

An
Bord
Pleanála

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

**Inspector's Report
ABP-315273-22**

Strategic Housing Development

Demolition of existing vacant structures, construction of 30 no. Build to Rent apartments, 318 no. student bedrooms, 2 no. retail units and associated site works.

Location

Punches Cross, Limerick.
(www.punchescrossstudentvillage.com)

Planning Authority

Limerick City and County Council

Applicant

Cloncaragh Investments Ltd

Prescribed Bodies

1. Irish Water.
2. Transport Infrastructure Ireland

Observer(s)

1. Ann Warner.
2. Donal and Edwina Cantillon.

3. Environmental Trust Ireland.
(Appendix 6 contains a petition with 103 names).
4. Marguerita McCarthy and Jerry O'Connell.
5. Mary Duggan and Seamus Bergin.
6. Mary Gallagher, Mairead O'Donoghue, Pat Treacy. Michelle Nig Uidhir & Ger Stack.
7. Patricia and Gerard Reidy.
8. Patrick Hanley.
9. Trudy Morrissey.

Date of Site Inspection

25th January 2023.

Inspector

Daire McDevitt

DECISION QUASHED

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Appendix 1 list of documentation submitted with the application.

Appendix 2 EIA Screening Determination Form

DECISION QUASHED

1.0 Introduction

Permission was granted by An Bord Pleanála on the application ABP 310103-21 and dated 18th August 2021 was quashed by Order of the High Court dated 28th November 2022 (perfected 5th December 2022). The High Court directed that the application be remitted back to An Bord Pleanála for determination. It is remitted back to An Bord Pleanála to the point on which it stood on the 7th June 2021. All documents produced after this are put aside.

This is an assessment of a proposed strategic housing development submitted to the Board under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016.

2.0 Site Location and Description

- 2.1. The site, with a stated area of c. 0.77 hectares is located at Punch's Cross, a suburban area on the western side of Limerick, approximately 1.5km from the city centre. The site occupies a corner site between Rosbrien Road and Ballinacurra Road/ O'Connell Avenue. The site is vacant and overgrown with disused commercial buildings on the site. The site is surrounded by parking.
- 2.2. The Rosbrien Road bounds the north eastern side of the site, the Ballinacurra Road along the west and there are traffic lights at the most northerly point where these two roads meet New Street and O'Connell Avenue. There is a local retail centre to the southwestern corner and a modern Lidl discount food store in the south eastern corner and surrounding area comprises of a mix of commercial and community uses in conjunction with low to medium density residential development.

3.0 Proposed Strategic Housing Development

- 3.1 The proposed development consists of a 0.77ha area at the junction of Punches Cross, between Ballinacurra Road to the South West and Rosbrien Road to the North East to include;

(A) Demolition of existing vacant derelict structures including basement area of approx. 1,000m²

(B) A street-front building ranging in height from four storey plus recessed penthouse along Ballinacurra Road and Rosbrien Road, culminating in a six storey feature corner at Punches cross junction, for use as student accommodation, including student communal facilities such as dining rooms, social activity rooms suitable for Gym, Cinema/Games room, reception and social areas of 778m² at ground and first floor; Two ancillary retail units of 105.6m² and 99m² and 54 student apartments in

arrangement of 3,4,5,and 6 bedroom configurations. Overall area of building A is 9,028m² .

(C) A rear courtyard building ranging in height from 5 storeys plus penthouse to seven storeys, containing 14 student apartments in 5 bedroom configuration; also including 30 build-to rent apartments as follows – 10 no one bedroom apartments, 18 no. two bedroom apartments and 2 no. three bedroom apartments. Overall area of building B is 5,330m² .

(D) A basement level containing social activity rooms suitable for yoga, aerobics and general social use, laundry facilities, a total of 76 car spaces, designated for apartments, staff and visitors, bicycle storage areas for 326 bicycles for students, and 50 bicycles separately stored for apartments, ancillary refuse and maintenance stores, sub-station and switch rooms and water storage tanks. Overall area of basement is 5,061m² .

(E) Ancillary courtyard gardens of 1,486m² , including 48 further surface bicycle spaces, to serve as amenity for the student apartments and a separate rear courtyard garden of 450m² to serve as amenity for the build-to-rent apartments development, with feature landscaping.

(F) Vehicular access and egress onto Ballinacurra Road and Rosbrien Road in a strict controlled oneway arrangement to suit existing traffic flows.

(G) Building boundary set back along Rosbrien Road to provide additional traffic lane for public use, and footpath for public use. Building also set back at corner of Punches Cross to provide mini public plaza and provision for future public subscription bicycle stands.

The total number of student apartments proposed is 68 containing 318 bedspaces. The total number of build-to-rent apartments is 30, containing 104 bedspaces. Overall building area at or above ground level is 14,358m² .

The application is accompanied by a Natura Impact Statement

3.1. The key parameters are set out below:

Parameter	Site Proposal
Application Site	0.77 ha
No. of Units	318 student bed spaces in 68 apartments & 30 BTR apartments (104 bedspaces)
Density	Net c. 109 units per hectare (422 bed spaces)

Dual aspect	Stated to be 67%
Other Uses	2 retail units (c.204m ²)
Car Parking	Basement: 76 spaces
Bicycle Parking	Basement: 326 (students) & 50 (BTR) Surface: 50 (BTR)
Vehicular Access	Rosbrien Road and Ballinacurra Road
Part V (applies to BTR element)	3 units

3.2. Unit mix in the BTR building is as follows:

Unit Type	1 bed	2 bed	3 bed	Total
Apartment	10	18	2	30
% Total	33%	60%	7%	100%

3.3 Unit mix in the Student Accommodation is as follows:

Unit Type	3 bed spaces	4 bed spaces	5 + bed spaces	Total
Apartments	16	14	38	68 Apartments (318 bedspaces)

3.4 A letter of support from Mary Immaculate College (MIC) dated 14th June 2018 has been submitted.

3.5 A letter of consent from Operations and Management Services dated 10th June 2019 Limerick City and County Council has been submitted, giving consent to the inclusion of sections of the R526 public road as per site location map 1232-17-02 as part of a SHD application at Punches Cross. If the application is successful, Cloncaragh Investments Ltd will need to consult further with LCCC Operations & Maintenance Services over the proposed works within the public roadway.

Appendix 1 includes a list of documentation submitted with the application.

4.0 Planning History

At the time of inspection (25th January 2023) a Derelict Site notice was observed on hoarding.

ABP 310103-21 Application description as per the current application which was the subject of a High Court Order to quash and remit back to An Bord Pleanála.

ABP 304705-19 refers to a 2019 SHD application for 70 student apartments (326 bed spaces), 30 no Build to Rent apartments and two ancillary retail units and associated works. Permission was refused for the following reason:

The proposed development includes the excavation of c. 33,000m³ of silt/sul soil and removal of fuel tanks and hazardous substances. The site is located on lands where the groundwater is extremely vulnerable (www.gsi.ie) and is located c. 1km from the edge of the River Shannon and River Fergus Estuaries SPA (site code 004077) and the Lower River Shannon SAC (site code 002165).

The submitted Screening for Appropriate Assessment has regard to the inclusion of mitigation measures to control silt/ sedimentation and spillage of hazardous substances to prevent any likely significant impact on the groundwater pathways which provide a hydrological pathway for polluted water. Measures intended to avoid or prevent significant effects on a European site cannot be considered in screening for AA. If such measures are required to avoid potentially significant impacts on a European site then a Natura Impact Statement should be submitted which assesses the effectiveness of such measures. Notwithstanding this, detail on said measures are absent from the submitted documentation. Having regard to the inadequacy of information provided in the Screening Report, the nature of the proposed development, the misapplication of mitigation measures and the absence of a Natura Impact Statement, the Board could not be satisfied that a full understanding and analysis of the hydrological connectivity between the site with the European Sites, River Shannon and River Fergus Estuaries SPA (site code 004077) and the Lower River Shannon SAC (site code 002165), and the potential implications of the proposed development on the groundwater quality has not been undertaken.

The Board therefore cannot be satisfied, beyond reasonable scientific doubt, that the proposed development, either individually or in combination with other plans and projects, would not adversely affect the integrity of River Shannon and River Fergus Estuaries SPA (site code 004077) and the Lower River Shannon SAC (site code 002165), in view of the site's Conservation Objectives. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

PA Ref. No. 06/203 (ABP Ref. No. PL30.221336) refers to a grant of permission for the demolition of existing buildings and erection of mixed use retail/office development including an anchor retail unit, 5 no. retail units, betting office, takeaway facilities and upper floor office development.

PA Ref. No. 04/770531 Permission granted for a showroom to the front of the premises and retention of minor alterations

Within the vicinity

PA Ref. No. 14/1255 (immediately west of proposed site) refers to a grant of permission for a change of use of part of ground floor from office to HSE's Child and Adolescent Mental Health Service and other works to NEPS building

PA Ref. No. 16/44 (ABP Ref. No. PL91.247323) refers to an appeal in relation to a development contribution for special works with a grant of permission for demolition of structure and erection of discount foodstore.

PA Ref. No. 17/60 (ABP ref. No. PL91.248965) (immediately SW of proposed site) refers to a decision to refuse permission for the demolition of existing buildings and construction of a new monopitched licenced discount food store considering the excessive size on the retail floor space on an area zoning for local centre.

PA Ref. No. 18/8014 (Part 8 development at site on Rosbrien Road to SE of proposed development) Provision of 17 residential units, relocation of existing pitch, provision of new junction onto Rosbrien Road from community centre and ancillary works.

5.0 Section 5 Pre Application Consultation

A section 5 pre-application consultation with the applicants and the planning authority took place online under ABP-306772-20 (26th May 2020) in respect of a proposed development of 70 student apartments (326 bed spaces), 30 Build to Rent apartments and 2 ancillary retail units and associated works.

Notification of Opinion

An Bord Pleanála issued a notification that it was of the opinion that the that the documentation submitted with the request to enter into consultations constitute a reasonable basis for an application for strategic housing development.

The opinion notification pursuant to article 285(5)(b) referred to the following specific information should be submitted with any application for permission:

1. A response to matters raised within the PA Opinion and Appended City and County Council Department comments submitted to ABP on the 02 April 2020.

2. A robust Water Environment Risk Assessment, Ground Water Management Plan, AA screening report and NIS which support and have regard to one another, and which inter alia, consider the possibility of contamination reaching the Lower River Shannon SAC from the proposed development site, through the medium of ground water.
3. A Construction and Demolition Waste Management Plan (CDWMP) that addresses, inter alia, site investigation, demolition of structures on site, basement construction, end destination and treatment of contaminated waste / soils / oils, cumulative impact and where construction technology proposed has been effectively used in other similar sites.
4. A detailed statement of consistency and planning rationale, clearly outlining how in the prospective applicant's opinion, the proposal is consistent with local planning policies having specific regard to the zoning objective of the site, Zoned 'C1': *'To protect, provide for and/or improve the total function of local centres and provide a focus for local centres and its applicability to the development site in question having regard to the mainly residential nature of the proposed scheme.*
5. An updated Architectural Design Statement. The statement should include a justification for the proposed development having regard to, inter alia, urban design considerations, visual impacts, site context, the locational attributes of the area, linkages through the site, pedestrian connections and national and local planning policy. The statement should specifically address finishes of the blocks, the design relationship between the individual blocks within the site, the relationship with adjoining development and the interface along the site boundaries. The statement should be supported by contextual plans and contiguous elevations and sections.
6. A site specific student management plan
7. A detailed schedule of accommodation which shall indicate clearly number of bed spaces proposed. Colour coded drawings which clearly indicates individual clusters within the student accommodation element of the proposal and apartment types within the residential element
8. A response to the issues raised by the planning authority in relation to potential noise impacts as referred to in their document by Simon Jennings, Executive Scientist Physical Development Directorate, dated 23rd March 2020 and also as raised at the tripartite meeting of the 26th May 2020.
9. A report that specifically addresses boundary treatment, the proposed building materials and finishes and the requirement to provide high quality and sustainable finishes and details.

10. As per SPPR7 of the Sustainable Urban housing: Design Standards for New Apartments Guidelines for Planning Authorities, March 2018 the development must be described in the public notices associated with a planning application specifically as 'Build to Rent' housing development and a covenant/legal agreement is required at application stage for BTR development.

Applicant's Statement

The applicant has submitted a 'Statement of Response', this refers to ABP 309772-20. This is a typo and the correct reference is ABP 306772-20. With regard to the specific additional information required, the applicant has submitted/ responded as follows:

Response to Item No. 1:

- The applicant has noted that in general no objection was raised and a suit of documentation was set out that should be submitted with the application.
- It is noted that the previous reason for refusal has been addressed and reference to notes by the Heritage Officer.
- The applicant notes the recommended conditions regarding traffic and transportation and has no objection to them.
- An acoustic Design Statement has been submitted.
- The applicant notes the recommended conditions regarding waste and has no objection to them.
- A Natura Impact Statement (NIS) and Ground Water Management Plan have been submitted.

Response to Item No. 2:

- Refer to the following reports submitted with the application: a) Groundwater Management Plan (Basement Construction Phase), b) AA Screening Report and Natura Impact Statement and c) Technical Note: Water Environment Assessment.

Response to Item No. 3:

- Refer to the updated Construction & Demolition Waste Management Plan (CDWMP) submitted.

Response to Item No. 4:

- Refer to the Statement of Consistency submitted.

Response to Item No. 5:

- Refer to the Architectural Report and Urban Design Statement submitted.

Response to Item No. 6:

- Refer to Student Management Plan submitted.

Response to Item No. 7:

- Refer to documentation and architectural drawing submitted.

Response to Item No. 8:

- Refer to Acoustic Design Statement submitted.

Response to Item No. 9:

- Refer to the Materials and Finishes Report submitted.

Response to Item No. 10:

- Refer to the Site Notice, Newspaper Notice and the Covenant Statement submitted.

6.0 Policy Context

6.1 National

Project Ireland 2040 – National Planning Framework

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. A number of key policy objectives are noted as follows:

Objective 2a seeks that half of the future population growth will be in our cities or their suburbs.

Objective 8 of the framework sets ambitious growth targets for Limerick, proposing a c.50-60% growth in population to 2040. In achieving this, it places a great emphasis on compact growth requiring a concentration of development within the existing built up area, including increased densities and higher building format than hitherto provided for. Brownfield sites, in particular, are identified as suitable in this context.

Objective 13 provides that “in urban areas, planning and related standards, including in particular, height and car parking will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth.

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.

Objective 35 is to increase residential density in settlements through a range of measures including reductions in vacancy, reuse of existing buildings, infill development schemes, area or site-based regeneration and increased building height.

At **Section 6.6**, dealing with housing, the framework refers specifically to **student accommodation**. It notes that accommodation pressures are anticipated to increase in the years ahead and indicates preferred locations for purpose built student accommodation proximate to centres of education and accessible infrastructure such as walking, cycling and public transport. It also notes that the National Student Accommodation Strategy supports these objectives.

The National Student Accommodation Strategy 2017

The National Student Accommodation Strategy issued by the Department of Education and Skills in July 2017 aims to ensure an increased level of supply of purpose built student accommodation (PBSA). Key national targets include the construction of at least an additional 7,000 PBSA bedspaces by end 2019 and at least an additional 21,000 bedspaces by 2024. It states that 3,788 spaces were available in Cork 2017 and projects that 6,436 would be required there in 2019 and 7,391 in 2024. A progress report issued in July 2019 reported that 12,677 spaces were available in the country at the end of Q3 2018, with planning permission granted for another 8,577 and sought for 2023.

Housing for All – A New Housing Plan for Ireland (2021)

It is a multi-annual, multi-billion euro plan which will improve Ireland's housing system and deliver more homes of all types for people with different housing needs.

The government's overall objective is that every citizen in the State should have access to good quality homes:

- to purchase or rent at an affordable price
- built to a high standard and in the right place
- offering a high quality of life

The government's vision for the housing system over the longer term is to achieve a steady supply of housing in the right locations with economic, social and environmental sustainability built into the system.

The policy has four pathways to achieving housing for all:

- supporting home ownership and increasing affordability
- eradicating homelessness, increasing social housing delivery and supporting social inclusion
- increasing new housing supply
- addressing vacancy and efficient use of existing stock

Housing for All contains 213 actions which will deliver a range of housing options for individuals, couples and families.

Section 28 Ministerial Guidelines

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.

- '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)
- 'Childcare Facilities – Guidelines for Planning Authorities'
- 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' 2020

I wish to draw the Board attention to the fact that The Apartment Guidelines were updated in December 2022, subsequent to the lodgement of the subject application. The updated Guidelines do not include Specific Planning Policy Requirements (SPPRs) 7 and 8, which relate to BTR development. The amended

Guidelines came into effect on 22nd December 2022. Transitional arrangements are set out in Circular Letter NRUP 07/2022, which states:

All current appeals, or planning applications (including any outstanding SHD applications and appeals consequent to a current planning application), that are subject to consideration within the planning system on or before 21st December 2022 will be considered and decided in accordance with the current version of the Apartment Guidelines, that include SPPRs 7 and 8.

My assessment is therefore based on the 2020 Apartment Guidelines.

- Urban Development and Building Height, Guidelines for Planning Authorities, 2018.
- Appropriate Assessment of Plans and Projects in Ireland, Guidelines for Planning Authorities.

Other policy of note is:

- Dept. of Education and Skills 'National Student Accommodation Strategy' (July 2017).
- Dept. of Education and Science 'Guidelines on Residential Developments for 3rd Level Students Section 50 Finance Act 1999' (1999).
- Dept. of Education and Science 'Matters Arising in Relation to the Guidelines on Residential Developments for 3rd Level Students Section 50 Finance Act 1999.' (July 2005).

6.2 Regional

Regional Spatial and Economic Strategy for the Southern Region, Southern Assembly (2020).

The RSES identifies a number of objectives that seek to achieve compact growth, increased residential densities and urban regeneration.

Of particular relevance are: RPO 10 (compact growth in the metropolitan areas), RPO 34 (regeneration, brownfield and infill development), and RPO 35 (compact growth).

Limerick-Shannon is identified as one of three Metropolitan Areas in the Strategy which includes the Limerick-Shannon Metropolitan Area Strategic Plan (MASP).

Of particular relevance are the following MASP Policy Objectives 1 and 2 to achieve compact growth and regeneration and consolidation of development in Limerick city centre and suburbs. Policy Objective 5 to identify suitable sites for regeneration and development by a quality site selection process that addresses environmental concerns. Policy Objective 10 which seeks to support the environmentally sustainable densification of Limerick City Centre, the assembly of brownfield sites for

development and the regeneration of suburbs to accommodate residential use. Policy Objective 18 seeks to support the existing educational facilities in the Limerick Shannon Metropolitan Area as critical drivers of economic development. Policy Objective 21 seeks to deliver projects which can strengthen placemaking and public realm improvements.

6.3 Local

I wish to highlight to the Board that the documentation submitted with the application was received by An Bord Pleanála on 30th April 2021 (ABP 310103-21).

Documentation was lodged having regard to the Limerick City Development Plan 2010-2016 (as extended) which was the Statutory Plan in effect at the time. The current application (315273-22) is on foot of a High Court Order (5th December 2022) to remit the application back to An Bord Pleanála for assessment.

The Limerick City Development Plan 2022-2028 was adopted on 17th June 2022 and came into effect on 29th July 2022. My assessment has regard to this plan.

In the interest of transparency and for comparison I have included the relevant policies and objectives contained in the **Limerick City Development Plan 2010-2016 (as extended)**

6.3.1 Limerick Development Plan 2022-2028

The site is located on lands zoned local centre with a stated objective *“To protect and provide local centre facilities to serve the needs of new/existing neighbourhoods and residential areas”*.

The purpose of this zoning is to provide a mix of community and commercial neighbourhood facilities to primarily serve the immediate needs of the local working and residential population and complement, rather than compete with the City Centre. A mix of appropriate convenience retail, commercial, community, childcare and medial facilities, residential and recreational development of a local scale will be considered. Larger scale office and residential development will be considered in new developments where public transport is available. The retail scale and type will be controlled to prevent negative impacts on the retail function of Limerick City Centre at the top of the hierarchy. A materially broader range of comparison goods than currently exists shall not be allowed in order to avoid further competition with the City Centre. Any proposal for retail development shall comply with the Retail Strategy of the Limerick Shannon Metropolitan Area and County Cork

In the 2010-2016 (as extended Plan) the lands were zoned local centre, where Objective Z0.5 (D) stated it is an objective *“To protect, provide for and/or improve the retail function of local centres and provide a focus for local centres”*.

Density:

Table 2.6 Density Assumption per Settlement Hierarchy:

The site is located in **Density Zone 2: Intermediate Urban Locations/Transport Corridors**.

A minimum density of 45+ dwellings per hectare as required at appropriate locations within:

- 800m of (i) the University Hospital, (ii) Raheen Business Park, (iii) National Technology Park, (iv) University of Limerick, (v) Technological University of Shannon, (vi) Mary Immaculate College.
- 500m of high frequency (min.10 minute peak hour frequency) existing or proposed urban bus services
- 400m of reasonably frequent (min.15 minute peak hour frequency) urban bus services.

Policies and Objectives of note include:

CSP1 relates to the implementation of the Core Strategy.

CSP2 refers to compact growth and support for prioritising housing and employment developments in locations within and contiguous to existing city and town footprints where it can be served by public transport and walking and cycling networks.

CSP3 refers to sufficient zoned land continues to be available for the projected population and employment growth over the lifetime of the Plan.

CGR P1 refer to an emphasis on revitalisation and consolidated growth , integrating land use and transport, with the use of higher densities and mixed use developments at an appropriate scale on brownfield, infill, backland, statelands and underutilised sites within the existing built footprint of Limerick's City, Towns and Villages.

Section 3.4.2.4 refers to the **Building Height Strategy**. (see also Vol. 6 **Building Height Strategy**)

CGR O9 Building Heights

It is an objective of the Council to:

a) Ensure that all new tall buildings in Limerick City are designed in accordance with the character area objectives, tall building recommendations and criteria set out in the Development Management Standards. All such buildings shall be of an exceptional architectural quality and standard of design and finish.

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

c) Protect the unique intrinsic character, scale and significant views of Limerick City, the skyline and key landmark buildings in the delivery of increased building heights, through the application of the Tall Building Classifications, Recommendations, High Level Principles and Assessment Tools and Criteria set out in the Building Height Strategy.

d) Ensure applications for tall buildings are supported by the following assessments and any additional assessments required at the discretion of the Planning Authority - Environmental Assessment, Wind Analysis, Sunlight and Daylight Analysis, Verified View Analysis, Landscape and Visual Impact Assessment, Architectural Design Statement, Traffic Impact Assessment including a Mobility Management Plan for non-residential uses, Building Services Strategy.

Objective CGR 02 relates to Place-making, Universal Design and Public Realm. It is an objective of the Council to:

a) Ensure that all developments are designed to the highest quality with respect to the principles of placemaking, universal design and public realm including the guidance set out under the Urban Design Manual – A Best Practice Guide (2009) and the Design Manual for Urban Roads and Streets (2013), the Whole of Government National Disability Inclusion Strategy (NDIS) 2017-2022 and the 2020 DMURS Interim Advice Note – Covid 19 Pandemic Response.

b) Prepare and facilitate implementation of Public Realm Plans for settlements including Limerick City, Adare and Rathkeale.

c) Ensure the construction of the highest quality and innovative designed buildings, in particular on the approaches to Limerick City, along the Riverfront/Quays, on important street corners or junctions, corner sites, the end of vistas and gateways, Town Centres and the edges of public squares or open space

Section 11.1.3 refers to Building Heights

All new developments in the City shall comply with the guidance set out in the Building Heights Strategy, in particular the criteria set out in **Table DM 1: Limerick City Building Height Objectives, Recommendations and Criteria**

Objective CGR 03 relates to Urban Lands and Compact Growth. It is an objective of the Council to:

a) Deliver 50% of new homes within the existing built-up footprint of Limerick City and Suburbs (in Limerick), Mungret and Annacotty and 30% of new homes within the existing built-up footprint of settlements, in a compact and sustainable manner in accordance with the Core and Housing Strategies of this Plan.

b) Encourage and facilitate sustainable revitalisation and intensification of brownfield, infill, underutilised and backland urban sites, subject to compliance with all quantitative and qualitative Development Management Standards set out under Chapter 11 of this Plan.

c) Continue to work proactively with key state agencies, such as the LDA to bring forward, brownfield urban underutilised state land, which can contribute to the delivery of compact growth within an urban context, subject to Development Management Standards set out under Chapter 11 of this Plan.

d) Encourage residential development in the City Centre zone by requiring at least 20% of new development to comprise residential use. Exceptions may be made on a case-by-case basis, where residential use is not deemed compatible with the primary use of the site e.g. museums/tourist attractions etc.

Section 3.3.1.3 refers to the development of Brownfield sites.

Often such lands are of large scale and have previously been in use for industrial or commercial purposes and became derelict due to obsolescence, vacancy or demolition of structures. Some brownfield sites may have a legacy of contamination from operational activities or waste disposal.

Redeveloping brownfield sites provides opportunities for revitalisation of the built environment and reuse of existing infrastructure including roads and utilities. The Planning Authority will encourage the redevelopment of brownfield sites in settlements throughout Limerick, in accordance with the concept of compact growth and the Development Management Standards of this Plan.

Section 11.4.4.7 refers to Student Accommodation

Objective HO O8 Student Accommodation it is an objective of the Council to:

a) Support the provision of high quality, professionally managed purpose built student accommodation either on campus, or in appropriate and accessible locations on public transport or cycle networks. All forms of student accommodation shall respect and protect the existing residential amenities of the area in which it is proposed. Student accommodation shall be of appropriate design, in accordance with the Department of Education and Science Guidelines on Residential Development for Third Level Students (1999), and (2005) and any subsequent updates. Applications for change of use from student housing to any other form of use shall be strongly resisted, without adequate demonstration that there is no longer a need for such use in the area and an over-provision of student housing exists.

b) Ensure that all applications for new off campus purpose built student accommodation, the change of use to student accommodation in existing residential areas, or extensions to existing dwellings to facilitate student accommodation, must include details outlining the presence and distribution of any permanent residential occupiers; the extent of students renting in the private housing market; and the presence of any other housing catering primarily for students and short term lets in the area/estate. The application should address any potential impacts of the proposal on residential amenity and any permanent residents in the area.

c) Require all applications for off-campus purpose-built student accommodation to be accompanied by a Student Management Plan outlining how the scheme will be professionally managed. The Plan shall demonstrate how the development will be managed so as to avoid potential negative impacts from occupants on surrounding properties and neighbourhoods and ensure the maintenance of safe, secure and clean environments for the community, occupants and nearby residents.

d) Ensure permissions for student accommodation will be subject to a condition requiring planning permission for a change of use to any other type of use, including short-term holiday letting. Future applications for this type of change of use will be resisted. Where it is demonstrated that such student accommodation is no longer required, a planning application will require details of a proper management plan for the non-student use of the units to prevent adverse impacts on traditional residential estates.

Table DM 9(a) : Car and Bicycle Parking Standards in Limerick City and Suburbs (Limerick, Mungret and Annacotty:

Parking Zones are the same as Density Zones.

Site in in Zone 2:

BTR incl. Student Accommodation:

- 1 car space pre 15 beds.
- 1 bicycle space per 5 beds.
- Retail <100sq.m – 0

In some limited circumstance, a higher or lesser standard may be appropriate. Proposal for the provision of car parking for residential development at a reduced rate to the maximum standards will be considered where the planning authority are satisfied that good public transport links are already available or proposed.

Section 8.7.7 refers to hazardous waste and contaminated sites.

Refers to applications for suitable redevelopment of contaminated lands will generally be encourage.

Objective N 023 refers to hazardous waste and contaminated site, including technical requirements for clearance and redevelopment of contaminated sites.

Chapter 11 refers to Development Management Standards.

Relevant standards include inter alia

Section 11.2 relates to residential development – design principles and standards.

