



An
Bord
Pleanála

Inspector's Report

ABP-315673-23

Development	99 houses and all associated works. A NIS accompanies the application
Location	Clonconane, Old Cratloe Road, Limerick
Planning Authority	Limerick City and County Council
Planning Authority Reg. Ref.	211800
Applicant(s)	Riverpoint Construction Limited
Type of Application	Permission
Planning Authority Decision	Grant with conditions
Type of Appeal	Third Party
Appellant(s)	Denis Riordan Mike McLoughlin and others Michael O'Callaghan and others
Observer(s)	Limerick Childcare Committee
Date of Site Inspection	27 th of June 2023
Inspector	Adrian Ormsby

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1.0 Site Location and Description

- 1.1. The site is located in the townland of Clonconane, between Old Cratloe Road (L3102) and Pass (Meelick) Road, c. 3.3km north west of Limerick City. The site is located c. 1.5km north east of Limerick Institute of Technology.
- 1.2. The site is generally greenfield in appearance and in little productive use at the time of the inspection with some horse grazing freely on the wider lands. The site is accessible through an existing agricultural style gate located at a spur of a recently completed roundabout and new road connecting from the Old Cratloe Road to the Pass Road. These works have been carried out as part of the Coonagh to Knockalisheen Distributor Road¹ project c. 200m south east of the site.
- 1.3. The site is bounded by a post and rail style fence set back from the new road to the Pass Road edge and behind the curtilage of six single storey houses along its western boundary. The northern boundary is enclosed by an existing field boundary. The western side boundary appears to divide an existing agricultural field which forms part of the larger landholding. The southwestern part of the site adjoins c. 80m of the Old Cratloe Road c. 200m north west of the junction with the new road connecting to Pass Road.
- 1.4. The recently developed Pass Road adjoining the site is served by existing footpaths, cycle lanes and some street lighting more evident on the opposing road side to the site. The majority of these end at the point of the existing roundabout. The existing footpath to the side of the application site ends as the site adjoins the existing individual houses. The eastern side of the Old Cratloe Road is served by a narrow poorly maintained public footpath and a deep somewhat overgrown verge. Part of the lands along this roadside boundary are locally elevated in comparison to much of the site. Overhead wires traverse the site.
- 1.5. There are a large number of individual houses and some residential style estates located in close proximity to the site accessing off the Old Cratloe Road.

¹ <https://www.limerick.ie/council/services/roads-and-travel/road-improvements-major-schemes/coonagh-knockalisheen>

1.6. Recorded Monument LI005-007 'children's playground' is located to the south and east of the irregularly shaped application site boundary and on the north side of the Old Cratloe Road. This is described by the National Monument Service as-

"Burial ground known locally as 'Crag Grave Yard' described in 1840 as following; 'There is an old burial place in the townland of Cluain Chanáin (Cloon conan) about two miles to the north of the city in the parish of St. Munchin to the north of the city of Limerick, but only children are now interred in it' (OSL Vol. 1, 57). Outline of circular-shaped burial ground (approx. diam. 20m) visible today on Digital Globe aerial photographs"².

1.7. The stated site area is 3.3145 ha.

2.0 Proposed Development

2.1. The application comprises of-

- of 99 dwelling units
 - 12 no. 4 bedroom, two storey semi-detached- type A
 - 16 no. 4 bedroom, two storey semi-detached- type B
 - 34 no. 3 bedroom, two storey semi-detached- type C
 - 2 no. 3 bedroom, two storey semi-detached- type D
 - 10 no. 3 bedroom, two storey end of terrace- type E
 - 13 no. 2 bedroom, two storey mid-terrace- type F
 - 12 no. apartments in a 3 storey apartment block comprising of
 - 2 no. 2 bedroom and 2no. 1 bedroom apartments on, each of the three floors
- vehicular and pedestrian connections to public roundabout on Pass Road,
- installation of foul and surface water drains connecting to public mains on Old Cratloe Road,

²<https://heritagedata.maps.arcgis.com/apps/webappviewer/index.html?id=0c9eb9575b544081b0d296436d8f60f8> accessed 04/10/23

- roadways, footpaths, green spaces, landscaping and boundary treatments, public lighting, bin storage areas.

2.2. The following Documents accompany the application

- Appropriate Assessment Screening Report and A Natura Impact Statement
- An Architectural Design Statement
- Traffic and Transport Assessment
- Archaeological and Cultural Heritage Impact Assessment

2.3. The Planning Authority sought Further Information (FI) on the 23/02/22 in relation to a number of matters including the following-

- A masterplan for all lands in the applicants ownership
- Concerns in relation to lack of services been proposed to include submission of a 'Sustainability Statement Social Infrastructure Assessment'
- A need for a creche to serve the number of units proposed as part of this application.
- Archaeological testing of the site and long term management of nearby recorded monument.
- A revised Traffic and Transport Assessment to consider a number of detailed matters
- A Road Safety Audit
- Potential flooding from drainage ditches
- Surface water drainage concerns

2.4. The Applicants responded to the FI request on the 09/11/22 with no major revisions to the development as originally applied for save for amended site boundary and final surface water discharge proposals to an existing drainage ditch.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant permission on the 11/01/23 subject to 25 conditions generally of a standard nature and including-

