



An
Bord
Pleanála

Inspector's Report ABP 314776-22.

Development

Demolition of existing derelict warehouse building. The construction of a 20 no. unit, 4 storey apartment block comprising 10 No. 1 bedroom and 10 No. 2 bedroom apartments, new vehicular and pedestrian entrance off Kilmurray Road and pedestrian entrance access to Dublin Road, stand-alone single storey bin storage shed, on-site car parking, open space amenity landscaped area, boundary walls, services and all associated site development works.

Location

St. Annes's Dublin Road, Limerick City

Planning Authority

Limerick City and County Council.

Planning Authority Reg. Ref.

22793

Applicant

Real Capital G.P Ltd.

Type of Application

Permission

Planning Authority Decision

Grant permission

Type of Appeal

Third Party

Appellants

- (1) Kieran Clancy
- (2) Keith Downey and Gerry Sheahan

Observers

- (1) Mrs Evelyn Kenny & Residents of
Dublin Road
- (2) Avril Kenny
- (3) Deputy Willie O'Dea

Date of Site Inspection

29/11/2023

Inspector

Siobhan Carroll

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1.0 Site Location and Description

- 1.1. The appeal site is situated to the south of the Dublin Road R445 in Limerick City. It lies on the eastern side of the city approximately 1km from the City Centre. The junction of Pennywell Road and the Dublin Road is situated circa 20m to the north of the appeal site.
- 1.2. There is a service station immediately to the east of the site. To the south east of the site there is a small scheme of single storey dwellings comprising a mix of semi-detached and terraced units at St. Patricks Court. The closest units within the scheme no. 9 and no. 10 are located 8m and 5m from the site respectively. The western boundary of the site adjoins the rear gardens of 2 no. end of terrace two-storey dwellings located on Pennywell Road and Kilmurry Road.
- 1.3. The site has a stated area of 0.156 hectares there is metal fencing along the northern and eastern boundary. There is temporary fencing along a section of the northern boundary with direct road frontage. The site is surfaced with concrete and there are sections of weeds within the concrete.

2.0 Proposed Development

- 2.1. Permission is sought for the demolition of existing derelict warehouse building. The construction of a 20 unit, 4 storey apartment block comprising 10 No. 1 bedroom and 10 No. 2 bedroom apartments, new vehicular and pedestrian entrance off Kilmurray Road and pedestrian entrance access to Dublin Road, stand-alone single storey bin storage shed, on-site car parking, open space amenity landscaped area, boundary walls, services and all associated site development works.
- 2.2. The application is accompanied by the following documents;
 - Noise Impact Assessment
 - Bat Survey
 - Outline Invasive Species Management Plan
 - Traffic Assessment

- Speed Survey Report
- Road Safety Audit
- Flood Risk Assessment
- Civil Utilities Planning Report
- Day Light Sunlight Analysis

3.0 **Planning Authority Decision**

3.1. **Decision**

The Planning Authority granted permission for the development subject to 24 no. conditions.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

- The report of the Planning Officer

3.2.2. Other Technical Reports

3.2.3. Roads Section – Permission recommended subject to conditions.

3.2.4. Planning Environment and Place Making – Flooding Section –

- It is noted that the site is located within Flood Zone a as per the Limerick Development Plan 2022-2028 flood extents mapping and the site is zoned as “New Residential”.
- The site specific flood risk assessment (SSFRA) recommends a minimum finished floor level of 5.30mOD with provision to provide protection to 5.6mOD. This includes an allowance for climate change in accordance with the Limerick Development Plan 2022-2028 SFRA.
- As part of the development of a flood egress and access emergency plan, users of the development should be made aware of flood risk to the area and evacuation procedures as appropriate.
- Based on the above, there was no objection on the grounds of flood risk.

- 3.2.5. Planning, Environment and Place Making – Noise section – A condition was recommended in relation to the acoustic report submitted with the application.
- 3.2.6. Active Travel Transport & Mobility Section – There is no objection in principle to the proposal. The number of cycle storage spaces proposed is welcomed and further details of the management of the storage area is recommended to be secured by condition should permission be granted. It is recommended that the total number of visitor cycle storage spaces is clarified. The storage spaces should also be covered which could be addressed by condition. Setbacks at the front of the site on the Dublin Road should be clearly shown and it should be demonstrated that any future bus corridors and cycle lanes/footpaths can be constructed.
- 3.2.7. Fire Officer – Report recommended a number of points.

3.3. Prescribed Bodies

Uisce Eireann – No objections.

3.4. Third Party Observations

- 3.4.1. The Planning Authority received 11 no. submissions/observations in relation to the application. The main issues raised are similar to those set out in the appeals and observations to the appeals.

4.0 Planning History

- 4.1.1. Reg. Ref. 19/762 & ABP 307233-20 – Permission was granted by the Planning Authority and refused on appeal for the demolition of warehouse, construction of 5 storey apartment block comprising 26 one-bed and 8 two-bed apartments, new vehicular entrance off Kilmurry Road and pedestrian access to Dublin Road, bin storage shed, on-site car parking, landscaping, boundary walls, services and all associated site development works.
- 4.1.2. Permission was refused for the following reasons;
 - 1. Having regard to the provisions of ‘Sustainable Urban Housing: Design Standards for New Apartments. Guidelines for Planning Authorities’ published in 2018 by the Department of Housing, Planning and Local Government, it is

considered that, the proportion of two bedroom three person apartments, significantly exceeds the 10% cap set out under the guidelines, which together with, the lack of any communal open space, and an insufficient number of cycle spaces, would fail to provide a satisfactory standard of amenity for future residents. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Having regard to the proximity of the proposed development to the boundary with No.1 Pennywell Road, it is considered that the proposed building would have an overbearing effect, and would seriously injure the visual and residential amenity of the neighbouring property, and would therefore be contrary to the proper planning and sustainable development of the area.

5.0 Policy Context

5.1. Project Ireland 2040 - National Planning Framework

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

5.2. Section 28 Ministerial Guidelines

- 5.2.1. The following is a list of section 28 Ministerial Guidelines considered of relevance to the proposed development. Specific policies and objectives are referenced within the assessment where appropriate.

- 'Urban Development and Building Heights' Guidelines for Planning Authorities

- ‘Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas’ (including the associated ‘Urban Design Manual’)
- ‘Design Manual for Urban Roads and Streets’ (DMURS)
- ‘The Planning System and Flood Risk Management’ (including the associated ‘Technical Appendices’)
- ‘Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities’ (2023)

5.3. Limerick Development Plan 2022-2028

- 5.3.1. Under the provisions of the plan the appeal site is located on lands which are zoned ‘New Residential.’
- 5.3.2. The Settlement Capacity Audit is set out in Section 1.4 of Volume 2a of the Plan which refers to Level 1 – Limerick City and Suburbs (in Limerick), Mungret and Annacotty. The subject site at St. Anne’s, Dublin Road, Limerick City is identified on Map 1 as site no. 81 which is stated to have an area of 0.156 hectares and an assumed residential density of 45+ per hectare and estimated residential yield of 32. Comments refer to Site Flood Mitigation/design required and Brownfield site.
- 5.3.3. Volume 4 – Strategic Flood Risk Assessment

5.4. Natural Heritage Designations

- 5.4.1. Lower River Shannon SAC (Site Code 002165) lies to the north, east and west of the appeal site at the closest point it is located circa 360m from the site.
- 5.4.2. River Shannon and River Fergus Estuaries SPA (Site Code 004077) lies to the west of the appeal site at the closest point it is located circa 1.7km from the site.

5.5. EIA Screening

- 5.5.1. The proposed development comprises 20 no. residential units on a hectare site.
- 5.5.2. The development subject of this application falls within the class of development described in 10(b) Part 2, Schedule 5 of the Planning and Development Regulations, 2001, as amended. EIA is mandatory for developments comprising over 500 dwelling

units or over 10 hectares in size or 2 hectares if the site is regarded as being within a business district.

5.5.3. The number of dwelling units proposed at 20 is well below the threshold of 500 dwelling units noted above. Whilst the site is located within Limerick City it is not in a business district. The site is, therefore, materially below the applicable threshold of 10 hectares.

5.5.4. The proposal for 20 residential units is located within the development boundary of Limerick City on lands zoned 'New Residential' in the Limerick Development Plan 2022-2028. The site comprises a brownfield site. It is noted that the site is not designated for the protection of the landscape or of natural or cultural heritage. The proposed development will not have an adverse impact in environmental terms on surrounding land uses. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The site is not within a European site. The issues arising from the proximity/connectivity to a European Site can be adequately dealt with under the Habitats Directive. The application is accompanied by a Planning and Design Statement and Traffic Assessment. These address the issues arising in terms of the sensitivities in the area.

5.5.5. Having regard to

- the nature and scale of the proposed development, which is below the threshold in respect of Class 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- the location of the site on lands within the development boundary of Limerick City on lands zoned new residential under the provisions of the Limerick Development Plan 2022-2028 and the results of the strategic environmental assessment of the Limerick Development Plan 2022-2028, undertaken in accordance with the SEA Directive (2001/42/EC).
- the location of the site within the existing built-up urban area, which is served by public infrastructure, and the existing pattern of residential development in the area.

- the location of the site outside of any sensitive location specified in article 109 of the Planning and Development Regulations 2001 (as amended),
- The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003),
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended),

I have concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and that on preliminary examination an environmental impact assessment report was not necessary.

6.0 The Appeal

6.1. Grounds of Appeal

Third party appeals have been submitted by (1) Kieran Clancy and (2) Keith Downey and Gerry Sheahan.

(1) Kieran Clancy

- The appeal is made by Kieran Clancy and the Kilmurry Road residents Association.
- The proposed development is not in keeping with the existing architecture and village feel of the area. The development of the proposed apartment block would constitute poor architectural and planning appreciation of the surrounding area. The proposed scheme would not positively add to the existing streetscape or provide an appealing focal point at a busy roadway intersection.
- It is submitted that the height, mass and scale of the proposed development is excessive and that it would have an overbearing impact. It is highlighted that the site adjoins single storey and two-storey properties.