Section 11.3 relates to residential development – general requirements.

Section 11.4 relates to residential development – quality standards.

Section 11.4.1 relates to apartment developments.

Section 11.4.4.7 relates to Student Accommodation.

All proposals for student accommodation should comply with the Department of Education and Science's Guidelines on Residential Development for Third Level Students (1999), the subsequent supplementary document (2005), the provision of the National Student Accommodation Strategy (2017) and Circular PL8/2016. The Council will support the provision of on-campus accommodation and purpose built-professionally managed student accommodation off-campus at suitable locations. When assessing applications for student accommodation the Council will have regard to:

- The location of student accommodation: The Council will prioritise student accommodation on campus or within 1km distance from the boundary of a Third Level Institute, followed by locations within close proximity to high quality public transport corridors, cycle and pedestrian routes and green routes;
- The potential impact on residential amenities: The provision and location of student accommodation will not be permitted where it would have a detrimental effect on established residential amenities;
- The provision of on-site facilities, including storage facilities, waste management, quality and quantum of cycle parking and associated showers and lockers, leisure facilities, car parking and amenity areas;
- The architectural quality of the design and integration with the wider streetscape with respect to scale, mass, external finishes and landscaping;
- The number of existing similar facilities in the area (applicable only to offcampus accommodation). In assessing a proposal for student accommodation, the Planning Authority will consider the cumulative impact of student accommodation, which exists in the locality and will resist the overconcentration of such schemes in any one area, in the interests of sustainable development and residential amenity.

Section 11.4.4.9 relates to Build to Rent Accommodation.

Build-to-rent (BTR) accommodation consists of purpose-built, long-term rental apartment accommodation that incorporates dedicated residential amenities and facilities. All proposed BTR accommodation must comply with SPPR 7 and SPPR 8 as set out within the Design Standards for New Apartments, 2020 (and any amending SPPR as appropriate). In this regard, applications for proposed BTR must clearly demonstrate compliance with the guidelines and include details in relation to:

- The proposed ownership and operation by an institutional entity for a minimum period of not less than 15 years and no individual residential unit can be sold or rented separately for that period. A covenant or legal agreement shall be submitted and entered into in this regard;

- Proposed residential support facilities such as laundry facilities, concierge and management facilities, maintenance/ repair services, waste management facilities, etc.;
- Proposed resident services and amenities for communal recreational and other activities by residents. The quantum and scale of the proposed residential support facilities, services and amenities must have regard to and adequately support the number of future residents within the BTR scheme.

BTR accommodation must comply with all apartment standards set out above.

A reduction in unit storage may be considered where alternative, secure storage area can be provided on-site. All units must provide for private open space in the form of a balcony or terrace. A reduction in the area of private open space serving each unit will only be considered where at least an additional 10% high quality, useable, communal and/or additional compensatory communal support facilities are provided.

On-site car parking must comply with the requirements set out in Section 11.8.3 Car and Bicycle Parking Standards, DM Table 9a/9b. In all instances, the applicant shall clearly demonstrate that the BTR development is located within a 10-minute walking time from high frequency public transport routes. Where any derogations in standards, including standards relating to open space, car parking and storage are considered, the Council will attach a condition to state that planning permission must be sought for a change of tenure to another tenure model, following the period specified in the covenant.

Section 11.6.2.1 relates to the assessment of Retail Applications.

Section 11.8 relates to transport and infrastructure

Section 11.8.1 relates to Access to Roads, Traffic and Transport Assessments (TTAs) and Road Safety Audits (RSAs)

Section 11.8.2 relates to Building lines.

With regard to building lines, the Council will require a minimum setback distance from roads according to classification, as per the following table. Exceptions may be made (apart from new national roads) where the applicant demonstrates the application of good acoustic design, meeting the objective outlined in Section 11.3.12 Noise, that acceptable noise levels can be achieved externally and internally with openable windows.

Refer to Table DM 8 for setbacks

Section 11.8.3 relates to car and bicycle parking standards. Parking Zones are the same as Density zones. Refer to Table DM 9 (A). The site is in Zone 2.

Vol. 6 Building Height Strategy (adopted June 2022)

6.3.2. Limerick City Development Plan 2010-2016 (as extended)

Policies and objectives contained in the Limerick City Development Plan 2010-2016 (as extended) that are of relevance to this application (statutory Plan at the time the application under ABP 310103-21 was lodged with An Bord Pleanála in 2021), some of which are also referred to in submissions received under ABP 310103-21. The case was remitted back to the status as of the 7th June 2021 (after the final date for receipt of submissions)

Part II Quantitative Standards

Building Heights

The issue of appropriate building height in context is relative and relates not only to the prevailing or dominant heights but also to the grain and its consistency or diversity within an existing character area.

Limerick has many different character areas reflecting histories, communities and various opportunities for change. Different character areas will require different approaches to the issue of building heights. There is a recognised need to protect conservation areas and the architectural character of existing buildings, streets and spaces of artistic, civic or historic importance. In particular, any new proposal must be sensitive to the historic City Centre.

Limerick City Council also recognises the needs of the City to grow and to reach its full potential as a significant Gateway for the Mid-Western Region and it is Limerick City Council's policy to allow for the development of high buildings in appropriate locations in order to promote investment, vitality and identity.

Special Standards Applying to Medium & High Rise Buildings:

The following considerations will be taken into account in considering proposals for high buildings:

- o The need to create a positive urban design;
- o The need to suitably incorporate the building into the urban grain;
- o The need to create positive urban spaces;
- o In view of the inevitable prominence of a high building it should be of outstanding architectural quality, creating a building which is elegant, contemporary, stylish, and, in terms of form and profile, makes a positive contribution to the existing skyline;
- o The need to respect important views, landmarks, prospects, roofscapes and vistas;
- o The proposal should be very carefully related to, and not have any serious disadvantages to, its immediate surroundings, both existing and proposed, and especially to any other high buildings and prominent features in the vicinity and to existing open space;
- o The site must be of appropriate size and context to allow for a well designed setting of lower buildings and/or landscaped open space;

- o The design of high buildings should seek to minimise overshadowing and overlooking of surrounding property and should not create adverse micro-climatic effects (such as down-draft);
- o The building should consider important telecommunication channels and not interfere with air navigation.

When submitting plans for high rise buildings the developer will be required to submit a Visual Impact Analysis Study including a 3-D model of the scheme, and photomontages of the impact of the building(s) at a city-wide and local scale. When developing landmark high rise buildings the Planning Authority will encourage architectural design competitions.

Transport

- Policy TR.6- Mobility Management. Require a Mobility Management Plan for any development which will have a significant trip generation.
- Policy TR.9- Cycling & Walking. Prioritise safe facilities for pedestrian and cyclists throughout the city.
- Policy TR.12- Controlled & Non- Controlled Crossings. Enhance traffic management through controlled pedestrian crossing at major interchanges.
- Policy TR.25- Promotion of an Alternative Energy Sources for Vehicles by on-street charging points for electric vehicles or facilities for discharge of Bio-Fuels.

Parking:

Table 16.1 Carparking standards:

Zone 3 suburban (minimum):

Retail –1.25 per sq.m

Apartment –1.25/apartment and 25% visitor.

Student accommodation – 1: 5 students

Table 16.2 Cycle Parking standards

Zone 2 &3 outer core/suburban

Retail –1 stand: 50sq.m

Apartment –1: apartment

Student accommodation – 1: 10 students

Housing & Urban Design

- Policy H.2- Housing Mix- Provide a good mix of house types for all different ages and lifestyles.

- Policy H.3- Density- Provide a density in line with the sustainable residential density guidelines and support a mix of tenures.
- Policy H.5- Density- Promote increased density having regard to existing or proposed public transport provisions and proximity to the City Centre.
- Part II- Quantitative Standards- Increase in density in city centre locations should include a variety of built form in the layout.
- Part II- Quantitative Standards- Site coverage in Zone 3- Suburban is 50%.
- Policy DM.2 -Planning Statements- larger schemes will be accompanied with design statements including, inter alia, the architectural response to the site.

Contaminated lands

- The development plan refers to the Docklands as having a legacy of contamination on the site, no specific polices are detailed.

Surface Water

- Policy WS.6- It is policy to provide high quality Surface Water Collection and Disposal System.
- The control of surface water discharges to 2 l/sec/ha where there is restricted capacity.
- Policy WS.7 Sustainable Urban Drainage Systems (SUDS) It is the policy of Limerick City Council to ensure that all new developments incorporate sustainable urban drainage systems at the application stage.

Open Space

- General provision 10%
- All applications shall have regard to the standards on the national apartment guidelines.
- Private open space for apartments 12-15m² per bed space.

Built Heritage

Policy BHA.17 Development in Architectural Conservation Areas

It is the policy of Limerick City Council to protect and enhance the special heritage values, unique characteristics and distinctive features from inappropriate external works within the four Architectural Conservation Areas as follows:

- ACA 1B South Circular Road
- ACA 1C O'Connell Avenue
- ACA 3 Ballinacurra Road

Policy BHA.19 ACA 1B South Circular Road & New Street

Policy BHA.20 ACA 1C O'Connell Avenue

Policy BHA.22 ACA 3 Ballinacurra Road

Part III Development Management

Residential Development

A high quality of urban design, building design and dwelling design will be sought in any development incorporating residential uses. In considering applications for new developments the Planning Authority will refer to the Department of the Environment, Heritage and Local Government guidelines on 'Sustainable Urban Housing: Design Standards for New Apartments: Guidelines for Planning Authorities' (DEHLG, September 2007) and 'Quality Housing for Sustainable Communities' (DEHLG, 2007). Research completed for the Department of the Environment, Heritage and Local Government and Dublin City Council clearly illustrates that if we are to create sustainable urban homes and neighbourhoods we need to ensure that dwellings and their neighbourhoods are attractive and functional to live in for all sections of the community. The two key requirements for successful higher density urban neighbourhoods are adequate dwelling size and adequate public and private open space.

All new housing and apartment developments should:

- o Reflect the existing character of the street by paying attention to the proportion, pattern, massing, density and materials of surrounding buildings.
- o Maintain existing building lines, roof pitches and heights and window proportions.
- o Incorporate variations in design- roof type etc. around a common theme, in
- o Housing developments of more than 15 dwellings.
- o Specify the design BREF rating for the proposed dwellings.

Open Space

Table 16.4 Public Open Space Provision:

Greenfield sites 15%

General provision 10%

Daylight & Sunlight

The Planning Authority considers that all buildings should receive adequate daylight and sunlight. Careful design of residential buildings, where the amount of incoming light is important, can ensure that sufficient sunlight can enter habitable rooms to provide comfort and also reduce the need for artificial lighting. Development shall be guided by the principles of 'Site Planning for Daylight and Sunlight: A Good Practice' (British Research Establishment Report, 1991).

In this regard the majority of apartments in a development must be dual aspect. Single aspect dwellings will only be acceptable where it is not possible to accommodate dual aspect dwellings. Where single aspect buildings are unavoidable, they should be designed to avoid exclusively northern orientation. If this is not possible some compensation is appropriate, such as a view of landscaped areas and greater floor-to-ceiling heights.

6.4 Draft Limerick Shannon Metropolitan Area Transport Strategy (LSMATS), published by the NTA – This is a framework for investment in transport for the Limerick Shannon Metropolitan Area for the next 20 years and includes proposals for the significant development of the cycle network and enhancement of bus services and infrastructure. The Bus Connects Limerick programme envisages a network of reliable high frequency routes connecting Limerick City and suburbs, which includes provision for the widening of a number of roads.

6.5 Designated sites

The subject site is located c.1km to the south of the River Shannon and River Fergus Estuaries SPA (site code 004077) and the Lower River Shannon SAC (site code 002165).

6.6 Applicant's Statement of Consistency

The applicant has submitted a Statement of Consistency as per Section 8(1)(iv) of the Act of 2016, which states how the proposal is consistent with National, Regional and local policy and requirements of section 28 guidelines.

I wish to highlight to the Board that the documentation submitted with the applicant under ABP 310103-21 (set aside by direction of the High Court) was received by An Bord Pleanála on 30th April 2021. Documentation was lodged having regard to the Limerick City Development Plan 2010-2016 (as extended) which was the Statutory Plan in effect at the time as such the submitted Statement of Consistency refers to the Limerick City Development Plan 2010-2016 (as extended).

The Limerick Development Plan 2022-2028 was adopted on 17th June 2022 and came into effect on 29th July 2022. My assessment has regard to this Plan.

Section 8(1)(iv) of the Act of 2016 sets out how the applicant is required to state how the proposal is consistent with National, Regional and local policy and requirements of section 28 guidelines.

I note that policies and objectives in the current statutory Plan does not raise significant planning implications and are broadly in line with those contained in the previous Plan as such I do not consider that the change in Plan would raise significant planning matters not already addressed by third parties in their submissions under ABP 310103-21. The application before the Board is the subject of a High Court Direction for remittal. It is at the discretion of the Board if it wishes to hold an oral hearing to address this matter. I do not recommend that an oral hearing.

7.0 Observer Submissions

9 no. observer submissions were received by An Bord Pleanála, in addition to 2 no. submissions received from Prescribed Bodies which are summarised in section 9 of this report.

Submission were from the local residents: Ann Warner, Donal & Edwina Cantillon, Marguerita McCarthy & Jerry O'Connell, Mary Duggan & Seamus Bergin, Mary Gallagher & Others, Patricia & Gerard Reidy, Patrick Hanley and Trudy Morrissey.

A submission was received from 'Environmental Trust Ireland', this includes Appendix 6 which contains a petition with 103 names. (**I note page 45 of the submission is not legible).

There is a degree of overlap in the issues raised, I therefore propose to provide a summary by topic to avoid repetition. The main issues are summarised as follows:

Compliance with Limerick City Development Plan 2010-2016 (as extended):

- Punches Cross is zoned 'Local Centre'. The development materially contravenes the statutory Development Plan for the area. It contravenes the land use zoning and therefore does not constitute a SHD pursuant to the Planning and Development Act 2016.
- The proposal does not comply with policy H6 (residential amenities), EDS9 (Masterplan), BHA19 ACA 1B South Circular Road & New Street, BHA20 ACA1C O'Connell Avenue, Policy BHA22 ACA3 Ballinacurra Road, Section 14.7 (vi) key objective.
- Does not comply with Policy LBR 8 of the Limerick City Development Plan which refers to the requirement to apply the precautionary principle in relation to proposed development in environmentally sensitive areas.
- Incorrect zoning description and cumulative impact of 3 separate ACAs.

- NO SEA prepared for the Masterplan.

Density:

- Over development of site.
- Density of 118/ha is excessive.
- Development should be amended to a low density low rise along Pıncher Cross and Rosbrien Road roads with higher density towards the rear of the site where it drops down towards Childers Road.
- Proposed density exceeds those present in Dublin and London.

Demand for Student Accommodation:

- The intended use of the development is not supported with sufficient evidence to describe unmet student accommodation demand in the supplied documentation.
- There is demand in the area for units to cater for young professionals not students.
- Three other purpose built student buildings in the city are no longer used as student accommodation and concerns raised that the same would happen here. Two of which are within 100m of Mary Immaculate College (MIC). Former student accommodation used as a homeless shelter, a centre for immigrants and a third property that has high vacancy.
- Query need for more student accommodation in the region.
- Student accommodation should be provided on campus at MIC.

Design/height/streetscape:

- The height (7 storeys) of the proposed building is out of keeping with all surrounding structures (2 storeys).
- No objection to the redevelopment of the site, if done in an appropriate and sympathetic manner that has regard to the existing structures.

- Object to the suggestion that the Cloncaragh Student village façade will stand as a 'gateway to the city'.
- The proposal will be overbearing and dominant when viewed from adjoining houses.
- Modern design is not in keeping with the nineteenth century cottages and houses.
- Design should reflect the iconic Limerick Public House landmark opposite the site.
- Scale, height and design encroaches on adjoining houses, overbearing impact and is injurious to the setting, amenity and appreciation of the neighbouring properties.
- Excessive height, visually intrusive and risk of bird collisions.
- No Bird collision assessment has been conducted/submitted.
- Non compliance with EU Directive 2018/844. Reference to gov.ie where it is stated "Under the previous 2017 Regulations, a typical new dwelling is built to an A3 Building Energy Rating (BER). The NZEB requirements will equate to an A2 BER." The Building Life Cycle Report submitted with the application states "The building will achieve a BER A3" Therefore the proposed development is not being built to be 'more energy efficient than the regulations'.
- Reference to SI 183/2019 and reference to Part L Building Regulations regarding solar energy. The proposed buildings fall short of the mandatory requirement for renewable sources.

Residential Amenity:

- The height is excessive and will lead to overshadowing and a poor quality of residential amenity for existing and future residents and is accordingly not in keeping with the proper planning and sustainable development of the area.
- The proposed plaza will have a negative effect on the area and will diminish the quality of life of local residents as it will lead to large gatherings of young people and anti-social behaviour and noise,

- The height, design and uses of the development on its boundary with Rosbrien Road has failed to have regard to the residential amenities of existing residents
- Overbearing impact on houses along Rosbrien Road.
- Overlooking of existing houses along Rosbrien Road, loss of privacy.
- Shadow cast and loss of daylight/sunlight to existing houses opposite the site along Rosbrien Road.
- Visually intrusive development.
- Destruction of residential amenity.
- Noise nuisance (construction and operational phases).
- Anti-social behaviour associated with student accommodation.
- Right to clear air.
- Safety issues associated with the proposed civic plaza.

Built Heritage:

- Proposed development will dramatically alter the setting of the Ballinacurra Road, O'Connell Avenue, New Street and Rosbrien Architectural Conservation Area.
- Impact on the Quaker Graveyard and the Quaker Meeting House.

Traffic & Transportation:

- Insufficient parking proposed and concerns raised that this will lead to parking along adjoining residential roads.
- No consideration given to what route student will take (pedestrian) to college. Details submitted do not accurately reflect existing footpaths. Routes through residential areas will lead to disruptions.

- The pre-existing difficult traffic arrangement at the junction of the Rosbrien Road with the Rosbrien Hill will be further complicated by the development, during and after construction phase.
- Traffic congestion and road safety
- Site visit for the RSA report was undertaken in August 2018 when schools and colleges were on holidays. Therefore is not reflective of the conditions for September to June. Updated stage 1 visit in March 2021 noted that the team had not been advised of any significant changes to the network surrounding the site. This is not correct.
- Punches Cross is the subject of extensive congestion, the proposal will further exacerbate this.
- Road Safety Audit submitted is incomplete, no information submitted for collision statistics.
- Limerick City and County Council launched the Limerick Metropolitan District Movement Framework. The proposed development seeks to introduce a 'cyclist -unfriendly multi-lane one way system' on the Rosbrien Road. The proposal would contrive Limerick City policy and National policy by creating a traffic hazard.
- Rosbrien Road has been disregarded in the assessment (traffic and photographs).
- Creation of a third lane will add to traffic congestion in the area.
- Negative cumulative impact on traffic when considered along with other permitted development along Rosbrien Road.
- Topographical photographs submitted are outdated and do not reflect the current nature of the area.
- A roundabout should replace the exist inefficient traffic lights in place at Punches Cross.
- Loss of parking spaces along Rosbrien Road in an area where there is already a shortage of parking spaces.

- Inconsistency in documentation submitted.
- Proposal does not comply with DMURS.
- Extinguishment of the local residents parking rights.
- Surrounding roads infrastructure and pathways are inadequate to support the proposed development and extra demands that will arise from occupiers.
- 76 car parking spaces is inadequate to cater for 422 people.
- Development is premature pending upgrades to public transport.

Construction Phase:

- Disruption to local residents arising from traffic, noise, dust etc.
- Disruption due to the removal of tanks and extent of excavation to provide the underground car park has not been adequately addressed nor mitigation measures set out.
- Potential damage to older properties, roads and footpaths from vibrations associated with excavations required to provide an underground car park. Dust and noise will also have a detrimental impact on the health of local residents.
- Significant piling will be required, concerns raised regarding the stability and impact on existing structures.
- Concerns raised that the fracturing of the underlying limestone bedrock will cause radon gas to be released.
- Disregard for existing residential community.
- Quarrying of bedrock will be disruptive, distressing and possible dangerous for local residents.

Environmental Considerations:

- No details submitted regarding the former quarry on site. No assessment submitted regarding the impact this use has had on bedrock, aquifer, groundwater vulnerability and directional flow, contamination and environmental impacts.
- Presence of ground water well on site is ignored.
- No asbestos survey carried out of building to be demolished.
- No ecological assessment of buildings to be demolished.
- Ground water vulnerability.
- No regard to the underlying shallow bedrock in the wastewater and surface water drainage proposals.
- SUDS systems are not recommended in areas of high aquifer vulnerability.
- No assessment/report on greenhouse gas emissions in relation to the demolition, excavation or construction works.
- Environmental Concerns (noise, light and air pollution during both construction and operational phases)
- No details of author or qualifications/experience of the person whom prepared the Water Environment Risk Assessment Report.
- The Water Environment Risk Assessment Report fails to consider the quarry, ignores the direct hydrological link to the Lower Shannon SAC, ignores the URS report statement that inferred groundwater is to the west (direction of Lower River Shannon SAC) as well as to the southwest, ignores the complexities of karst on groundwater directional flow.

URS Closure Report:

- The Closure report dated September 2013 prepared by URS is heavily relied upon in the applicant's planning documentation.
- The URS report was prepared on the assumption that the end use would be commercial not residential

- The four tanks which remain in situ were installed in 1986 and are probably seriously eroded, leaching contaminants.
- The site boundary of the old petrol station is not the same as the current site.
- Following the removal of 4 underground fuel tanks, the area of excavation was filled in. The trial pits and holes were also filled in. Throughout the applicant's reports, it is assumed and concluded that it was the quarry that was filled in, this may not be a valid assumption.
- Concerns regarding the removal of tanks and contaminated soil and water and potential impacts on the health and safety of local residents.

Contaminated lands:

- There are 4 buried hazardous undergrounded storage tanks on site. Concerns regarding their removal, along with the removal of contaminated soil and water and impacts arising from this.
- Hydro carbon contaminated water on site. No evidence that the concerns raised by LCCC Ecologist, regarding the use of portable modular treatment system (PMTS) and examples of schemes where this has been successful, have been addressed.
- Extent of contaminated soil is not known and local residents have raised concerns that works may expose contaminant that are currently buried.
- Query the integrity of bore hole soil samples.
- Query the integrity of reports based on undated soil samples.

Appropriate Assessment:

- The current proposal has not addressed/overcome the reason for refusal under ABP 304705-19.
- Impact on ground water and threat to the integrity of Lower River Shannon SAC

- The redevelopment of a former petrol fuel station has major implication for groundwater contamination and the nearby River Shannon SAC and the River Shannon and River Fergus SPA to which it has a direct hydrological link. It is also within a few kilometres of Bunlicky-Clayfield Pond NHA for which the Whooper Swan is an SCI species.
- Previous use (petrol fuel station) was abandoned not decommissioned.. This is a polluted site and toxic contaminants, hydrocarbons and other leachate material will have to be properly addressed and remedied having regard to the nearby European Natura sites and NHA and the impact on human health before the site is suitable for re-development.
- Previous refusal (ABP Ref 304705-19) on the site due to lack of evidence supplied by the applicant in relation to the potential impact of the proposed development on the Lower River Shannon SAC and the River Shannon and River Fergus Estuaries SPA. The Bord, at the competent authority, must again undertake a screening exercise and should the effects of the proposed development be significant, potentially significant or uncertain, the Bord is obliged to undertake Appropriate Assessment (AA) of the proposed development.
- The applicant has not submitted sufficient data for ABP to undertake its own screening and assessment. The applicant has provided a summary of its findings and its own interpretation of these. Leaving the Board at a disadvantage in being able to undertake a robust and defensible screening process. Field notes from a 2020 survey are not provided. Field notes/data from previous visits are not provided.
- The qualification/experience/expertise of the authors of documents the Screening and NIS relied upon have not been provided. In particular the Soil Management, Ecological Impact Assessment Report, Groundwater Management Plan and Water Environmental Risk Assessment.
- It is unclear if the measures that 'should' be done referenced in reports have been incorporated into the design. Therefore cannot be relied upon as mitigation measures.
- The applicant has not assessed the potential impact arising from the wheel wash which could potentially discharge to the surface water system and ultimately into the River Shannon SAC. This also includes potential impacts from the wheels of trucks transporting contaminated soil that have traversed the contaminated section of the site on the River Shannon SAC.

- The information submitted is insufficient for the Bord to satisfy itself, beyond all scientific doubt, that this development, on its own or in combination with other developments, will not adversely impact on the integrity of the Lower River Shannon SAC and/or the River Shannon and River Fergus Estuaries SPA. Therefore permission should be refused.
- Local knowledge of a stream on site is not included in the assessment, which notes that closest surface water feature is c.920m west and that there is no connectivity to SPA or SAC.
- The conclusion that the Whooper Swan (SCI of Bunlicky Clayfield Pond), are not likely to be present within the extents of Limerick city is an example of the inadequacies and deficiencies in the AA and NIS.
- No consideration of cumulative impacts relating to existing and permitted developments but not yet constructed. Such as the Irish Cement works and proposed incinerator, the Kings Island Flood relief works, Clarion Hotel (bird strikes) and the Opera site. The failure to consider any cumulative impacts renders the AA and NIS reports fundamentally and fatally flawed.
- It is observed that if the nearest river Shannon tributary is 500m downhill from the proposed development, then, irrespective of reports commissioned by the Developer, it would seem that this contaminated site represents a threat to the SAC.
- The extent of site contamination surround the 4 disused USTs, decommissioned but full of contaminated water is unknown. The extent of likely water ingress into the spaces that will be left by the said tanks, when removed, or the extent of compacted heavily contaminated soil beneath and surround said tanks.
- The effectiveness of the PMTS for dealing with contaminated water is also still in question.

Ecology:

- Ecological Impact Assessment Report does not include an amphibian survey even though there are localised areas of ponding were identified in other reports.
- Query bat assessment, no bat survey included.

- The ecological survey contains an arbitrary restriction of the zone of influence of 1km.
- Impact on wildlife. No consideration has been given to the potential impacts on local vegetation and wildlife outside the site in nearby gardens.
- Reports submitted are inadequate. Appear to be based on desktop surveys and follow on from the EclA which is defective.

Other:

- The planning application has made no attempt to address the implications/impacts arising from the Covid 19 pandemic.
- Set an undesirable precedent.
- Devaluation of property
- Apartment sizes do not comply with the minimum 55sq.m required for a 1 bed apartment.
- No creche proposed.
- Reference to wrong roads when describing those that bound the site
- Site ownership, site include lands owed by LCCC
- Deed – Not executed by LCCC (17th June 2019). Furthermore this refers to the 2019 application which is not identical to the current one.
- Reference to constitutional rights
- The application needs to be assessed de novo and not just the previous reason for refusal.
- SHD is a developer's charter.
- Planning legislation does not supersede the constitutional rights of the local residents.

- The Conservation report notes no potential for archaeological material to be present onsite given the extensive quarrying in the past . However, no Archaeological survey or impact assessment has been submitted with the application.
- Inaccuracies and miss-descriptions throughout the developer's various documents and reports.
- Lack of detail/transparency regarding ownership of the development.
- Concerns proposed retail units would become take-aways/offices and a magnet for anti-social behaviour.
- No proper public consultation took place with the local community/residents.
- The development is co-living by stealth.
- Co-living developments are is not feasible or appropriate form of human habitation give the requirement for social distancing.

8.0 Planning Authority Submission

8.1 The Chief Executive Report has been prepared in accordance with the Directions of the High Court Order and in compliance with section 8(5)(a) of the 2016 Act the planning authority for the area in which the proposed development is located, Limerick City and County Council, submitted a report of its Chief Executive Officer in relation to the proposal. This was received by An Bord Pleanála on 21st December 2022. The planning authority has not raised any serious concerns with regard to the proposed development submitted. The report may be summarised as follows:

8.2 Information Submitted by the Planning Authority

The submission from the Chief Executive includes details in relation site location and description, proposal, zoning, planning history, interdepartmental reports, summary of submissions/observations, summary of views of elected members, policy context and assessment.