- C2- Development Contribution of €201,238.00
- C3- Bond €445,500.00
- C.4- Part V
- C.11- gardens to be retained as open plan with class 5 exemptions restricted.
- C.12- rear boundary and open facing boundary walls shall be 2m high, rendered, capped with piers.
- C.13 Cycle parking numbers and details to agreed
- C.14 Roads and traffic related matters
- C.15 Footpath and road construction related matters
- C.17 Surface water management related matters
- C.18 Construction Management Plan
- C.19 Archaeological related matters
- C.20 NIS mitigation measures to be implemented to include construction of a berm to prevent emissions to drainage ditches

4.0 Planning Authority Reports

4.1. Planning Reports

4.1.1. The following is noted from the first planners report (dated 22/02/22)-

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

- An AA Screening Report and NIS report was submitted with the application. The AA Screening report concludes that there may be effects on the nearby Natura 2000 sites due to possible leakage of sediment during the construction phase and leakage of contaminants from the roadways etc during the operational phase. Mitigation measures outlined in the NIS. Limerick City & County Council's Heritage Officer has reviewed both and is satisfied that the mitigation measures outlined in the NIS are appropriate and requesting conditions that same should be implemented in full.
- The lands are zoned residential as per Limerick City Development Plan 2010-16 (as extended)). The Masterplan area encompasses land to the south west which are zoned for open space and neighbourhood centre. The principle of the development is in accordance with the zoning objective and is compatible with the surrounding area.
- As the proposal exceeds 75 units a creche should be sought.
- The application equates to a density of 35 units per hectare and is considered in compliance.
- The proposal offers a good mix of house sizes and types.
- The site is located in Flood Zone C.
- The apartments meet the minimum requirements in relation to floor areas, storage space, private amenity space, communal amenity space, safeguarding higher standards and floor to ceiling heights.

4.1.2. The following is noted from the second planners report (dated 05/01/23)-

- The submitted Masterplan includes lands for which applications have been received for further development. The Masterplan is considered acceptable.
- Details relating to additional community facilities/services submitted and considered acceptable.
- Application 22/790 for a creche submitted.
- The proposal is considered compliant with the residential zoning objectives for the site. It is considered in line with national, regional, and local planning

policy guidelines in relation to density, mix of house type, open space requirements, car parking requirements etc. The proposal is acceptable.

4.1.3. There is an undated report signed by the Senior Planner located at the rear of the second Planners Report. In conclusion, this states-

“the reports dated the 22/02/2022 and 05/01/2023 contains a fair and reasonable assessment of the likely significant effects of the development on the environment. Having regard to the mitigations measures outlined in the Natura Impact Statement it is considered that subject to attached conditions the proposal is acceptable. The assessment as reported is accepted as the assessment of Limerick City and County Council.”

4.2. Other Technical Reports

- Heritage Officer-
 - 21/01/22- No objection raised subject to condition
- Fire & Building Control-
 - 03/02/22- No objection
- Operations Department (as described in first Planners Report)-
 - 06/02/22- Further Information required in relation to waste water, surface waters and roads & traffic issues. OPW input advised.
 - 28/11/22- no objections, conditions recommended.
- PEPM (Planning Environment and Placemaking)-
 - No objections on grounds of flooding
- Environment, Recreation & Climate Change
 - 17/02/22- No objection subject to condition
- Archaeologist-
 - Initial report not found on file Further Information required³
 - 12/12/22- No objection subject to condition

³ Copy of original formally requested from LCCC on the 05/10/23, not received at time of writing

- Active Travel
 - Initial report not found on file, identified online- Undated- Further Information requested⁴
 - 14/12/2022- Conditions recommended

4.3. Prescribed Bodies

- OPW-
 - 21/02/22- Concern raised in relation to potential flood risk from drainage ditches which store water during high tide from the Shannon estuary. The Planning Authority should satisfy themselves in this regard.

4.4. Third Party Observations

4.4.1. 33 third party submissions were received and are on file. Many of these follow a similar template raising similar issues. I have reviewed all of the submissions. I am satisfied the main planning issues raised can generally be summarised to include those as submitted in the third party appeal (section 7.1 below) and as follows-

- Issues with the Masterplan
- Lack of a creche facility
- Quality of proposed housing
- Cycle parking provision
- Later phases of the development
- Sewerage, surface water and mains water related concerns
- Transport and road safety related concerns
- Visual impact and residential amenity
- Archaeological concerns
- Impacts upon the existing character of the area.

⁴ See footnote 3

- Part V related concerns, bulk purchasing of units should be restricted.
- Density, scale and massing
- Impacts on local watercourses

5.0 Planning History

1) To immediate west-

- 22/1114 / ABP-318378-23 - 54 residential units- **Notification of decision to Grant** by LCCC on the 11/10/23. Appealed on the 03/11/23 **undecided as yet by ABP**.
- Schedule 7A information was requested at FI stage for purpose of an EIA screening determination. An EIAR was submitted in response to the FI request.

2) To immediate north and traversing part of this site-

- 22/959 / ABP-317626-23- 98 residential units - **Notification of decision to Grant by LCCC** 28/06/2023, third party appeal, **undecided as yet by ABP**.
- Schedule 7A information was requested at FI stage for purpose of an EIA screening determination. An EIAR was submitted in response to the FI request.

3) To the immediate south and south east-

- 22/917- 12 residential units, a mixed use development of two blocks including a coffee shop, two retail units, associated car parking and 2 outdoor seating areas, a food store(449.2sq. m.), signage, associated car parking, outdoor playground (700sq. m.) and associated car parking etc. (Phase 4 of Masterplan) **Final Grant** date 03/10/23 (Not appealed).
- It was considered at Preliminary Examination stage that significant effects on the environment would not be likely and an EIAR was therefore not required.