- The proposed 4 storey development would impact upon the privacy and security of the appellant and other neighbouring residents.
- It is requested that if the Board grants permission for the proposed scheme that the design would be revised with the reduction in the height and scale of the building.
- The proposed building would cause overlooking of gardens of surrounding properties on Pennywell Road, Kilmurry and Keating Street.
- It is submitted that a more modest development of 2-3 storeys in height comprising duplexes and apartments would be more in keeping with the surrounding village area and would contribute to the architectural character of the area.
- Access to the proposed development will be via a newly laid out vehicular entrance adjacent and perpendicular onto Kilmurry Road. It is considered that the entrance does not appear to be wide enough and concern is expressed for pedestrians.
- Current vehicular access to the site is via the Dublin Road. There is also an option of connecting the site to the Pennywell Road, adjacent to no. 1 Pennywell Road. They contend that the existing point of vehicular access should be maintained for future residents. Consideration should be given to extending the vehicular access onto the Pennywell Road. This would preserve the integrity and safety of the Kilmurry Road. This option does not appear to have been discussed or reviewed at any stage either by the developer or by the Planning Authority.
- It appears that an unencumbered pedestrian right of way is proposed through the site via a footpath and gated access onto the Dublin Road. This proposal is not directly stated under the development description.
- Concern is expressed in relation to potential anti-social behaviour which could occur at this location.
- It is not clear if the vehicular entrance will be gated or secure. Concern is expressed in relation to the security of the area adjacent to the proposed

entrance and how safe vehicular and pedestrian movements in the area will be maintained.

- It is noted that the Road Safety Audit submitted with the application was the same as the provided with the previous application on the site.
- It is stated that traffic surveys should have been carried out when the local schools and colleges are open, so as to accurately gauge the existing capacity and impact of the proposed development on further traffic congestion in the area.
- Inadequate car parking has been proposed to serve the scheme. Therefore, concern is expressed that overspill car parking would occur on the Kilmurry and Pennywell Roads. Overspill car parking will lead to further congestion in the area. The site is located a short distance from St. Patrick's Boys and Girls schools. It is stated that during the school drop off and collection times the area is heavily congested.
- Any disturbance to the flow of the Clachan stream should be carefully considered prior to any excavation and development on the site.
- The site lies on a flood plain with unmapped water flowing onwards in a north-westerly direction through to the Abbey River/Shannon river catchment area.
- It is noted that the application for the proposed development makes it clear that the site has previously flooded and that the proposed apartment building will be 0.5m above the ground level thereby displacing stormwater run-off into the lower Dublin and Pennywell Road area.
- Within the curtilage of the proposed car parking area, it is proposed to construct a bin storage area adjacent to the boundary area with no. 43 Kilmurry Road. It is suggested that it would be more appropriate to locate the bin storage area closer to the rear of the apartment building or near the eastern boundary of the development as it would make it easier for residents to access it.
- It is submitted that the conditions attached by the Planning Authority to the grant of permission issued do not address the appellant's concerns and also the issues raised by other objectors to the application.

- The appeal is not made on the basis that there should be no development on the site. It is suggested that a more moderate size of development of 2/3 storeys in keeping with the building height along Pennywell Road would be more appropriate and in keeping with the existing surrounding bungalows and terraced houses.
- It is requested that the Board carefully review all the matters set out appeal.

(2) Keith Downey and Gerry Sheahan

- The proposed development is not in keeping with the existing architecture and village feel of the area. It is considered that the proposal comprising a mono block apartment would have a negative impact upon the streetscape character. It is considered that it would not provide a well-considered focal point to a site adjacent to a busy road intersection.
- The height, mass and scale of the proposed development is considered excessive and overbearing particularly in the context of nearby single storey and two-storey dwellings.
- The appellants request that should the Board decide to grant permission for the scheme that the building be reduced in height and scale.
- It is considered that significant overlooking would occur from the apartment building into surrounding gardens.
- It is suggested that a more modest development of 2-3 storeys in height of townhouse design dwellings would be more in keeping with the surrounding area.
- It is submitted that prominent design features on the proposed development are incongruous. The design includes a high rail to the front of the building along a wall boundary on Pennywell Road this design feature is not considered appropriate.
- A dark cladding finish is proposed to the top floor of the building concern is expressed at the appearance of this design element and that it may

deteriorate with weathering as the maintenance of the finish is not specified.

- There is inadequate provision of car parking spaces for future residents, visitors and service providers. There is a likelihood of considerable overspill parking from the development onto the Kilmurry and Pennywell Road.
- Overspill parking will cause congestion. The site is located close to St. Patrick's boys and girls national schools. It is stated that the road network adjacent to the school is already congested during the school start and finish times.
- In relation to the shadow analysis carried out it is stated that it refers to the proposed development under the previous application on the site and not the current scheme.
- The shadow analysis has incorrectly assumed the positions of windows at various properties and it has not included the actual kitchen and house extensions at a number of properties in close proximity to the proposed development.
- The effects of shadowing of the proposed development are not included for kitchen extensions at numbers 1,2 and 3 Pennywell Road.
- It is stated that the applicant/developer has not engaged with the appellants Gerry Sheahan and Keith Downey in relation to the reconstruction of any party boundary wall. The appellants are concerned at the boundary wall will be completed so as to maintain their existing privacy and mitigate any further noise or overbearing impact. It is stated that overbearing impact on the eastern and southern boundaries is not mitigated by screen planting.
- There is a proposed landscaped "play area" adjacent to no. 1 Pennywell Road. It is not clear who will have use of this play area. Concern is expressed in relation to potential anti-social behaviour in this area.
- The proposed vehicular entrance is onto the Kilmurry Road. Concern is expressed in relation the safety of the proposed entrance.

- The proposed layout of the scheme includes a pedestrian access through the site however this is not clearly stated in the description of the development. Concern is raised regarding antisocial behaviour on this pedestrian access.
- It is not clear if the proposed vehicular entrance will be gated or secure. Therefore, concern is raised about how secure the area adjacent to the new entrance will be and how safe vehicular and pedestrian movements will be maintained.
- The applicant has not provided a complete and updated Road Safety Audit since the prior application. It is stated that an up to date Road Safety Audit should be provided with surveys conducted when local schools and colleges in the area are open in order to accurately gauge the existing capacity and impact of the proposed development on further congestion in the area.
- Any disturbance to the flow of the Clachan stream should be carefully considered prior to full scale excavation and development.
- The site lies on a flood plain with unmapped underground water flowing onwards in a north-westerly direction through to the Abbey River/Shannon River catchment.
- It is highlighted that the application makes clear that the site of the proposed development has previously flooded and the proposed apartment building is to be raised by 0.5 metres above the ground level. This would displace stormwater run-off into the lower Dublin and Pennywell Road areas.
- Within the curtilage of the proposed car parking area provision has been made for the construction of an enclosed bin storage facility adjacent to the boundary area with no. 43 Kilmurry Road.
- It is suggested that it would be more appropriate to locate the bin storage facility closer to the rear of the apartment building or near the eastern boundary of the development. It is considered this would provide access easier for future residents.

- The appellants note the conditions attached by the Planning Authority in the grant of permission do not address the concerns raised by them and other objectors.
- The appellants state that their objection is not made on the basis of having no development on the site but rather that there would be development of an appropriate scale and size that would enhance and positively contribute to the neighbourhood.
- A more moderate size development of 2/3 storeys which would be in line with the building heights on Pennywell Road is suggested as more appropriate to the site. A reduction on the number of proposed dwelling units is suggested to 10-12.
- The appellants request that the Board carefully review the points raised in the appeal and consider appropriate measures that will mitigate potential impacts which they have set out.

6.2. Applicant Response

A response to the third party appeals has been submitted by RDF Architects & Planning Consultants on behalf of applicant Real Capital G.P Ltd. The issues raised are as follows;

- In relation to the design of the scheme the appellants referred to the height and scale of the development and they expressed concern regarding potential overlooking.
- It is highlighted that the site contains rundown sheds and has partly wall and railed boundaries. This is considered unsightly and a location for anti-social behaviour.
- In response to the concerns raised regarding the design it is stated that the design uses mass and scale to achieve an architectural vision in the context of the site being an important gateway into Limerick City.
- It is considered that the layout of the proposed development and the location of the apartment building will reinforce the streetscape of the Dublin Road. The redevelopment of the site will promote a sense of community within the

established neighbourhood by enhancing the overall aesthetic of the derelict site.

- Careful consideration was taken in the design process with the building setback to mitigate impact on adjoining properties while also providing supervision of communal spaces.
- Regarding the design and finishes proposed it is stated that high quality façade and building materials will be used with an urban material palette to soften the appearance of the scheme and to provide variety and texture within the external finishes which reflects contemporary design.
- National Objective 33 of the National Planning Framework states to “Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- As set out under this objective it seeks to locate future homes ‘where people have the best opportunities to access high standard quality of life.’
- It is stated that there is good public transport in the area and that many services are within walking and cycling distance. Therefore, the location of the site reduces the need for car dependency.
- It is highlighted that there is a proposal for a ‘high quality bus corridor between the University of Limerick and the City Centre with a proposal for a 20.5m wide road. Therefore, it is stated that future proposals have been accounted for in the design of the scheme.
- Under the Limerick City Development Plan 2010-2016 (Extended) the site is zoned 2A – Residential. “High densities will be promoted throughout the city area, and in particular will be sought within a walking catchment of public transport infrastructure.
- Reference is made to Objective 32 of the National Planning Framework which seeks to “Prioritise the location of new housing provision in existing settlements.” The proposal would provide for the efficient use of land within an existing settlement with existing infrastructure already in place.
- Regarding the matter of overlooking and overbearing it is stated that generous setbacks from all residential neighbours have been achieved. Windows and

balconies have been strategically positioned and screening provided to minimise overlooking of neighbours. Any overlooking which may occur is incidental and similar to that of typical residential estates with the standard 22m separation between back to back houses.