8.3 **Summary of views of Elected Representatives** (Meeting of the Metropolitan District of Limerick held on 15th December 2021). I am taking the reference to 2021 in this instance as a typographical error as An Bord Pleanála notified Limerick County Council on 6th December 2022 requesting the preparation and submission of a Chief Executive Report and clearly set out the requirements for same. This included summary of any meetings with elected representatives.

A synopsis of the comments/views in respect of the proposed development is set out as follows:

- In general the majority of Councillors supported the development.
- The site is derelict over 30 years and needs the development.
- Much needed development for the area in midst of housing crisis.
- Development needed to address the significant shortage of student accommodation in Limerick. Prime site in close proximity to Mary Immaculate College.
- Limerick is a region of learning and infrastructure such as accommodation is critical to ensure students can continue to come to Limerick.
- 3rd lane f traffic onto Rosbrien Road is to be welcomed.
- Not acceptable for some students sleeping in cars or traveling significant distance on a daily basis.
- The proposal is for compact development on a brownfield site is to be welcomed.
- The environmental reports have addressed the issues. The development is in accordance with the proper planning and sustainable development of the area.
- Concerns raised that some objectors could not make a submission online. The mailbox was not big enough.
- Concerns that the development is not sub threshold and needs a supplementary environmental assessment by the planning authority,
- The High Court Order highlights concerns with respect to the planning authorities role and its environmental assessment of the application.
- The time frame given to Councillors to assess this application is insufficient.
- The SMD proves undermines local democracy, there is no trust in ABP and LCSC in dealing with planning applications.
- The objectors have a right to object, however a change to the planning systems will be welcome to prevent spurious objections.

8.4 Planning Assessment

Principle of Development:

The principle of a development consisting of student accommodation and apartments is regarded as acceptable at this location and is in line with land use zoning objective for Local Centres in the Limerick City Development Plan 2022-2028. Objective HO 08 sets out criteria required for student accommodation, The proposal for managed student accommodation, which would inevitably increase footfall and activity in the wider area, is to be welcomed. The retail provision in the local centre zoning is regarded as adequately represented in the Greenpark local centre and the Lidl food discount store which forms part of the local centre zoning, there is also a petrol station and ancillary shop located directly across the Ballinacurra road from the Greenpark centre.

Residential development is 'permitted in principle' under land use zoning Local Centres. The principle of a development consisting of student accommodation and apartments is considered acceptable at this location and is in line with the stated objective for local centres.

As the retail element of the development is specifically to serve the student complex requirements it is considered to be in compliance with the zoning objective in the Development Plan.

A Student Demand and Concentration Report is submitted with the application. The planning authority considers that the proposed development does not represent over concentration of student accommodation in the area and represents a much needed facility to tackle the lack of student accommodation in Limerick city.

Design/layout

The Planning Authority is satisfied that the proposed layout can successfully respond to the subject site and represent a high standard of urban design in accordance with the principle set out in DMURS, the Urban Design Manual a best practice guide and the NPF.

Density:

The Planning Authority refer to the 2018 and 2020 Apartment Guidelines (I note that the categories remain unchanged in the 2022 Apartment Guidelines). The site is classed as Central Urban and/or Accessible Urban location. Under the current Limerick City Development Plan the site is located in Density Zone 2 where minimum densities of 45uph are required. Planning Authority are of the view that the proposed density of 127uph at this location is not excessive and is in line with the Apartment Guidelines.

Apartment Blocks:

The planning authority consider that the proposed development is consistent with the SPPRs set out in the 2020 Apartment Guidelines.

Design and Built Heritage

An Architectural Report and Urban Design Statement and addition to a Conservation Report examine the relationship of the development to the ACAs.

Overall it is considered that the development (design/height/materials/finishes) makes a positive contribution to place making and incorporates new public spaces. At the scale of the neighbourhood the breaking up of the two blocks into 2 separate blocks results in a development that is not monolithic in scale and has well considered external finishes.

LCCC Conservation Officer indicated no objection to the proposal in terms of design and impact on the ACA.

Height & Scale

The proposed development has a max. height of c. 20.1m (7 storeys and 5 storeys).

Separation distance of c. 17m from the Ballinacurra orientation. Separation between Block A and B is c. 14m. The planning authority considers the separation distances between the building adequate as all of the affected units are either dual and treble aspect so any shadowing that may occur does not affect the entire units.

The submitted 'Daylight and Sunlight Access Analysis' states that "all living rooms within the proposed development are likely to achieve Average Daylight Factors considerably in excess of the minimum levels recommend by the British Standard for achieving a predominantly daylight appearance".

The planning authority assessed the building height having regard to the 2018 Building Height Guidelines and is satisfied that the proposed building height at this location is appropriate.

Residential Amenity of adjacent property:

The submission of a Residential Amenity Report is noted.

The planning authority notes that from the point of view of impact from the nearest sensitive receptor along Rosbrien Road/O'Connell Avenue the assessment submitted concludes the design features of the building area such to offer additional public amenity in the form of set back of the building, addition of new lane and a new widened footpath.

The planning authority notes that any development of vacant/brownfield sites in an urban area will have an impact on the residential amenity of the existing receiving environment.

The planning authority considers that the development as proposed is consistent with the Urban Development and Building Heights Guidelines (2018).

The planning authority considers that separation distance achieved between the proposed development and site boundaries with other developments is acceptable and will not lead to undue adverse impact.

The planning authority considers that the overbearing impact that may result is not considered unduly excessive. Building heights are acceptable.

Overall it is considered that the development will not have a significant undue adverse impact on the residential amenity of the adjoining area. Given the relatively limited height of the proposed buildings and the distance to the site boundaries it is considered that any shadowing impacts that occur will be limited.

Construction/Demolition Impacts

Concerns raised by third parties in relation to construction phase in particular noise (and noted that cement leaching was raised during the Judicial Review process).

Mitigation measures have been proposed including provision of a C&D WMP. A refurbishment demolition asbestos survey is also included. And it is noted that the Environment Section of LCCC have commented on elements concerning construction methodology. The planning authority is satisfied that concerns can be addressed as part of normal construction best practice.

Public Open Space/Landscape Strategy:

Student accommodation do not contain private open space in the form of balconies.

BTR apartments contain private open space in the form of balconies and a high quality communal area.

Communal area between the two blocks accommodates both student accommodation and BTR residents. This is in the form of a c.1480 sq.m main courtyard for student apartments and a c.450sq.m apartment courtyard for the BTR. A space has been provided in the communal space for BTR apartments play facilities for children.

Childcare Facility:

Given the proposed mix of residential offered and the characterization of the site as an inner core area, the provision of a childcare facility at this location is not considered necessary.

Unit Mix BTR/Standard Apartments/retail Element:

Student Accommodation:

- A justification report is submitted for the provision of 318 student bedspaces.
- A Student Management Plan has been submitted to address issues of security and on site day to day management.

BTR Apartments:

- The Planning Authority note the inclusion of 30 BTR apartments following pre-planning consultation advise.
- The developer shall retain the apartments for a minimum of 15 years.

- A Management Plan is submitted and a Management Company shall be employed on site.

Retail element:

- 2 no. retail units proposed at ground floor level of the feature corner building. C. 105.6 sq.m and c.99sq.m respectively.
- The proposed retail element is ancillary to the primary use and to serve the residential complex.
- The scale of retail will not undermine the adjacent retail.
- No take away or off licence provision should be permitted at this location.

Traffic/Mobility:

- Additional lane proposed along the Rosbrien Road to the junction of Punches Cross. It is considered that there is adequate setback to provide an additional left turning traffic lane at this location.
- New signalised junction proposed at Punches Cross
- New bus lane to be provided along Ballinacorra Road where there is adequate set back to provide this.
- Traffic movement in and out of the site via an underground basement.
- Suit of active travel measures proposed.
- Requirement for Mobility Management Plan.
- LCCC Roads, Traffic & Cleansing Section have no objection subject to conditions.

Requirements of Habitat Directive

- Reference to previous application and reason for refusal.
- Reference to review by LCCC Environment Section and Heritage Officer.

EIA Screening

- No requirement for EIAR

Part V:

3 units to LCCC. Final negotiations to be concluded on specific details of Part V compliance prior to the commencement of development.

Development Contributions:

Standard section 48 development contributions apply.

Bond for residential element.

Other:

The report contains a summary of the submissions received from third parties and Prescribed Bodies.

Chief Executive Recommendation under Section 5(b)(i) :

The Chief Executive has considered the Strategic Housing Development application and all submissions received, it is considered that the proposed development will be consistent with the relevant objectives of the Limerick Development Plan 2022-2028 and recommends planning permission be granted subject to conditions.

21 no. conditions are recommended. These are mostly standard in nature. Conditions of note include:

No. 2 (management company)

No. 7 (mitigation measures contained in the NIS. And requirement for extensive borehole investigation to delineate the extent and depth of the contaminated soil and weathered bedrock horizon prior to the construction of the temporary sheet pile wall. Final details of the report shall be submitted for the written agreement of the planning authority.

No. 16 (details of final layout and operation of signalised junction /crossroads of the Rosbrien/Ballinacurra Road to be submitted and agreed with the planning authority).

No. 17 (Refurbishment Demolition Asbestos Survey (RDAS))

No. 19 (details of nature of retail units)

No. 20 (restriction on use of student accommodation)

No. 21 (Section 47 agreement relating to BTR units to be retained in ownership and operated by developer for period not less than 15 years)

8.5 Summary of Inter-Departmental Reports

Email from Thomas O'Neil (job title/section is not identified) (14th December 2022). Mr O'Neil is Heritage Officer Limerick City & County Council.

Commentary on the Environmental Trust Ireland (ETL) submission:

- The gradual degradation of the 4 no. remaining tanks would pose a risk to both to the site and to groundwater. The removal of these tanks, under controlled conditions and the treatment of the tanks, any contents, contaminated soils and any other on site water they might be in contact with, would, in the longer term, remove the risk of pollution. This would have benefits for both groundwater and the designated site to which it might eventually flow.
- It is not thought that any residual effects would be anticipated in relation to the quarry given the passage of time.
- No EIAR is submitted. It is considered that a full EIAR is not necessary. The site is 0.77ha and is brownfield site in an urban area that has been heavily modified from past uses.

- No night surgery (bats) undertaken. Given the lack of suitable habitats on site for bats this is not a major oversight and an activity survey and subsequent mitigation measures could be dealt with by condition in this case.
- Reference to Whooper swans at Bunlickey is noted. No reference to the cormorant (QI for SPA). It is considered that the distance to Bunlickey, the intervening developed urbanised area between would effectively mask any possible disturbance to these species from the proposed development site. Similarly should those species visit Ballinacurra creek, the c.900m distance to the creek would also mean that any disturbance is effectively masked, due both to distance, lack of inter visibility and the intervening urban development.

Commentary on the NIS:

- Consideration of the NIS has been done with the Groundwater Management Plan and construction methodologies in mind.
- It is considered that ground and surface water is the most important factor to consider in assessing the possibility of effects on the Natura 2000 sites, particularly the SAC site.
- The Shannon is considered the prime receptor of pollutants from the site. With the distance from the SPA and the masking any possible disturbance from the site, it is not thought there would be any effects from the development on the SPA. There is adequate cross reference on the Ground Water Management Plan and the various construction documents listed below.
- The main source of possible effects would be through the underground tanks. Their removal under controlled conditions allows an opportunity to removal residual pollution risk. This makes the mitigation measures all the more important. Reference in the NIS (s.5.15) to the mitigation measures in the Construction Management Plan, Soil Management Plan, Basement Construction Groundwater Management Plan (basement construction phase), Construction & Demolition Waster Management Plan, Civil Engineering Report. It is noted that these are all referred to and their implementation should be part of any condition in the event of a grant of permission.

Commentary on Groundwater Management Plan (Basement Construction Phase).

- Reference to p.7 of the document which notes the removal of the remaining four tanks and the contaminated soils which will remove hydro-carbon contamination from the site.
- The report notes historical hydro-carbon associated with historical under ground storage tank (p.11).

- It is considered that section 4.2 is the most important section (ground water management measures) and s.4.3 (their implementation). The implementation of these measures would be one of the most important elements of mitigation works and should be reflected in any potential conditions.

Planning, Environment and Placemaking Section (20th December 2022)

- The proposed development is on the site of an historical quarry and past fuel filling station and commercial premises. A total of eight fuel storage tanks were located at the site, four of which remain underground and potentially cause contamination of soils and groundwater by dissolved and undissolved hydrocarbons and BTEX chemical which have been identified in the proximity of the tanks, in the southern part of the site. It is proposed to remove 4 underground tanks and remediate the contaminated soil and water during the bulk excavation for the construction of the proposed basement for the development. It is proposed that the basement excavation will have a formation level of 10m OD which will be above the groundwater table across most of the site except in the northwestern part. Proposals are submitted to lower the groundwater table in the northwestern part of the site to allow basement excavation and construction works, by installing a permanent secant pile wall. The contamination in the locality of the underground tanks is believed to be impacted most at depths below the tanks, between 4.5 and 6.0 metres depth (locally extending deeper), which intercept the groundwater table. It is proposed to surround the tanks with temporary sheet pile wall down to the top of the bedrock, then remove the four tanks, contaminated soils and groundwater. Groundwater control within the temporary sheet pile wall is recommended to allow dry removal of the contaminated soil by use of stump pumping with a discharge to a mobile hydrocarbon treatment plant. Excavated material is proposed to be transported to an off-site licensed treatment and disposal facility. It is recommended that the proposed phased approach to the excavation should include an extensive borehole investigation to delineate the extent and depth of the contaminated soil source prior to the construction of the sheet pile wall, to ensure that all contaminated soil is removed.

- The topography on-site slopes southwards to southeastwards from 14 to 15mOD in the north western part to 9 to 9.5OD in the southeastern corner. The local topography is similar, falling to the southeast towards the Dooradoyle River. The geology in site is expected to be Visean Limestone (that may be moderately productive in local zones), the presence of any productive zones potentially being due to faults, fractures or fissures, with limited groundwater movement restricted to weathered horizons or non-extensive fracture zones. The groundwater vulnerability is expected to be Extreme, with rock close to surface (<1m) across the northern part of the site. In the SLR Groundwater Management Plan the groundwater flow is assumed to follow the same direction as the local topography, southeastwards. Eight boreholes were drilled across the site to a depth at which there was a refusal, likely to be due to reaching the top of the solid bedrock. The depth drilled to was shallowest in the southeastern corner of the site (BH07 and BH08/08A, 2.1m and 2.3m depth respectively) and in the western side (BH02, 3.2m depth). Water ingress was encountered in the infill material above the bedrock, except in shallow boreholes (BH02, BH07 and BH08) which were dry. If the recorded water ingress levels in the infill material are reflective of the groundwater table then it cannot be assumed that the groundwater flow locally across the site is southeastwards. Groundwater levels from the URS boreholes are summarised BY SLR and indicated that across the majority of the site they are between approx. 9.5 to 10mOD, except in the northwest of the site where they are shallower. The shallow groundwater table is relatively flat with a hydraulic gradient across most of the site (except the northwestern corner) reported to be approx. ‰, with hydraulic conductivities within the weathered bedrock being 0.02m/d to 1.0m/d. There is a relatively low seasonal variation in the elevation of the groundwater levels between February and June 2010 and February 2012 in wells MW11, MW12 and MW14, in the proximity of the four underground tanks proposed to be decommissioned, which suggests that the hydrogeology in that area is not free draining.

- The URS Closure Report considered that the preferential pathway for groundwater flow from the site will be laterally by shallow groundwater flow through the weathered layer at the top of the limestone bedrock, which seems reasonable. Groundwater quality monitoring is reported in the URS Closure Report as having been carried out between 2008 and 2012. The concentrations of contaminants for the most recent groundwater monitoring area reports to have not exceeded site specific target levels, except for Total Petroleum Hydrocarbons and MTBE at MW06, which indicated a potential risk of contamination to groundwater at a theoretical 100m compliance point. However, the top of the groundwater table in four wells in close proximity, suggesting that the groundwater monitored at MW06 may have been perched (hydraulically separated). URS reported that there was a downward trend in the concentration of contaminants in the southern part of the site between March 2010 and 2012, except at the MW06 borehole, and it was concluded that no significant risk exists from soils or dissolved phase contamination to shallow groundwater on-site.
- To the southeast of the site, the GSI vulnerability mapping and the depth of bedrock in a GSI groundwater well (11.9m depth) indicates that the depth of bedrock increases southeasterly from the site towards the Dooradoyle River (just over 500m from the site). The SLR Water Environment Risk Assessment indicates that while it is assumed that there is hydraulic connectivity between the bedrock aquifer and the Dooradoyle River that there is the presence of more than 10m thickness of overburden (moderate permeability subsoil between the site and the Dooradoyle River and low permeability subsoil in the vicinity of the River) that protects the River if there were any contamination in the weathered bedrock. In addition, it is reported that in the unlikely event that contamination does reach the Dooradoyle River that there would be significant dilution such that any contamination as a result of the proposed development on the Lower River Shannon SAC and/or River Shannon and River Fergus Estuaries SPA will be negligible.
- Having regard to the above (original ABP Ref. 310103-21, re-activated case ref. ABP 315273-22) including all submission received to date with regard to environmental reports it is reasonable to conclude that subject to the recommended measures in the SLR Groundwater Management Plan (Basement Construction Plan) and Soil Management Plan- Basement Construction, being implemented then the removal of the four underground tanks, the contaminated soil and groundwater and the construction of the proposed development will not have an adverse impact on the Dooradoyle River, Lower Shannon SAC and/or River Shannon and River Fergus Estuaries. If the planning is granted then an extensive borehole investigation to delineate the extent and depth of the contaminated soil and weathered bedrock horizon prior to the construction of the temporary sheet pile wall down to the top of the solid bedrock

Environment, Recreation & Climate Change Section (14th December 2022): Requirements set out in relation to inter alia: Removal of existing underground storage tanks and recommendation for a risk assessment and method statement (RAMS) for their removal, demolition of existing buildings and recommendation for a RAMS (including asbestos removal), Waste management.

Roads Section (8th December 2022). This includes commentary and Recommendations relating to traffic & pedestrian issues, public lighting, surface water disposal, Construction Management & Delivery Plan are set out in detail along with recommended requirements recommended. These include inter alia: revised site layout with directional arrows/road markings, accessible car parking arrangements, cycle parking, cycle lanes, Car club, Information displays for buses, Revised layout showing 50 car parking spaces, mobility management plan, EV charging points, footpath details, surface water details/calculations/controls/attenuation/interceptors/alarm system/, public lighting, construction Management & Delivery Plan (including Temporary Traffic Management Plan).

Archaeologist (16th December 2022). The development is brownfield and no archaeological mitigation is required.

Planning, Environment and Placemaking Section – Noise Report 14 December 2022): Comments and recommendations set out.

Planning, Environment and Placemaking Section – CFRAMs Capital Projects (13th December 2022): No objection on the grounds of flood risk.

Housing Section (14th December 2022): Final Part V details to be addressed prior to the commencement.

Architectural Conservation Officer (15th December 2022): Comments set out. No concerns raised.

9.0 Prescribed Bodies

Under the 'Opinion' that issued (ABP 306772-20) the applicant was required to notify the following bodies of the making of the application:

1) Irish Water, 2) National Transport Authority (NTA), 3) Transport Infrastructure Ireland (TII), 4) Department of Culture, Heritage and the Gaeltacht, 5) An Taisce, 6) Heritage Council, 7) Health Service Executive and 8) Commission for Energy Regulation.

The following is a summary of the reports from the above bodies that made a submission under ABP 310103-21:

Transport Infrastructure Ireland (TII) (12th May 2021). The observation noted that in the case of this application TII has no observations to make.

Irish Water (IW) (3rd June 2021). Based on the information submitted as part of the pre-connection enquiry and on the capacity available in the IW networks, new connection(s) to the existing network to service this development are feasible subject to:

Wastewater:

IW will not accept stormwater into the IW network. The applicant must consider onsite disposal measures for the stormwater or alternatively contact the Local Authority to discuss a connection to the stormwater sewer.

Design Acceptance:

The applicant has engaged with IW in respect of design proposal within the redline boundary of their proposed development site and has been issued with a Statement of Design Acceptance for the development.

4 no. conditions are set out in the submission that IW request be attached in the event of a grant of planning permission.

10.0 Assessment

The Board has received a planning application for a housing scheme under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016.

I have had regard to all the documentation before me, including, inter alia, the report of the Planning Authority; the submissions received; the provisions of the Limerick Development Plan 2022-2028, relevant section 28 Ministerial guidelines; provisions of the Planning Acts, as amended and associated Regulations; National Planning Framework; Regional Spatial & Economic Strategy for the Southern Region, relevant Department of Education guidance, together with the planning history of the site and wider area. I have visited the site and its environs. I consider the main issues to be addressed are as follows:

- Principle of Development
- Design Strategy
- Residential Amenity (existing properties)

- Residential Standards for future occupiers
- Built Heritage
- Traffic & Transportation
- Services & Drainage
- Contaminated Lands
- Ecology/Biodiversity
- Other matters
- Chief Executive Report

The attention of the Board is drawn to the fact that a previous SHD application on these lands was refused permission under ABP-304705-19 for reasons relating solely to appropriate assessment (see section 4 above). The proposed development is very similar to that previously refused in terms of typology of units, layout, mix, height, density and infrastructural proposals. In addition, an NIS has been submitted with this current application.

I also wish to draw the Board's attention to the fact that The Apartment Guidelines were updated in December 2022, subsequent to the lodgement of the subject application. The updated Guidelines do not include Specific Planning Policy Requirements (SPPRs) 7 and 8, which relate to DTR development. The amended Guidelines came into effect on 22nd December 2022. Transitional arrangements are set out in Circular Letter NRUP 07/2022, which states:

"All current appeals, or planning applications (including any outstanding SHD applications and appeals consequent to a current planning application), that are subject to consideration within the planning system on or before 21st December 2022 will be considered and decided in accordance with the current version of the Apartment Guidelines that include SPPRs 7 and 8."

The following assessment is therefore based on the 2020 Apartment Guidelines.

10.1 Principle of Development

10.1.1 Context

Having regard to the nature and scale of development proposed, namely an application for 318 student bedspaces in 68 no. apartments and 30 no. Build to Rent apartments located on lands for which residential development is permitted in principle under the zoning objective, I am of the opinion that the proposed development falls within the definition of Strategic Housing Development, as set out in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016.

Permission was refused in 2019 under ABP 304705-19 for 326 student bedspaces in 70 no. apartments and 30 BTR apartments for reasons relating to appropriate assessment. The current proposal mirrors the 2019 application to a large extent albeit for reduced no. of student bedspaces.

Previous uses on the majority of the site relate to a petrol filling station and a large derelict commercial building remains on the site.

A common thread across submissions received, including signed petitions, relates to the principle of the development on this site, in particular the inclusion of the student accommodation, and the lack of demand for same in the area given the amount of change of uses to existing student accommodation developments in recent years.

10.1.2 Land Use Zoning

Observers raised concerns that the proposal would materially contravene the land use zoning attached to the site and therefore the Board would be precluded from dealing with a SHD application at this location. The submissions were made having regard to the Limerick City Development Plan 2010-2016 (as extended) under which the site was zoned under land use objective ZO.5 (D) Local Centres with an objective *'To protect, provide for and/or improve the retail function of local centres and provide a focus for local centres'*. Under the Limerick Development Plan 2022-2028 the site is zoned under land use objective Local Centre which has a stated objective *'To protect and provide local centre facilities to serve the needs of new/existing neighbourhoods and residential areas'*.

The issue of material contravention of the zoning was not raised under ABP 304705 - 19. I further note that the Chief Executive Report for the current application does not consider the proposal to be a material contravention of the land use zoning attached to the site. I have reviewed the documentation on file, the current Limerick City Development Plan and the history file (ABP 304705-19) associated with this site and I note the Board established that the proposed use is in compliance with the land use zoning objective attached to the site and is not a material contravention of said use. Student Accommodation falls under the definition of residential under Strategic Housing Development as per the Planning and Development (Residential Tenancies) Act 2016.

I acknowledged that a new Limerick City Development Plan has come into effect since the application was lodged and submissions received in 2021. I have reviewed the changes in relation to the land use zoning and its stated objective and I note that the change does not have a material impact on the planning assessment in terms of compliance with the stated objective. I am satisfied that Student Accommodation is a residential use. Residential is permitted in principle under land use zoning Local Centres and therefore I am satisfied that Student Accommodation and Build to Rent Apartments are acceptable and does not contravene the land use zoning objective attached to the site. Furthermore, the proposed development includes 2 no. retail units which contribute to the delivery of retail in the area.

The land use objectives for local centres refer to the use of small convenience retail units, commensurate with the area and inclusion of residential use. A range of local centre services exist in the neighbourhood centre to the south of the site and a discount food store (lidl) is operational adjacent to the site. A small hotel/public house is located on the opposite side of the road at Punches Corner, outside of those lands designated as local centre.

The Local Centre zoning permits residential development. I have inspected that area and I note the scale of retail use in the existing neighbourhood centre to the south, Lidl and the public bar on the corner of Punches Cross. I consider an acceptable range of facilities are currently available to support local needs. On balance I do not consider the inclusion of residential development at this location would detract from the existing retail uses or prevent any further delivery of local services in the immediate vicinity.

The 2010 City Development Plan did not contain specific Student Accommodation policies and objectives. Under the current Plan Objective HO 00 refers to Student Accommodation and identifies the need to off campus accommodation at certain location subject to the relevant standards. I consider the application site one such location.

The NPF notes that accommodation pressures are anticipated to increase in the years ahead and indicates preferred locations for purpose built student accommodation proximate to centres of education and accessible infrastructure such as walking, cycling and public transport. It also notes that the National Student Accommodation Strategy 2017 supports these objectives. The site is located c500m from Mary Immaculate College (MIC).

The proposal includes two retail units (204.6m²) along the front of the site at Punches Corner, at the entrance to the student accommodation. The Statement of Consistency which accompanied the application states that the retail units are to operate in conjunction with the student accommodation. A number of submissions from local residents are concerned the proposed retail use will be for a takeaway or off licence. No details have been submitted that indicate the retail uses will be used for takeaway or off licence. As noted above it is stated that the units will be used ancillary to the student accommodation. There is no indication based on the drawings submitted (ventilation, ducting etc) that a takeaway is proposed as part of this application. I am satisfied that this matter can be addressed by condition of the Board is of a mind to grant permission.

The Planning Authority concurs that the proposed development is acceptable in principle. The majority of third-party observers had no major objection to the principle of a residential development on the subject site, but were more concerned with the nature of such (ie student accommodation), the height and density associated with the scheme.

Having regard to the zoning objective on the site, those uses which are permitted in principle and the previous use on the site I consider the principle of residential development, consisting of student accommodation and BTR units, on this site is acceptable in principle subject to compliance with the relevant standards and other planning considerations which are addressed in this report.

Finally, in relation to this matter I note that the Board did not raise issue with the principle of the development on this site, in their previous refusal on site (ABP-304705-19). On the basis of all the above, I therefore consider the proposal to be acceptable in principle.

10.1.3 Density

A number of third parties raised concerns that the density proposed is too high and constitutes over development of the site.

The proposal is for 68 student apartments (318 bedspaces) and 30 BTR apartments on a site with a stated area of c. 0.77 hectares, therefore a density of 127 units per hectare is proposed. I note that the applicant's documentation refers to net density of the proposed development is calculated to be ca. 118 dwellings per hectare. This is based on a density dwelling per hectare equivalent for the student bedspaces and apartments of 5 bedspaces per dwelling. I do not agree with the calculation and consider the appropriate density of the site should be calculated on the number of units (i.e 98 apartments) resulting in the above mentioned density of 127uph. The Planning Authority refer to a proposed density of 127uph at this location which was not considered excessive and in line with the 2018 Apartment Guidelines¹.

