by Section 9 (6)(b) of the *Planning and Development Housing and Residential Tenancies Act, 2016*, in granting permission for a development where part of it materially contravenes the zoning of the development plan. This part of the site comes within Flood Zone B and is not suitable for highly vulnerable development where the Finished Floor Level is below recommended levels for residential occupation.
- 13.3. The second access to the site on PA Healy Road is considered a traffic hazard. A second access is needed to the site in the interest of traffic safety
- 13.4. The EIAR, AA Screening and NIS are considered inadequate.
- 13.5. There is a minor difficulty in the public notice, in that it refers to the City Canal, as opposed to the Park Canal. Given that there is no other canal in Limerick city, I am satisfied that this does not mislead the public as it is evident where the location of the site is. The two street names are correct.
- 13.6. The implications in relation to the filling of the canal overflow channel have not been properly addressed. There may be no impact, but any future application should assess this element properly. The Verdé Report confirms that it is not known whether there is a hydrological connection with the canal. If there is none, then the canal is not deemed a plausible risk of contamination. The absence of a hydrological link should be established in fact. Similarly, whether the overflow channel retains any functionality in relation to dealing with overflows from the canal during times of flooding should be

established. This matter could be dealt with by way of condition and so I am not inclined to refuse on this basis.

- 13.7. I also note that there is no letter of consent in relation to the towpath lands for the surface water pipe from this site. Section 34 (13) of the Planning and Development Act, 2000, as amended, applies in this instance.

14.0 **Recommendation**

Having regard to the above assessment, I recommend that permission is REFUSED for the development as proposed for the reasons and considerations set out below.

15.0 **Recommended Order**

Application: for permission under Section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 17th day of April 2021 by RW Nowlan and Associates, on behalf of Revington Limited.

Proposed Development: The development will consist of a mixed-use development of build-to-rent apartments, student apartments incorporating common areas, café and 3no retail units, creche and management facilities building, and dwelling houses at Canal Bank, Pa Healy Road, Limerick. The development will consist of a 4ha area bounded by City Canal to the north, Pa Healy Road to the south and Park Road to the east, Canal Bank, Limerick; A. Demolition of existing 530m² warehouse building on site. B. Block 1 – Student accommodation building of 8,238m² stepped from three to six storeys, with ground floor café of 144.60m² and 3 no. retail units facing onto Pa Healy road of 86.59m² each, with 9 no. two bedroom, 37 no. three bedroom, and 15 no. four bedroom student apartments, totalling 189 bed spaces, ancillary laundry, refuse and enclosed communal courtyard with landscaping and bicycle storage; C. Block 2 - A residential apartment building of 6,013.25m² with eight storeys and two penthouse storeys, total ten storeys containing 10 no. studio, 1 no. one bedroom and 52 no. two-bedroom apartments; D. Block 3 – A residential apartment building of 8,107.10m² with six storeys and two penthouse storeys, total eight storeys containing 16 no. studio, 10 no. one bedroom, and 62 no. two-bedroom apartments; E. Block 4 – A residential apartment building of 3,869.18m² with six storeys and one penthouse