- 4) To the east of the application site and mainly on the opposite side of the Pass Road-
- 22/817- 86 Residential units, **Final Grant** date 04/07/2023 (Not appealed)
 - It was considered at Preliminary Examination stage that significant effects on the environment would not be likely and an EIAR was therefore not required.
- 5) Further south east and across the Pass Road-
- 22/790- new single storey creche, following FI increased from 413.1 sq.m to 467.2 sq.m, increasing childcare places from 84 to 107 with 24 car parking spaces. **Final Grant** date 15/05/23 (Not appealed).
 - A Creche was considered not of a class under Schedule 5 requiring EIA.
- 6) Nearby but unrelated, opposite side of Old Cratloe Road to west-
- 22/290 / ABP-315958-23- Demolition of existing shed and construction of two-storey dwelling, grant by LCC 07/02/23, third party appeal, **undecided as yet by ABP**

6.0 Policy Context

6.1. National Planning Framework (NPF)

6.1.1. The various policies in the NPF are structured under National Policy Objectives (NPOs). Relevant National Policy Objectives include-

- *1a- The projected level of population and employment growth in the Eastern and Midland Regional Assembly area will be at least matched by that of the Northern and Western and Southern Regional Assembly areas combined.*
- *1b- Southern Region: 340,000 - 380,000 additional people, i.e. a population of almost 2 million.*
- *2a- A target of half (50%) of future population and employment growth will be focused in the existing five Cities and their suburbs*

- *3b- Deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints ⁵.*
- *4- Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.*
- *5- Develop cities and towns of sufficient scale and quality to compete internationally and to be drivers of national and regional growth, investment and prosperity.*
- *8- To ensure that the targeted pattern of population growth of Ireland's cities to 2040 is in accordance with the targets set out in Table 4.1. i.e.-*

City	Population 2016	Population Growth to 2040		Minimum Target Population 2040
		% Range	People	
Limerick - City and Suburbs	94,000	50-60%	47,000 – 56,000	141,000

- *11- In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.*
- *35- Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.*

⁵ On the basis of National Policy Objective 2a, this effectively targets 25% of all new homes nationally within the five cities and their suburbs as defined by the CSO in the Census of Population.

6.1.2. Other relevant sections include-

- Section 3- Effective Regional Development-
 - Section 3.4 Southern Region- Mid West-

6.2. Regional Spatial & Economic Strategy for the Southern Region 2020

6.2.1. The Southern Region’s strategy is to build a strong, resilient, sustainable region and it has identified eleven ‘Statements of the Strategy’ including-

1. Compact Growth- Strengthening and growing our cities and metropolitan areas; harnessing the combined strength of our 3 cities as a counterbalance to the Greater Dublin Area, through quality development; regeneration and compact growth; building on the strong network of towns and supporting our villages and rural areas.

6.2.2. The Strategy focuses on ‘Key enablers’ including-

*“...Delivering ambitious and sustainable growth targets for our cities,
.... Revitalising our urban areas and spaces through creative and regenerative placemaking, to deliver on Compact Growth and Housing Need, and provide new vitality for City and Town Centres;*

6.2.3. Table 3.1 of the RSES details Regional Distribution of Growth as follows-

Spatial Planning Area (SPA)	2016	2026	2031
Mid-West	385,000	436,000-446,000	460,500-475,500

6.2.4. Table 3.2 of the RSES identifies settlement typology categories in which ‘Cities - Metropolitan Areas’ including Limerick-Shannon are identified as the top tier. The relevant attributes are-

“Metropolitan Areas – accessible with national and international connectivity, strong business core, innovation, education, retail, health and cultural role.”

Limerick- Shannon Metropolitan Area Strategic Plan (MASP) See Map 3.4

6.2.5. Page 360 of the RSES details an overview of the Mid-West Spatial Planning Area (SPA) which includes the counties of Clare, Limerick and the northern part of

Tipperary. This identifies a population of 195,175 in Limerick City and County Council.

6.3. Ministerial Guidelines, Circulars and other Guidance

6.3.1. Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated companion Urban Design Manual) (2009) (SRDUA)-

- These guidelines provide high-level policy aims to be translated into specific planning / design policy and objectives to be applied at different scales of residential development including districts or neighbourhoods within large urban centres. Chapter 5 deals with 'Cities' and provides detailed advice on appropriate locations for increased densities in cities and larger towns (section 4.9).

- Section 5.4 states-

In general, increased densities should be encouraged on residentially zoned lands and particularly in the following locations: (a) City and town centres.....(f) Outer Suburban / 'Greenfield' sites

- Section 5.11 deals with Outer Suburban / 'Greenfield' sites and states-

"These may be defined as open lands on the periphery of cities or larger towns whose development will require the provision of new infrastructure, roads, sewers and ancillary social and commercial facilities, schools, shops, employment and community facilities.

Studies have indicated that whilst the land take of the ancillary facilities remains relatively constant, the greatest efficiency in land usage on such lands will be achieved by providing net residential densities in the general range of 35-50 dwellings per hectare and such densities (involving a variety of housing types where possible) should be encouraged generally. Development at net densities less than 30 dwellings per hectare should generally be discouraged in the interests of land efficiency, particularly on sites in excess of 0.5 hectares."