- Regarding the proposed boundary treatment and building design, it is stated that the site location and configuration means that the building directly addresses two main roads. It is submitted that the proposed design adds depth and a focal point which will regenerate the area in an appropriate manner.
- A railing of simple design is proposed to run on top of a plinth wall. This will provide separation and security from the busy Dublin Road. The wall also screens off level changes within the curtilage of the site.
- The 'dark cladding'/grey metal sheeting is proposed as a contemporary design feature in the overall design of the apartment building. This finish requires minimal maintenance and is used extensively throughout the country on many buildings.
- Condition no. 21 attached to the grant of permission issued by the Planning Authority requires that material and finishes be agreed with them prior to commencement of development.
- The appeals refer to car parking and surrounding congestion. Based on Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, the proposed scheme and infill site location and size can be described as follows: 4.27 For building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25 ha, car provision may be relaxed in part or whole, on a case by case basis, subject to overall design and quality and location.
- Based on this and the site context the following should be taken into account.
 - Multiple public transport bus stops on Pennywell Road and Dublin Road within 5 minutes walk of the site.
 - The site is within 15 minutes walk of the City Centre Services.
 - The site is also within 500-700m of Green Routes.

- 16 no. car parking spaces are proposed within the scheme including 2 no. accessible parking space.
- The design of the scheme provides 30 no. residents bicycle parking spaces and 10 no. visitor bicycle spaces.
- In relation to the issue of surrounding congestion this is addressed in the Traffic Assessment prepared by Malachy Walsh and Partners, Engineering and Environmental Consultants.
- Regarding the shadow and light assessment, it should be noted that the existing houses are located west of the proposed apartment building. As detailed in the Sunlight, Daylight and Shadow Assessment (Impact on Neighbours) by Chris Shackelton Consulting, the analysis indicates no effects on the amenity/garden areas of any of the neighbours.
- Regarding the issue of boundary walls it is proposed to build an independent boundary wall to all residential neighbours which would not exceed the existing heights. No high level trees/planting or screening is proposed as it would influence existing light levels within the existing rear gardens.
- Regarding the proposed open space, the communal open space provided for the residents of the apartments is proposed for their use only and it is well overlooked and supervised.
- The pedestrian entrance from the Dublin Road is proposed to have access control for the residents and prohibit movements through the site for non-residents.
- Regarding the proposed vehicular access, it is proposed from Kilmurry Road. The entrance has a width of 5.4m and it features dropped kerbs and tactile paving. Stop road markings and signage have been proposed to formalise the junction and crossing. Forward visibility for pedestrians is unobstructed when exiting the development. Tighter radii are proposed to create awareness of pedestrians and encourage decreased vehicle speed.
- In relation to the Road Safety Audit, A Stage 1 Road Safety Audit was completed by Malachy Walsh and Partners and the subsequent response was compiled by M.H.L & Associates Ltd. Consulting Engineers.

- Regarding the Clochan stream and the issue of flooding, it is stated that various reports addressing surface water have been provided with the planning application which include the following,
 - Flood Risk Assessment
 - Surface water report
 - Civil Utilities Planning report
 - Maintenance Plan & Schedule for Site Drainage Infrastructure
 - As per the conditions attached to the grant of permission a Flood emergency response plan will be put into operation and reviewed annually by the owner/occupier of the development.
- Regarding the location of the bin storage, refuse vehicles are not proposed to enter the site, the intention is for the refuse to be collected on street at the kerb side. This is how the refuse is collected in the area. The bin store located is therefore suited to the proposed location for ease of refuse collection. Footpath access has been provided for access to the bin storage facilities for residents.
- In relation to the suggestion in the appeals that the number of units in the scheme be reduced it is stated that the location of the site and its zoning means that it is appropriate to development it at the density proposed.
- It is concluded that the proposal would represent the appropriate and efficient redevelopment of the site which has been derelict for some time.

6.3. Planning Authority Response

- None received.

6.4. Observations

Observations have been received from (1) Mrs Evelyn Kenny & Residents of Dublin Road (2) Avril Kenny and (3) Deputy Willie O'Dea.

(1) Mrs Evelyn Kenny & Residents of Dublin Road

- The observation is submitted on behalf of Mrs Evelyn Kenny and a number of nearby residents living on the Dublin Road.
- It is submitted that the design, size and scale of the proposed development is not in keeping with the architectural character of the surrounding area.
- The height of the proposed apartment building at four storeys will stand out on the Dublin Road and will be overbearing in the streetscape.
- Concern is expressed that the proposal would cause overshadowing of the observer's property. They consider that the light and shadow analysis submitted with the application does not adequately address the effects that the proposed building would have on their property and their neighbours' properties.
- It is highlighted that the previous application which was refused by the Board under (ABP 307233-20 & Reg. Ref. 19/762) referred to the overbearing nature of the proposed development in terms of the refusal reason.
- The observers do not consider that the current proposal satisfactorily addresses the issues raised in the report of the Planning Inspector.
- Inadequate car parking is proposed to serve the scheme. It is stated that there is inadequate public transport infrastructure serving Limerick City and therefore this results in residents predominantly making journeys by car.
- It is considered that the inadequate car parking within the scheme would result in overspill parking from the development onto the Dublin Road, Pennywell Road and Kilmurray Road.
- It is not clear if the vehicular entrance will be gated or secured. The issue of security of the area is raised.
- Regarding the Road Safety Audit, it is stated that it was not updated from the Road Safety Audit provided with the previous application. They further note that the Road Safety Audits were completed in July 2019 and December 2020 and that on both occasions that local schools were not open. Therefore, they consider that the results of the surveys are questionable and not reflective of the true vehicular movements.

- They note the presence of fuel tanks on the site as an application for retention permission referred to them (Reg. Ref. 11770102).
- It is stated having reviewed the current application and planning history that the observers are unclear on the volume, size and layout of these tanks. The excavation and removal of these tanks will be a significant task and a full consideration of any impact on the surrounding environment should be carried out.
- It is highlighted that the Clochan Stream flows underground on the site. It is noted that the site lies on a low probability flood plain area with underground water flowing onwards through to the Abbey River/Shannon River catchment area.
- It is stated that the proposed development makes significant provision for onsite flood prevention measures. However, it is stated that the resulting displacement of flood water and impact on the water table adjacent to the site has not been fully considered or resolved.
- It is highlighted that the Pennywell Road and the Dublin Road are at a lower level than the Kilmurry Road. Therefore, it is considered that flooding could occur at the junction of Pennywell Road and the Dublin Road, especially when the water table in the area is high and when storm water is prevalent. The further displacement of runoff water from the proposed development will invariably exacerbate this.
- The observers refer to the presence of Pipistrelle Bats inside the derelict sheds on the site. The recent review carried out was during the migration cycle of the bats. Therefore, they consider it necessary to be repeated at a time in the cycle when bats are in residence.
- The proposed scheme includes an informal play area located adjacent to no.1 Pennywell Road. Full details of the design elements of this area are not clearly identified on the plans. Residents have strong concerns that this area will become a source and meeting point for anti-social behaviour in the future.

(2) Avril Kenny

- The proposed scheme entails the construction of the proposed large apartment building on a small site located within an area consisting primarily of private residences and a large number of which are single storey bungalows with the other properties being two-storey and semi-detached dwellings.
- The observer states that many residents in the area are second, third and fourth generation members of the community and that she is a third generation resident.
- It is stated that there are no other buildings in the area which are of a similar size or architectural style. Therefore, it is considered that the proposed development would be out of character with the existing area.
- The site is situated directly across from the observers dwelling which is a bungalow located on the Dublin Road. It is submitted that the proposed development would have an overbearing impact and that it would cause shadowing of their property and result in the reduction of natural light from entering their property.
- The observer expresses specific concerns regarding the impact overshadowing would have in terms of their health and wellbeing. They state that the development would impact the potential for them to install solar panels.
- They submit that the light and shadow analysis submitted with the application is inadequate and that it does not reflect the actual impact the proposed development will have on the neighbouring development. It is stated that the analysis did not take into consideration the modifications which have been made to properties in the area i.e. extensions.
- The proposed development for 20 no. apartments to accommodate 60 no. residents. It is submitted that the number of car parking spaces proposed is inadequate for the scheme. The number of car parking spaces has been reduced when compared with the scheme previously proposed for the site. The lack of adequate car parking will result in overspill car parking in the surrounding streets and footpaths. It is stated that there is already insufficient car parking in the area to meet the needs of residents in the

area. The proximity of two national schools St. Patrick's Girls NS and St. Patrick's Boys NS located less than 100 metres from the site is highlighted. It is stated that neither school is served by set down/ pick up spaces and that there is an absence of staff parking at the girls national school. The existing traffic conditions combined with the traffic and parking generated by the proposed development would lead to further congestion on the Kilmurry Road.

- In relation to the traffic impact analysis the surveying carried out which informed the analysis was carried out on days when schools and colleges were closed and therefore traffic was at a minimum. It is stated that the surveying should have been carried out on a normal, high volume traffic day.
- Concern is expressed in relation to surface water drainage in the area. It is stated that after rainfall frequently there is flooding in February 2022.
- There is a groundwater stream running directly under the site which crosses under the Dublin Road.
- The location of underground tanks on the site is highlighted. It is stated no analysis of its proposed safe removal has been provided.
- Bats have been observed by several residents surrounding the site. No assessment was carried out to review if a bat colony has been established at the site.
- It is stated that the proposed development appears to impact the proposed location of a bus corridor on the Dublin Road.
- It is stated in the application that the construction of the proposed apartment building would “act as a gateway building to form a space that makes a perceived entry to Limerick City”.
- It is stated that the community is based around historically significant settings. The site is situated 100m from St. Patrick's Girls NS building which was constructed c.1916 and St. Patrick's Church which was constructed c. 1816. Both these buildings are visible on entering and exiting the city. The site is also located close to the site of the former

Magdeline laundry. It is currently used by the Limerick College of Art and Design. There are historic buildings at this location including a chapel with a distinctive copper dome. It is stated that this forms a significant feature in the skyline. Concern is expressed that the view towards this and St. John's Cathedral could be negatively impacted by the proposed development.