¹ The Chief Executive report refers to both the Sustainable Urban Housing: Design Standards for New Apartments 2018 and the 2020 ones. New Guidelines published in December 2022. I have had regard to the 2020 Guidelines in my assessment.

Policy at national, regional and local level seeks to encourage higher densities in key locations. It is Government and regional policy to increase compact growth within specified areas and increase residential density. The RSES requires that all future development within the metropolitan area be planned in a manner that facilitates sustainable transport patterns and is focused on increasing modal share of active and public transport modes. The MASP identifies strategic residential and employment corridors along key public transport corridors existing and planned. The Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009), Sustainable Urban Housing: Design Standards for New Apartments (2020) and the Urban Development and Building Heights (2018) provide for increased residential density along public transport corridors. The Sustainable Residential Development in Urban Areas Guidelines in particular support consolidated higher density developments within existing or planned public transport corridors (within 500m walking distance of a bus stop and 1km of a light rail stop/station), where higher densities with minimum net densities of 50 dwellings per hectare are supported, subject to appropriate design and amenity standards, in order to maximise the return on public transport investment.

Objectives 4, 13, 33 and 35 of the National Planning Framework, RPO10, RPO34 and RPO35 of the Regional Spatial and Economic Strategy 2019-2031 and SPPR1 and SPPR2 of the Urban Development and Building Heights Guidelines, all support higher density developments in appropriate locations, to avoid the trend towards predominantly low-density commuter driven developments.

Chapter 2 of the Design Standards for New Apartments Guidelines 2020 notes that it is necessary to significantly increase housing supply, and City and County Development Plans must appropriately reflect this and that apartments are most appropriately located within urban areas, and the scale and extent should increase in relation to proximity to public transport as well as shopping and employment locations. The current site falls within the category of an 'Central and/or Accessible urban location', given its location within 1.5km walking distance of third level institutions and employment centres and therefore suitable for higher densities.

The area is served by a number of bus routes/services, including the No. 301, 304 and 304A. Of which the 304 and 304A provide links (15 min. frequency) between the site and the University of Limerick. The 301 provides a line to Limerick Institute of Technology by means of a 1km walk. Mary Immaculate College (MIC) is c.550m (ie a 7 minute walk) from the site. Provision is made for taxi bays along the road frontage of the site. The surrounding local centres, third level institutions and employment opportunities are easily accessed by bike or by bus from the site location. As such, I consider that the site having regard to access to public transport (bus) and proximity to urban services/employment, as defined under the Apartment Guidelines and can sustainably support the increased density level proposed.

The subject site is a brownfield site on the edge of Limerick City Centre and within a designated local centre. The current City Development Plan has identified Density Zones. The application site is located within Zone 2 where densities of 45+ dwellings per hectares are required at appropriate locations. This includes within 800m of Mary Immaculate College, which the application site is.

I note the location of the site adjoining a bus route, in the vicinity of mixed use developments and close to the Mary Immaculate College. In my opinion the site may have capacity for increased density, subject to appropriate assessments and safeguards. The development accords with national guidance in terms of sustainable development on appropriate sites. While the density is higher than that currently existing in the immediate vicinity, it is reflective of the changing context of the area. The planning authority are generally satisfied in this regard. The Board did not raise concerns in relation to proposed density in the previous application on this site, under ABP-304705-19.

Having considered the applicant's submission, observers submissions and those of the planning authority, as well as local, regional and national policy, the site is within the MASP, close to public transport and in line with s.28 guidance on residential density, I am satisfied that the proposed quantum and density of development is appropriate in this instance having regard to national policy, the relatively recent permissions in the vicinity, the area's changing context, the site's size and proximity to public transport and is not contrary to the provisions of the development plan in respect of density or quantum.

10.1.4 Demand for Student Accommodation and Build to Rent (BTR)

Student Accommodation

A common thread throughout the observations is the lack of demand for student accommodation in the area and reference is made to an number of change of uses to permitted student accommodation in recent years.

Some of the Observers have also queried the need for student accommodation and noted that third level colleges have moved to online learning during the Covid 19 pandemic, further reducing the demand for student accommodation in the area. I acknowledge the observations made and note the concerns. The movement of lectures to online is a short term solution to address the educational requirements during the Covid 19 pandemic and associated public health restrictions. The demand for student accommodation is based on in person attendance at lectures rather than the short term emergency measures that were in place during the covid emergency period.

The current Development Plan contains policies and objectives pertaining to Student Accommodation, Objective HO 08 refers to appropriate locations, this includes within 800m of Mary Immaculate College, which the application site is. Section 11.4.4.7 refers to student accommodation.

The application is accompanied by a Student Demand and Concentration Report and letters of support from Mary Immaculate College (MIC). The report refers to The National Student Accommodation Strategy. The National Student Accommodation Strategy was launched in July 2017 and is described as an important action in the Government's overall plan to accelerate housing supply. Rebuilding Ireland sets a target to bring on-stream an additional 7,000 purpose built accommodation bed spaces by 2019. While there were 179,354 full-time enrolments in the 2015/2016 academic year, in terms of increased demand, the Department of Education and Skills (DES) has previously indicated there is potential for the number of full-time enrolments in DES aided HEIs (Higher Education Institutes) to increase by 27% by 2030. It is noted that the most recent progress report published in Q3 2019 concluded that at the end of Q3 a total of 21,254 bedspaces were either under construction, completed or with planning permission. Resulting in a shortfall of 4,500 bedspaces remaining to be provided. The strategy also looks at projected supply and demand for purpose built student accommodation (PBSA) in the State and for Limerick notes that in 2019 there will be a demand for 2169.

The Student Demand and Concentration Report concludes that there is one existing small scale student accommodation in the vicinity and no permitted developments. The proposed development would absorb less than 10% of the estimated shortfall in student accommodation in Limerick of 2169 bedspaces in 2019.

I consider based on the information provided by the applicant and a number of reports cited relating to student accommodation that it is clear that there is a need for this accommodation type both nationally and within Limerick City. A number of observers criticise the proposal for the accommodation proposed at this location in terms of concentration of accommodation for students (when viewed cumulatively with rental used by students in the vicinity) as well as questioning the need for such accommodation in light of the public health environment relating to Covid-19. I would be of the view that there is sufficient information to determine that there is demand for additional student accommodation and in the case of Covid-19, it is too early to definitively state that this situation will be different. Speculation regarding the impact of current public health scenario is not justification for precluding the proposal.

Building A provides 54 student apartments in arrangement of 3,4,5 and 6 bedroom configurations. Building B includes 14 student apartments in 5 bedroom configuration. I consider the range of student accommodation acceptable.

Build to Rent (BTR) apartments

As highlighted in section 6 of this report I wish to draw the Board attention to the fact that The Apartment Guidelines were updated in December 2022, subsequent to the lodgement of the subject application. The updated Guidelines do not include Specific Planning Policy Requirements (SPPRs) 7 and 8, which relate to BTR development. The amended Guidelines came into effect on 22nd December 2022. Transitional arrangements are set out in Circular Letter NRUP 07/2022, which states:

All current appeals, or planning applications (including any outstanding SHD applications and appeals consequent to a current planning application), that are subject to consideration within the planning system on or before 21st December 2022 will be considered and decided in accordance with the current version of the Apartment Guidelines, that include SPPRs 7 and 8.

Section 11.4.4.9 of the current Plan refers to Build to Rent Accommodation.

The proposed development also includes 30 no. Build to Rent apartments. Section 5 of the Sustainable Urban Housing: Design Standards for New Apartments, 2020 provides guidance on Build-to-Rent (BTR). The guidelines define BTR as “purpose built residential accommodation and associated amenities built specifically for long-term rental that is managed and serviced in an institutional manner by an institutional landlord”. These schemes have specific distinct characteristics which are of relevance to the planning assessment. The ownership and management of such a scheme is usually carried out by a single entity. A Site Specific BTR Apartment Management Plan and a draft covenant have been submitted with the application. Having regard to the location of the site close to employment centres, education institutions and beside good public transport facilities, I am satisfied that the provision of Built to Rent apartments as part of the proposed scheme is suitable and justifiable at this location. The proposal will provide a viable housing solution to households where home-ownership may not be a priority. The residential type and tenure provides a greater choice for people in the rental sector, one of the pillars of Rebuilding Ireland.

I refer the Board to the provisions of SPPR 7 which provides that:

BTR development must be:

- (a) Described in the public notices associated with a planning application specifically as a ‘Build-to-Rent’ housing development that unambiguously categorises the project (or part thereof) as a long-term rental housing scheme, to be accompanied by a proposed covenant or legal agreement further to which appropriate planning conditions may be attached to any grant of permission to ensure that the development remains as such. Such conditions include a requirement that the development remains owned and operated by an institutional entity and that this status will continue to apply for a minimum period of not less than 15 years and that similarly no individual residential units are sold or rented separately for that period:

(b) Accompanied by detailed proposals for supporting communal and recreational amenities to be provided as part of the BTR development. These facilities to be categorised as:

(i) Residential support facilities – comprising of facilities related to the operation of the development for residents such as laundry facilities, concierge and management facilities, maintenance/repair services, waste management facilities, etc.

(ii) Residential Services and Amenities – comprising of facilities for communal recreational and other activities by residents including sports facilities, shared TV/lounge areas, work/study spaces, function rooms for use as private dining and kitchen facilities, etc.

The public notices refer to the scheme that includes 30 no. 'Build-to-rent' apartments and a draft deed of covenant indicates that the applicant is willing to accept a condition requiring that the 30 BTR residential units remain in use as BTR accommodation, that no individual residential unit within the development be disposed of to any third party for a period of 15 years only from the date of grant of permission. I consider that the matter of the covenant be further dealt with by means of condition.

All of the BTR apartments are provided in Building B and are as follows: 10 no one bedroom apartments, 18 no. two bedroom apartments and 2 no. three bedroom apartments. SPPR 8 sets out proposals that qualify as specific BTR development in accordance with SPPR 7. In this regard, no restrictions on dwelling mix apply and therefore the units mix is considered acceptable.

10.1.5 Conclusion

Having regard to the zoning objective on the site, those uses which are permitted in principle and the previous use on the site I consider the principle of residential development, consisting of student accommodation and BTR units, on this site is acceptable in principle subject to compliance with the relevant standards and other planning considerations which are addressed in this report.

Having regard to local, regional and national policy, the site is within the MASP, close to public transport and in line with s.28 guidance on residential density, I am satisfied that the proposed quantum and density of development is appropriate in this instance having regard to national policy, the relatively recent permissions in the vicinity, the area's changing context, the site's size and proximity to public transport and is not contrary to the provisions of the development plan in respect of density or quantum.

The application site is in an accessible location within c.500m of Mary Immaculate College and easily accessible via bike and bus to Limerick Institute of Technology and University of Limerick. I am satisfied that the proposed use as Student Accommodation and BTR apartments are appropriate at this location and in line with national policy which indicates preferred locations for purpose built student accommodation and BTR apartments are proximate to centres of education, employment at accessible locations where in terms of walking, cycling and public transport.

10.2 Design Strategy

10.2.1 Height/Scale/Massing

Numerous Observers have raised concerns with regards the impacts of the proposal on the visual amenity of the area and that it is out of character with the existing built environment. These concerns are interlinked with concerns regarding height, scale and massing of the proposal. There is a general consensus amongst third party observers that the proposal would negatively impact on the visual amenity of the area. The planning authority have not raised concerns in this regard.

The immediate vicinity is predominantly characterised by low density, established suburban area with houses primarily single storey or two-storey in height.

Section 11.1.3 of the current Development Plan refers to Building Heights, this sets out that all new developments in the City shall comply with the guidance set out in the Building Heights Strategy in particular the criteria set out in Table DM 1: Limerick City Building Height Objective, Recommendations and Criteria.

Permission is sought for two buildings with heights ranging between four and seven storeys around two internal courtyards. Building A (c 9028sq.m) ranges in height from four storey plus recessed penthouse along Ballinacurra Road and Rosbrien Road, culminating in a six storey feature corner at Punches cross junction. Here a civic square (mini-plaza) is provided to coincide with this entrance. Building B (c. 5330sq.m) located to the rear ranges in height from 5 storeys plus penthouse to seven storeys.

The emphasis on height is concentrated at the central features of Building A, adjoining the public plaza, and Building B at the rear of the site. I consider that the site has the capacity to absorb a development of the nature and scale proposed, without detriment to the amenities of the area. The site is on serviced zoned lands and I am of the opinion that the proposed redevelopment of these lands would be an appropriate re would be an appropriate intervention at this location.

The CGIs of the proposed development illustrate the transition in heights between the proposed development and a selection of permitted development immediately adjoining the site. I consider that the proposal would not be visually dominant when viewed from the surrounding area.

The Urban Development and Building Height Guidelines provide clear criteria to be applied when assessing applications for increased height. The Guidelines describe the need to move away from blanket height restrictions and that within appropriate locations, increased height will be acceptable even where established heights in the area are lower in comparison. The proposed development did not materially contravene the Limerick City Development Plan 2010-2016 (as extended) or the current Limerick Development Plan 2022-2028.

Having regard to the Urban Development and Building Heights Guidelines, 2018, I note that specific assessments were undertaken including photomontages and daylight/sunlight analysis. Applying section 3.2 of the Building Height Guidelines I consider the following

At the scale of relevant city/town, the proposal will make a positive contribution to place-making introducing new street frontage and utilises massing and height to achieve the required densities. I consider there to be sufficient variety in scale and form to respond to the scale of adjoining developments and create visual interest in the streetscape. I consider the proposed quantum of residential development, residential density and housing mix (student accommodation and BTR apartments) acceptable in the context of the location of the site in an area that is undergoing redevelopment, is an area in transition proximate third level institutions, centres of employment and public transport.

At the scale of district/neighbourhood/street, I consider that the proposal responds satisfactorily to its overall natural and built environment in this instance and will make a positive contribution to the urban neighbourhood at this location. The proposed development would not interfere with significant views in the locality, the site (while near to ACAs) is not located within an architecturally sensitive area and I am of the opinion that the proposal can be accommodated on this site without detriment to the visual amenities of the area. The use of material and finishes to the elevations contributes to breaking down the overall mass of the proposed development. CGIs of the proposed development have also been submitted with the application and have assisted in my assessment of the proposal. Overall, I consider the height and massing of the development appropriate for the location.

At the scale of the site/building: The proposal includes new public realm, active frontages and fenestration that will passively survey the access road and pedestrian linkages. It will contribute to the legibility of the area, by establishing a positive addition. The addition of student accommodation and BTR apartment units will contribute to the dwelling mix of the location. Residential Amenities are addressed in section 13.6. Sunlight and daylight consideration are addressed in section 13.6.2 Flood Risk Assessment has been carried out and this is addressed in section 13.10.4. I therefore find that the proposed development satisfies the criteria described in section 3.2 of the Building Height Guidelines.

Having regard to the considerations above, I consider that the proposal in principle for 4 to 7 storey buildings at this location is acceptable. I am of the view that having regard to national guidance, the context of the site in an accessible location which is undergoing significant redevelopment, the proposed height is acceptable.

I have inspected the site and surrounding area and I agree with observers that the blocks will be visible to residents in the vicinity. There are no residential properties immediately bounding the site. The closest dwellings are located along Rosbrien Road to the northeast of the site facing the application site. I am satisfied that the proposed development would not result in an overbearing or visually dominate development when viewed from the 6 no. dwellings facing the site along Rosbrien Road. This is also a recurring theme raised in the Observer submissions which highlight concerns that the proposed development is overbearing and would have a significant adverse impact on the visual amenities of the area. I am satisfied that the proposed development will not have a significant adverse impact on the visual amenities of sensitive receptors in the area, such as existing residential dwellings. The proposed development would be an appropriate sustainable use of this zoned serviced underutilised site.

10.2.2 Design/Materials/Finishes

Numerous submissions have raised concerns regarding the proposed design, materials and finishes which are considered out of keeping with the area and in particular the ACAs. The application site is not located within or adjacent to any ACAs. I address architectural heritage in section 10.5

The current Development Plan sets out that all developments should be designed to the highest quality with respect to principles of place making, universal design and public realm. It also sets out to ensure the construction of the highest quality and innovative design approach at a number of locations, including important street corners or junctions. In my view Punches Cross is one such junction. The applicant in this instance is proposing a contemporary intervention in an area predominantly characterised by commercial developments with a mixture of traditional suburban housing and traditional terraced houses. The proposed design seeks to introduce a new element to this disused site at a prominent location within the city suburbs. The area is one in transition and therefore can accommodate different designs and styles when seeking to introduce new elements to the built environment.

The proposed main materials are as follows: • Honed Limestone for the feature corner blocks at the junction of both roads • Red kiln fired brick on the outer spine walls • Plastered plinths at ground level • Combination of plaster, brick and limestone on the inner block and courtyard. • Feature railings to outer terrace set-backs. • Glazing and standing seam roofing soffit/fascia details.

The application documentation outlines that the materials have been chosen to reflect traditional facades in the nearby Limerick Georgian quarter while also emphasising the landmark nature of the entrance to the overall development. Feature railings at ground level at both road frontages will ensure an attractive transition between the public footpaths and the student accommodation. A Materials and Finishes Report is included with the application.

The applicants have submitted photo montages showing the proposal in the context of the existing built environment. An Architectural Report & Urban Design Statement is submitted with the application which sets out clearly the overall architectural rationale and approach. The applicant also provides a Landscape Design Rationale Report and Building Lifecycle Report, these should be read in tandem as they set out external building materials and landscape external materials. In my view, the use of high-quality materials and finishes and contemporary design offers an opportunity for an aesthetically pleasing development at this location. While I recognise that the proposal would have a visual impact when viewed from the surrounding area it is reflective of the evolving built environment in general area and I consider it to be a positive one which enhances the architectural grain of the area.

The Apartment Guidelines require the preparation of a Building Lifecycle Report regarding the long-term management and maintenance of apartments. Such a report has been supplied with the planning application.

I consider that the development has been designed to be respectful of the character of the area and provides a modern development that is respectful of its surroundings through appropriate design intervention at this location. I acknowledge successful delivery of design is dependent on high quality finishes and materials. I am satisfied that specifics pertaining to finishes and materials can be required by condition if the Board considers granting permission .

10.2.3 Conclusion

The issues of height, scale and massing of the proposal are inter-related. It is the sum of all these parts that, amongst other assessments, determines the appropriateness or otherwise of the proposal. I am generally satisfied in this regard and consider that appropriate transitions in scale have been put forward in the design. I consider that the applicant has had regard in this current proposal to existing residential properties and to improving the public realm, street scape and connectivity of the area. The communal open space layout and provision will ensure that the scheme is an attractive addition to the area. While, there is no doubt, it will bring a change to the character and context of the area, from the view that this will be a positive change and I consider the proposal to be in compliance with national guidance in this regard.

I note the concerns raised in the submissions, however I consider that the development has been designed to be respectful of the character of the area and provides a modern development that is respectful of its surroundings through appropriate heights, massing and scale. I am satisfied that the proposed development would not have so great an impact on the visual amenity of the area as to warrant a refusal of permission. The highest element is 7 storeys and forms a feature corner located at the entrance at the northern most corner, which connects to a plaza, providing a focal point for the development which a transition in height and scale as one moves through the site.

I note the existing brownfield use, commercial nature of the adjoining lands and the local centre zoning and the need for efficient land use I consider the height range acceptable for this urban setting, providing a focal point into Limerick City Centre. I consider this variation in height and design compliments the site. The set back from the edge of the road and public plaza ensures the building is not overbearing on the surrounding area. I consider the scale and massing appropriate at this location and the scheme responds sufficiently to the location along main approach roads into Limerick City and in the context to the surrounding environment. I am of the view that the proposal will improve the architectural grain of the area, by bringing into use a zoned serviced site that is hoarded up at present.

I am satisfied that setbacks from the nearest residential properties (located on the opposite side of a public road) are adequate to address any potential concerns regarding visual dominance or overbearance. The range in heights takes account of the surrounding context of development including constructed development on adjacent sites and recently permitted development in the wider area. Overall the proposed development has been designed to minimise impacts on existing residential development.

I consider the height proposed to be in keeping with national policy in this regard. I note the policies and objectives within Housing For All and the National Planning Framework – Ireland 2040 which fully support and reinforce the need for urban infill residential development such as that proposed on sites in close proximity to quality public transport routes and within existing urban areas. I consider this to be one such site. The NPF also signals a shift in Government policy towards securing more compact and sustainable urban development and recognises that a more compact urban form, facilitated through well designed higher density development is required. I am also cognisant of the Urban Development and Building Heights, Guidelines for Planning Authorities (2018) which sets out the requirements for considering increased building height in various locations but principally, inter alia, in urban and city centre locations and suburban and wider town locations. I have had particular regard to the development management criteria as set out in section 3.2 of these Guidelines, in assessing this proposal.

I have examined the potential visual impacts of the proposed development on nearby areas. My assessment has also been informed by my site visit, where I viewed the proposed development site from surrounding areas. In principle, I consider that the site can accommodate a development of the nature proposed and the proposal represents an acceptable form and scale of development at this location. The Bord did not raise issue in this regard in the previous decision on the site, ABP-304705-19. In my opinion, any impacts on visual amenities would not be so great as to warrant a refusal of permission.

10.3 Residential Amenity - Impact on Existing properties

10.3.1 Context

The development site is bounded to the immediate north by Rosbrien Road. To the south by electricity substation and south of this Greenpark shopping centre and Lidl (southeast), to the west by Ballinacurra Road which leads into O'Connell Avenue and to the east by HSE building. Many of third party submissions received raised concerns in relation to the impact on surrounding residential amenity. Elected Members have also raised concern in relation to same. Potential impacts on residential amenity relate to overlooking and overshadowing. Issues or potential impacts as a result of traffic or physical infrastructure are dealt with under separate specific headings dealing with these issues. This section considers overlooking and overshadowing/access to daylight/sunlight.

I note that there are no residential properties immediately bounding the application site. The nearest residential properties, a row of 6 no. two storey terraced dwellings facing onto Rosbrien Road, to the northeast of the site, across from Block A at a setback of c.23m and separated from the site by existing public roads.

10.3.2 Overlooking

The primary issue around overlooking relates to rear garden/private amenity areas. This does not arise in this instance as no houses back onto or immediately bound the site.

Overlooking of properties on the northern side of Rosbrien Road from Building A does not arise given the separation distances between the proposed block and the front façade of these houses.

Overlooking of houses set back from Ballinacurra Road (Southville Gardens) does not arise given the separation distances between them and the proposed blocks which includes a public road and footpaths and intervening land uses.

Non-residential uses (HSE, Commercial, Electricity substation) bound the site. I am satisfied that the development has been designed in a manner that would not prejudice potential development of these lands.

10.3.3 Loss of Daylight/Sunlight/Overshadowing

10.3.3.1 Context:

A common thread raised in observer submissions relates to the impact of the proposed development on the residential amenities of adjoining and nearby properties. The development site is bounded to the immediate northeast by Rosbrien Road. To the southwest by electricity substation and south of this Greenpark shopping centre and Lidl (southeast), to the west by Ballinacurra Road which leads into O'Connell Avenue and to the east by HSE building. There are no residential properties immediately bounding the development site.

The Planning Authority raised no concerns in relating to overshadowing or access to sunlight/daylight from any of the residential properties within the immediate vicinity of the application site.

Section 3.2 of the Urban Development and Building Height Guidelines (2018) states that the form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light. The Guidelines state that appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the BRE 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – Lighting for Buildings – Part 2: Code of Practice for Daylighting'. Where a proposal may not be able to fully meet all the requirements of the daylight provisions above this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the PA or ABP should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and / or an effective urban design and streetscape solution. The Sustainable Urban Housing Design Standards for New Apartments Guidelines (updated 2020) also state that planning authorities should have regard to these BRE or BS standards (S6.6 refers).

A 'Shadow Cast and Sunlight/daylight Analysis Report' prepared by OCA Architects is submitted with the application. The report refers to requirements of Dublin City Development Plan 2016-2022 in relation to residential development. The report submitted examined the impact the proposed Development will have on neighbours in terms of daylight, sunlight & shadow. The analysis has been carried out in accordance with the recommendations of "Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice" (BRE 2011) and BS 8206 Lighting for Buildings, Part 2: Code of Practice for Daylighting. A digital model of the proposed development was constructed. Using this model shadows, and with reference to the BRE Guide, were cast at several time of the day and samples demonstrated at 21st December (winter lowest), 21st March , 21st June (Summer highest) and 21st September to give a substantial spread of comparative analysis.

The following receptors were identified for analysis by the applicant:

- Existing neighbouring adjacent buildings or across public roads: Punches Cross Hotel, 1-6 Rosbrien Terrace, HSE Offices.
- Existing neighbouring dwellings on Rosbrien Road leading to Lord Edward Street to the north.

I have considered the Shadow Cast and Sunlight/Daylight Analysis Report submitted with the application, had regard to BS 8206-2:2008 (British Standard Light for Buildings- Code of practice for daylighting) and BRE 209 'Site Layout Planning for Daylight and Sunlight – A Guide to Good Practice' (2011). Both documents are referenced in the section 28 Ministerial Guidelines. While I note and acknowledge the publication of the updated British Standard (BS EN 17037:2018 'Daylight in Buildings'), which replaced the 2008 BS in May 2019 (in the UK), I am satisfied that this document/UK updated guidance does not have a material bearing on the outcome of the assessment and that the more relevant guidance documents remain those referenced in the Urban Development and Building Heights Guidelines. I have carried out a site inspection, considered the third party submissions that express concern in respect of potential impacts as a result of overshadowing/loss of sunlight/daylight and reviewed the planning drawings. In considering the potential impact on existing dwellings I have considered – (1) the loss of light from the sky into the existing houses through the main windows in living/ kitchen/ bedrooms; and (2) overshadowing and loss of sunlight to the private amenity spaces associated with the houses (rear gardens in this instance).

I am satisfied that I can exclude the following receptors from further assessment and set out my reading for same below:

- The HSE building to the east is a non-residential property. Given its location to the east of the site, the proposed development has the potential to impact in terms of the level of overshadowing. Overshadowing is limited to late evening and complies with BRE guidance. I am satisfied that in respect of overshadowing given its use, reliance on artificial lighting, hours of use/operation and relationship with the proposed development that there is no potential adverse impact as a result of overshadowing.
- The dwellings on Rosbrien Road leading to Lord Edward Street to the north are not located proximate to the site to such an extent to experience a detrimental impact in terms of overshadowing or loss of skylight.
- I also note the location of the existing retail developments, predominantly south of the proposed development. The proposed development is therefore not considered to cause an obstruction to sunlight, and as such no further tests in respect of overshadowing is required. I am satisfied that in respect of overshadowing given the orientation of the existing buildings to the south and their uses bounding the site there is no potential adverse impact as a result of overshadowing.

I am satisfied that the further assessment is confined to the closest residential properties ie the 6 no. houses along the northern side of Rosbrien Road facing the application site and potential impact from Building A and Punches Hotel and potential impact from Building A. My assessment is based on two elements:

- In order for an amenity space to appear to be adequately sunlit throughout the year, at least half of the amenity space should receive at least two hours of sunlight on the design day, March 21st. If as a result of a new development, an existing garden or amenity area does not meet the above, and the area can receive two hours of sun on March 21st is less than 0.8 times its former value, then the loss of sunlight is likely to be noticeable.
- Vertical Sky Component (VSC): Where VSC of 27% or greater is achieved "enough skylight should still be reaching the existing building" and daylighting will not be seriously affected. Where VSC is less than 27% further analysis is required

10.3.3.2 Overshadowing

In respect of considering the potential impact on existing dwellings and Punches Hotel I am satisfied that the correct methodology and test date was used (and note that the new BS makes no changes to test dates, in the assessment submitted.