6.3.2. Urban Development and Building Heights Guidelines for Planning Authorities 2018

- Section 1.9 states-

“these guidelines require that the scope to consider general building heights of at least three to four storeys, coupled with appropriate density, in locations outside what would be defined as city and town centre areas, and which would include suburban areas, must be supported in principle at development plan and development management levels.

- Section 3.4 deals with ‘Building height in suburban/edge locations (City and Town)’ and states-

“Newer housing developments outside city and town centres and inner suburbs, i.e. the suburban edges of towns and cities, typically now include town-houses (2-3 storeys), duplexes (3-4 storeys) and apartments (4 storeys upwards). Such developments deliver medium densities, in the range of 35-50 dwellings per hectare net. Such developments also address the need for more 1 and 2 bedroom units in line with wider demographic and household formation trends, while at the same time providing for the larger 3, 4 or more bedroom homes across a variety of building typology and tenure options, enabling households to meet changing accommodation requirements over longer periods of time without necessitating relocation. These forms of developments set out above also benefit from using traditional construction methods, which can enhance viability as compared to larger apartment-only type projects.”

- Section 3.6 states-

“Development should include an effective mix of 2, 3 and 4-storey development which integrates well into existing and historical neighbourhoods and 4 storeys or more can be accommodated alongside existing larger buildings, trees and parkland, river/sea frontage or along wider streets.”

- Section 3.7 states-

“Such development patterns are generally appropriate outside city centres and inner suburbs, i.e. the suburban edges of towns and cities, for both infill and greenfield development and should not be subject to specific height restrictions. Linked to the connective street pattern required under the Design Manual for Urban Roads and Streets (DMURS), planning policies and consideration of development proposals must move away from a 2-storey, cul-de-sac dominated approach, returning to traditional compact urban forms which created our finest town and city environments.”

- Section 3.8 states-

“Where the relevant planning authority or An Bord Pleanála considers that such criteria are appropriately incorporated into development proposals, the relevant authority shall apply the following Strategic Planning Policy Requirement under Section 28 (1C) of the Planning and Development Act 2000 (as amended).

SPPR 4

It is a specific planning policy requirement that in planning the future development of greenfield or edge of city/town locations for housing purposes, planning authorities must secure:

- 1. the minimum densities for such locations set out in the Guidelines issued by the Minister under Section 28 of the Planning and Development Act 2000 (as amended), titled “Sustainable Residential Development in Urban Areas (2007)” or any amending or replacement Guidelines;*
- 2. a greater mix of building heights and typologies in planning for the future development of suburban locations; and*
- 3. avoid mono-type building typologies (e.g. two storey or own-door houses only), particularly, but not exclusively so in any one development of 100 units or more.⁶*

⁶ Circular Letter NRUP 02/2021 clarifies the guidelines in point 1 of this SPPR are in fact the Sustainable Residential Development in Urban Areas (2009) Guidelines, as referred to in this Circular (Page 4).

6.3.3. **Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities (DHLGH 2022);**

The following Sections and Specific Planning Policy Requirements are relevant-

- Section 1.18 states-

'...An Bord Pleanála are required to have regard to the guidelines and are also required to apply any specific planning policy requirements (SPPRs) of the guidelines, within the meaning of Section 28 (1C) of the Planning and Development Act 2000 (as amended) in carrying out their functions.'

- Section 2.4 states-

'Identification of the types of location in cities and towns that may be suitable for apartment development, will be subject to local determination by the planning authority, having regard to the following broad description of proximity and accessibility considerations:

.....

3) Peripheral and/or Less Accessible Urban Locations

Such locations are generally suitable for limited, very small-scale (will vary subject to location), higher density development that may wholly comprise apartments, or residential development of any scale that will include a minority of apartments at low-medium densities (will also vary, but broadly <45 dwellings per hectare net), including:

- *Sites in suburban development areas that do not meet proximity or accessibility criteria;.....'*

- Specific Planning Policy Requirement 1 states-

Housing developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirement for apartments with three or more bedrooms.....

- Specific Planning Policy Requirement 2 not considered relevant because proposal is not a 'building refurbishment schemes on sites of any size, or urban infill schemes on sites of up to 0.25ha'.
- Specific Planning Policy Requirement 3 states-

Minimum Apartment Floor Areas:

- *Studio apartment (1 person) 37 sq.m*
 - *1-bedroom apartment (2 persons) 45 sq.m*
 - *2-bedroom apartment (4 persons) 73 sq.m*
 - *3-bedroom apartment (5 persons) 90 sq.m*
- **Section 3.5 states-**

The floor area parameters set out in SPPR 3 above shall generally apply to apartment schemes and do not apply to purpose-built and managed student housing. In relation to social housing, or purpose built housing for older people it is considered necessary that these guidelines would also make provision for a two-bedroom apartment to accommodate 3 persons. This is in line with the Quality Housing for Sustainable Communities guidance published by the Department in 2007, for application to social housing schemes.
 - **Section 3.6 states-**

Accordingly, planning authorities may also consider a two-bedroom apartment to accommodate 3 persons, with a minimum floor area of 63 square metres, in accordance with the standards set out in Quality Housing for Sustainable Communities (and reiterated here in Appendix 1). This type of unit may be particularly suited to certain social housing schemes such as sheltered housing.
 - **Section 3.7 states-**

'While providing necessary variation in dwelling size, it would not be desirable that, if more generally permissible, this type of two-bedroom unit would displace the current two-bedroom four person apartment. Therefore, no more than 10% of the total number of units in any private residential development may comprise this category of two-bedroom three person apartment. This is to allow for potential social housing provision further to Part V of the Planning and Development Act 2000 (as amended), or, if this type of unit is not required to meet social and affordable housing requirements, that it would allow for an acceptable level of variation in housing type.'