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- Regarding the proposed vehicular access arrangements, the residents of Kilmurry Road consider that the location of the entrance is not appropriate. It would be positioned close to a narrow bend on Kilmurry Road. Concern is expressed in relation to traffic safety considerations regarding turning movements generated by the proposed development.
- It is considered that the vehicular entrance does not have adequate sightlines due to the existing walls in the vicinity.
- Regarding the design of the proposed scheme, it is considered that the mass and scale of the proposal is not appropriate to the site context.
- The proposed four storey apartment building will result in loss of privacy and amenity for neighbouring residents.
- It is considered that the four storey apartment building is out of character with the surrounding dwellings and that it would be more suited to a city centre site. Objective 33 of the National Planning Framework aims to prioritise the provision of new homes at locations that can support sustainable development at an appropriate scale of provision relative to location.
- It is contended that the scale of the development is not suitable given the location of the site and village architectural character of the surrounding development.
- The design of the proposed apartment building which features dark wall cladding on the fourth floor is considered a negative design feature.
- It is considered that the overlooking from balconies into the neighbouring properties would be unacceptable.

- It is suggested that any development on the site should maintain the building line with the height of existing properties located on the Pennywell Road.
- In relation to the planning history on the site, Reg. Ref. 19/762 & ABP 307233-20 is cited. While the Planning Authority granted permission the Board refused permission. The report of the Planning Inspector made reference to the overbearing nature of the development and unsuitable design features.
- It is submitted that inadequate car parking has been proposed to serve the scheme and that consequently the proposed development would generate overspill car parking onto Pennywell Road and Kilmurry Road. It is highlighted that Kilmurry Road already contains cars parked along the footpath. The proximity of St. Patrick's Boys school is noted and is stated that during drop off and collection times that it generates congestion on Kilmurry Road.
- There is no provision in the scheme for car sharing or car club initiatives.
- Concern is expressed that the vehicular access arrangements will not facilitate access for emergency vehicles and service vehicles including refuse collection.
- Concern is expressed that inadequate sightlines are available at the proposed vehicular entrance.
- The proposed development site is a on a derelict brownfield area, the objection is not on the basis of having no development on the site but rather on having an appropriate scale and size of development that will enhance and positively contribute to the neighbourhood in a safe manner.
- The latter issues raised in the observation reiterate the issues raised in the observation from Mrs Evelyn Kenny & Residents of Dublin Road.

7.0 Assessment

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

- Policy context and planning history
- Density, Height and Design
- Impact on amenities
- Access and traffic
- Flood risk
- Appropriate Assessment

7.1. Policy context and planning history

7.1.1. The appeal site at St. Annes's Dublin Road, Limerick, is zoned new residential under the provisions of the Limerick Development Plan 2022-2028.

7.1.2. It is the objective of this zoning to provide for new residential development in tandem with the provision of social and physical infrastructure. In relation to the purpose of the zoning it is stated in the plan that 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.

- 7.1.3. Accordingly, under the zoning objective the proposed development of a residential scheme would be generally permitted subject to all other relevant planning considerations being satisfactorily addressed including that the proposal has adequate residential amenity, adequately safeguards the amenities of the adjoining properties, would not result in a traffic hazard and would not be likely to have a significant effect on any European Sites.
- 7.1.4. The recent planning history on the site refers to Reg. Ref. 19/762 & ABP 307233-20. In relation to that application the Planning Authority granted permission for the development of a five storey apartment block comprising 26 one-bed and 8 two-bed apartments. A third party appeal was lodged. Permission was refused by the Board for two reasons. The first was on the basis that they considered that the proportion of two bedroom three person apartments proposed, significantly exceeded the 10% cap set out under the 'Sustainable Urban Housing: Design Standards for New Apartments. Guidelines for Planning Authorities' published in 2018. The reason for refusal also cited the lack of any communal open space, and an insufficient number of cycle spaces, would fail to provide a satisfactory standard of amenity for future residents. The second refusal reason referred to the proximity of the proposed development to the boundary with No.1 Pennywell Road, it is considered that the proposed building would have an overbearing effect, and would seriously injure the visual and residential amenity of the neighbouring property.
- 7.1.5. The applicant has sought to address this by revising the design with the location of the apartment building set back over 7.5m from the boundary with no 1. Pennywell Road. The building has been placed on the site to the north-east. In relation to the mix of units proposed they comprise 10 No. 1 bedroom and 10 No. 2 bedroom apartments. As per the guidance contained in 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' (2023), Specific Planning Policy Requirement 1 states;
- 7.1.6. Housing developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirement for apartments with three or more bedrooms. Statutory development plans may specify a mix for apartment and other housing developments, but only further to an evidence-based Housing Need and Demand

Assessment (HNDA), that has been agreed on an area, county, city or metropolitan area basis and incorporated into the relevant development plan(s).

- 7.1.7. Accordingly, the proposed mix of apartments with 50% one-bedroom apartments and 50% two-bedroom apartments is in line with this requirement.

7.2. **Density, Height and Design**

Density

- 7.2.1. In relation to the Chapter 2 of the Development Plan which refers to Core Strategy, the appeal site is located within a Level 1 settlement hierarchy location within Limerick City and Suburbs (in Limerick), Mungret and Annacotty. The Development Plan includes a Settlement Capacity Audit which is set out in Volume 2 of the Plan. The appeal site at St. Annes's Dublin Road, Limerick, is specifically identified in the Settlement Capacity Audit as site no. 81. It is set out in the audit in relation to site no. 81 that there is an assumed residential density of 45+ housing units per hectare. The housing yield is stated as 32 units.
- 7.2.2. The development as proposed comprises 20 no. apartments within a four storey apartment building on a 0.156 hectare site. The density of the scheme is equivalent to 128 units per hectare. The report of the Planning Officer in their assessment of the proposal stated that the density is very high, however they considered that the overall quality of design after amendments in previous applications is quite high.
- 7.2.3. In terms of the site context, it is located at St. Annes's, Dublin Road, Limerick City. It is situated 1km from Limerick City Centre. The Parkway Shopping Centre is located circa 790m from the site. In relation to public transport provision in the area, I would note a number of bus routes directly passes the site. The Dublin Road is served by routes no. 304A, no. 323 and no. 341 operated by Bus Éireann. Route no. 304A operates between Raheen in the south-west of the city and the University of Limerick to the east of the city. Route no. 323 operates between the City centre and Castleconnell to the east of the city. Route no. 341 operates between Cappamore, Co. Limerick and Shannon, Co. Clare. The nearest bus stop is located on the Dublin Road is circa 200m from the appeal site. Furthermore, I note that as part of BusConnects, there are future plans for improved bus services within Limerick city. Accordingly, I am satisfied that the site is well serviced by public transport.

- 7.2.4. The Ministerial Guidelines, Sustainable Urban Housing: Design Standards for New Apartments (2023), identify the types of locations in cities and towns that may be suitable for apartment development. Three categories of location are identified (1) Central and/or Accessible Urban Locations (2) Intermediate Urban Locations (3) Peripheral and/or Less Accessible Urban Locations.
- 7.2.5. Having regard to the distance to the city centre, with the appeal site being located within 1km of the City centre of Limerick, I would consider that the site can be identified to be an 'Central and/or Accessible Urban Locations, as per the Sustainable Urban Housing: Design Standards for New Apartments (2023). Such a location as detailed in the Guidelines where sites are within walking distance (i.e. up to 15 minutes or 1,000-1,500m) of principle city centres, are generally suitable for small – to large scale and high density development, that may wholly comprise apartments.
- 7.2.6. Accordingly, in relation to the proposed density of 128 units per hectare, having regard to the site context, I would consider that a higher density such as proposed under this scheme can be considered subject to the development being acceptable in terms of all other relevant planning considerations.

Height

- 7.2.7. The issue of the height of the proposed development is referred to in the grounds of the appeals and also in the observations to the appeals. The apartment building proposed is four storey. The Planning Authority in their assessment of the proposal considered that the overall height of four storeys having regard to the separation distance from the row of houses at Pennywell Road is considered acceptable.
- 7.2.8. The Ministerial Guidelines – Urban Development and Building Height Guidelines (2018) provides specific guidance in relation to building heights. Paragraph 3.1 of the guidelines states that “There is therefore a presumption in favour of buildings of increased height in our town/city cores and in other urban locations with good public transport accessibility.”
- 7.2.9. Regarding the matters of building height and adherence to existing pattern of residential development in the area as raised in the appeals and observations to the appeals, Ministerial policy as set out in 'Urban Development and Building Heights' Guidelines for Planning Authorities advises that the constant expansion of low-

density suburban development around our cities and towns cannot continue. The Guidelines set out to provide the scope to consider general building heights of at least three to four storeys, coupled with appropriate density, in locations outside what would be defined as city and town centre areas, and which would include suburban areas.