Section 3.2.2 of the BRE Guidelines states "Obstruction to sunlight (to existing dwellings) may become an issue if:

- (i) some part of a new development is situated within 90° of due south of a main window wall of an existing building.
- (ii) the new development subtends an angle greater than 25° to the horizontal measured from the centre of the lowest window to a main living room.

The Shadow Cast and Sunlight/Daylight Analysis Report includes modelling of overshadowing for various times on the 21st of March, 21st June, 21st September and 21st of December to illustrate overshadowing impact all year round. I have examined the diagrams submitted. The BRE guidance recommends that at least 50% of the amenity areas should receive a minimum of two hours sunlight on 21st March (spring equinox).

The closest sensitive receptors are 6 no. two storey terraced dwellings located to the northeast of the site on the northern side of the Rosbrien Road, set back c.23m from the front of Building A at a point where it is 4 storeys (parapet of c.11.5m) in height. A degree of overshadowing will occur to the front of the properties given the set back of Building A from these properties. The houses are located to the northeast of the site with south facing front gardens. The analysis submitted with the application includes shadow diagrams which show compliance with the BRE Guidelines. I am satisfied that the extent of overshadowing experienced is confined to the front gardens and complies with the BRE guidance. Furthermore I note that the critical amenity space associated with these houses (ie the rear gardens) are not affected by the shadow cast by the proposed development. I am satisfied that the proposed development would not have an adverse impact on the amenity of the properties in terms of overshadowing.

A degree of overshadowing will occur to the section of Punches Hotel facing the Ballinacurra Road given the c. 23.9m setback of Building A from the façade of the Hotel at this point where Building A is 6 storeys (with a parapet of c. 20.1m). The proposed development does not cast shadow over external terraces. I consider that the level of impact in relation to Punches Cross Pub & Guest House (to the north west of the site on the western side of the Ballinacurra Road) is acceptable and satisfactory.

Having regard to the recommended standards and guidance material laid out in the referenced daylighting standards (BRE 209 and BS 2008), I am satisfied that the applicants have carried out sufficient analysis in respect of those properties where a potential impact may arise by reason of obstruction of sunlight or overshadowing, and that these tests demonstrate that these existing dwellings and hotel are unlikely to be significantly affected as a result of the proposed development. I am therefore satisfied that there will be no or negligible impact on the surrounding residential properties by reason of overshadowing.

10.3.3.3 Loss of Skylight

The BRE guidance on daylight is intended for rooms in adjoining dwellings where daylight is required, including living rooms, kitchens, and bedrooms. Criteria set out in Section 2.2 of the guidelines for considering impact on existing buildings are summarised as follows:

- (i) Is the separation distance greater than three times the height of the new building above the centre of the main window? In such cases the loss of light will be small. If a lesser separation distance is proposed further assessment is required.
- (ii) Does the new development subtend an angle greater than 25° to the horizontal measured from the centre line of the lowest window to a main living room? If it does further assessment is required.

(iii) Is the Vertical Sky Component (VSC) >27% for any main window? If VSC is >27% then enough skylight should still be reaching the window of the existing building. Any reduction below this level should be kept to a minimum.

(iv) Is the VSC <0.8 of the value before? The BRE guidance states that if VSC with new development in place is both, 27% and, 0.8 times its former value, occupants of the existing building will notice the reduction in the amount of skylight.

(v) In the room impacted, is area of working plan which can see the sky less than 0.8 the value of before? (i.e., of 'yes' daylighting is likely to be significantly affected). Where room layouts are known, the impact on daylight distribution in the existing buildings can be assessed.

The distance between the proposed development and the houses along Rosbrien Road is less than three times the height above the lowest window, and as such there is potential for loss of skylight within these houses if section 2.2.3 numerical values are applied.

Section 2.2.3 of the BRE Guidelines notes that numerical values given are purely advisory. Different criteria may be used based on requirements for daylighting in an area viewed against other site layout constraints. Another important issue is whether the existing building is itself a good neighbour, standing a reasonable distance from the boundary and taking more than its fair share of light. Appendix F of the BRE Guidelines refers to 'setting alternative target values for skylight and sunlight access' sets out in Table F1 equivalent VSCs, spacing to height ratios and boundary parameters corresponding to particular obstruction angles between buildings (height and angles are usually relative to a point at the centre of the window as illustrated in Figure F2 in Appendix F).

The analysis submitted by the applicant identifies sensitive receptors, makes reference to the BRE Guide and BS however does not provide VSC for points tested at sensitive locations or the sensitive receptors. It would have been helpful if VSC values for points at sensitive locations was provided. Notwithstanding, I am satisfied, using the criteria set out in Figure F2 in Appendix F of the BRE Guidance and applying these alternative targets using 2:1 ratio that the required 27% VSC is achieved.

In the case of the 6 no. dwellings along the northern side of Rosbrien Road, I have set out that these are in close enough proximity to merit further assessment in regard to impact of daylight (VSC) based on the BRE guidelines. Applying the alternative criteria set out in Figure F2 by using the 2:1 ratio the VSC levels of windows on the front elevation of these dwellings retain a level of 27% and as such loss of daylight within these houses is unlikely to be significantly affected.

Conclusion

I have used the Guidance documents referred to in the Ministerial Guidelines to assist me in identifying where potential issues/impacts may arise and to consider whether such potential impacts are reasonable, having regard to the need to provide new residential development (student accommodation and BTR apartments) within Limerick City, and increase densities within zoned, serviced and accessible sites, as well as ensuring that the potential impact on existing residents is not significantly adverse and is mitigated in so far as is reasonable and practical. In this regard I would be of the view that the level of impact on the dwellings along Rosbrien Road and Punches Hotel is reasonable in the context of the urban location of the site and the reasonable expectation of development of the site to a scale appropriate having regard to its location relative to the city centre, public transport infrastructure and the existing educational institution as well as in the context of national, regional and local planning policy objectives.

The LCCC Chief Executive report noted that the development will not have a significant undue adverse impact on the residential amenity of the adjoining area. And given the relatively limited height of the proposed buildings and the distances to the site boundaries it is considered that any shadowing impact that will occur will be limited.

Having regard to the recommended standards and guidance material laid out in the referenced daylighting standards (BRE 201 and BS 2008), I am satisfied that the applicants have carried out sufficient analysis in respect of those properties where a potential impact may arise by reason of obstruction of sunlight or overshadowing, and that these tests demonstrate that these existing dwellings and Hotel are unlikely to be significantly affected as a result of the proposed development.

10.3.4. Construction Impacts on Residential Amenities of existing properties.

Third parties have raised concerns that the amenities of local residents would be impacted by noise and dust during the construction phase of the proposed development.

A number of items have been identified that require mitigation measures. These include removal of asbestos and the appointment of specialist environmental consultants and managers to oversee this along with the removal of contaminated soil and treatment of contaminated water on site prior to discharge/removal.

The Construction Management Plan would address how it is proposed to manage noise, dust, vibration and other impacts arising at the construction phase to ensure the construction is undertaken in a controlled and appropriately engineered manner to minimise intrusion.

I note that the impacts associated with the demolition, construction works and construction traffic would be temporary and of a limited duration. I am satisfied that any outstanding issues could be required by condition if the Board is of a mind to grant permission.

In addition, a Construction & Demolition Waste Management Plan has been submitted, which deals with matters of waste management amongst other matters. As such, these plans are considered to assist in ensuring minimal disruption and appropriate construction practices for the duration of the project. I have no information before me to believe that the proposal will negatively impact on the health of adjoining residents. A Refurbishment/Demolition Asbestos Survey (RDAS) has been submitted. Construction related matters can be adequately dealt with by means of condition. However, if the Board is disposed towards a grant of permission, I recommend that a final Construction Management Plan be submitted and agreed with the Planning Authority prior to the commencement of any works on site.

A Soil Water Management Plan (Basement Construction Stage) and Groundwater Management Plan are also submitted, these address excavation, the removal of the underground storage tanks, methods proposed and mitigation measures. I address this in more detail in section 10.8.

10.3.5 Anti-social behaviour

Observers have raised concerns regarding the suitability of the proposed uses, student accommodation and BTR apartments, at this location. Concerns range from anti-social behaviour, transient nature of the occupancy, lack of integration with the local community and lack of suitable housing in the area to cater for local demands.

While I acknowledge the concerns raised, I have no reason to believe that this would be an issue. Any matters relating to law enforcement are a matter for An Garda Síochána, outside the remit of this planning appeal.

A Student Management Plan accompanied the application and refers to the existence of 24/7 management team, with security and residential managers, which I consider sufficient management of the site.

10.3.6 Residential Amenity (impact on existing properties) Conclusion:

I consider that the design, scale and layout have adequate regard to the amenities of adjoining properties. I am of the view that the level of impact on adjoining properties is reasonable in the context of the urban location of the site and the reasonable expectation of development of the site to a scale appropriate having regard to its location relative to the city centre, public transport infrastructure and the existing educational institution as well as in the context of national, regional and local planning policy objectives. I would recommend that the proposed development is granted permission and would not recommend any alterations.

Having regard to the recommended standards and guidance material laid out in the referenced daylighting standards (BRE 209 and BS 2008), I am satisfied that the applicants have carried out sufficient analysis in respect of those properties where a potential impact may arise by reason of obstruction of sunlight, overshadowing or loss of skylight and that these tests demonstrate that these existing dwellings and Hotel are unlikely to be significantly affected as a result of the proposed development.

A Student Management Plan accompanied the application and refers to the existence of 24/7 management team, with security and residential managers, which I consider sufficient management of the site.

I note that the impacts associated with the demolition, construction works and construction traffic would be temporary and of a limited duration. I am satisfied that any outstanding issues could be required by condition if the Board is of a mind to grant permission.

In addition, I note that the planning authority has not raised concerns in relation to this residential amenity and potential impacts on existing residential properties.

10.4 Residential Standards for future occupiers

10.4.1 Context

The applicant has stated that each element of the proposed development will be self-contained but will operate and appear in the urban context as an integrated brownfield redevelopment of a prime site at this location within the inner suburbs of Limerick City.

The majority of the student accommodation element is provided in Building A, including student communal facilities such as dining rooms, social activity rooms suitable for Gym, Cinema/Games room, reception and social areas of (c.778sq.m) at ground and first floor; two ancillary retail units of 105.6sq.m and 99sq.m respectively; and 54 student apartments in arrangement of 3,4,5, and 6 bedroom configurations. The student accommodation includes a number of support services, a number of which are provided in the large basement. This basement is formed as a result of the creation of a podium in the central area of the site to address the sloping nature of the site levels.

Building B contains 14 student apartments in 5 bedroom configuration and 30 build-to rent apartments as follows – 10 no one bedroom apartments, 18 no. two bedroom apartments and 2 no. three bedroom apartments.

Ancillary courtyard gardens are proposed, one of 1,486m² to serve as amenity for the student apartments and a separate rear courtyard garden of 450m² to serve as amenity for the build-to-rent apartments development, with feature landscaping are proposed.

Overlooking within the proposed development is not an issue given the layout of the buildings, separation distances and their relationship to each other.

10.4.2 Student Accommodation

The following assessment considers the quality and amenity of the development relative to relevant quantitative and qualitative standards for residential development. There are no national design standards for student accommodation other than the standards in the Guidelines on Residential Development for 3rd Level Students issued by the Department of Education and Science under Section 50 of the 1999 Finance Act.

The guidelines set out the following general standards:

- Student accommodation should be grouped as 'house' units, with a minimum of three and maximum of eight bed spaces.
- GFA's should range from 55 sqm to 100 sqm.
- Shared kitchen/dining/living room spaces to be based on a minimum of 4 sq. m per bed space in the unit.
- The minimum areas for bedrooms are: 8sq.m for a single study bedroom; 12 sq.m for a single study bedroom with ensuite; 15 sq.m for a twin study bedroom; 18 sq.m for a twin study bedroom with ensuite; and 15 sq.m for a single disabled study bedroom with ensuite.
- Bathrooms shall serve a maximum of 3 bed spaces.

In terms of the provision of acceptable accommodation for students, it is noted that there are no national design standards other than those issued under Section 50 of the 1999 Finance Act. The current application has had regard to Guidelines on Residential Development for 3rd Level Students published by the Department of Education and Science.

The proposed development comprises 68 no. student apartments containing a total of 318 no. student bed spaces. The accommodation includes 3, 4, 5 and 6 bed apartments. The bedrooms are all en-suite, single bedrooms with en-suite are c. 13.7 sq.m and double rooms with en-suite area c. 118sq.m. Units and individual rooms exceed the requirement set out in the Department of Education and Science Guidelines. The application includes a Student Accommodation Management Plan which addresses the use and management of the scheme.

10.4.3 Built to Rent

The development includes 30 BTR apartments and as such the Sustainable Housing: Design Standards for New Apartments 2020 has a bearing on the design and minimum floor areas associated with the apartments. In this context the Guidelines set out Special Planning Policy Requirements (SPPRs) that must be complied with.

The location of the BTR units at the rear of the site, with separate access and open space provision allows for a clear distinction of uses within the site and a sufficient tenure mix is provided. Section 5 of the Sustainable Urban Housing: Design Standards for New Apartments, 2020 provides guidance on the Build-to-Rent (BTR) sectors. The guidelines define BTR as "purpose built residential accommodation and associated amenities built specifically for long-term rental that is managed and serviced in an institutional manner by an institutional landlord". The ownership and management of such a scheme is usually carried out by a single entity which I consider is achievable on this site and having regard to the integration with the student accommodation a strong management regime has been provided and a condition relating to the same owner would protect the residential amenities of future residents of the BTR units.

A schedule of compliance with the Apartment Guidelines accompanied the application confirming required apartment sizes, which I note and consider reasonable. SPPR 8 removes restrictions, for BTR proposals, on housing mix and provides lower standards for parking, private amenity space, 10% exceedance for spaces and lower units per core, although I note the proposed scheme complies with the standards.

SPPR 7 provides guidance for the appropriate provision of communal residential facilities for occupants of the BTR units, I note that these have been proposed and are acceptable.

The apartments are provided with balcony spaces, all to an acceptable standard. Units are uniformly distributed throughout the site and are provided with adequately sized public or semi-private open space and play areas which comply with the standards set out in the appendix to the Guidelines. A high standard of landscape is proposed throughout the scheme which provides future occupiers with good quality amenities.

Private amenity space (balconies proposed) and external communal space is provided.

Overall I consider the design and internal layouts of the development are acceptable regard to national guidance for residential development and that there will be a reasonable standard of residential accommodation for future residents of the scheme.

10.4.4 Access to Daylight and Sunlight & Overshadowing (proposed development)

Section 10.3.4 has set out the standards and requirements required to assess access to Daylight and Sunlight & Overshadowing.

The BRE standards and associated British Standard (note that BS 8206-2:2008 is withdrawn and superseded by BS EN 17037:2018) describe recommended values (eg. ADF, VSC, APSH, etc) to measure daylight, sunlight, and overshadowing impact, however it should be noted that the standards described in the BRE guidelines are discretionary and not mandatory policy/criteria (para.1.6). The BRE guidelines also state in paragraph 1.6 that:

Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design.

The Shadow Cast and Sunlight/Daylight Analysis Report submitted by the applicant on page 6 references ADF (daylight) the BS recommended minimum of 1% ADF for bedrooms, 1.5% ADF for living rooms and 2% ADF for kitchens. However no values have been submitted, nor units identified for assessment.

I do not consider the nature of the specific daylight, sunlight and shadow cast assessment submitted with the application renders the information submitted unacceptable in this instance with regard to the specific characteristics of the proposed development.

The development is at an appropriate scale for this location limiting the extent of overshadowing that may result. The proposed layout provides adequate separation distances between blocks limiting the degree of obstruction that could result between blocks in the proposed development. Having regard to the assessment submitted regarding shadow cast, I am satisfied that the proposed development should not give rise to any undue impact on communal amenity areas or private balconies within the scheme.

DECISION QUASHED

Within the proposed development I consider that adequate allowance has been made in the proposed design for daylight and sunlight through adequate separation between blocks relevant to the scale of the development. I am content that daylight, sunlight conditions for units in the proposed development will generally be within an acceptable range. While I acknowledge that the applicant has failed to carry out their own assessment of the numerical targets for daylight and sunlight in the proposed development, I am satisfied that considerations of daylight and sunlight have informed the proposed layout design in terms of separation distances, scale and aspect. The design, internal layout and orientation facilitate dual aspect units and this is considered acceptable. I have also carried out my own assessment in accordance with the considerations outlined in the BRE guidelines. As such and noting that the guidelines state that numerical targets should be applied flexibly (specifically ADF values of 1% to bedrooms, 1.5% to living rooms and 2% to kitchens) and that natural light is only one factor to be considered in layout design, I consider the development to be in accordance with the BRE guidelines and therefore the associated requirements under the section 28 guidelines are satisfied. In addition, I note that the planning authority has not raised concerns in relation to this matter.

10.4.5 Open Space

The current County Development requires a minimum of 10% open space for residential developments. The current proposal is for student accommodation and BTR apartments.

The proposed site layout provides for interconnected spaces. Soft and hard landscape features create a sense of place within the scheme.

The proposed development provides for two areas of communal open space. The first is the inner courtyard of the student accommodation. This area is formed by the podium over the basement car park. There are three pedestrian entrances to this area: one from the mini-plaza at the front, and two alongside the vehicular ramps from both roads. The hard landscaping provided at these entrances changes into a landscaped area comprising amenity grass in the centre with shrub planting and tree lines in selected locations.

A second and separate area of communal open space is provided for the residential apartments. This area provides the communal open space for the residential apartments and is not accessible from the student accommodation part of the site. The communal open space areas in the form of inner courtyard areas will be landscaped and maintained by separate management companies for the student accommodation and for the BTR accommodation.

In terms of private open space, the proposed student accommodation does not contain private open space provision in the form of balconies. The apartments contain private open space.

Given the context of the site it is my view that the proposed development in terms of provision and location of communal and private amenity space is broadly acceptable.

10.4.6 Conclusion

Overall, I consider that the development, both student accommodation and BTR apartments, provide an acceptable standard of residential accommodation for future occupants and is generally satisfactory with regard to national and development plan guidance for residential development.

10.5 Built Heritage

Third parties have raised concerns that the proposed development detract from the character of the area, in particular the ACAs (as designated in the previous County Development Plan, I note that these designations remain unchanged in the current City Development Plan). The site is not located within a designated Architectural Conservation Areas (ACA). There are no protected structures on site as per the Record of Protected Structure (RPS) in the current Development Plan.

The site is located central to a number of designated ACAs as summarised below:

- c. 100m to the south, along the O'Connell Avenue Road, from the O'Connell Avenue ACA 1C, separated by residential development.
- c. 100m to the east, along the New Street, from the South Circular Road & New Street ACA 1B, separated by the Punches Cross Public House.
- c. 200m to the north, along Ballinacurra Road, from the Ballinacurra Road ACA 3, separated by the existing neighbourhood centre.

A Conservation Report has been submitted and addresses the potential for impact on the ACAs. The assessment considers the location of the site, in conjunction with ACAs in the vicinity and assesses the impact of the proposed development relative to the setting (location of ACAs and Protected Structures). The report concluded that while the development proposed is large and destined for a prominent site in public view, and is in visual proximity to several ACAs including the O'Connell Avenue ACA, it will not physically impact on any Protected Structures or on the ACAs. And that any perceived impact on the ACAs is fully mitigated by the quality of the design proposed. The new development is considered to be peripheral to the ACAs and will not be a significant backdrop to them.

The Development Plan includes a number of relevant policies relating to the protection of the built heritage which highlight the need to protect and enhance the special heritage values, unique characteristics and distinctive features of the all those ACAs from inappropriate development.

I have considered the "Statement of Character & Identification of Key Threats" for each of the ACAs in the development plan and having regard to the separation distance of those ACAs from the subject site, the scale of the buildings surrounding the existing site and mix of uses in the vicinity, I am of the view that the proposed development will not have any significant negative impact on the character and setting of the South Circular Road & New Street ACA, the O'Connell Avenue ACA or the Ballinacurra Road ACA.

10.6 Traffic & Transportation

A number of third party submissions refer to increase of traffic movements on congested roads, the level of parking proposed and the loss of on-street parking and the overall impact on the pedestrians and other users.

10.6.1 Access & Road Improvements

The application site is bound to the east by the Rosbrien Road and west by the Ballinacurra Road and to the immediate north is a signalised junction connecting these two main roads and O'Connell Avenue and New Street. The Rosbrien Road has a one way traffic system for vehicles travelling north. The speed limit is restricted to 50km/h in the vicinity.

Access is proposed via two access points into the site, to the north of the site along the Rosbrien Road and to the west along the Ballinacurra Road, both are left-in and left-out priority junctions. In addition to the proposed access, an additional traffic lane is proposed along Rosbrien Road, a strip of land (3.25m) along Rosbrien Road, between the access junction and signalised junction will be allocated to the Local Authority and an upgrade of the signalised junction is also proposed in conjunction with pedestrian crossings across the Ballinacurra Road and the Rosbrien Road.

A letter of consent has been submitted from Limerick City and County Council relating to the works along the edge of the site included the additional traffic lane for public use as per site location map 1232-17-02.

It is proposed to cede a full additional traffic lane of 3.5m and new public footpath of 2.5m and a further set back of 1.8m to the building line along Rosbrien road, resulting in a significant improvement in traffic circulation and public amenity on this side.

Footpaths (minimum of 2.5 m wide) are proposed on both sides of the access roads on Rosbrien Road and Ballinacurra Road. On Rosbrien Road this footpath will be provided adjacent to a new turning lane near the road junction. As a result, the existing road will be significantly widened. Footpaths with a minimum width of 2m are provided on both sides of the access roads into the development site. Surfacing material of footpaths is proposed to be continuous into the development site. As part of the mini-plaza to be provided near the northern point of the site, provision is made for an area to the north of the site on Ballinacurra Road to be available for future expansion of the existing Limerick City Bike scheme.

The proposed development will therefore result in a significant improvement of the public realm along both road frontages and in particular where they meet at the existing junction.

The report from the Roads section set out a number of requirements from a traffic view point. I note these were not included as specific requirements in the recommended conditions of the Chief Executive Report. In my view that outstanding matters can be reasonably addressed by condition requiring that the matter be agreed with the Planning Authority prior to the commencement of development.

The TTA and RSA that accompany the current application are updated versions of those previously submitted in 2019. The authors note that the only real difference in terms of traffic from the current proposal to the 2019 one in terms of traffic is that 2 no. parking spaces originally proposed on Rosbrien Road are no longer included.

A Transport and Traffic Assessment accompanied the application following discussions with the Planning Authority and includes a traffic modelling scenario based on medium growth and considers the recent developments in the vicinity, including the discount foodstore to the south of the site. Section 8 of the TTA notes the integration of some of the recommendations from this Stage 1 report, and refers to the recommendations of the Road Safety Audit, the Opinion Report by The Board and discussions with the Local Authority and concludes with the following:

- drawings revised to take account of the problems identified in the Road Safety Audit.
- An option to introduce an additional left turn lane on the approach to the signalised junction was developed to a preliminary design level. While the layout is include as a suggested use of land re-allocated to LCCC, it is proposed that the final design and specification will be developed in detail in conjunction with Engineers from LCCC.
- 4 no. carparking spaces (on-street parking) on the southern side of Rosbrien Road will be removed with the implementation of the proposed development.

- Mobility Management Plan includes provision for dedicated coloured cycle lanes provided on the ramps access the basement carpark to be coated with anti-skid surfacing and connected to areas reserved for cycle parking. Secure cycle parking and accessible to residents only and well lit. liaise with NTA regarding real time information displays of bus timetable and leap card top up kiosk. Collaborate with a car club to promote a communal vehicle on-site.

The TTA traffic counts were undertaken at the three nearby road junctions. The updated TTA submitted with this application refers to an opening year of the proposed development of 2023 and the future design year 2038. However, the author noted that as the traffic forecasts for the opening year are not critical in the assessment, the opening year in the updated TTA has been retained at 2021.

Commitments for permitted developments in the vicinity of the site, including the provision of a new discount food store south east of the site, have been taken into account. The TTA concludes that the proposed development will have a minimal impact on the operation of the three signalised junctions in the vicinity. It is therefore concluded from this assessment that the proposed development will be adequately accommodated by the proposed access junctions on Rosbrien Road and Ballinacurra Road and that the subject development will have a minimal impact on the existing local road network.

The Rosbrien Road accommodates a one-way system. I undertook a site inspection at 12:30pm in July, and while I observed moderate volumes of traffic I did not consider there was excessive congestion in the vicinity although I acknowledge that schools and third level institutions were on their summer break and covid 19 restrictions relating to online education in place. I note the proposed upgrade of the surrounding road network, alterations to the existing signalised junction and the integration of additional pedestrian crossings. Further details of which can be reasonably be dealt with reasonably by condition if the Board is of a mind to grant permission.

I am satisfied, in particular having regard to the TTA that the proposed development will not unduly impact on the carrying capacity of the surrounding road network and junctions, and that subject to conditions, the development is acceptable from a traffic/roads perspective. Furthermore, the site is on serviced zoned lands in an area where good public transport links exist within comfortable walking distances, future residents will be well served by public transport and encourages a modal shift away from the private car.

10.6.2 Parking

Observers have raised concerns that the proposed parking is not sufficient to cater for the demands of the proposed development. The removal of existing public on street parking along Rosbrien Road has also been raised and the associated loss of these spaces by local residents.

The current Development Plan identified parking zones which align with the Density Zones, The site is located on Zone 2. Table DM 9(a) sets out Car and Bicycle standards. For Zone 2 BTR Apartments (including student accommodation) require 1 car space per 15 beds and 1 bike per 5 beds. 0 spaces are required for the retail element. The current application is for 318 student bed spaces and 104 BTR bed spaces (30 apartments). Based on the current Development Plan 28 car parking spaces are required for 422 bed spaces. The applicant proposes 76 no. car parking spaces, LCCC Road Section have recommended a maximum of 50. I note the planning authority have included a condition for a revised layout indicating a maximum of 50 no. spaces. I note that this is above the Development Plan requirements, but I wish to highlight to the Board that the Plan sets out that greater or lesser numbers may be acceptable subject to the location of the development in relation to good transport links (existing or planned). I am of the view the proposal for student accommodation and BTR within walking distance of third level campuses and adjacent to good public transport links that in this instance a reduction in parking is acceptable should the Board be of a mind to require this by condition. Given the flexibility in the wording this is not a material contravention of the Development Plan.

I note the neither the Chief Executive report nor the Road Section report have raised concerns with the number of car parking spaces proposed. I note the location of the site close to third level institutions and employment centres.

Objective 13 of the NPF provides that "in urban areas, planning and related standards, including in particular height and car parking will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth.

The proposal is for a mix of student accommodation and BTR apartments, car parking requirements associated with these types of development are open to relaxation given their location at central and/or accessible locations as defined in the 2020 Apartment Guidelines. Justification for increased densities ties in with the accessible nature of the site and reduced reliance on private car uses which encourages modal shift to more sustainable modes of transport. I consider the quantum of car parking provided sufficient to serve the overall development.

The applicant has outlined that as the basement car park provides car parking for both the student accommodation and the apartments, access will not be restricted at night but instead be regulated by the relevant management company for use by residents only. In addition to the basement parking, additional surface cycle provision is included within the courtyard serving the student accommodation.

On balance I consider that the development achieves satisfactory car (subject to recommended reduction to 50 no. spaces) and cycle parking provision and vehicular, cycle and pedestrian connectivity and will enhance vehicular and pedestrian permeability with the wider area.

With regard to the removal of existing on street parking along a public road. I note that the Planning Authority have not raised objection.

10.7 Services and Drainage

The applicant has engaged with IW in respect of design proposal within the redline boundary of their proposed development site and has been issued with a Statement of Design Acceptance for the development.

10.7.1 Foul

The Civil Engineering Report and drawing submitted with the application note that the foul sewerage network will consist of a sealed gravity system. It will service this development only. The proposed new foul sewerage system will extend from within the development site and westwards to the side of the site, (Ballinacurra Road).