- Section 3.8 deals with Safeguarding Higher Standards and states-

In the interests of sustainable and good quality urban development these guidelines should be applied in a way that ensures delivery of apartments not built down to a minimum standard, but that reflect a good mix of apartment sizes. Accordingly, it is a requirement that the majority of all apartments in any proposed scheme of 10 or more apartments exceed the minimum floor area standard for any combination of the relevant 1, 2 or 3 bedroom unit types, by a minimum of 10% (any studio apartments must be included in the total, but are not calculable as units that exceed the minimum by at least 10%).
- Specific Planning Policy Requirement 4-Dual Aspect. This does not appear to specify a minimum requirement for 'Peripheral and/or Less Accessible Urban Locations'. For 'suburban or intermediate locations it is an objective that there shall generally be a minimum of 50% dual aspect apartments in a single scheme.
- Specific Planning Policy Requirement 5-Ground Floor Ceiling Height
 - *Ground level apartment floor to ceiling heights shall be a minimum of 2.7m and shall be increased in certain circumstances, particularly where necessary to facilitate a future change of use to a commercial use.....*
- Specific Planning Policy Requirement 6- Apartments per core
 - Maximum provision of 12 apartments per core
- Section 4.10 - 4.12 Communal Amenity Space
- Section 4.15 – 4.19 Bicycle Parking and Storage
- Section 4.24- Car Parking
- Section 6.5 – 6.7 provision of acceptable levels of natural light etc
- Section 6.12 - Building lifecycle report

6.3.4. **Childcare Facilities Guidelines for Planning Authorities June, 2001**

- Section 2.4 Appropriate Locations for Childcare Facilities states-

“For new housing areas, an average of one childcare facility for each 75 dwellings would be appropriate.”

- Section 3.3.1 refers to New and Existing Residential Areas and states-
“In relation to new housing areas, a standard of one childcare facility providing for a minimum 20 childcare places per approximately 75 dwellings may be appropriate. This is a guideline standard and will depend on the particular circumstances of each individual site.”

- Appendix 2 Application of the Standard of One Childcare Facility per 75 Dwellings in New Housing Areas

“As indicated in Paragraph 2.4, in new communities/new housing areas, planning authorities should require the provision of at least one childcare facility for new housing areas and other areas of residential development unless there are significant reasons to the contrary. For housing, a benchmark provision of one childcare facility per 75 dwellings is recommended.”

6.3.5. **Transport Infrastructure Ireland’s ‘Traffic and Transport Assessment Guidelines May 2014’.**

- Section 1.3- Traffic and Transport Assessment

“A Traffic and Transport Assessment is a comprehensive review of all the potential transport impacts of a proposed development or re-development, with an agreed plan to mitigate any adverse consequences.

All new developments will generate trips on the existing transport network, either by car, commercial vehicle, cycling, walking or public transport. In cases where a proposed development is of a size or type that would generate significant additional trips on adjoining transport infrastructure, this additional demand may necessitate changes to the road layout or public transport service.”

- Section 2.1 and 2.2 Thresholds and Sub-threshold

6.3.6. **EIA Guidance**

- EPA Guidelines on the information to be contained in Environmental Impact Assessment Reports 2022
- OPR Practice Note PN02- Environmental Impact Assessment Screening

6.3.7. Other Relevant Guidance

- OPR Practice Note PN01 Appropriate Assessment Screening for Development Management, 2021
- DoEHLG Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities- Department of the Environment, Heritage and Local Government, National Parks and Wildlife Service (2009).
- Flood Risk Management Guidelines 2009
- Quality Housing for Sustainable Communities: Best Practice Guidelines for Delivering Homes Sustaining Communities (2007)
- Design Manual for Urban Roads and Streets (2013, 2019)
- Quantitative methods for daylight assessment are detailed in the following documents:
 - BRE209 - Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice' 2022 edition'
 - New European Standard for Daylighting in Buildings IS EN17037:2018,
 - UK National Annex BS EN17037:2019

6.4. Limerick Development Plan 2022-2028 (LDP)

6.4.1. The Limerick Development Plan 2022-2028 was adopted by the Elected Members of Limerick City and County Council at a Special Meeting on the 17th of June 2022. The Plan comes into effect 6 weeks from the date of adoption on the 29th of July 2022.

6.4.2. Volume 1, Section 2.5 sets out the Core Strategy for Limerick-

- Table 2.2 details “*Population growth during Plan period Q2 2022-Q2 2028*” for the “*Limerick City and Suburbs (in Limerick), Mungret and Annacotty*” to be 30,621.
- Table 2.4 sets out the Limerick Settlement Hierarchy. The site is located in Level 1 Limerick City and Suburbs (in Limerick), Mungret and Annacotty
- Table 2.5 details “Additional households forecasted 2022-2028” in Level 1 as 11,442.

- Table 2.6 sets out Density Assumptions. Level 1 is divided into 3 ‘density zones’ which are then displayed in Map 2.2. The application site is located within “*Density Zone 3: Suburban Edge*” which states-
 - A minimum net density of 35+ dwelling units per hectare are required at sites in suburban development areas.....”.