- 7.2.10. Section 3.4 of the Guidelines refers to Building height in suburban/edge locations (City and Town) and it advises that for newer housing developments outside city and town centres and inner suburbs, i.e. the suburban edges of towns and cities, should now include town-houses (2-3 storeys), duplexes (3-4 storeys) and apartments (4 storeys upwards). The site context is that it is located at the junction of Pennywell Road and the Dublin Road. The site is situated approximately 1km from the city centre. The housing to the west at Pennywell and Keating Street comprises two-storey terraced properties. To the south east of the site on the eastern side of the Kilmurry Road there is a small scheme of single storey dwellings comprising a mix of semi-detached and terraced units. The housing to the north of the site on the opposite side of the Dublin Road features a pair of single storey cottage and a terrace of 5 no. two-storey properties.
- 7.2.11. The Guidelines advise that developments also address the need for more 1 and 2 bedroom units in line with wider demographic and household formation trends, while at the same time providing for the larger 3, 4 or more bedroom homes across a variety of building typology and tenure options, enabling households to meet changing accommodation requirements over longer periods of time without necessitating relocation. Section 3.6 of the Guidelines states that 4 storeys or more can be accommodated alongside existing larger buildings, trees and parkland, river/sea frontage or along wider streets. The northern site boundary addresses the Dublin Road which has four lanes at the section adjacent to the site. The road width is approximately 12m and as such having regard to the wide nature of the street at this location and proximity of the junction, I would consider it is an appropriate location to site the proposed apartment building.
- 7.2.12. Accordingly, having regard to the provisions of the Ministerial Guidelines in relation to Building Heights, I would accept that the principle of an apartment building of four storeys can be considered subject to all other relevant planning considerations being satisfactorily addressed.

Design

- 7.2.13. Having regard to the site size and context specifically the existing surrounding development which is predominately two-storey it is important that the proposed apartment building will integrate with the surrounding development. Regarding the design of the building, it is of a contemporary design. It includes a flat roof and features a mix of balcony design including cantilevered balconies to the side elevations and recessed balconies. The frontage of the building which addresses the Dublin Road has a length of 22.7m. The southern elevation extends for 23.5m. The eastern and western elevations have a length of 23.7m. The fourth floor is proposed to be marginally inset. On the northern elevation the fourth floor is inset 500mm from the corner of the building.
- 7.2.14. The appeals and observations raised concern at the mass and scale and obtrusive nature of the proposed apartment building. In relation to this matter, I would not agree that the proposed apartment building would appear obtrusive. As I have detailed above the I would note that mass and scale of the proposed development is not excessive. Furthermore, I would note that the site is in a prominent location and that the appropriate redevelopment of the overall site from its current disused semi-derelict condition should in my opinion be the overriding consideration.
- 7.2.15. The proposed apartment building will be in a prominent location. Accordingly, it is important that it is of a high architectural design quality. I consider that it is of a relatively high quality design. I consider that there is reasonable variety to the elevational treatment of the building and the materials and colour pallet of the external finish provide a good mix of high quality finishes. The proposed finishes include brick and render with grey window and door frames, glass panels and stainless steel railings to the balconies and metal cladding to selected walls and the upper sections of the building. Overall, in terms of the visual impact of the proposed scheme on the surrounding area I consider that the development has been designed well to integrate with the surrounding development.

7.3. Impact on Amenities

7.3.1. The grounds of appeals and also the observations to the appeals refer to impacts on residential amenity of neighbouring property in relation to overlooking, overshadowing and overbearing.

7.3.2. In relation to the siting proposed apartment building, it is located to the eastern side of the site which is further from the dwellings at Pennywell Road and Keating Street than the previous apartment which was proposed on the site under Reg. Ref. 19/762 & ABP 307233-20.

Overlooking/loss of privacy

7.3.3. In relation to the issue of overlooking the closest residential properties to the proposed apartment building are the neighbouring dwellings to the west at Pennywell Road and to the south at Kilmurry Road.

7.3.4. No. 1 Pennywell Road an end of terrace two-storey dwelling is situated over 14m to western side of the proposed apartment building. The proposed siting of the apartment building means that the closest point of the two buildings is the corner of the properties and I note that there is a greater setback provided between the gable of no. 1 Pennywell Road and the west elevation. In relation to the dwellings to the south, I note that a separation distance of 27m is provided between no. 43 Kilmurry and the south elevation of the apartment building. Regarding the two closest single storey dwellings no. 9 and no. 10 St. Patricks Court, I note having regard to the siting and orientation of the proposed apartment building that there would be no direct overlooking of these properties.

7.3.5. In response to the issue of overlooking the first party stated in their response that generous setbacks from all residential neighbours have been achieved. They stated that windows and balconies have been strategically positioned and screening provided to minimise overlooking of neighbours. They submit that any overlooking which may occur is incidental and similar to that of typical residential estates with the standard 22m between back to back houses. Having regard to the details are discussed above I would concur with the first party that the proposal will not give rise to any significant new overlooking of neighbouring properties.

7.3.6. Accordingly, having regard to the siting of the building relative to this dwelling and the proposed fenestration design, I am satisfied that it would not result in any undue new overlooking.

Overshadowing

7.3.7. In relation to the issue of potential overshadowing, A Sunlight, Daylight & Shadow Assessment (Impact on Neighbours) has been prepared by Chris Shackleton Consulting and was submitted as part of the application. The submitted assessment considers the impacts on daylight and sunlight on the following surrounding properties, No. 1 Pennywell Road, No. 43 Kilmurry Road, no's 3-10 St. Patricks Court and no. 1 and no. 2 Dublin Road. In relation to skylight to habitable rooms it is illustrated in the Table on page 7 of the report that all of the windows considered had a VSC in excess of 27% with the development in place. Therefore, it concluded that the proposed development complies with the requirements of the BRE guidelines in relation to skylight availability to neighbours.

7.3.8. In relation to sunlight into living spaces it is illustrated in the Table on page 8 of the report that all of the windows considered had passed the 25% annual and 5% annual winter probable sunlight hours for living rooms with the development in place. Having regard to the analysis illustrated on the Table on page 8 of the report it is possible to conclude that with the development in place the advisory minimums recommended by the BRE would be satisfied in all cases.

7.3.9. Regarding shadowing/sunlight to gardens and open spaces, the BRE guidelines recommend using the 21st March for plotting shadow diagrams. In relation to overshadowing, the BRE guidelines state that an acceptable condition is where external amenity areas retain a minimum of 2 hours of sunlight over 50% of the area on the 21st March. The study to assess sunlight levels available to neighbouring recreational areas identified six neighbouring outdoor recreation spaces where altered sunlight levels could potentially register. The areas are indicated on the Figure on page 9 of the report and are located to the east and west of the subject site. The report graphically illustrates existing amenity spaces associated with these neighbouring residential properties. The report states that 100% of the existing properties' front and back gardens receive over 2 hours of direct sunlight after the proposed development has been constructed. The findings of the analysis leads to

the conclusion that the advisory minimums recommended by the BRE would be satisfied in all cases.

Overbearing

- 7.3.10. Regarding the matter of overbearing impact, as discussed under Section 7.1 of this report the scheme previously proposed on the site was refused by the Board on the basis that it was considered that the proposed building would have an overbearing effect, and would seriously injure the visual and residential amenity of the neighbouring property. I note that the current proposal represents a significantly revised scheme from that which was previously refused.
- 7.3.11. The previously proposed scheme comprised a five storey building which was located on site covering the northern section of the site with the western section of the building being in relative close proximity to the western site boundary with no 1. Pennywell Road. To address the matter of overbearing impact upon this property, the building has been placed on the site to the north-east. In response to the matter of overbearing as raised by the appellants and observers the first party set out in that generous setbacks from all residential neighbours have been achieved.
- 7.3.12. In relation to the matter of overbearing impact, I would note that the proposed building is four-storeys in height and that it is set back a minimum of 14m from no. 1 Pennywell Road. In relation to the neighbouring dwellings to the south the closest property no. 43 Kilmurry Road has a separation distance of 27m from the proposed apartment building. The two dwellings at no. 9 and no. 10 St. Patricks Court are located between 13m and 15m from the proposed apartment building. Accordingly, having regard to the siting and design of the apartment building relative to the existing surrounding residential properties, I do not consider that it would have any undue overbearing impact upon these neighbouring dwellings.
- 7.3.13. Accordingly, having reviewed the proposed site layout of the scheme relative to the existing surrounding properties, I consider having regard to the proposed siting of the and design of the proposed apartment building and the relative separation distances to the existing dwellings to the west and south of the site that the proposed scheme would not result in any undue overlooking, overshadowing or overbearing impact of neighbouring residential properties.

7.4. Access and traffic

- 7.4.1. The appellants and observers raised the issues of traffic that the proposal would generate, the location and design of the vehicular access to the scheme and also car parking provision. Reference to congestion in the area is discussed in the appeals and observations. The matter of a proposed pedestrian access through the site is also raised in relation to safety considerations.
- 7.4.2. Firstly, in respect of the traffic which the scheme would generate and the issue of surrounding congestion the first party stated that this was addressed in the Traffic Assessment prepared by Malachy Walsh and Partners, Engineering and Environmental Consultants. In relation to the submitted Traffic Assessment, the matter of when the traffic surveys were carried out was raised in the appeals and observations. Specifically, whether the surveys were representative of the general traffic conditions in the area and particularly during school opening. I note that the surveys were carried out on Thursday 5th of December 2019 which was a school day.
- 7.4.3. In relation to trip generation as detailed in the Traffic Assessment, during the Morning peak 6 no. vehicles would leave the development and 2 no. would arrive. During the Evening peak 8 no. vehicles would arrive at the development with 4 no. departures. The total number of daily trips generated by the proposed development is 95 vehicles both to and from the scheme. Therefore, regarding traffic volumes it is concluded in the Traffic Assessment that the predicted traffic volumes on the existing residential Kilmurry Road and Keating Street would remain relatively low with the proposed development in place, with traffic volumes related mainly to local residential development.
- 7.4.4. PICADY modelling for the Keating Street/Pennywell Road junction was carried out. It was assumed that all vehicle trips generated by the proposed development would access it via the Keating Street/Pennywell Road junction. The modelling indicated that the junction would operate well within practical capacity without significant traffic queuing and delays for the predicted 2026 and 2036 morning and evening peak hour traffic volumes. It is concluded that the junction would operate with a highest Ratio of Flow to Capacity (RFC) of 0.189 with the proposed development compared with a highest RFC of 0.177 without the proposed development in place.