It is proposed that all foul water from the proposed development will be collected on site via a series of sewerage network pipes. A suitable grease trap will be installed to service all the ancillary commercial units' washdown and deli areas, prior to discharge into the proposed new foul sewerage network. As per the agreement with Irish Water the Basement sewerage will be pumped into the existing IW sewers on Ballinacurra Road.

The Planning Report submitted with the application however outlined that It is proposed that all foul water from the proposed development will be collected on site via a series of sewerage network pipes and will be disposed from a point in the north eastern corner of the site into a new 225mm gravity foul sewer pipework to be constructed extending from this site location, down Rosbrien Road with final connection into an existing council foul sewer located on Childers Road / Rosbrien junction. The applicant does not include details of this foul sewer pipework or who will provide it.

Irish Water do not raise this matter. The IW submission noted that the applicant has engaged with IW in respect of design proposal within the redline boundary of their proposed development site and has been issued with a Statement of Design Acceptance for the development.

Based on the Civil Engineering report and associated foul sewer layout shows connection to the Ballinacurra Road and this is what I am basing my assessment on and can be address by condition if the Board is of a mind to grant permission. I am satisfied that the proposal outlined in the Civil Engineering Report and drawings are those proposed.

10.7.2 Water

An existing 300mm diameter watermain runs along the Ballinacurra Road adjacent to the site which will be used to provide water to the site

10.7.3 Surface water

The developemt is designed to ensure that the disposal of storm water from the developed site will equate to the disposal of storm water from the existing undeveloped brownfield site. In addition, all rainwater from the roofs of the buildings will be stored in storage tanks for reuse in all the toilets within the development. Any surface water from within the basement car parking area, roadway entrances, internal courtyard areas and excess rainwater from the roofs of the buildings will be fed into attenuation storage area to be located with the basement ground floor. The storm water attenuation area will be sized to ensure that the maximum storm water discharge from the site will equate to that of the undeveloped brownfield site.

IW have outlined in their submission that they will not accept stormwater into the IW network. And that the applicant must consider onsite disposal measures for the stormwater or alternatively contact the Local Authority to discuss a connection to the stormwater sewer. I am satisfied that this matter can be addressed by condition.

10.7.4 Flood risk

A Flood Risk Assessment dated April 2021 is submitted with the application. The site is located in Flood Zone C. LCC Physical Section (Flood Risk) have raised no objections on the grounds of flood risk.

The FRA concludes the site is located within Flood Zone C and is at low risk of flooding (Shannon CFRAM maps). It is recommended that the proposed FFL is should include a minimum freeboard of 150mm above the ground level of the surrounding landscape. Surface water management is detailed in the Civil Engineering report submitted with the application and allows for attenuation of the 100yr rainfall event plus climate change impacts. Runoff from surrounding roads is to be managed by the installation of solid kerblines, road gullies and ramped access to the basement.

10.7.5 Conclusion

The site can be facilitated by water services infrastructure and the Planning Authority and Irish Water have confirmed this. I am satisfied that there are no significant water services issues that cannot be addressed by an appropriate condition. I note the requirements of Irish Water and the Council's Road Section (surface water requirements) which can be addressed by condition if the Board considers granting permission.

Based on all of the information before me, including the guidance contained within the relevant Section 28 Guidelines, I am generally satisfied in relation to the matter of drainage and flood risk.

10.8 Contaminated Lands

Concerns raised relating to the removal of the underground fuel tanks, contaminated soil and water is raised in numerous submissions and the potential impact on groundwater arising from contaminants entering the groundwater, in addition to health risks.

In the interest of clarity I wish to highlight to the Board that there are discrepancies in the information submitted on file relating to Basement FFL. The architectural plans refer to 10OD and the Engineering drawing to 11OD. There is a difference in the level of detail provided in architectural drawings for 'planning drawings' and more details ones prepared for 'working drawings'. My assessment is based on 11OD. Furthermore I wish to highlight to the Board that these discrepancies have no bearing in the FFL for other floors or the overall height of the structures proposed in either set of drawings.

10.8.1 Hydrological Directional Flow

There are differences in the information submitted on file relating to groundwater flow and direction between the URS Closure Report and the Groundwater Management Plan (Basement Construction Phase).

The topography on-site slopes southwards to southeastwards from 14 to 15mOD in the north western part to 9 to 9.5OD in the southeastern corner. The local topography is similar, falling to the southeast towards the Dooradoyle River. The geology in site is expected to be Visean Limestone (that may be moderately productive in local zones), the presence of any productive zones potentially being due to faults, fractures or fissures, with limited groundwater movement restricted to weathered horizons or non-extensive fracture zones. As such that are a number of potential routes/directions for groundwater are possible given the nature of the underlying conditions. In this regard (as addressed in section 12 of this report) a link via ground water to the SAC is accepted and mitigations measures proposed. Differences are noted in the URS Closure Report and the SLR Groundwater Management Plan.

This matter was address in detail by LCCC environment in their report which I set out below given the technical nature of the information referred to. In the SLR Groundwater Management Plan the groundwater flow is assumed to follow the same direction as the local topography, southeastwards. Eight boreholes were drilled across the site to a depth at which there was a refusal, likely to be due to reaching the top of the solid bedrock. The depth drilled to was shallowest in the southeastern corner of the site (BH07 and BH08/08A, 2.1m and 2.3m depth respectively) and in the western side (BH02, 3.2m depth). Water ingress was encountered in the infill material above the bedrock, except in shallow boreholes (BH02, BH07 and BH08) which were dry. I note that LCCC Environment highlighted that if the recorded water ingress levels in the infill material are reflective of the groundwater table then it cannot be assumed that the groundwater flow locally across the site is southeastwards. Groundwater levels from the URS boreholes are summarised by SLR and indicated that across the majority of the site they are between approx. 9.5 to 10mOD, except in the northwest of the site where they are shallower. The shallow groundwater table is relatively flat with a hydraulic gradient across most of the site (except the northwestern corner) reported to be approx. 1%, with hydraulic conductivities within the weathered bedrock being 0.02m/d to 1.0m/d. There is a relatively low seasonal variation in the elevation of the groundwater levels between February and June 2010 and February 2012 in wells MW11, MW12 and MW14, in the proximity of the four underground tanks proposed to be decommissioned, which suggests that the hydrogeology in that area is not free draining.

The URS Closure Report considered that the preferential pathway for groundwater flow from the site will be laterally by shallow groundwater flow through the weathered layer at the top of the limestone bedrock, which seems reasonable. Groundwater quality monitoring is reported in the URS Closure Report as having been carried out between 2008 and 2012. The concentrations of contaminants for the most recent groundwater monitoring area reports to have not exceeded site specific target levels, except for Total Petroleum Hydrocarbons and MTBE at MW06, which indicated a potential risk of contamination to groundwater at a theoretical 100m compliance point. However, the top of the groundwater table in four wells in close proximity suggesting that the groundwater monitored at MW06 may have been perched (hydraulically separated). URS reported that there was a downward trend in the concentration of contaminants in the southern part of the site between March 2010 and 2012, except at the MW06 borehole, and it was concluded that no significant risk exists from soils or dissolved phase contamination to shallow groundwater on-site.

The SLR Water Environment Risk Assessment indicates that while it is assumed that there is hydraulic connectivity between the bedrock aquifer and the Dooradoyle River that there is the presence of more than 10m thickness of overburden (moderate permeability subsoil between the site and the Dooradoyle River and low permeability subsoil in the vicinity of the River) that protects the River if there were any contamination in the weathered bedrock. In addition, it is reported that in the unlikely event that contamination does reach the Dooradoyle River that there would be significant dilution such that any contamination as a result of the proposed development on the Lower River Shannon SAC and/or River Shannon and River Fergus Estuaries SPA will be negligible. Following a review of the application LCCC Environment stated that it is reasonable to conclude that subject to the recommended measures in the SLR Groundwater Management Plan (Basement Construction Plan) and Soil Management Plan- Basement Construction, being implemented then the removal of the four underground tanks, the contaminated soil and groundwater, and the construction of the proposed development will not have an adverse impact on the Dooradoyle River, Lower Shannon SAC and/or River Shannon and River Fergus Estuaries. And recommended that a condition be attached to any grant of permission requiring an extensive borehole investigation to delineate the extent and depth of the contaminated soil and weathered bedrock horizon prior to the construction of the temporary sheet pile wall down to the top of the solid bedrock

10.8.2 Removal of Underground Fuel storage tanks

The subject site is a brownfield site, the submitted documentation refers to past uses as a vehicle/car sale, repairs and commercial premises and a fuel filling station from as far back as 1960. A total of 8 no. fuel storage tanks were present on the site, 4 of these have been decommissioned in two stages (2007 and 2010).

Observers have raised concerns that the information on file is misleading. It is stated that the former use was not decommissioned rather it was abandoned and that the Closure report, prepared in 2013 did not consider a potential residential use for the site. Concerns has been raised in relation to the 4 no. remaining tanks on site which contain contaminated water in addition to the contaminated soils on site. A common thread in the submissions relates to the removal of the tanks, the proposed excavation and the possible contamination (soil and water) which remains on the site and methods proposed to address this matter.

LCC Heritage Officer stated that the gradual degradation of the 4 no. remaining tanks would pose a risk to both to the site and to groundwater. The removal of these tanks, under controlled conditions and the treatment of the tanks, any contents, contaminated soils and any other on site water they might be in contact with, would, in the longer term, remove the risk of pollution. This would have benefits for both groundwater and the designated site to which it might eventually flow.

LCCC Environment noted that four tanks remain underground on site and potentially cause contamination of soils and groundwater by dissolved and undissolved hydrocarbons and BTEX chemical which have been identified in the proximity of the tanks, in the southern part of the site. To facilitate the removal of the underground tanks and remediate the contaminated soil and water during the bulk excavation for the construction of the proposed basement of the development. It is proposed that the basement excavation will have a formation level of 10m OD which will be above the groundwater table across most of the site except in the northwestern part.

Proposals are submitted to lower the groundwater table in the northwestern part of the site to allow basement excavation and construction works, by installing a permanent secant pile wall. The contamination in the locality of the underground tanks is believed to be impacted most at depths below the tanks, between 4.5 and 6.0 metres depth (locally extending deeper, which intercept the groundwater table. It is proposed to surround the tanks with temporary sheet pile wall down to the top of the bedrock, then remove the four tanks, contaminated soils and groundwater.

Groundwater control within the temporary sheet pile wall is recommended to allow dry removal of the contaminate soil by use of stump pumping with a discharge to a mobile hydrocarbon treatment plant. Excavated material is proposed to be transported to an off-site licensed treatment and disposal facility. It is recommended that the proposed phased approach to the excavation should include an extensive borehole investigation to delineate the extent and depth of the contaminated soil source prior to the construction of the sheet pile wall, to ensure that all contaminated soil is removed.

A Closure Report, undertaken in 2013 is submitted with the application. This provides an analysis of the impact of the previous uses on the site, the environmental risks and includes results of groundwater monitoring over a period of 8 years. Details of the phase 1 decommissioning are included in the Closure Report and I note there is a lack of clarity in report for works undertaken in Phase 2 (Section 3.3). The report states that tanks 1-4 remain in-situ. Groundwater monitoring on the site, over the 8 years, indicates that the levels of hydrocarbons and other contaminants (TPH, MTBE and benzene) pre-recorded within the 4 no bore wells have decreased and there has been an improvement on the groundwater quality. The report concludes that assuming a proposed end commercial user and no use of vegetable gardens, the reported contaminants associated with the soil and groundwater do not represent a significant risk to the end user.

In addition, the application includes inter alia Soil Management Plan and Basement Construction, a Technical Note: Water Environment Risk Assessment, Groundwater Management Plan (Basement Construction Phase), a Civil Engineering Report which should also be considered in conjunction with the submitted Natura Impact Statement as noted in section 11 of this report. A Construction Management Plan, a Construction and Demolition Waste Management Plan are also submitted.

The Construction and Demolition Waste and Management Plan notes the removal of four fuel tanks and disposal of materials associated with excavation works to a licensed waste facility. These works would not be unusual for a city centre brownfield site and would be necessary for the decontamination of the site.

The Groundwater Management Plan (Basement Construction Phase) includes measures to ensure that groundwater on the site and any potential contaminated groundwater in the vicinity of the existing underground fuel storage tanks to be removed is collected, treated (where required) and disposed of/discharged in a manner that does not affect the integrity of the River Shannon and River Fergus Estuaries SPA and River Shannon SAC.

Mitigation measures include inter alia:

- safety measures and contaminated water control measures relating to the removal of the 4 inground fuel storage tanks and surrounding contaminated ground
- A site-specific groundwater control management document will be prepared taking full cognisance of the details contained in the SLR reports (authors of reports included with the application relating inter alia to groundwater management, soil management, NIS) This plan will be coordinated with SLR and agreed with Limerick City & County Council prior to any development work commencing.

- Method Statements, procedures and agreed practices will be put in place and enforced to ensure that all the ground water generated from the activities on site is filtered and processed such that only treated & filtered ground water is allowed into the Council's sewerage systems and with the full agreement of Limerick City & County Council
- Method Statements, procedures and agreed practices will be put in place to ensure that the natural ground water is not polluted by the excavation and / or construction stages of this development. In particular, the management and control of the groundwater will be such so as to prevent any pollution downstream of the site, and the management of the basement excavations and construction of the structure will be carried out in accordance with the SLR documents. • Punches Cross GW Management Plan. • Punches Cross Soil Management Plan. • Appendix 01 Bulk Excavation. • Appendix 02 – Basement Excavation Plan – Groundwater Control Concept. • Appendix 03 – Basement Excavation Phasing. • Appendix A – Basement Excavation Plan. • Appendix B – Waste Classification Assessment. • Appendix C – Basement Excavation Phasing.

Mitigation measures are set out in detail in the relevant reports which I consider reasonable and enforceable.

10.8.3 Excavations & Construction/Demolition Waste Management:

Extensive excavation works are proposed to facilitate the removal of existing tanks and the provision of a basement car park. Given the context and location of the site, a brownfield site in an urban area, I consider that provision of a basement car park an efficient use of this prime site.

It is acknowledged that the removal of existing made ground for basement excavation and secant pile construction waste will result in the generation of some soil waste on the site. Given the history of uses on site there is a possibility that there was historical release of hazardous materials on the site which may have impact on ground conditions. The URS Closure Report and the Site Investigation Report submitted identify that the ground around the 4 no. tanks is contaminated and details are set out for the manner in which this contaminated ground is to be excavated and disposed of.

Section 2.3 of the Construction Management Plan notes the extent of the Bulk Excavation shall be as per the submitted drawings. SECANT reinforced concrete piles will be designed and constructed around the site perimeter. This will ensure that the site boundaries along Rosbrien Road and Ballinacurra Road will be structurally secured and will also prevent groundwater from around the surrounding public roadways from entering the site. The manner of the excavation of the basement will be carried out in accordance with the SLR reports:

- Punches Cross GW Management Plan.

- Punches Cross Soil Management Plan.
- Appendix 01 Bulk Excavation.
- Appendix 02 – Basement Excavation Plan – Groundwater Control Concept.
- Appendix 03 – Basement Excavation Phasing.
- Appendix A – Basement Excavation Plan.
- Appendix B – Waste Classification Assessment.
- Appendix C – Basement Excavation Phasing.

Section 2.4 of the Construction Management Plan notes that following the installation of the Secant Sheet Piles around the site boundary and the securing of the site from the possible ingress of groundwater from within the Ballinacurra and Rossmen Roads the removal of the underground fuel storage tanks can commence. The process of removing the inground fuel storage tanks will be completed prior to the commencement of the Bulk excavation. The area where the 4 inground fuel storage tanks are located and as per drawing Bulk Excavation 18.04.10 will be surrounded by steel sheet piles, to a depth of 10mOD. Based on a survey the top level of the inground fuel tanks are 900mm below ground while the base of the fuel tanks are in the order of 2.75m below ground level. The sheet pile installation will allow for a safe working setup within this restricted section of the site to allow for the safe extraction of the 4 no. fuel tanks and potentially contaminated ground material surrounding the tanks. The manner of the sequencing and phasing of these works are contained within the SLR reports. All excavation activities on site will be in accordance with the SLR Reports.

Page 18 of the Construction & Demolitions Waste and Management Plan (CDWMP) set out a preliminary estimate of the demolition waste that can be expected to be generated in tonnes as follows: Concrete, bricks, tiles, plastics etc (620), asphalt, tar/tar products (120), metals (55), glass (7) a total of 802 tonnes. In addition, 4 no. fuel tanks & surrounding soil material (3346 tonnes). Resulting in a total of 4148 tonnes of waste of which 520 will be recycled and 3628.2 disposed of (reference in the table to 3346 as the total to be disposed of would appear to be an error).

Section 5 of the CDWMP sets out that the inert soil and subsoil will be excavated and reused where possible. There will be an excess of non-hazardous overburden which is proposed to be disposed of off-site by licenced contractors. A specialist contractor will be employed to carry out environmental clean up to remove traces of contaminated material from the site. It is proposed to install temporary sheet piles surrounding the affected area and carefully excavating and disposing of the contaminated soil as per the Regulations (Waste Management (Facility Permit) Regulations 2017).

Under ABP 304705-19 the extent of excavation works was raised and the reference in the submitted Engineering Report for that application that the excavation works may possibly have an impact on the groundwater through infiltration of polluting sub surfaces and a specific groundwater filtration system would be designed and agreed with Limerick City & County Council prior to any excavation. This matter is addressed further below.

10.8.4 Groundwater Management Plan:

In response to the previous reason for refusal the applicant has submitted with the current application a 'Ground Water Management Plan (Basement Construction Phase). A NIS has also been prepared on foot of the reason for refusal under ABP 304705-19 which is addressed in section 11 of this report.

It is noted that the site is a historical limestone quarry that was back filled prior to its redevelopment as a petrol filling station and garage in the 1950/1960s. No residual impacts arise from this use arises given the passage of time and intervening uses.

Section 3.2 of the Groundwater Management Plan outlines the groundwater conditions. SLR (authors of the Plan) have inferred groundwater elevation from the URS borehole logs and two URS groundwater contour plot reports to temporary site datums. These have been transposed to groundwater levels and elevations in mOD. The summarised groundwater data (table 3.1) indicate groundwater is present across the majority of the site at elevations of between 9.4mOD and 10mOD, corresponding to depths of between 4m to 5m in the higher elevation areas. The groundwater elevation corresponds to the depth of the Glacial Till and limestone regolith layers across much of the site but appears to be recharged from underlying limestone bedrock.

Historical hydrocarbon impact was recorded on the site in proximity to the underground storage tanks (UST), the impact is associated with the depth of the smear zone of the groundwater table and the underlying soils at depths of between 4.5 and 6m and indicates a probable contaminant source deriving from the base of the tanks which remain on site.

The proposed basement has a formation level of 11mOD. Beneath the basement a series of surface water and foul drainage sewers and attenuation tanks are proposed. These will generally be placed at invert levels of between 10.2mOD and 10.4mOD but extending to 8.9m and 9.3m for the stormwater attenuation tank. page 13 states that assuming the basement construction and foundations will comprise an approximate thickness of 950mm, it is estimated that basement excavation formation level will approximately be 10mOD. This indicates a likely positive groundwater head of up to +2m in the north-western corner of the site above the base of the excavation with the majority of the basement excavation above the average groundwater level suggesting a dry excavation. Groundwater control will be required in localised areas of the site where the deeper stormwater attenuation tank will be constructed in order to maintain a dry excavation and enable basement and drainage construction. The stormwater attenuation tank will be below rest groundwater level and therefore an appropriate waterproofing design will be required to ensure no ground water ingress into the attenuation tank or drainage infrastructure on completion.

Section 4.2 contains Ground Water Management Measures and sets out the excavation phasing and ground water management as follows:

Phase 1:

- Install the secant pile wall. Excavate site level down to a working formation level of 12mOD (the shallowest depth of rockhead).
- If required, construct a groundwater control trench or series of sumps within the limestone bedrock along the northern site boundary, inside the secant pile wall, to an elevation of 9mOD with a series of collection sumps to control groundwater at the northern end of the site to below 10mOD.

Phase 2:

- Install local sheet pile wall around the area containing the 4no. UST to be removed. Remove the USTs and any contaminated soil and groundwater beneath the tanks.
- Excavate site level down to a working foundation level of between 10mOD (just above rest groundwater level).

Phase 3:

- Excavate remaining site level to basement formation level using local sump pumping in any smaller localised deeper excavations (sewer runs, drainage tanks, etc) where required.
- Once basement construction, infrastructure and basement concrete retaining walls are completed, cease groundwater control.

Section 4.2.3 of the Plan notes that the groundwater assessment has indicated that manageable volumes of water are likely to be generated during the basement excavation. It is proposed to manage abstracted water via two options: a) temporary storage and off-site disposal via tanker and b) treatment and discharge via on-site temporary treatment system to the existing surface water drainage system.

It is proposed, prior to discharge to the surface water drainage system, that the abstracted groundwater will be treated for suspended sediment. However in the central and southern areas of the site in the vicinity of the USTs where a localised area of soil and ground water is impacted with separate phase hydrocarbons (SPH) and dissolved phase hydrocarbons (benzene, MTBE, TPH) temporary mobile treatment plant will be required for the groundwater control in proximity to the contaminated zone in the form of oil/water separator units, incorporating a media plate or coalescent packing and granular activated carbon (GAC) vessel (2 vessels operated in series).

The above treatment components are the minimum advised based on the potential for entrained SPH and dissolved phase hydrocarbons to be present in the groundwater and the plant proposed would typically reduce dissolved phase hydrocarbon concentrations to below laboratory limits of detection (LoD).

The laboratory limit of detection for hydrocarbons is typically 10µg/l. Such mobile temporary treatment systems are used for the redevelopment of retail petrol station sites where disused USTs are removed etc.

Typical commercially supplied GAC will accommodate flow rates of up to 240m³ /d, so in consideration of the output of Table 4-1, this treatment solution should be viable at the likely range of hydraulic conductivity scenarios modelled. It is recommended that the area of the hydrocarbon impact be isolated and removed from the rest of the excavation and dewatering works, via an internally braced sheet pile wall, and a reduced level excavation be completed to remove the hydrocarbon source. This would allow the groundwater control of the remaining larger site area to be completed without the need for additional hydrocarbon treatment to be required. Any treated groundwater discharged to the existing council surface water storm drain, will ultimately end up in nearby surface waters, and will therefore need to meet appropriate water quality standards to protect the surface water receptor. This will require regular periodic monitoring and sampling with verification laboratory analysis of the treatment system flows throughout the dewatering works.

The four remaining UST's will be removed as part of the bulk excavation for the basement construction. These UST will likely be seated within a concrete cradle surround, which will also require breaking out and removal. The soils immediately adjacent to and beneath the UST are indicated to be impacted with historical petrol and diesel range hydrocarbons and separate phase hydrocarbons. The highest levels of impact are anticipated to be found beneath the UST at depths of between 4.5m and 6.0m, locally extending deeper. This corresponds with the groundwater level, and therefore groundwater control will be required to allow dry excavation of the impacted soils.

It is recommended that the UST and concrete cradles are removed as part of the Phase 1 and Phase 2 site reduced level dig to the working formation level of between 10m and 11mOD. Once this working formation level is achieved, the area of the USTs should be surrounded by temporary steel sheet piles driven to pile depths of 7mOD (approx. 3m to 4m depth) seated into the underlying bedrock prior to internal dewatering and removal of the impacted soils. The temporary steel pile wall is to ensure: • excavation stability is maintained during the removal of the contaminated soils; • that the area where groundwater treatment for hydrocarbons will be required is limited to the footprint of the contaminated excavation area required for groundwater control, such that flow rates are reduced to a level that can be accommodated by typical commercially available treatment plant. • that disturbance and lateral migration is prevented of any separate phase hydrocarbon impact encountered during the contaminated soils excavation, and; • that the contaminated excavation area is separated from the rest of the bulk excavation, in order to prevent mixing of "clean" and "hydrocarbon contaminated" soils, during stockpiling and removal.

Sump pumping to be used to dewater inside the UST contaminated soil sheet pile wall, and this would be discharged to the temporary hydrocarbon treatment plant, as set out in Section 2.4 of the Groundwater Management Plan

Implementation measures set out the Ground Water Management Plan include inter alia that:

- A specialist groundwater control contractor should be appointed by the Contractor to provide detail design and to implement the groundwater control scheme. This should include day to day management of the groundwater control system and oversight of treated groundwater discharge quality. At the end of the groundwater control works, the appointed specialist should prepare a report documenting discharge operations including flow rates, total volumes, discharge quality and any other pertinent information.
- A suitably qualified Environmental Consultant should be appointed to manage the contaminated soil excavation around the former USTs. This should include a delineation borehole investigation in advance of the sheet pile construction to identify the extent of the contaminated soil source at depth and thus area requiring controlled removal within the sheet pile wall.

- The excavated contaminated soils will be transported to an off-site licenced treatment and disposal facility.
- Soil sampling and analysis will be undertaken to validate the completion of any soil removal works. The extent of the excavations will be determined on site as works progress by continued validation of the excavation sides and base by visual inspection and on-site screening by an Environmental Consultant.
- Validation samples should be taken from the sidewalls and base of the excavations at their limits. Following completion of the works a verification report will be prepared detailing the works undertaken.

The authors of the Plan have referenced a project at Beam Services Station, Rainham, London where there were retained by the site operation to provide environmental and remediation advisory services associated with site redevelopment, comprising the removal and replacement of the UST and set out the methodology for removal of contaminated groundwater present inside the coffer dam which required removal as part of the excavation. Reference is made to Bonham Quay, Galway and the delivery of a temporary mobile onsite dewatering and water treatment facility as well as managing an estimated 25,000 tonnes of contaminated soils from the site.

Given the nature of the works proposed and methods to be used and mitigation measures set out in the documentation provided I do not consider that concrete leaching is an issue once all mitigation measures and best practice is adhered to. I further note that the planning authority are satisfied that the application has adequately address this matter.

I note that the lack of examples where on site treatment had been used was raised by the planning authority previously, as noted above this has been provided. I note that the planning authority are largely in favour of the proposed development and are satisfied that outstanding matters can be addressed by condition. I note the Heritage Officer raised numerous issues on the previous application regarding groundwater protection. Under the current application, no objection raised subject to conditions.

Conclusion

I have considered the measures set out inter alia in the Soil Management Plan and Basement Construction, a Technical Note: Water Environment Risk Assessment, Groundwater Management Plan (Basement Construction Phase), a Civil Engineering Report which should also be considered in conjunction with the submitted Natura Impact Statement as noted in section 11 of this report. A Construction Management Plan, a Construction and Demolition Waste Management Plan are also submitted. All of which need to be read in unison. I am satisfied that the measures proposed are robust and sufficient and address concerns raised by third parties.

The treatment of contaminated soil and water can be addressed by condition. With regard to appropriate assessment and connections to the Lower River Shannon SAC, a NIS has been submitted with the current application. Under ABP 304705-19 permission was refused on the grounds that the AA screening had relied on mitigation measures. I address appropriate assessment in section 11 of this report.

10.8.5 Asbestos:

Concerns have been raised in third party submissions regarding the potential presence of asbestos in the structures to the demolition.

The CDWMP submitted with the application includes a Refurbishment/Demolition Asbestos Survey (RDAS) carried out in accordance with HSG 264 – Asbestos: The Survey Guide (U.K. Health and Safety Executive) was released on 29th January 2010. It is stated that this document expands on and replaces MDHS 100. And is aimed at those conducting surveys, those who commission surveys and those with specific responsibilities for managing asbestos in accordance with Control of Asbestos Regulations (CAR) 2006.

The survey submitted with the application concluded that there is little evidence of asbestos on site and the proposed development will allow for the full removal of any asbestos found of site in a safe and thorough way.

The Planning Authority have recommended that a RDAS be required in accordance with section 8 of the Health & Safety Authority, Asbestos Guidelines (Practical Guidelines on ACM Management and Abatement). I note the RDAS submitted with the application. I note mitigation measures proposed. All asbestos removal is required to be carried out as per current Regulations as per current regulations. (separate to the Planning Code).