6.4.3. Section 2.7 sets out Core Strategy Policies and Objectives. The following are relevant-

- Policy CS P1 Core Strategy Implementation

It is a policy of the Council to implement the Core Strategy for Limerick to ensure consistency with policies at a national and regional level, in particular population targets and distribution.

- Policy CS P2 Compact Growth

It is a policy of the Council to support the compact growth of Limerick City Metropolitan Area, towns and villages by prioritising housing and employment development in locations within and contiguous to existing City and town footprints where it can be served by public transport and walking and cycling networks, to ensure that development proceeds sustainably and at an appropriate scale, density and sequence, in line with the Core Strategy Table 2.7.

- Policy CS P8 Development of Limerick in accordance with the Settlement Hierarchy

It is a policy of the Council to develop Limerick in accordance with the Settlement Strategy and Hierarchy and to require future residential development to locate at and be of a scale appropriate to, the settlement and growth levels identified in the Core Strategy.

6.4.4. Section 2.8 provides the Core Strategy Maps. Map 2.3 clearly shows the site located within the “Level 1 Limerick City and Suburbs CSO Boundary (in Limerick)” and the “Metropolitan Area Strategic Plan Boundary”. Map 2.4 shows the “Limerick Shannon Metropolitan Area (in Limerick) Core Strategy Map” in greater detail.

6.4.5. Section 2.9 provides the “Core Strategy Table” repeating the “Additional households forecasted 2022-28” in Level 1 as 11,442.

6.4.6. Chapter 3 sets out the ‘Spatial Strategy’ with section 2a dealing with “Limerick Shannon Metropolitan Area (in Limerick) Spatial Strategy (Map 3.1). The following policies and objectives are relevant-

- Policy CGR P3 - Level 1

Growing Limerick City and Suburbs (in Limerick) Mungret and Annacotty

It is a policy of the Council to strengthen and consolidate Limerick City and Suburbs (in Limerick), Mungret and Annacotty as a key driver of social and economic growth in Limerick and become a vibrant living, retailing and working City. In accordance with national and regional policy it is a requirement that at least 50% of all new homes will be located within the existing built-up footprint of the settlement, in order to deliver compact growth and reduce unsustainable urban sprawl.

- Objective CGR O8 Limerick City and Suburbs (in Limerick), Mungret and Annacotty

It is an objective of the Council to:

a) Promote development which incorporates a high quality, sustainable and inclusive approach to proposals in the City and Suburbs (in Limerick), Mungret and Annacotty, which is supported by sustainable means of travel and which creates locally distinctive neighbourhoods and positively contributes to the existing built and natural heritage.

6.4.7. Section 3.4.24 deals with “Building Height Strategy”. This strategy (Volume 6) has been prepared in accordance with the Urban Development and Building Height Guidelines for Planning Authorities (2018). It aims to ensure the preservation of Limerick’s character and provide guidance and criteria on the development of new buildings with an appropriate scale and mass in areas across the City and suburbs.

6.4.8. Section 3.4.2.5 Urban Character Area Objectives. This section sets out the various Neighbourhoods of Limerick City Centre and Environs in table 3.2- ‘Urban Character and Objectives’ as shown on Map 3.7. The site is located within UCA O5 Thomandgate / Moyross / Caherdavin/ Ennis Road. The following specific objectives apply as per table 3.2-

- a. *Infill and brownfield development patterns to be favoured.*

- b. *Building Height Strategy shall inform design of higher buildings, in particular any proposed buildings of height in this gateway area should respect and reinforce the landmark status of Thomond Park and respond closely to the existing character and general scale of existing buildings and streets.*
- c. *Existing green spaces to be retained.*

6.4.9. Chapter 4 deals with Housing. The following Policies and Objectives are relevant-

- Objective HO O2 Density of Residential Developments

It is an objective of the Council to:

a) Promote, where appropriate, increased residential density in the exercise of its development management function and in accordance with Table 2.6 Density Assumptions per Settlement Hierarchy in Chapter 2: Core Strategy and the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities and the accompanying Urban Design Manual, DEHLG, May 2009.

b) Encourage increased densities that contribute to the enhancement of a town or village by reinforcing street patterns or assisting in redevelopment of backlands and centrally located brownfield sites.

- Objective HO O3 Protection of Existing Residential Amenity

It is an objective of the Council to ensure a balance between the protection of existing residential amenities, the established character of the area and the need to provide for sustainable new development.

- Objective HO O5 Apartments

It is an objective of the Council to encourage an increase in the scale and extent of apartment development, particularly in proximity to core urban centres and other factors including existing public transport nodes, or locations where high frequency public transport can be provided, close to locations of employment and a range of urban amenities including parks/ waterfronts, shopping and other services.

6.4.10. Chapter 10 deals with “Sustainable Communities and Social Infrastructure”

- Section 10.6 deals with Childcare Facilities and details-

“The primary policy basis for the provision of childcare facilities is the Childcare Facilities Guidelines for Planning Authorities (2001).”

Objective SCS1 O14 ‘Childcare Facilities’ states-

It is an objective of the Council to:

a) Encourage the provision of appropriate childcare facilities as an integral part of proposals for new residential developments and to improve/expand existing childcare facilities.

b) Encourage the provision of childcare facilities in a sustainable manner to encourage local economic development and to assist in addressing disadvantage.