- 7.4.5. Accordingly, having regard to the details provided in the Traffic Assessment, it is reasonable to conclude that the relatively modest level of traffic arising from the proposed development will not give rise to any significant impact upon the existing road network and junctions in the vicinity of the site.
- 7.4.6. Regarding the vehicular access arrangements, the vehicular access to the scheme is proposed from the Kilmurry Road to the southern end of the site. The applicant has submitted a Stage 1 RSA and its recommendations have been accepted and incorporated into the proposed scheme. Accordingly, the requisite sightlines in the context of the 50kph urban speed limit zone have been provided. Furthermore, I note that in respect of the proposed vehicular access arrangements, that the Planning Authority in their assessment of the scheme were generally satisfied.
- 7.4.7. In relation to the proposed pedestrian/cycle access at the north end of the site, the first party confirm that it is proposed to have access control for the residents and prohibit movements through the site for non-residents.
- 7.4.8. In relation to car parking the arrangements to serve the scheme comprise a total of 16 no. surface car parking spaces. The provision includes 2 no. disabled access spaces. Car parking standards are set out under Table DM 9(a) of the Limerick Development Plan 2022-2028, Table DM 9(a) refers to Car and Bicycle Parking Standards in Limerick City and Suburbs. The parking zones in Limerick City and Suburbs (in Limerick), Mungret and Annacotty are the same as the density zones set out in Section 2.3.5.2. As per Map 4: in Limerick City and Suburbs (in Limerick), Mungret and Annacotty – Density Map, the site at St. Annes’s Dublin Road, Limerick City at is located in Zone 2. In Zone 2 there is a requirement for 1 car parking space for 1-2 bedroom apartments with visitor parking at a rate of 1 space per 3 units. Accordingly, in total as per the development plan there is a requirement for 20 no. car parking spaces to serve the proposed apartments with a further 7 space required for visitor parking. Therefore, as per the development plan requirements a shortfall 11 no. car parking is proposed.
- 7.4.9. In response to the issue of car parking the first party stated that based on Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, the proposed scheme and infill site location and size can be described as follows: 4.27 For building refurbishment schemes on sites of any size

or urban infill schemes on sites of up to 0.25 ha, car provision may be relaxed in part or whole, on a case by case basis, subject to overall design and quality and location. Based on this and the site context the following should be taken into account.

Multiple public transport bus stops on Pennywell Road and Dublin Road within 5 minutes' walk of the site. The site is within 15 minutes' walk of the City Centre Services. The site is also within 500-700m of Green Routes. 16 no. car parking spaces are proposed within the scheme including 2 no. wheelchair accessible parking spaces. The design of the scheme provides 30 no. residents bicycle parking spaces and 10 no. visitor bicycle spaces.

- 7.4.10. In relation to bicycle parking it is proposed to provide 95 no. spaces in the basement and at surface level. Bicycle parking standards are set out under Table DM 9(a). In Zone 2 there is a requirement for 1 bicycle space per unit for 1-2 bedroom apartments with 1 bicycle space per two units required for visitors. Therefore, 20 no. bicycle parking spaces would be required for residents and 10 no. bicycle parking spaces would be required for visitors. The design of the scheme provides 30 no. residents bicycle parking spaces and 10 no. visitor bicycle spaces. Accordingly, an over provision of 10 no. residents bicycle parking spaces is proposed.
- 7.4.11. The report of the Planning Officer states that the Roads section are satisfied with access and car parking provision subject to the recommended conditions. In relation to bike parking the active travel section require clarity regarding the bike parking no's and protection from the elements, this can be dealt with by condition. The set back from the Dublin Road to facilitate the Bus Priority Corridor as per Limerick Shannon Metropolitan Area Transport Strategy (LSMAT) has been demonstrated.
- 7.4.12. Regarding the issue of car parking and the shortfall in provision I note that Section 7.10.4 of the Development Plan that car parking should be provided in accordance with the Council's car parking standards taking into account public transport accessibility levels, existing publicly available parking provision and the need to deter unnecessary car use.
- 7.4.13. Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' December, 2023, advises in section 4.20, that the quantum of car parking or the requirement for any such provision for apartment developments will vary, having regard to the types of location in cities and towns that may be

suitable for apartment development, broadly based on proximity and accessibility criteria.

- 7.4.14. Regarding public transport provision in the area, I note that the site is served by routes no. 304A, no. 323 and no. 341 operated by Bus Éireann. Route no. 304A operates between Raheen in the south-west of the city and the University of Limerick to the east of the city. Route no. 323 operates between the city centre and Castleconnell to the east of the city. Route no. 341 operates between Cappamore, Co. Limerick and Shannon, Co. Clare. Furthermore, the site is located within 1km of Limerick City centre. Accordingly, the site is within a reasonable walking distance approximately 15 minutes to the city centre and it is served well by public transport.
- 7.4.15. As detailed in section 4.20 of the New Apartments Guidelines, in central and/or accessible urban locations in larger scale and higher density developments, comprising wholly of apartments in more central locations that are well served by public transport, the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances. As concluded in section 7.2 of this report the site is located in an area which has central/accessible characteristics. Accordingly, I would concur with the case made by the first party in relation to suitability of the site for a reduction in car parking standards in accordance with the provisions of Section 4.20 of the Apartment Guidelines.

7.5. Flood Risk

- 7.5.1. The site at St. Annes's Dublin Road, Limerick City, Limerick is located within an area designated as flood zone A. The application was accompanied by a Flood Risk Assessment (FRA). The FRA was prepared by MWP, Engineering and Environmental Consultants.
- 7.5.2. The report of the Council's Planning Environment and Place Making – Flooding Section noted that the site is located within Flood Zone A as per the Limerick Development Plan 2022-2028 flood extents mapping and that the site is zoned "New Residential". The site specific flood risk assessment (SSFRA) recommends a minimum finished floor level of 5.30OD with provision to provide protection to 5.60m OD. This includes an allowance for climate change in accordance with the Limerick

Development Plan 2022-2028 SFRA as part of the development of a flood egress and access emergency plan, users of the development should be made aware of flood risk to the area and evacuation procedures as appropriate.

- 7.5.3. In terms of Development Plan policy and context in respect of flooding, as per Table 1:SCA Limerick City and Suburbs (in Limerick) Mungret and Annacotty lands identified for potential Residential, or a combination of Residential and other Mixed-Use development the appeal site is identified as site no. 81 and the comment section stated that site flood mitigation/design is required. Chapter 9 of the Development Plan refers to Climate Action, Flood Risk and Transition to Low Carbon Economy. Section 9.3 refers to Flooding, Flood Risk Management and Water Management and it states that in the preparation of the Plan, in accordance with *The Planning System and Flood Risk Management, Guidelines for Planning Authorities*, a Strategic Flood Risk Assessment (SFRA) has been prepared to assess flood risk within the plan area. It is highlighted in the Development Plan that the precautionary approach has largely been employed to land use zoning to avoid directing development towards areas at risk of flooding. It is further advised in the Plan that areas identified as being at risk of flooding, which are being put forward for land use zoning have been subject to assessment through a justification test, to determine its suitability for inclusion and have only been considered where they are determined to be within or adjoining the core of the City Centre. It is further stated under this section of the Plan that where particular areas identified as being liable to flood were considered as being strategically important for the consolidated and coherent growth of Limerick and zoned accordingly, then a site-specific flood risk assessment will be required to accompany development proposals for these areas and mitigation measures for site and building works will be required to be integrated.
- 7.5.4. Volume 4 of the Limerick Development Plan 2022-2028 refers to Strategic Flood Risk Assessment. Appendix A refers to Justification Tests and Section A.1 refers to City Centre and Suburbs. The appeal site at St. Annes's Dublin Road, Limerick City is located within this areas as detailed on the map under this section of the Plan. It states that a flood risk assessment to an appropriate level of detail has been carried out as part of the Strategic Environmental Assessment as part of the development plan preparation process, which demonstrates that flood risk to the development can be adequately managed, and the use or development of the lands will not cause

unacceptable adverse impacts elsewhere. It is stated in this section of the Plan that parts of the city are within Flood Zones A and B with risk primarily from tidal influenced fluvial sources. Depths of flooding in the 0.5% AEP tidal event are generally within the band 0.25-0.5m. It is advised that large scale redevelopment proposals in the city should be supported by an appropriately detail FRA which should include an assessment to inform ground floor uses and levels.

- 7.5.5. Once the Limerick Flood Relief Scheme has been completed it is likely that this site will benefit from a higher and more robust standard of protection than currently. However, this cannot be factored into design proposals which progress prior to scheme completion.
- 7.5.6. The FRA prepared by MWP, Engineering and Environmental Consultants in respect of the subject site identified that there is risk from pluvial and tidal flooding to the area. Five recorded flood events are set out in the assessment all were associated with tidal flood apart from one which was associated with pluvial and tidal flooding. The areas affected were Castleconnel, Montepelier and Casltetory in 2009. Clancy Street, O'Callaghan Strand, Sir Harry Mall, Corbally Road in 2002. Sandmill, Athlunkard Street, Park Road and Corbally in 2000. Clancy's Strand, O'Callaghan Strand, Sir Harry Mall, Athlunkard Street, Corbally Road, Mechants Quay and Pennywell Road in 1999. Sir Harry Mall, Corbally Road, Meadow Brook, Clancy Strand, O'Callaghan Strand, Healy's Field, Howley's Quay, Rhebogue and Condell Road in 1997. Clancy Strand and Harry's Mall in 1991.
- 7.5.7. In relation to fluvial flood, OPW Map (s2526_exfcd_f1_59) indicates the site is within the extent of the 0.1% AEP fluvial flood event. It is noted that the site is not within the 1% fluvial flood event and that the OPW CRFAM maps for the 0.1% AEP flood indicates that the flood depth in the area is approximately 0.25 to 0.5m during this 0.1% event.
- 7.5.8. In relation to coastal flooding, it is stated in the assessment that OPW Map (s2526lik_EXCCD F1 24) indicates that the site is defended to the existing 0.5% coastal flooding event. It is stated that this cannot be relied upon in relation to the provisions of the Planning System and Flood Risk Management Guidelines (DoEHLG/OPW, 2009). Regarding the advice in the Development Plan, it is highlighted that it recommends a 500mm climate change factor, a 50mm land

movement factor and a 300mm freeboard this gives a minimum flood level of 5.60m. A freeboard of minimum flood level of 5.05m. The mapping from the Irish Coastal Protection Strategy Study (ICPSS) indicates that in a flood event the flood depth in the area is expected to be at a level of 4.66m.