10.8.6 Conclusion

Having regard to the information submitted in relation to the proposed excavation and waste removal, I am satisfied the applicant has demonstrated that waste can be appropriately disposed. Details have been submitted relating to the groundwater filtration system to mitigate the potential impact of the works on the groundwater. Based on the information on file I concluded that the construction works can be accommodated without undue risks to the receiving environment and the site can be used for residential use as proposed. I note the Planning Authority has not raised objection on these grounds.

10.9 Ecology/Biodiversity

EclA is submitted with the application. Some of the concerns raised by third parties relate to impacts of the proposal on ecology outside the site (predominately in nearby private gardens). The Planning Authority have not raised concerns in this relation to these matters. There is no report on file from the LCCC Heritage Officer.

A habitat survey was carried out on 15th June 2020.

Scrub and ornamental/non-native scrub and amenity grassland were noted. Habitats were evaluated as of importance at site level only and scoped out of further consideration.

- No rare or protected bird species were returned from the data search. Bird species recorded in June 2020 was limited to feral pigeon (rock dove) which was noted nesting in the derelict buildings throughout the site. The bird assemblage of the site is elevated as important at site level only and scoped out of further consideration.
- No rare or notable plant species were recorded during the site survey.
- No records of amphibians were returned from the data search or recorded during the survey.
- The EclA assessed that the site would not support common lizard and therefore has been scoped out of further consideration.
- Desktop data search returned no records of Bats within a 2km grid square within the last 10 years. Habitats within the site were evaluated for bat foraging, commuting and roosting suitability.
- The EclA noted no hydrological links to the wider area from the site and concluded that the site is not located within a wildlife corridor or other feature.

A 1km zone of influence identified for the site is set out in the EclA. Within this there are 2 no. Natura 2000 sites which I address in section 12 (Appropriate Assessment) in this report. No NHA or pNHA were identified within the Zone of Influence.

The EclA concluded that following the implementation of good practice, the proposed development will not result in any significant effects on the biodiversity of the existing environment. Provided that the proposed development is constructed and operated in accordance with the proposed design and good practice that is described within the EclA, significant effects on ecology are not anticipated at any geographical scale.

LCCC Heritage Officer noted that no night survey (bats) was undertaken. However concluded that given the lack of suitable habitats on site for bats this is not a major oversight and an activity survey and subsequent mitigation measures could be dealt with by condition in this case. I concur with this.

The Heritage Officer also noted the reference to Whooper swans at Bunlickey is noted. No reference to the cormorant (QI for SPA). It is considered that the distance to Bunlickey, the intervening developed urbanised area between would effectively mask any possible disturbance to these species from the proposed development site. Similarly should those species visit Ballinacurra creek, the c.900m distance to the creek would also mean that any disturbance is effectively masked, due both to distance, lack of inter visibility and the intervening urban development.

I note no ecological designations pertain to the site nor is it considered to be ecologically sensitive. It is a brownfield site a former petrol station with disused/derelict buildings, the surface of the site is predominantly sealed ground (concrete and tarmac) and a small area of scrub and rank amenity grassland.

10.10 Other

10.10.1 Part V

The applicant proposes to transfer 3 apartments at the site to Limerick and City County Council in order to comply with the requirements of Part V of the Planning and Development Act 2000 (as amended).

I recommend that a condition requiring a Part V agreement is imposed in the event of permission being granted.

10.10.2 Childcare

The applicant has argued in the documentation submitted that as the proposal is for 316 student bedspaces and 30 BTR apartments that there is no demand for an onsite childcare facility. The Planning Authority have not raised concerns in this regard.

I note the nature of the development and that a children's' play area is provided on site for the BTR apartments so it is envisaged that children will also be residents, I do however agree that the childcare requirement arising from the proposed BTR, of which 10 no. are 1 bed and 13 no. 2 bed does not justify the provision of a childcare facility on site. Childcare for Students is normally provided on campus or in affiliated childcare facilities.

10.10.3 Devaluation of property

There is an acknowledged housing crisis (which includes shortage in student accommodation) and this is a serviceable site, where residential development is permitted under its land use zoning in an evolving area, where there are good public transport links with ample services, facilities, third level institutions and employment in close proximity. I have no information before me to believe that the proposal if permitted would lead to the devaluation of property in the vicinity.

10.10.4 Covid & Public Health

Concerns have also been raised by third parties that student accommodation and BTR poses a dangerous health environment during the Covid-19 pandemic. An Bord Pleanála is not a public health authority and that there are currently no health policy restrictions on the development or operation of student accommodation, which have remained in operation during the pandemic. It is also noted that the pandemic is considered to be temporary in nature. I consider that matters relating to health and safety risks that may or may not arise are ultimately matters that would be dealt with more appropriately outside of the planning process. Therefore, I have no objection to the development on grounds of public health.

10.10.5 Legal ownership

It has been submitted that there is a lack of clarity in relation to the ownership of the site and the inclusion of lands outside the applicants ownership.

The applicants in Q.7 of The Strategic Housing Development Application Form have stated that they, Cloncaragh Investments Ltd, are the site owners and that Limerick City and County Council own parts of the site. The application site has been outlined in red in the documentation submitted with the application for SHD before the Board. I note that a letter of Consent from Limerick City and County Council is submitted with the application.

Concerns has also been raised by third parties regarding ownership of the proposed development and its future management. Conditions are recommended to be attached in the event of a grant of permission regarding a covenant for the BTR units and a Management Plan for both the BTR and Student Accommodation.

10.10.6 Inconsistencies in the documentation

Observers have raised concern that there are inconsistencies in the documentation submitted.

The applicant has highlighted in the cover letter to An Bord Pleanála that *"Please note that as this is a repeat application for development at this site, the application description has been minorly amended and numbers of overall units slightly reduced. Some of the accompanying letters may refer to the previous number of proposed units, however, all parties are aware and in agreement with the amended proposal and the attached letters remain valid."*

I note that a number of documents are copies of these submitted with the 2019 application. All critical documentation has been updated to have regard to the minor changes in the number of student bedspaces proposed from that submitted under ABP 304705-19. Where I have encountered reference to the previous application, this has been in documents that are not relied upon for engineering proposals or critical documents relating to groundwater, soil management, traffic and transportation, appropriate assessment or environmental impact assessment. I am satisfied that the reference to 326 bedspaces in lieu of 318 as currently proposal does not have a bearing on the assessment of the application before the Board. The statutory notices contain the correct development descriptions.

Discrepancies between engineering drawings and architectural drawings, in particular in relation to FFL for the basement carpark are noted. The applicant was deemed valid by ABP.

10.11 Chief Executive Report

As previously referred to in this report the PA are recommending a grant of planning permission subject to conditions.

I have addressed issues raised in the Chief Executive Report in my assessment above. I note the conditions recommended, I consider these broadly acceptable subject to minor amendments.

11.0 Appropriate Assessment (AA)

11.1 Compliance with Article 6(3) of the Habitats Directive

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

11.2 Context/Background

The previous application on this site, ABP-304705-19, was refused permission for one reason relating to appropriate assessment and that reason for refusal was as follows:

1. *The proposed development includes the excavation of c. 33,000m³ of soil/ subsoil and removal of fuel tanks and hazardous substances. The site is located on lands where the groundwater is extremely vulnerable (www.gsi.ie) and it is located c.1km from the edge of the River Shannon and River Fergus Estuaries SPA (site code 004077) and the Lower River Shannon SAC (site code 002165).*

The submitted Screening for Appropriate Assessment has regard to the inclusion of mitigation measures to control silt/ sedimentation and spillage of hazardous substances to prevent any likely significant impact on the groundwater pathways which provide a hydrological pathway for polluted water. Measures intended to avoid or prevent significant effects on a European site cannot be considered in screening for AA. If such measures are required to avoid potentially significant impacts on a European site then a Natura Impact Statement should be submitted which assesses the effectiveness of such measures. Notwithstanding this, detail on said measures are absent from the submitted documentation. Having regard to the inadequacy of information provided in the Screening Report, the nature of the proposed development, the misapplication of mitigation measures and the absence of a Natura Impact Statement, the Board could not be satisfied that a full understanding and analysis of the hydrological connectivity between the site with the European Sites, River Shannon and River Fergus Estuaries SPA (site code 004077) and the Lower River Shannon SAC (site code 002165), and the potential implications of the proposed development on the groundwater quality has not been undertaken.

The Board therefore cannot be satisfied, beyond reasonable scientific doubt, that the proposed development, either individually or in combination with other plans and projects, would not adversely affect the integrity of River Shannon and River Fergus Estuaries SPA (site code 004077) and the Lower River Shannon SAC (site code 002165), in view of the site's Conservation Objectives. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

Points of note raised in the ABP Inspector's Report under ABP 304705-19 include:

- The site is located on an area where the ground water is classified as highly vulnerable² and bedrock is near the surface.
- The subject site has a history of contamination from a previous use for a petrol filling station. The proposal includes the excavation and removal of c. 33,000m³ of soil/ subsoil and four fuel tanks to dispose at an appropriate licenced facility, to accommodate the basement parking.

² www.gsi.ie

- The proposed extraction of materials, in particular the fuel tanks have the potential to cause pollution via percolation and I have serious concerns relating to the impact on water quality, *inter alia* the transfer of hydrocarbons and hazardous substances through percolation of the site.
- Section 5.2.1 of the submitted screening assessment stated that if the mitigation measures listed in the construction and management plan were implemented correctly then the impacts via the groundwater pathways are not likely to be significant.
- There is a direct link from the site to the River Shannon and River Fergus Estuaries SPA and Lower River Shannon SAC.
- The full details of works, including excavation, removal of fuel storage tanks and the treatment of contaminated materials from the site has not been fully detailed or assessed in relation to the potential impact on any European Site and having regard to the scale of these works and implications on the groundwater quality it was considered a Natura Impact Statement was required.

An 'Appropriate Assessment Stage 1: Screening' and Stage 2: Natura Impact Statement Report', has been submitted with the application.

The contents of this report appear reasonable and robust. The submitted Screening Statement concludes that significant effects cannot yet be ruled out as there is a direct hydrological connection to the Lower River Shannon SAC via groundwater. Excavation works may generate pollutants, which could potentially cause impacts on the qualifying interests of the SAC. Further assessment of these potential impacts at Stage 2 of the Appropriate Assessment process will be required in order to comprehensively address potential impacts on the SAC. The AA screening submitted concluded that effects on the River Shannon and River Fergus Estuaries SPA are not likely to be significant based on the nature of the QI of the SPA and the sensitivity of these species and their supporting habitats to groundwater water pollution.

The Water Risk Assessment submitted with the application concludes that the likelihood of contaminated groundwater reaching the Lower River Shannon SAC is negligible. However, the significance of potential effects on the Lower River Shannon SAC is uncertain as some of the qualifying interest may be affected indirectly through the potential for reduction in water quality. Therefore, it is considered that the Lower River Shannon SAC requires progression to the next stage of the process to facilitate provision of mitigation measures on a precautionary basis.

The submitted NIS set out a series of proposed construction management measures and concludes that the proposed development, individually or in combination with other plans and projects would not adversely affect the integrity of the European site 002165 (Lower River Shannon SAC) or any other European site, in view of the sites Conservation Objectives.

Having reviewed the documents and submissions, I am satisfied that the submitted information allows for a complete examination and identification of all the aspects of the project that could have an effect, alone, or in combination with other plans and projects on European sites.

11.3 Screening for Appropriate Assessment (Stage 1)

11.4 Test of likely significant effects

- The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s).
- The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site.

11.5 Description of development

The applicant provides a description of the project in section 1.3 of the AA Screening Report. I refer the Board to section 3 of this report.

Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European sites:

Construction related:

- arising from uncontrolled surface water/silt/ construction related pollution of European Sites.
- possible migration of contaminated groundwater offsite.

11.6 Designated sites within Zone of Influence

In determining the zone of influence, I have had regard to the nature and scale of the project, the distance from the development site to the European Sites, and any potential pathways which may exist from the development site to a European Site. The site is not within or directly adjacent to any European Site. The nearest surface water feature is Ballinacurra Creek c. 920m west of the site. There is no connectivity with either the River Shannon and River Fergus Estuaries SPA or the Lower River Shannon SAC via surface water as there are no watercourses within or draining from the site and there will be no discharge of surface water from the site to any watercourses. There is a link to the Lower River Shannon SAC and the River Shannon and River Fergus Estuaries SPA via groundwater. Having regard to the above, I would concur with the applicants and consider the following Natura 2000 sites to be within the Zone of Influence:

DECISION QUASHED

European Site Name [Code] and its Qualifying interest(s) / Special Conservation Interest(s) (*Priority Annex I Habitats)	Location Relative to the Proposed Development Site
<p>Lower River Shannon SAC (002165)</p> <p><u>Annex I Habitats:</u> sub-tidal sandbanks, estuaries, mudflats / sandflats, coastal lagoons, large shallow inlets and bays, reefs, stony banks, vegetated sea cliffs, annuals colonising mud and sand, salt marshes, water courses, Molinia meadows, alluvial forests</p> <p><u>Annex II species:</u> freshwater pearl mussel, sea lamprey, brook lamprey, river lamprey, salmon, bottlenose dolphin, otter</p> <p><u>Conservation Objectives</u></p> <p>To maintain or restore the favourable conservation status of habitats and species of community interest – specific attributes and targets are listed on the NPWS website in relation to each qualifying interest.</p>	<p>Nearest point is c.1km southwest of the proposed development site</p>
<p>River Shannon and River Fergus Estuaries SPA (004077)</p> <p><u>Qualifying Interests:</u> 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, black-tailed godwit, curlew, redshank, green shank, black-headed gull</p> <p><u>Conservation Objectives</u></p> <p>To maintain or restore the favourable conservation status of habitats and species of community interest – specific attributes and targets are listed on the NPWS website in relation to each qualifying interest.</p>	<p>Nearest point is c.1km southwest of the proposed development site</p>

I do not consider that any other European Sites fall within the zone of influence of the project, based on a combination of factors including the intervening distances, the lack of suitable habitat for qualifying interests, and the lack of hydrological or other connections.

11.7 Identification of Likely Effects

With regard to habitat loss and fragmentation, given the site is not located within or adjoining any European sites, there is no risk of direct habitat loss impacts and there is no potential for habitat fragmentation.

The proposed development site does not support populations of any fauna species linked with the QI/SCI populations of any European site(s).

The applicant has noted that an Ecological Impact Assessment (EiA) supports this AA Screening. Site flora and fauna assessments were carried out. No terrestrial mammals or signs of mammals of conservation importance were noted on site. No protected flora was noted on site. No invasive species were noted on site.

There is no direct pathway via surface water, air or land to Natura 2000 sites and the nearest Natura 2000 site is 1km from the proposed development. There is a direct pathway to both SPA and SAC via groundwater.

11.8 Potential Impacts

The River Shannon and River Fergus Estuaries SPA has been designated for the protection of a range of overwintering bird species that feed primarily in coastal and intertidal habitats. The SPA is located approx. 1km west of the proposed development site, and covers the estuarine section of the River Shannon, downstream of Limerick city centre.

There is no connectivity with either the River Shannon and River Fergus Estuaries SPA via surface water as there are no watercourses within or draining from the site and there will be no discharge of surface water from the site to any watercourses. Therefore, potential pathways via surface water are screened out of the assessment. Pathways via air and land are also screened out due to the distances involved. Potential impacts via groundwater are not likely to be significant based on the nature of the QI of the SPA and the sensitivity of these species and their supporting habitats to groundwater water pollution. The habitat suitability of the application site for SPA bird species is also ruled out.

The ETI submission refers to potential impacts on Whooper Swans at Bunlickey is noted. No reference in the submission to the Cormorant (QI for SPA). Having regard to the distance from the site to Bunlickey, and the intervening developed urbanised area between would mean that any disturbance is effectively masked, due both to distance, lack of inter visibility and the intervening urban development.

The Lower River Shannon SAC has been designated for the protection of a range of riparian, estuarine and coastal habitats and species associated with the River Shannon and its tributaries. NPWS publications highlight the specific attributes and targets for the various qualifying interests in the SAC. This SAC is located c. 4 km from the proposed development site at its closest point.

There is no connectivity with the Lower River Shannon SAC via surface water as there are no watercourses within or draining from the site and there will be no discharge of surface water from the site to any watercourses. Pathways via land and air can be ruled out due to distances involved

The Screening submitted has identified connection via groundwater and potential pollution during the excavation, removal and treatment of contaminated material. Including the removal of the disused fuel storage tanks from the development site and any potential migration of any groundwater pollution offsite to the SAC.

There is potential for effects due to possible migration of contaminated groundwater offsite during construction of the proposed development which could potentially cause impacts on the qualifying interests of the SAC.

The appropriate screening report noted one potential route for ground water to reach the SAC. Given the fractured nature of the underlying bedrock, tother potential hydrological links may exist. The link has been acknowledged and I am satisfied that the proposed mitigation measures would address potential impacts via any of the potential groundwater routes to the SAC. As such I do not consider the absence of assessment of other routes fatal to my assessment as potential links are infinite but the mitigation measures proposed as stated above seek to address potential impacts.

The report concludes that further assessment of these potential impacts at Stage 2 of the Appropriate Assessment process will be required in order to comprehensively address potential impacts on the SAC. I would concur with this conclusion.

11.9 In Combination Effects

The site is located in an urban environment. Construction on this site will create localised light, dust and noise disturbance. There is therefore no potential for any in combination effects to occur.

In-combination effects have been considered (see section 4.1.2 (Cumulative Effects of submitted Assessment) and I am satisfied that the proposed development in combination with other permitted developments in the area, which in themselves have been screened in terms of AA, would not be likely to have a significant effect on any European site.

11.10 Screening Determination

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

The possibility of significant effects on other European sites has been excluded on the basis of objective information. The following European site have been screened out for the need for appropriate assessment, having regard to the conservation objectives relating to the qualifying species and habitats related to these sites, due to intervening distances, to intervening land uses and the absence of a hydrological or other linkage between the development and these European sites. In terms of SPAs specifically, the habitats within the proposed development site are not considered suitable for any of the bird species associated with nearby SPAs.

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

Measures intended to reduce or avoid significant effects on European sites have not been considered in the screening process for River Shannon and River Fergus Estuaries SPA (Site Code 004077)

11.11 Stage 2 Appropriate Assessment

I have read the NIS in conjunction with the Soil Management Plan and Basement Construction, A Technical Note: Water Environment Risk Assessment, Groundwater Management Plan (Basement Construction Phase), Civil Engineering Report, Construction Management Plan and Construction and Demolition Waste Management Plan. All of which I consider critical documents which contain mitigation in relation to the removal of underground storage tanks, contaminated soil and groundwater management, The NIS submitted with the application while light in information references other site specific documents which contained mitigation measures. I note all the information in on file and therefore available for my appropriate assessment.

This Stage 2 Assessment will consider whether or not the project would adversely affect the integrity of the Lower River Shannon SAC (002165), either individually or in combination with other plans and projects in view of the site's conservation objectives.

The submitted NIS lists that the main area of concern in relation to the Lower River Shannon SAC relates to potential pollution during the excavation, removal and treatment of contaminated material. Including the removal of the disused fuel storage tanks from the development site and any potential migration of any groundwater pollution offsite to the SAC.

Section 5.1.4 of the submitted NIS describes the mitigation measures to be implemented during the construction of the proposed development to avoid adverse effects on the SAC. Mitigation measures are detailed in the Soil Management Plan and Basement Construction, A Technical Note: Water Environment Risk Assessment, Groundwater Management Plan (Basement Construction Phase), Civil Engineering Report, Construction Management Plan and Construction and Demolition Waste Management Plan submitted with the application. I have reviewed these documents and assessed them in this report.

The elements of the project likely to give rise to significant effects on Lower River Shannon SAC are the excavation, removal and treatment of contaminated material, including the removal of the disused fuel storage tanks from the development site, and any potential migration of any groundwater pollution offsite to the SAC.

A detailed assessment of the methodology for the removal of tanks, excavation, removal of contaminated soil and the groundwater protection plan are set out in section 10.8 of this report.

The Groundwater Management Plan (Basement Construction Phase) includes measures to ensure that groundwater on the site and any potential contaminated groundwater in the vicinity of the existing underground fuel storage tanks to be removed is collected, treated (where required) and disposed of/discharged in a manner that does not affect the integrity of the River Shannon SAC.

The mitigation measures proposed to avoid effects on groundwater are robust and satisfactory.

11.12 Potential Impacts

- The proposed development site is not within or adjacent to the SAC, so there is no risk of direct impacts on habitats or species within the SAC.
- Potential Indirect Effects due to surface water pollution (construction phase) - pollution-prevention measures will be employed during construction works, in order to avoid or minimise the risk of impacts on the SAC.
- Potential Indirect Effects due to potential pollution during the excavation, removal and treatment of contaminated material. Including the removal of the disused fuel storage tanks from the development site and any potential migration of any groundwater pollution offsite to the SAC - pollution-prevention measures will be employed during construction works, in order to avoid or minimise the risk of impacts on the SAC.

11.13 Potential In-Combination Effects

The proposed development site is currently zoned as a Local Centre in the Limerick City Development Plan. Pollution-prevention measures will be employed during the construction of the proposed development. These measures are set out in the Soil Management Plan and Basement Construction, A Technical Note: Water Environment Risk Assessment, Groundwater Management Plan (Basement Construction Phase), Civil Engineering Report, Construction Management Plan and Construction and Demolition Waste Management Plan. Given the negligible contribution of the proposed development to the wastewater discharge, I consider that any potential for in-combination effects on water quality in the Lower River Shannon can be excluded. In combination effects have been considered and I am satisfied that the proposed development in combination with other permitted developments in the area, which in themselves have been screened in terms of AA, would not be likely to have a significant effect on any European site.

1.14 Evaluation of Effects

I consider that the proposed mitigation measures relating to the protection of groundwater set out in the Soil Management Plan and Basement Construction, A Technical Note: Water Environment Risk Assessment, Groundwater Management Plan (Basement Construction Phase), Construction Management Plan and Construction and Demolition Waste Management Plan are clearly described, are reasonable, practical and enforceable. I am also satisfied that the measures outlined fully address any potential impacts arising from the proposed development and that it is reasonable to conclude on the basis of objective scientific information, that the proposed development would not have an adverse effect on the Lower River Shannon SAC (002165).

11.15 Appropriate Assessment Conclusion

Having regard to the works proposed during construction, and subject to the implementation of best practice construction methodologies and the proposed mitigation measures, I consider it reasonable to conclude on the basis of the information on the file, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, that the proposed development, individually or in combination with other plans and projects would not adversely affect the integrity of the European site 002165 (Lower River Shannon SAC) or any other European site, in view of the sites Conservation Objectives. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable scientific doubt as to the absence of adverse effects.

12.0 Environmental Impact Assessment (EIA) Screening

Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

- Construction of more than 500 dwelling units,
- Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. (In this paragraph, "business district" means a district within a city or town in which the predominant land use is retail or commercial use.)

The proposed development comprises of the demolition of existing vacant structures and removal of 4 no. disused underground fuel storage tanks, construction of 30 no. Build to Rent apartments, 2 no. student bedspaces in 68 apartments, 2 no. ancillary retail units and associated site works on a site c. 0.77 ha. The site is located within the administrative area of Limerick City and County Council and is within an urban area. The proposed development is considered to be sub-threshold in terms of EIA having regard to Schedule 5, Part 2, 10(b) (i) and (iv) of the Planning and Development Regulations 2001 (as amended).

The criteria at schedule 7 to the Regulations are relevant to the question as to whether the proposed sub-threshold development would be likely to have significant effects on the environment that could and should be the subject of environmental impact assessment. The application is accompanied by an EIA Screening Report which includes the information required under Schedule 7A of the Planning Regulations. The Screening Assessment states that having regard to the criteria specified in Schedule 7 of the Planning and Development Regulations, 2001; the context and character of the site and the receiving environment; the nature, extent, form and character of the proposed development; the characteristics of potential impacts; that the proposal would not result in significant effects to the environment. I am satisfied that the submitted EIA Screening Report identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

The current proposal is an urban development project that would be in the built-up area but not in a business district. The proposal comprises of the demolition of existing vacant structures and removal of 4 no. disused underground fuel storage tanks, construction of 30 no. Build to Rent apartments, 318 no. student bedspaces in 68 apartments, 2 no. ancillary retail units and associated site works on a stated site area of 0.77 hectares. The nature and size of the proposed development is well below the applicable thresholds for EIA. The residential use would be similar to the predominant land uses in the area. The proposed development would be located on a brownfield site in an urban area. The site is not designated for the protection of a landscape. The proposal includes the removal of disused underground fuel storage tanks and contaminated soil. The proposed development is not likely to have a significant adverse effect on any Natura 2000 site. This has been demonstrated by the submission of an Appropriate Assessment Screening Report and Natura Impact Assessment that concludes that there will be no impacts upon the conservation objectives of the Natura 2000 sites identified.

The development would result in works on zoned lands. The proposed development is a plan-led development, which has been subjected to Strategic Environmental Assessment. The proposed development would be a residential use, which is a predominant land use in the vicinity. The proposed development would use the municipal water and drainage services, upon which its effects would be marginal. The site is not located within a flood risk zone and the proposal will not increase the risk of flooding within the site. The development would not give rise to significant use of natural resources, production of waste, pollution, nuisance or a risk of accidents. The former use of the site as a petrol station and garage is noted. The former use was developed in the 1950/60s on a back filled Limestone quarry. The proposal will not give rise to significant environmental impacts. The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified inter alia in the proposed Construction and Demolition Waste Management Plan (CDWMP), Water Environment Risk Assessment, Construction Management Plan, Refurbishment/Demolition Asbestos Survey (RDAS), URS Closure Report, Soil Management Plan and Basement Construction, Groundwater Management Plan (Basement construction phase), Civil Engineering Report, Acoustic and Design Statement, Ecological Impact Assessment, AA Screening and NIS are noted.

The various reports submitted with the application (as listed in Appendix 1 of this report) address a variety of environmental issues and assess the impact of the proposed development, in addition to cumulative impacts with regard to other permitted development in proximity to the site, and demonstrate that, subject to the various construction and design related mitigation measures recommended, the proposed development will not have a significant impact on the environment. I have had regard to the characteristics of the site, location of the proposed development and types and characteristics of potential impacts. I have examined the sub criteria having regard to the Schedule 7A information and all other submissions and I have considered all information which accompanied the application including inter alia:

- Architectural Report and Urban Design Statement.
- Technical Note: Water Environment Risk Assessment.
- Soil Management Plan Basement Construction.
- Groundwater Management Plan (basement construction phase).
- Conservation Report (address potential impact on the ACA)
- Landscape Design Rationale Report
- Acoustic Design Statement
- Flood Risk Assessment
- URS Closure Report
- Construction & Demolition Waste Management Plan

- Civil Engineering Report
- Construction Management Plan
- Student Accommodation Management Plan
- Build to Rent Accommodation Management Plan
- Building Life Cycle Report
- Traffic & Transport Assessment

In addition, noting the requirements of Section 299B (1)(b)(ii)(II)(C), whereby an applicant is required to provide to the Bord a statement indicating how the available results of other relevant assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive have been taken into account. A Flood Risk Assessment has been submitted which was undertaken having regard to the EU Floods Directive, a Refurbishment/Demolition Asbestos Survey (RDAS) has been submitted which was undertaken having regard to the EU Directive 2009/148/EC Exposure to Asbestos, A Building Life Cycle Report has been submitted with the application and proposal to be complied with to achieve an A3 BER rating, pursuant to the EU Energy Performance of Buildings Directive and requirement for Near Zero Energy Buildings. An AA Screening Report and NIS in support of the Habitats Directive (92/43/EEC) and the Birds Directive (2009/147/EC) has been submitted with the application. A Preliminary Construction & Demolition Waste Management Plan has been submitted which was undertaken having regard to the EC Waste Directive Regulations 2011. Student Accommodation and Build to Rent Accommodation Management Plans have been submitted which was undertaken having regard to the EU (Household Food Waste and Bio-Waste) Regulations, 2015. I have also had regard to the SEA carried out in relation to the two statutory plans pertaining to the area, the current City Development Plan.