6.4.11. Chapter 11 sets out “*Development Management Standards*”. The following are relevant-

- Table DM2 Open Space Hierarchy within Residential Estates
- Table DM 3: Rear Garden Areas
- Table DM 4: Minimum Overall Apartment Floor Areas
- Section 11.4.2.2 Floor Areas- *minimum size of habitable rooms for houses shall conform with national guidelines/standards in operation at the date of application for planning permission, including..... Quality Housing for Sustainable Communities: Best Practice Guidelines for Delivering Homes Sustaining Communities (2007).*
- 11.4.2.3 Aspect and Natural Light- *As a standard, all habitable rooms within new residential units shall have access to appropriate levels of natural/daylight and be guided by the principles of Site Layout Planning for Daylight and Sunlight, A guide to good practice (Building Research Establishment Report, 2011) and/or any updated guidance.*
- 11.5.1 Childcare Facilities-
 - *“Where a new childcare facility is proposed as part of a new residential or commercial development, the facility shall be constructed in tandem with the overall scheme and shall be completed prior to residents moving in”*

- 11.8.1 Access to Roads, Traffic and Transport Assessments (TTAs) and Road Safety Audits (RSAs)
- 11.8.3 Car and Bicycle Parking Standards- Table DM 9 (a),- Zone 3-
 - Less than 3 bed Dwelling- maximum of 1.5 car spaces per unit, 1 cycle space per unit and 1 visitor cycle space per 2 units.
 - 3 bed + maximum of 2 car spaces per unit, 2 cycle space per unit and 1 visitor cycle space per 2 units.
 - 1-2 bed apartment- 1 car space per unit, visitor car spaces 1 per 3 units,
- 11.10.1 Hours of Construction , In the absence of a Construction Management Plan approved by the Planning Authority, hours of construction shall be restricted to 7.00am to 7.00pm Monday to Friday and 8.00am to 2.00pm Saturdays with flexibility allowed for deviations subject to agreement.

6.4.12. Chapter 12- Land Use Zoning Strategy. Section 12.3 sets out Zoning Objectives-

- The land use zoning map is provided in Volume 2a of the LDP on Page 22 Map 3.
- The site is largely zoned 'New Residential' with the application site boundary (it would appear) deliberately drawn to exclude lands zoned 'Open Space and Recreation', 'Local Centre' and 'Enterprise and Employment'
- The Board are advised the zoning map has not accounted for the new road connecting from the Old Cratloe Road to the Pass Road which is located on the west side of the Enterprise and Employment' zoned lands.
- The Zoning 'Objective and Purpose' for 'New Residential is set out on page 386 of Volume 1 as-
 - *Objective: To provide for new residential development in tandem with the provision of social and physical infrastructure.*
 - *Purpose: This zone is intended primarily for new high quality housing development, including the provision of high-quality, professionally managed and purpose built third level student accommodation. The*

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

- Section 12.4 provides the 'Land Use Zoning Matrix'. Residential uses are obviously "Generally Permitted". This is described in the LDP as-

Generally Permitted = / A generally permitted use is one which the Council accepts in principle in the relevant zone, subject to compliance with all relevant planning criteria, including applicable policies, objectives, development management standards and Section 28 Guidance.

6.5. Natural Heritage Designations

The site is located c. 1.4km north east of the-

- Lower River Shannon SAC (002165)
- River Shannon and River Fergus Estuaries SPA (004077)
- the Fergus Estuary And Inner Shannon, North Shore pNHA (002048)

c. 1.3 km west of the-

- Knockalisheen Marsh pNHA (002001)

and c. 4km southeast of the

- Woodcock Hill Bog NHA (002402)

6.6. EIA Screening

- 6.6.1. Please see section 8.4 of this assessment and Appendix 1 Form 2. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended) I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

7.0 The Appeal

7.1. Grounds of Appeal

- 7.1.1. Three third party appeal have been received from-

1. Mr. Michael O'Callaghan and 18 Others, Keeper View, Clonconane, Pass Road, Limerick V94HEF6.
2. Mike McLoughlin and 11 others, Dunmanus, Old Cratloe Road, Limerick V94TN3N
3. Denis O'Riordan, Ard na Lee, Clonconane, Redgate, Limerick.

Appeals 1 and 2 highlight the same issues and generally include the same content and layout. Appellant 3 is also one of the 18 under the first Appeal.

The grounds of these appeals can generally be summarised as follows-

- Impacts upon existing Residential Amenity
 - Proposed houses No. 64-67 overlook two existing bungalows on Pass Road. This is a serious, deliberate and unacceptable violation of the right to privacy of the residents of these bungalows as enshrined in, and guaranteed, by Article 7 of the Charter of Fundamental Rights of the European Union. It is protected under Article 40 of the Irish Constitution and Article 8 of the European Convention on Human Rights.
 - This violation can easily be avoided by a simple redesign by locating single storey dwellings to replace No's 64-67 or reorientating side

elevations to face Pass Road. Single storey houses are proposed under 22/959.