storey, total seven storeys containing 7 no. studio, 13 no. one bedroom and 25 no. two-bedroom apartments; F. Block 5 – A residential apartment building of 5,849.40m² with six storey and one penthouse storey total seven storeys containing 14 no. studio, 16 no. one bedroom and 36 no. two-bedroom apartments; G. Block 6 a residential apartment building of 3,869.18m² with six storeys and one penthouse storey, total seven storeys containing 7 no. studio, 13 no. one bedroom and 25 no. two-bedroom apartments; H. Block 7 a residential apartment building of 4,962m² with five storeys and one penthouse storey, total six storeys containing 12 no. studio, 14 no. one bedroom and 30 no. two-bedroom apartments; I. Community facilities building of 1,336.90m² and three storeys with creche, café, management offices and common accommodation for use by apartment dwellers; J. 18 no. Executive Houses – Consisting of 2 no. detached four-bedroom houses of 194.62m² each and 16 no. terraced four-bedroom houses of 177.82m² each, with off street parking to front separate from communal parking; K. 149 Car parking spaces throughout the development and 420 secured bicycle parking spaces throughout the development; L. Ancillary works comprising; new vehicular entrances onto Pa Healy Road, pedestrian and cycle links to Pa Healy road, Park road and City Canal, bin storage for all developments adjacent to all entrances, New public park of 0.5ha along city canal, communal open space and communal roof gardens for all apartments, all ancillary drainage, civil and landscape works, public lighting within estate and Electricity Sub-station to rear of Block 1. The total number of units is as follows; Build to rent apartments - 363 (66x studio, 67x one bedroom, 230x two bedroom); Student apartments - 61 (9x two-bedroom, 37x three bedroom and 15x four bedroom, totalling 189 student bed spaces); 18 Dwelling houses. Overall total of residential units is 442. Overall Gross floor area of development proposed is 45,478.65m² on a site of circa 4ha. A Natura Impact Statement (NIS) and Environmental Impact Assessment Report (EIAR) have been prepared in respect of the proposed development.

Decision:

Refuse permission for the above proposed development based on the reasons and considerations set out below.

Matters Considered:

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

16.0 Reasons and Considerations

1. The current development plan is the *Limerick Development Plan 2022-2004*. Under this plan, the land use zoning of the site is 'New Residential'. Certain uses, included in the proposed development, are generally not permitted in principle in this zoning, which includes retail units. The retail units form an integral part of the structure of Block 1. Under Section 9 (6) (b), of the *Planning and Development (Housing) and Residential Tenancies Act, 2016*, the Board is precluded from granting planning permission where the proposed development, or part of it, materially contravenes the development in relation to the zoning of the land.
2. The current development plan is the *Limerick Development Plan 2022-2004*. The statement of consistency submitted with the application relates to the previous development plan and so has been superseded. There has been a material change in planning policy in relation to the Building Height Strategy of the aforementioned plan, where the locations for building height are identified on Map 6.8. Policy TB2 states that generally, tall buildings outside the City Centre will only be permitted at designated centres. The site is not identified as a one to support a tall building. The site is not located in an area where densities in excess of 100 units per hectare are encouraged. In the absence of a material contravention statement and reference to same in the public notices, a grant of planning permission for the proposed development would be contrary to proper planning and sustainable development.
3. The *Urban Development Building Height Guidelines*, which states that where high buildings are proposed in locations in proximity to sensitive bird areas, such developments need to consider the potential interaction of the building location and building materials to impact flight lines and / or collision. The proposed

development is proximate to the Park Canal and the River Shannon and River Fergus Estuaries SPA 002165 of which Whooper Swans are a qualifying interest, it is considered that the NIS is deficient in failing to address this matter. Furthermore, the NIS does not address the survey work in relation to otters, bats or *Ranunculon fluitantis* and *Callitricho-Batrachion* vegetation in a manner consistent with the EIAR. The Board is not satisfied that the proposed development would be in accordance with the proper planning and sustainable development of the area.

4. Having regard to the scale of development proposed, it is considered necessary and desirable that a second vehicular access is provided, in the interest of traffic safety and convenience and to integrate the proposed development into the area. The proposed second entrance onto PA Healy Road, as currently located and designed, would give rise to traffic hazard. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.
5. The Board is not satisfied that the relationship between the dry ditch, a potential overflow channel from the Park Canal, which runs through the north of the site and the canal has not been fully explored, as to whether there is an existing hydrological link between the channel and the canal. The proposed development includes the filling in of this channel. In the absence of clarity in relation to the effects of this action on the canal during periods of flood, the Board is not satisfied that the proposed development would not give rise to flooding elsewhere.

Mary Mac Mahon

Senior Planning Inspector

28th October 2022