The EIA screening assessment prepared by the applicant has, under the relevant themed headings, considered the implications and interactions between these assessments and the proposed development, and as outlined in the report states that the development would not be likely to have significant effects on the environment. I am satisfied that all other relevant assessments have been identified for the purposes of screening out EIAR.

I have completed an EIA Screening Determination as set out in Appendix 2 of this report. That form should be read in conjunction with this section 12.

I consider that the location of the proposed development and the environmental sensitivity of the geographical area would not justify a conclusion that it would be likely to have significant effects on the environment. The proposed development does not have the potential to have effects the impact of which would be rendered significant by its extent, magnitude, complexity, probability, duration, frequency or reversibility. In these circumstances, the application of the criteria in Schedule 7 to the proposed sub-threshold development demonstrates that it would not be likely to have significant effects on the environment and that an environmental impact assessment is not required before a grant of permission is considered. This conclusion is consistent with the EIA Screening Statement submitted with the application.

I am overall satisfied that the information required under Section 299B(1)(b)(ii)(I) of the Planning and Development Regulations 2001 (as amended) have been submitted.

A Screening Determination should be issued confirming that there is no requirement for an EIAR based on the above considerations.

13.0 Recommendation

For the reasons outlined above, I consider that the proposal is in compliance with the proper planning and sustainable development of the area and I recommend that permission is GRANTED, under section 3(4) of the Act subject to conditions set out below.

14.0 Reasons and Considerations

Having regard to the following:

- (a) the site's location within Limerick city, within an emerging built-up area, in close proximity existing public transport infrastructure and accessible to the inner city,
- (b) the provisions of the Limerick Development Plan 2022-2028 including the zoning objective Local Centre "*To protect and provide local centre facilities to serve the needs of new/existing neighbourhoods and residential areas*".
- (c) the proximity to the main campus of Mary Immaculate College and centres of employment
- (d) the policies and objectives set out in the Limerick Development Plan 2022-2028
- (e) the Rebuilding Ireland Action Plan for Housing and Homelessness, (Government of Ireland, 2016),
- (f) Housing for All – A New Housing Plan for Ireland (2021)

- (g) the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March, 2013
- (h) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009
- (i) the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments, 2020
- (j) the Planning System and Flood Risk Management (including the associated Technical Appendices), 2009
- (k) Urban Development and Building Heights, Guidelines for Planning Authorities 2018
- (l) National Student Accommodation Strategy (2017),
- (m) the nature, scale and design of the proposed development,
- (n) the availability in the area of a wide range of social, community and transport infrastructure,
- (o) the pattern of existing and permitted development in the area,
- (p) the planning history within the area,
- (q) the submissions and observations received, and
- (r) the report of the Chief Executive and associated appendices
- (s) the report of the Inspector and the submissions and observations received,

It is considered that, subject to compliance with the conditions set out below, the proposed development 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, would constitute an acceptable residential density for this location, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of pedestrian and traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

15.0 Recommended Board Order

Planning and Development Acts 2000 to 2022

Planning Authority: Limerick City and County Council

Application for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 30th day of April 2021 by Cloncaragh Investments Limited care of RW Nolan and associated, 37 Lower Baggot Street, Dublin 2.

Proposed Development:

The proposed development consists of a 0.77ha area at the junction of Punches Cross, between Ballinacurra Road to the South West and Rosbrien Road to the North East to include;

(A) Demolition of an existing vacant derelict structures including basement area of approx. 1,000m²

(B) A street-front building ranging in height from four storey plus recessed penthouse along Ballinacurra Road and Rosbrien Road, culminating in a six storey feature corner at Punches cross junction, for use as student accommodation, including student communal facilities such as dining rooms, social activity rooms suitable for Gym, Cinema/Games room, reception and social areas of 778m² at ground and first floor; Two ancillary retail units of 105.6m² and 99m² and 54 student apartments in arrangement of 3,4,5,and 6 bedroom configurations. Overall area of building A is 9,028m² .

(C) A rear courtyard building ranging in height from 5 storeys plus penthouse to seven storeys, containing 14 student apartments in 5 bedroom configuration; also including 30 build-to rent apartments as follows – 10 no one bedroom apartments, 18 no. two bedroom apartments and 2 no. three bedroom apartments. Overall area of building B is 5,330m² .

(D) A basement level containing social activity rooms suitable for yoga, aerobics and general social use, laundry facilities, a total of 76 car spaces, designated for apartments, staff and visitors, bicycle storage areas for 326 bicycles for students, and 50 bicycles separately stored for apartments, ancillary refuse and maintenance stores, sub-station and switch rooms and water storage tanks. Overall area of basement is 5,061m² .

(E) Ancillary courtyard gardens of 1,486m² , including 48 further surface bicycle spaces, to serve as amenity for the student apartments and a separate rear courtyard garden of 450m² to serve as amenity for the build-to-rent apartments development, with feature landscaping.

(F) Vehicular access and egress onto Ballinacurra Road and Rosbrien Road in a strict controlled oneway arrangement to suit existing traffic flows.

(G) Building boundary set back along Rosbrien Road to provide additional traffic lane for public use, and footpath for public use. Building also set back at corner of Punches Cross to provide mini public plaza and provision for future public subscription bicycle stands.

The total number of student apartments proposed is 68 containing 318 bedspaces. The total number of build-to-rent apartments is 30, containing 104 bedspaces. Overall building area at or above ground level is 14,358m².

The application is accompanied by a Natura Impact Statement

Decision

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Matters Considered

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

Reasons and Considerations

In coming to its decision, the Bord had regard to the following:

- (a) the site's location within Limerick city, within an emerging built-up area, in close proximity existing public transport infrastructure and accessible to the inner city,
- (b) the provisions of the Limerick Development Plan 2022-2028 including the zoning objective Local Centre "*To protect and provide local centre facilities to serve the needs of new/existing neighbourhoods and residential areas*".
- (c) the proximity to the main campus of Mary Immaculate College and centres of employment
- (d) the policies and objectives set out in the Limerick Development Plan 2022-2028
- (e) the Rebuilding Ireland Action Plan for Housing and Homelessness, (Government of Ireland, 2016),
- (f) Housing for All – A New Housing Plan for Ireland (2021)
- (g) the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March, 2013

- (h) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009
- (i) the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments, 2020
- (j) the Planning System and Flood Risk Management (including the associated Technical Appendices), 2009
- (k) Urban Development and Building Heights, Guidelines for Planning Authorities, 2018
- (l) National Student Accommodation Strategy (2017),
- (m) the nature, scale and design of the proposed development,
- (n) the availability in the area of a wide range of social, community and transport infrastructure,
- (o) the pattern of existing and permitted development in the area,
- (p) the planning history within the area,
- (q) the submissions and observations received, and
- (r) the report of the Chief Executive and associated appendices
- (s) the report of the Inspector and the submissions and observations received,

The Board considered that, subject to compliance with the conditions set out below, the proposed development 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 the architectural heritage of the site, would constitute an acceptable residential density for this suburban location, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of pedestrian and traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Screening

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European Sites, taking into account the nature, scale and location of the proposed development within a zoned and serviced urban area, the Appropriate Assessment Screening document submitted with the application, the Inspector's report, and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the conservation objectives of such sites, other than the Lower River Shannon Special Area of Conservation (Site Code: 002165) which is a European Site for which there is a likelihood of significant effects.

Appropriate Assessment

The Board considered the Natura Impact Statement and all other relevant submissions and carried out an Appropriate Assessment of the implications of the proposed development for the nearby Lower River Shannon Special Area of Conservation (Site Code: 002165), in view of the site's conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment.

In completing the appropriate assessment, the Board considered, in particular, the following:

- (a) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (b) the mitigation measures which are included as part of the current proposal, and
- (c) the conservation objectives for the European Sites.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Site, having regard to the site's conservation objectives. In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of European Sites in view of the sites' conservation objectives. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable scientific doubt as to the absence of adverse effects.

Environmental Impact Assessment Screening

The Board completed an environmental impact assessment screening of the proposed development and considered that the Environmental Impact Assessment Screening Report submitted by the applicant, identifies and describes adequately the direct, indirect, secondary, and cumulative effects of the proposed development on the environment.

Having regard to: -

- (a) the nature and scale of the proposed development, which is below the threshold in respect of Class 10(i) and (iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,

- (b) the location of the site on lands zoned *“To protect and provide local centre facilities to serve the needs of new/existing neighbourhoods and residential areas”* where residential development is permitted in principle and the results of the Strategic Environmental Assessment of the Plan;
- (c) The existing use on the site and pattern of development in surrounding area;
- (d) The planning history relating to the site
- (e) The availability of mains water and wastewater services to serve the proposed development,
- (f) the location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended)
- (g) 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),
- (h) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and
- (i) The features and measures proposed by applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Construction and Demolition Waste Management Plan (CDWMP), Waster Environment Risk Assessment, Construction Management Plan, Refurbishment/Demolition Asbestos Survey (RDAS), Closure Report, Soil Management Plan and Basement Construction, Groundwater Management Plan (Basement construction phase) and the Civil Engineering Report,

It is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not therefore be required.

Conclusions on Proper Planning and Sustainable Development

The Board considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of urban design, height and quantum of development 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.

Conditions

1. The proposed 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, or as otherwise stipulated by conditions hereunder, and the proposed development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. Mitigation and monitoring measures outlined in the plans and particulars, including inter alia the Natura Impact Statement, Soil Management Plan and Basement Construction, A Technical Note: Water Environment Risk Assessment, Groundwater Management Plan (Basement Construction Phase), Civil Engineering Report, Construction Management Plan and Construction and Demolition Waste Management Plan submitted with this application, shall be carried out in full, except where otherwise required by conditions attached to this permission.

Reason: In the interest of protecting the environment and in the interest of public health.

3. (a) The 68 student accommodation apartments (318 bedspaces) hereby permitted shall only be occupied as student accommodation, in accordance with the definition of student accommodation provided under section 13(d) of the Planning and Development (Housing) and Residential Tenancies Act 2016, and shall not be used for any other purpose without a prior grant of planning permission for change of use.

(b) Full details of the use and hours of operation of the proposed retail units shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The unit shall not be used for the sale of hot fast food or intoxicating liquor for consumption off the premises.

Reason: In the interest of residential amenity and to limit the scope of the proposed development to that for which the application was made.

4. The student accommodation element of the proposed development shall be implemented as follows:

(a) The student accommodation and complex shall be operated and managed in accordance with the measures identified in a finalised Student Accommodation Management Plan which shall be submitted to and agreed in writing with the planning authority prior to first occupation of the development.

(b) Student Housing Units shall not be amalgamated or combined.

Reason: In the interests of the amenities of occupiers of the units and surrounding properties.

5. The 30 no. build to rent units hereby permitted shall operate in accordance with the definition of Build-to-Rent developments as set out in the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (December 2020) and be used for long term rentals only. No portion of this development shall be used for short term lettings.

Reason: In the interest of the proper planning and sustainable development of the area and in the interest of clarity

6. Prior to the commencement of development the owner shall submit, for the written consent of the planning authority, details of a proposed covenant or legal agreement which confirms that the development hereby permitted shall remain owned and operated by an institutional entity for a minimum period of not less than 15 years and where no individual residential units shall be sold separately for that period. The period of 15 years shall be from the date of occupation of the first residential unit within the scheme.

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

7. Prior to expiration of the 15-year period referred to in the covenant, the owner shall submit for the written agreement of the planning authority, ownership details and management structures proposed for the continued operation of the entire development as a Build-to-Rent scheme. Any proposed amendment or deviation from the Build-to-Rent model as authorised in this permission shall be subject to a separate planning application.

Reason: In the interests of orderly development and clarity.

8. Details of the materials, colours and textures of all the external finishes to the proposed dwellings/buildings shall be as submitted with the application, unless otherwise agreed in writing with, the planning authority/An Bord Pleanála prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of visual amenity.

9. Details of shopfronts shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of visual amenity and to protect the historic character of the area.

10. No external security shutters shall be erected on any of the commercial premises unless authorised by a further grant of planning permission. Details of all internal shutters shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity

11. No advertisement or advertisement structure (other than those shown on the drawings submitted with the application) shall be erected or displayed on the building (or within the curtilage of the site) in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

12. Proposals for the development name, apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, and apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

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

13. (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse/bin storage, and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.

(b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

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

14. The following requirements in terms of traffic, transportation and mobility shall be incorporated, and where required revised drawings/reports showing compliance with these requirements shall be submitted to and agreed in writing with the planning authority prior to commencement of development:

(a) Prior to the commencement of development a revised basement carpark layout with a maximum of 50 no. car parking spaces shall be submitted.

(b) The roads and traffic arrangements serving the site, including road improvements, signage, shall be in accordance with the detailed requirements of the planning authority for such works and shall be carried out at the developer's expense.

(c) The materials used in any roads / footpaths provided by the developer shall comply with the detailed standards of the planning authority for such road works.

(d) All works to public roads/footpaths shall be completed to the satisfaction of the planning authority.

(e) The roads layout shall comply with the requirements of the Design Manual for Urban Roads and Streets, in particular carriageway widths and corner radii.

(f) The developer shall carry out a Stage 1,2 & 3 Road Safety Audit of the constructed development on completion of the works and submit to the planning authority for approval and shall carry out and cover all costs of all agreed recommendations contained in the audit.

(g) A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.

(h) The applicant shall submit a Car Park Management Plan and details of car parking design, layout and management to the planning authority for agreement in writing prior to the commencement of development. In default of agreement, any matter(s) in dispute shall be referred to An Board Pleanála for determination.

Reason: In the interests of traffic, cyclist and pedestrian safety and to protect residential amenity

15. A minimum of 10% of all car parking spaces should be provided with EV charging stations/points, and ducting shall be provided for all remaining car parking spaces facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, the development shall submit such proposals shall be submitted and agreed in writing with the Planning Authority prior to the occupation of the development.

Reason: To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.

16. A total of 376 no. secure bicycle parking spaces shall be provided within the development. Design details for the cycle spaces shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure that adequate bicycle parking provision is available to serve the proposed development, in the interest of sustainable transportation.

17. Prior to the occupation of the development, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, and walking by residents/occupants/staff employed in the development. The mobility strategy shall be prepared and implemented by the management company for all units within the development.

Reason: In the interest of encouraging the use of sustainable modes of transport.

18. Prior to commencement of the development, details of all areas of boundary treatment, play equipment and planting, shall be submitted to, and approved, by the planning authority. Boundaries and areas of communal open space shown on the lodged plans shall be landscaped in accordance with the landscape scheme submitted to An Bord Pleanála with this application, unless otherwise agreed in writing with the planning authority. The landscape scheme shall be implemented fully in the first planting season following completion of the development, and any trees or shrubs which die or are removed within 3 years of planting shall be replaced in the first planting season thereafter. This work shall be completed before any of the dwellings are made available for occupation. Access to green roof areas shall be strictly prohibited unless for maintenance purposes.

Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

19. Public lighting shall be provided in accordance with a final scheme to reflect the indicative details in the submitted Public Lighting Strategy, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting. Such lighting shall be provided prior to the making available for occupation of any residential unit. Reason: In the interests of amenity and public safety.

20.

- a) The applicant shall sign a connection agreement with Irish Water prior to any works commencing and connecting to the Irish Water network.
- b) No stormwater from the development shall enter into the Irish Water Network.
- c) All development is to be carried out in compliance with Irish Water Standards codes and practice.
- d) Where any proposals by the applicant to build over or divert existing water or wastewater services subsequently occurs the applicant shall submit details to Irish Water for assessment of feasibility and have written confirmation of feasibility of diversion(s) from Irish Water prior to connection agreement.

Reason: In the interest of public health

21. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: To protect the residential amenity of property in the vicinity and the visual amenity of the area.

22. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Any relocation of utility infrastructure shall be agreed with the relevant utility provider. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. Reason: In the interests of visual and residential amenity.
23. Drainage arrangements including the 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 and surface water management.

24. 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, inter alia: details and location of proposed construction compounds, details of intended construction practice for the development, including hours of working, noise and dust management measures, details of arrangements for routes for construction traffic, parking during the construction phase, and off-site disposal of construction/demolition waste.

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

25. 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.

26. Construction and demolition waste shall be managed in accordance with a Construction Waste and Demolition Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

27. A plan containing details for the management of waste (and, in particular, recyclable materials) 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: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

30. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall –

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development

(b) employ a suitably qualified archaeologist who monitor all site investigations and other excavation works,

(c) should archaeological material be found during the course of archaeological monitoring, all work which might affect that material will cease pending agreement with the National Monuments Service of the Department of Culture, Heritage and the Gaeltacht to how it is to be dealt with,

(d) all archaeological deposits/features, within the area where groundworks will occur, which were recorded during previous test excavations, shall be fully archaeologically planned, photographed and excavated by a suitably qualified archaeologist, all necessary licences or consents under the National Monuments Acts 1930 to 2014 having been obtained,

(e) all costs of archaeological work necessitated by, or arising from, the development shall be borne by the developer.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection (in situ or by record) of any remains that may exist within the site

31. 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 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála 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 of the area.

32. 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.

33. 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.

D. McDevitt

Dáire McDevitt

Senior Planning Inspector

9th February 2023

Appendix 1 List of Documentation submitted.

Appendix 2 EIA Screening Determination Form

DECISION QUASHED

Appendix 1 List of Documentation submitted.

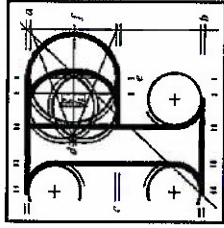
Documents submitted include inter alia:

- SHD Application Form
- Cover Letter to ABP
- Site Notice
- Newspaper Notice – Limerick Leader
- Cover Letter to Limerick City & County Council
- Cover Letter to Prescribed Bodies (x9)
- Planning Report and Statement of Consistency
- Statement of Response
- EIA Screening Report
- Student Demand and Concentration Report
- Build to Rent Accommodation Management Plan
- Student Management Plan
- S247 Pre Application Consultation Report (Minutes from meeting with LCCC for this application and also the previous application are included)
- Letter of Consent LCCC
- Developer's Covenant
- Letter of Support from Mary Immaculate College
- Architecture Report and Urban Design Statement
- Computer Generated Images and Photomontage
- Compliance Schedule and Residential Amenity
- Materials and Finishes Report
- Accommodation Schedule and Matrix
- Shadow Cast and Sunlight/Daylight Analysis Report
- Schedule of Architecture Drawings
- Architecture Drawings
- Site Layout Map
- Site Location Map
- Waste Plan Report
- Part V Confirmation Letter
- Landscape Design Rationale Report and Landscape Specification
- Schedule of Landscape Drawings
- Landscape Drawings
- Conservation Report
- Building Lifecycle Report and Site Lighting Layout
- Civil Engineering Report
- Construction and Demolition Waste Management Plan
- Construction Management Plan
- Schedule of Engineering Drawings

- Engineering Drawings
- Traffic and Transport Assessment
- Road Safety Audit Stage 1
- Confirmation of Feasibility Statement from Irish Water
- Statement of Design Acceptance from Irish Water
- Flood Risk Assessment
- Acoustic Design Statement
- Appendix to Acoustic Design Statement
- Greenparks Former PFS Closure Report
- AA Screening Report and Natura Impact Statement
- Ecological Impact Assessment Report (EclA)
- Soil Management Plan and Basement Construction
- A Technical Note: Water Environment Risk Assessment
- Groundwater Management Plan (Basement Construction Phase),

DECISION QUASHED

Appendix 2 EIA Screening Determination Form



An Bord Pleanála

EIA - Screening Determination for Strategic Housing Development Applications

A. CASE DETAILS

An Bord Pleanála Case Reference

ABP-315273-22

Development Summary

Construction of 318 student bedspaces in 68 apartments and 30 mo. BTR apartments, 2 no. retail units, demolition of existing structures and removal of 4 no. underground fuel storage tanks, works to public road and associated site works.

Yes / No /
N/A

1. Has an AA screening report or NIS been submitted?

Yes

An EIA Screening Assessment, a Stage 1 AA Screening Report and Stage 2 NIS were submitted with the application

<p>2. Is a IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?</p>	<p>No</p>	<p>SEA undertaken in respect of the Limerick City Development Plan 2022-2028 See section 12 of my Report above</p>
<p>3. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA</p>	<p>Yes</p>	

B. EXAMINATION	Yes/ No/ Uncertain	Briefly describe the nature and extent and Mitigation Measures (where relevant) (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact) Mitigation measures –Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect.	Is this likely to result in significant effects on the environment? Yes/ No/ Uncertain
<p>1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)</p>			
<p>1.1 Is the project significantly different in character or scale to the existing surrounding or environment?</p>	<p>No</p>	<p>The development comprises the construction of 318 student bedspace (68 apartments) and 30 BTR apartments on lands where residential development is permitted in principle.</p>	<p>No</p>
<p>1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?</p>	<p>Yes</p>	<p>The proposal includes construction of an residential complex which are not considered to be out of character with the pattern of development in the surrounding area</p>	<p>No</p>

DECISION Q&A SHEET

<p>1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?</p>	<p>Yes</p>	<p>No</p>
<p>1.4 Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?</p>	<p>Yes</p>	<p>No</p>

Construction materials will be typical of such urban development. The loss of natural resources or local biodiversity as a result of the development of the site are not regarded as significant in nature.

Construction activities will require the use of potentially harmful materials, such as fuels and other such substances. Such use will be typical of construction sites. Any impacts would be local and temporary in nature and implementation of a Construction Management Plan will satisfactorily mitigate potential impacts. Excavation works to facilitate the removal of 4 no. fuel storage underground tanks and contaminated lands will be carried out in accordance with the Construction and Demolition Waste Management Plan, The Civil Engineering Report, Water Environmental Risk Assessment, Soil Management Plan basement construction, Groundwater Management Plan (basement construction phase), the No operational impacts in this regard are anticipated.

DECISION QUASHED

<p>1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?</p>	<p>Yes</p>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances and give rise to waste for disposal. Such use will be typical of construction sites. Noise and dust emissions during construction are likely. Refurbishment/Demolition Asbestos Survey (RDAS) contained in the Construction and Demolition Waste Management Plan address the removal of asbestos from site. Such construction impacts would be local and temporary in nature and implementation of a Construction and Demolition Waste Management Plan will satisfactorily mitigate potential impacts.</p> <p>Operational waste will be managed via a Waste Management Plan to obviate potential environmental impacts. Other significant operational impacts are not anticipated.</p>	<p>No</p>
<p>1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?</p>	<p>No</p>	<p>Potential risk identified from the potential pollution during the excavation, removal and treatment of contaminated material. Including the removal of the disused fuel storage tanks from the development site and any potential migration of any groundwater pollution offsite to the SAC.</p> <p>Operation of a Construction Management Plan and a Groundwater Management Plan will satisfactorily mitigate emissions from siltages during construction. There is no direct</p>	<p>No</p>

DECISION QUASHED

<p>1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?</p>	<p>Yes</p>	<p>No</p> <p>Potential for construction activity to give rise to noise and vibration emissions. Such emissions will be localised, short term in nature and their impacts may be suitably mitigated by the operation of a Construction Environmental Management Plan. Management of the scheme in accordance with an agreed Management Plan will mitigate potential operational impacts.</p>
<p>1.8 Will there be any risks to human health, for example due to water contamination or air pollution?</p>	<p>No</p>	<p>No</p> <p>Construction activity is likely to give rise to dust emissions. Such construction impacts would be temporary and localised in nature and the application of a Construction Environmental Management Plan would satisfactorily address potential impacts on human health. No significant operational impacts are anticipated.</p>
<p>1.9 Will there be any risk of major accidents that could affect human health or the environment?</p>	<p>No</p>	<p>No</p> <p>No significant risk having regard to the nature and scale of development. Any risk arising from construction will be localised and temporary in nature. The site is not at risk of flooding. There are no Seveso/COMAH sites in the vicinity of this location.</p>
<p>1.10 Will the project affect the social environment (population, employment)</p>	<p>Yes</p>	<p>No</p> <p>Redevelopment of this site as proposed will result in an increase in residential units (318 student bedspaces and 30 BTR apartments) which is considered commensurate with the development of a residentially zoned site in the environs of Limerick City</p>

DECISION QUASHED

<p>1.11 Is the project part of a wider large scale change that could result in cumulative impacts on the environment?</p>	<p>No</p>	<p>Stand alone development, with minor developments in the immediately surrounding area.</p>	<p>No</p>
<p>2. Location of proposed development</p>			
<p>2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:</p> <ol style="list-style-type: none"> 1. European site (SAC/ SPA/ ISA/ pSPA) 2. NHA/ pNHA 3. Designated Nature Reserve 4. Designated refuge for flora or fauna 5. Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan 	<p>No</p>	<p>An AA Screening Assessment and Stage 2 NIS accompanied the application which concluded no significant adverse impact on any European Sites.</p>	<p>No</p>
<p>2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be affected by the project?</p>	<p>No</p>	<p>No such birds on the site and no impacts on such species are anticipated.</p>	<p>No</p>
<p>2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</p>	<p>No</p>	<p>The design and layout of the scheme considers all these built environment issues and mitigation measures are in place to address concerns.</p>	<p>No</p>

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<p>2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal fisheries, minerals?</p>	No	<p>There are no areas in the immediate vicinity which contain important resources.</p>	No
<p>2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?</p>	No	<p>There are no connections to watercourses in the area. The development will implement SUDS measures to control surface water runoff. The site is not at risk of flooding.</p>	
<p>2.6 Is the location susceptible to subsidence, landslides or erosion?</p>	No	<p>There is no evidence in the submitted documentation that the lands are susceptible to landslides or erosion and the topography of the area is flat.</p>	No
<p>2.7 Are there any key transport routes (eg National Primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?</p>	No	<p>The site is served by a local urban road network.</p>	No
<p>2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?</p>	Yes	<p>There is no existing sensitive land uses or substantial community uses which could be affected by the project.</p>	No
<p>3. Any other factors that should be considered which could lead to environmental impacts</p>			
<p>3.1 Cumulative Effects: Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?</p>	No	<p>No developments have been identified in the vicinity which would give rise to significant cumulative environmental effects.</p>	No
<p>3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?</p>	No	<p>No trans boundary considerations arise</p>	No
<p>3.3 Are there any other relevant considerations?</p>	No		No

C. CONCLUSION

No real likelihood of significant effects on the environment.	Yes	EiAR Not Required
Real likelihood of significant effects on the environment.	No	

D. MAIN REASONS AND CONSIDERATIONS

Having regard to: -

- (a) the nature and scale of the proposed development, which is below the threshold in respect of Class 10(i) and (iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
 - (b) the location of the site on lands zoned "Local Centres with an objective to protect and provide local centre facilities to serve the needs of new/existing neighbourhoods and residential areas".
- and the results of the Strategic Environmental Assessment of the Plan;
- (c) The existing use on the site and pattern of development in surrounding area
 - (d) The planning history relating to the site
 - (e) The availability of mains water and wastewater services to serve the proposed development,
 - (f) the location of the development outside of any sensitive location specified in article 299(1)(a) of the Planning and Development Regulations 2001 (as amended)
 - (g) 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),
 - (h) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and
 - (i) The features and measures proposed by applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Construction and Demolition Waste Management Plan (CDWMP), Master Environment Risk Assessment, Construction Management Plan, Refurbishment/Demolition Asbestos Survey (RDAS), Closure Report, Soil Management Plan and Basement Construction, Groundwater Management Plan (Basement construction phase) and the Civil Engineering Report,
- It is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not therefore be required.

D.H. Deaif

10/12/23

Dáire Mc Devitt,
Senior Planning Inspector

Date

DECISION QUASHED