- 7.5.9. In relation to pluvial flooding, it is highlighted in the assessment that the site is in an area already developed and no change in runoff is proposed. It is noted that pluvial flooding has been recorded in the area. During the design stage of the proposed scheme project measures were incorporated into the design to reduce the risk of flood damage occurring to the proposed development. Regarding groundwater flooding it is highlighted that ground in the vicinity of the site has moderate permeability. It is noted that groundwater levels may vary with the tidal conditions due to the site's proximity to the River Shannon.
- 7.5.10. It is stated in the FRA that the Justification Test is required due to the location of the site within Flood Zone A. The Planning System and Flood Risk Management Guidelines (DoEHLG/OPW, 2009) provide guidance in respect of development and flood risk. Table 3.2 of the Guidelines advises the restriction of types of development permitted in Flood Zone A to that are 'appropriate' to each flood zone, as set out in the Guidelines. Developments that are an 'inappropriate' use for a flood zone area, as set out in Table 3.2 of the guidelines, this includes residential development which will not be permitted, except where a proposal complies with the 'Justification Test for Development Management', as set out in Box 5.1 of the Guidelines.
- 7.5.11. The following criteria must be satisfied in respect of the 'Justification Test for Development Management' that (1) The subject lands have been zoned or otherwise designated for the particular use or form of development in an operative development plan, which has been adopted or varied taking account of these Guidelines. (2) The proposal has been subject to an appropriate flood risk assessment that demonstrates: The development proposed will not increase flood risk elsewhere and, if practicable, will reduce overall flood risk.
- 7.5.12. Having regard to the 'Justification Test for Development Management', I note that the appeal site is located on lands which are zoned 'New Residential', under the provisions of the Limerick Development Plan 2022 – 2028. The objective of which is "to provide for new residential development in tandem with the provision of social

and physical infrastructure”. In accordance with part (2) of the justification test, it must be demonstrated that the development proposed will not increase flood risk elsewhere and, if practicable, will reduce overall flood risk.

- 7.5.13. It is set out in the FRA that the site is a brownfield site. It is noted that the proposed new development will occupy no greater of a footprint than the previous developments and therefore the construction of the development will have no significant adverse impact on storage volumes. In accordance with part (2) of the justification test, the development proposals are required to include measures to minimise flood risk to people, property, the economy and the environment as far as reasonably possible. In relation to this it is stated in the FRA that the rising of the floor level above flood levels and the construction of the development with water resistant construction will ensure that the development will minimise flood risk to people the economy and the environment as far as reasonably possible.
- 7.5.14. Section (iii) of part (2) of the justification test requires that the development proposed includes measures to ensure that residual risks to the area and/or development can be managed to an acceptable level as regards the adequacy of existing flood protection measures or the design, implementation and funding of any future flood risk management measures and provisions for emergency services access. Section (iv) of part (2) requires that the development proposed addresses the above in a manner that is also compatible with the achievement of wider planning objectives in relation to development of good urban design and vibrant and active streetscapes. In response to points (iii) and (iv) of part (2) of the justification test it is stated in the FRA that the appeal site is a brownfield site, and that the reinstatement of usage will mimic preexisting hydraulic performance on the site. It is also submitted that the development will enhance the site and add aesthetically to the area.
- 7.5.15. Mitigation Measures are set out in section 4.3 of the FRA. Mitigation measures are required in order to mitigate the flood risk to the building and end users.
- 7.5.16. In relation to the proposed finished floor level of the building it is proposed at 5.5mOD. Regarding the 0.2% AEP event in the Medium Range Future Scenario (MRFS) a 0.3m freeboard is applied to mitigate against any localized flooding in the vicinity of the site. The mitigation measures include the provision of an emergency and evacuation plan in accordance with the requirements of The Planning System

and Flood Risk Management Guidelines (DoEHLG/OPW, 2009). In the case of a flood event that reaches the predicted peak level of 5.05m, safe evacuation from the site is possible to Kilmurry Road without excessive or any significant water depths or flow velocities being encountered. The design of the development is proposed to incorporate resilient measures to help with the repair of the structure in the event of it becoming inundated. It is concluded in the FRA that the proposed uses are justified based on existing zoning, existing use and the SFRA conducted for the City Development Plan. Based on the Medium Range Future Scenario (MRFS) the recommended finished floor level is 5.3m with protection to 5.6m.

7.5.17. Having regard to the provisions of the Limerick Development Plan 2022-2028, the appeal site is located on lands which are zoned 'New Residential'. Volume 4 of the Plan which refers to the Strategic Flood Risk Assessment and specifically Appendix A which refers to Justification Tests and Section A.1 which refers to City Centre and Suburbs the subject site at St. Annes's Dublin Road, Limerick City lies within the area assessed under this Justification test in the Plan. It was concluded under this section of the Strategic Flood Risk Assessment of the Plan that flood risk to development at this location can be adequately managed, and the use or development of the lands will not cause unacceptable adverse impacts elsewhere. Furthermore, the SSFRA submitted with the application concludes that the site is a brownfield site and the proposed development will occupy no greater a footprint than the previous development and that the construction of the development will have no significant adverse impact on storage volumes.

7.5.18. Accordingly, I conclude that the proposal would pass the justification test for residential development to be located on lands which are located within Flood Zone A under the zoning provision of the Limerick Development Plan 2022-2028. It can be concluded that having regard to the Site Specific Flood Risk Assessment, submitted with the application, that the proposed development would not result in displacement of tidal estuarine/fluvial floodwaters, would not result in an adverse impact to the hydrological regime of the area nor an increase in flood risk elsewhere. The proposed development would therefore be acceptable in terms of flood risk in the area.

7.6. Other issues

Bats

- 7.6.1. The observations to the appeal refer to the possibility of bats located on the site. As part of the documents submitted with the application a Bat Survey prepared by Dixon Brosnan was submitted. It was highlighted in the report that the bat survey conducted at the site in 2019 noted that “no bat droppings or any other evidence of bats was identified during the survey. The building was generally considered to have negligible roosting potential for bats according to the Bat Survey Good Practice Guidelines and therefore no further surveys or mitigation measures are required with regard to bats prior to demolition.
- 7.6.2. In relation to the recent site survey, it is stated in the report that an internal and external inspection of the building on site was conducted to look for the presence of bats. It was confirmed in the report that no cavities suitable for bats were recorded. No signs of bats were recorded in the existing building which is considered of negligible suitability as a bat roost under the guidelines set out in “Bat Surveys for Professional Ecologist: Good Practice Guidelines.
- 7.6.3. Regarding the conditions on site, it is stated that it is largely devoid of vegetation and given the location of the site within an urbanised environment and the absence of foraging habitat the site is considered of negligible value for foraging bats. Furthermore, it is concluded in the study that there are no significant linear habitats within the site or on the site boundaries which could provide significant commuting routes for bats in the context of the surrounding landscape and therefore the site is considered of negligible value for commuting bats.

Underground tank

- 7.6.4. The observations to the appeals refer to the matter of the presence of fuel tanks on the site. A previous application for retention permission under Reg. Ref. 11770102 is cited. This application refers to a proposal to (1) to retain the fuel dispensing business, including the bunded diesel storage tanks and pumps and all ancillary site works and (2) to erect a new filling station sign. In relation to this application, I noted that it was invalidated. I would note however that the site of that application is the site of this current application. Accordingly, I would note matter as raised by the observers in terms of the potential location of underground tanks on site which

require to be removed off site and disposed of in accordance with current regulatory requirements.

- 7.6.5. I consider that the matter can be satisfactorily addressed with the attachment of a conditions requiring the provision of a Construction Management Plan and also a Resource and Waste Management Plans for Construction and Demolition Projects. Should the Board decide to grant permission for the proposed scheme I would recommend the attachment of such conditions.

Boundary treatment

- 7.6.6. The issue of boundary treatment was raised in the grounds of appeal in relation to the boundary with the public realm and also with neighbouring properties. In response to this the first party stated that in relation to the proposed boundary treatment to the public realm that a railing of simple design is proposed to run on top of a plinth wall. This will provide separation and security from the busy Dublin Road. The wall also screens off level changes within the curtilage of the site.
- 7.6.7. I am satisfied that the matter of boundary treatment can be addressed with the attachment of a condition requiring that details of all boundary treatments shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

7.7. Appropriate Assessment

Stage 1 Screening

- 7.7.1. The proposed development would not be located within an area covered by any European site designations and the works are not relevant to the maintenance of any such sites.
- 7.7.2. There are two sites potentially within the zone of influence of the proposed development based on proximity and potential hydrological links. Lower River Shannon SAC (Site Code 002165) lies to the north, east and west of the appeal site at the closest point it is located circa 360m from the site. River Shannon and River Fergus Estuaries SPA (Site Code 004077) lies to the west of the appeal site at the closest point it is located circa 1.7km from the site. The Clachan stream runs under the appeal and forms part of the drainage network in the area.

7.7.3. Lower River Shannon SAC comprises very large site stretches along the Shannon valley from Killaloe in Co. Clare to Loop Head/ Kerry Head, a distance of some 120 km. The site thus encompasses the Shannon, Feale, Mulkear and Fergus estuaries, the freshwater lower reaches of the River Shannon (between Killaloe and Limerick), the freshwater stretches of much of the Feale and Mulkear catchments and the marine area between Loop Head and Kerry Head. Rivers within the sub-catchment of the Feale include the Galey, Smearlagh, Oolagh, Allaughaun, Owveg, Clydagh, Caher, Breanagh and Glenacarney. Rivers within the sub-catchment of the Mulkear include the Killeenagariff, Annagh, Newport, the Dead River, the Bilboa, Glashacloonaraveela, Gortnageragh and Cahernahallia.

7.7.4. This site is of great ecological interest as it contains a high number of habitats and species listed on Annexes I and II of the E.U. Habitats Directive, including the priority habitats lagoon and alluvial woodland, the only known resident population of Bottle-nosed Dolphin in Ireland and all three Irish lamprey species. A good number of Red Data Book species are also present, perhaps most notably the thriving populations of Triangular Club-rush. A number of species listed on Annex I of the E.U. Birds Directive are also present, either wintering or breeding. Indeed, the Shannon and Fergus Estuaries form the largest estuarine complex in Ireland and support more wintering wildfowl and waders than any other site in the country. Most of the estuarine part of the site has been designated a Special Protection Area (SPA), under the E.U. Birds Directive, primarily to protect the large numbers of migratory birds present in winter.

7.7.5. The qualifying interests/special conservation interests of the designated site, are summarised as follows:

Lower River Shannon SAC
Sandbanks which are slightly covered by sea water all the time [1110]
Estuaries [1130]
Mudflats and sandflats not covered by seawater at low tide [1140]
Coastal lagoons [1150]
Large shallow inlets and bays [1160]
Reefs [1170]

Perennial vegetation of stony banks [1220]

Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]

Salicornia and other annuals colonising mud and sand [1310]

Atlantic salt meadows (*Glauco-Puccinellietalia maritima*) [1330]

Mediterranean salt meadows (*Juncetalia maritimi*) [1410]

Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitriche-Batrachion* vegetation [3260]

Molinia meadows on calcareous, peaty or clayey-silt-laden soils (*Molinion caeruleae*) [6410]

Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*) [91E0]

Margaritifera margaritifera (Freshwater Pearl Mussel) [1029]

Petromyzon marinus (Sea Lamprey) [1095]

Lampetra planeri (Brook Lamprey) [1096]

Lampetra fluviatilis (River Lamprey) [1099]

Salmo salar (Salmon) [1106]

Tursiops truncatus (Common Bottlenose Dolphin) [1349]

Lutra lutra (Otter) [1355]

- 7.7.6. The Conservation Objective for Lower River Shannon SAC (Site Code 002165) is to maintain and/or restore the favourable conservation condition of the Annex I habitats and the Annex II species for which the SAC has been selected which are defined by lists of attributes and targets.
- 7.7.7. River Shannon and River Fergus Estuaries SPA comprises the estuaries of the River Shannon and River Fergus form the largest estuarine complex in Ireland. The site comprises the entire estuarine habitat from Limerick City westwards as far as Doonaha in Co. Clare and Dooneen Point in Co. Kerry. The site has vast expanses of intertidal flats which contain a diverse macro-invertebrate community, e.g., *Macoma-Scrobicularia-Nereis*, which provides a rich food resource for the wintering birds. Salt marsh vegetation frequently fringes the mudflats and this provides important high tide roost areas for the wintering birds. Elsewhere in the site the shoreline comprises stony or shingle beaches.

- 7.7.8. The site is a Special Protection Area (SPA) under the E.U. Birds Directive, of special conservation interest for the following species: Cormorant, Whooper Swan, Light-bellied Brent Goose, Shelduck, Wigeon, Teal, Pintail, Shoveler, Scaup, Ringed Plover, Golden Plover, Grey Plover, Lapwing, Knot, Dunlin, Black-tailed Godwit, Bar-tailed Godwit, Curlew, Redshank, Greenshank and Black-headed Gull. It is also of special conservation interest for holding an assemblage of over 20,000 wintering waterbirds. The E.U. Birds Directive pays particular attention to wetlands and, as these form part of this SPA, the site and its associated waterbirds are of special conservation interest for Wetland & Waterbirds.
- 7.7.9. The qualifying interests/special conservation interests of the designated site, are summarised as follows:

River Shannon and River Fergus Estuaries SPA

- | |
|---|
| 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 (*Tringa totanus*) [A162]

Greenshank (*Tringa nebularia*) [A164]

Black-headed Gull (*Chroicocephalus ridibundus*) [A179]

Wetland and Waterbirds [A999]

7.7.10. The Conservation Objective for River Shannon and River Fergus Estuaries SPA is to maintain and/or restore the favourable conservation condition of the Annex I habitats and the Annex II species for which the SPA has been selected which are defined by lists of attributes and targets.

7.7.11. In terms of an assessment of Significance of Effects of the proposed development on qualifying features of Natura 2000 sites, having regard to the relevant conservation objectives, I would note that in order for an effect to occur, there must be a pathway between the source (the development site) and the receptor (designated sites). As the proposed development site lies outside the boundaries of the European Sites, no direct effects are anticipated. In terms of indirect effects, and with regard to the consideration of a number of key indications to assess potential effects the following matters, habitat loss / alteration / fragmentation and disturbance and / or displacement of species and water quality should be considered.

7.7.12. In relation to the matter of habitat loss / alteration / fragmentation, the subject site lies at circa 360m and 1.7km respectively from the closest point of the boundaries of the designated sites. Accordingly, there would be no direct or indirect loss / alteration or fragmentation of protected habitats within any Natura 2000 site.

7.7.13. In relation to the matter of disturbance and / or displacement of species the appeal site lies within the Limerick City, the immediate area to the north, south, east and west of the subject site contains residential developments with a service station immediately to the east. The environs of the site, therefore, can be described as being urban. No qualifying species or habitats of interest, for which the designated sites are so designated, occur at the site. As the subject site is not located within or immediately adjacent to any Natura 2000 sites and having regard to the nature of the construction works proposed, there is little or no potential for disturbance or displacement impacts to land based species or habitats for which the identified Natura 2000 sites have been designated.

- 7.7.14. Regarding the issue of water quality, the proposed development relates to the development of an apartment building containing 20 no. units on lands within the Limerick City. The development will connect to existing public water services. If the development is permitted, I consider that it is unlikely to impact on the overall water quality of any Natura 2000 site in proximity to the site due to connection to public services or during the operational phase of the development.
- 7.7.15. There is an indirect hydro geological link between the subject site and Lower River Shannon SAC and the River Shannon and River Fergus Estuaries SPA in the form of the clachan stream which runs under the site. In relation to the construction phase I am satisfied that there is limited potential for contamination on the adjacent watercourse arising from the construction works and an increase in sediment load.
- 7.7.16. Surface water generated on site during the operational phase is proposed to drain via a series of petrol interceptors to a suitably sized tank fitted with a hydro brake and then to surface water. Attenuation is proposed on site which will provide for a 1:100 year storm event and this will discharge to the drain. Accordingly, it is considered that there is no risk that pollutants could reach the European sites in sufficient concentrations to have any likely significant effects on their qualifying interests.
- 7.7.17. In relation to the matter of in combination/cumulative effects, given the nature of the proposed development being the construction of a residential development comprising 20 no. units on an urban services site within the built-up area of Limerick, I consider that any potential for in combination effects on water quality on the Natura 2000 sites can be excluded.
- 7.7.18. Accordingly, I am satisfied that the potential for likely significant effects on the qualifying interests of the identified Natura 2000 sites can be excluded having regard to the distance to the site, the nature and scale of the development and the lack of a hydrological connection.

AA Screening Conclusion

- 7.7.19. It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site No. (Site Code 002165) and

European Site No. (Site Code 004077), or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

8.0 Recommendation

8.1. I recommend a grant of permission.

9.0 Reasons and Considerations

9.1. Having regard to the zoning objective for the site as set out in the Limerick Development Plan 2022 – 2028, the National Planning Framework, 2018 – 2040, the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (2009), Urban Development and Building Heights, Guidelines for Planning Authorities, (2018), Sustainable Urban Housing: Design Standards for New Apartments, (2023), and the overall scale, design and height of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would achieve an acceptable standard of urban design and would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect the existing character of the area and would be acceptable in terms of traffic and pedestrian safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior

to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

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

Reason: In the interest of public health.

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

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

4. Prior to the commencement of the development, the applicant shall submit to the Planning Authority for its written agreement proposals for the implementation of Mitigation measures identified in the approved Site Specific Flood Risk Assessment for the application.

Reason: In the interest of public health.

5. The site access arrangements and the internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall be in accordance with the detailed requirements of the planning authority for such works. All residential parking spaces shall be constructed so as to be capable of accommodating future electric vehicle

charging points with a minimum 10% of spaces to be fitted with functional electric vehicle charging points.

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

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

Reason: In the interest of visual amenity.

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

Reason: In the interests of visual and residential amenity.

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

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

9. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located

underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables crossing or bounding the site shall be relocated underground as part of the site development works, at the developer's expense.

Reason: In the interests of visual and residential amenity.

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

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

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

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

12. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation

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

Reason: In the interests of residential amenity and proper waste management.

13. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any unit.

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

14. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of sustainable waste management.

15. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

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

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

17. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be

submitted to, and agreed in writing with, the planning authority prior to occupation of the development.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

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

Reason: To ensure the satisfactory completion of the development.

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

An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Siobhan Carroll
Planning Inspector

7th December 2023