- Reference in the SRDUA Guidelines 2009 to 22m separation distances between first floor opposing windows is not relevant here. The issue is first floor windows looking down on ground floor windows/rooms. Such a reference generally relates to houses proposed to back onto each other and not new houses to pre-existing homes.
- There is no evidence LCCC considered overlooking/privacy with regard houses No. 64-67.
- The boundary between the proposal and the existing bungalows should be a solid block wall plastered on both sides of sufficient height to maintain the privacy and security of the residents of the existing bungalow and of sufficient strength to withstand storms currently predicted for the future. This should be done prior to building the houses to avoid/minimise noise and dust etc. during site clearance and the construction stage.
- The proposal is out of character with existing bungalows in the area.
- Project Splitting and requirement for EIA
 - This application is one of six made within a 10 month period which in total would require EIA. All six were presented as part of a Masterplan.
 - The Masterplan does not account for all lands in the applicants ownership. These lands could equate to approx. 500 residential units. There are also a further 3 ha of land not in the applicants ownership that could equate to another 100 units.
 - There are concerns in relation to any pumping station and proximity to stream.
 - The 10 ha threshold for an EIA has been well surpassed. The potential for 500 unit plus a possible 100 additional again exceeds the EIA threshold.
 - The LCCC planning report includes a preliminary EIA screening and does not consider the cumulative impact of the Masterplan. This is

contrary to Schedule 5 Part 2 10 (iv) of the Planning and Development Regulations.

- An OPW report refers to the diversion of stormwater and potential increase in risk of floodings to other properties. This is not considered in the EIA Preliminary Screening. This impact has not been assessed as a result of the project or the Masterplan.
- Guidance from the OPR states where development is part of a masterplan then screening must consider the effects of the proposed development cumulatively with other relevant development.
- The proposed development is clearly not a standalone project but part of a masterplan with crucial interdependencies.
- The EPA 2022 Guidelines refer to court judgments which found the EIA process was required to take account as far as practically possible later phases of the Masterplan. Sections of these guidelines are referred to.
- AA Screening and NIS
 - These were done prior to the alteration of the stormwater discharge from the mains network to the drainage ditch and on to the OPW drain upstream, therefore direct impacts were not considered
 - Stormwater discharge was not considered a point source emission and was only considered as diffuse previously. The conclusion the ditch contains 'non moving water' is invalid.
 - There are no cumulative assessment of other plans and projects despite the application being one of 6 phases. The appeal refers to EC Commission Notice Managing Natura 2000 sites and *"When determining likely significant effects, the combination with other plans and/or projects should also be considered to take account of cumulative impacts during the assessment of the plan or project in question. The in-combination provision concerns other plans or projects which have been already completed, approved but uncompleted or actually proposed"*.
 - The AA and NIS do not mention the Masterplan.

- Flooding
 - Much of the surrounding land is at high risk of both river and coastal flooding. Discharge is to a drainage ditch which is directly adjacent to a residential property which is already in a high flood risk area. It is not an OPW drain and not maintained by them. There is no description of the connectivity between the outfall drain and OPW drain and whether there exists or needs to be obtained permission from the OPW (section 50 consent) i.e. to divert rainfall from a low flood risk zone to a high risk zone. There is a risk of susceptibility to tidal floods for existing properties especially if there is a failure in embankments or defended infrastructure. An example in nearby Coonagh in 2019 is cited.
 - There has been no analysis of the capacity of the drainage ditch.
 - Climate Central estimate the properties adjacent to the proposal will be below annual flood level by 2050.
 - The run off rate calculations are an estimation based on less than half the application site. Justification for considering less than half the development as impermeable is not apparent. The site was previously a golf course and is classified as 'made ground' with poor permeability considered. During heavy rainfall there would be significant runoff which design mitigation should be incorporated. It does not account for all the Masterplan.
 - The Further Information request (RFI) referred to examine the strategy of surface water management for the site and overall area of future development. A cumulative assessment has not been carried out.
 - The plan does not indicate who is take charge and implement the stormwater maintenance plan. There is no reference to infrastructure on the to be taken in charge map by LCCC.
- Creche
 - A creche is not proposed despite exceeding 75 units. There is a serious shortage of childcare in the area.
 - This is contrary to the SRDUA Guidelines 2009 and the Draft 2022-28 LDP.

- Traffic and Transport Assessment and other related road concerns.
 - This does not cover all the applicants zoned land or the other zoned lands to the north. The projected traffic numbers are not correct. The existing figures were taken during Covid in 2021 and not realistic.
 - The proposed location of the creche represents a serious safety hazard for children attending the creche from the 99 houses and other house in further applications i.e. crossing the road at a point close to a roundabout. This can be eliminated by the provision of an underground or overhead walkway.
- Proposed Masterplan and General Layout
 - The existing character of the area is rural bungalows in a low density format. This is contrary to the proposed two and three storey semi-detached and terraced development and the Masterplan.
 - Concerns are raised in relation to residential amenity impacts from planning application 22/959. Granting Phase 1 could thereby fix phase 5.
- Waste Management Plan-
 - There are no proposals for a holistic waste management solution for the local area. The proposal should take the opportunity to eliminate existing private septic tanks by providing new connections to the proposed wastewater network and public sewer. This should be provided to the rear of houses along Pass Road.
 - The existing and proposed public foul sewerage system does not have the sewer size or pump station capacity for the proposal or future phases. Therefore the proposal is premature.
 - LCCC have necessary powers to acquire a strip of land by agreement or CPO for such services.
- Other
 - The Appeals include original third party observation submission to the Council in which it is stated certain points were not considered during FI and did not form part of planning conditions.

- The Appeals generally express dissatisfaction with how their concerns have been dealt with by LCCC.

7.2. Applicant Response

The Applicants have submitted a response to the Appeals prepared by HRA Chartered Town Planning Consultants. The response can be summarised as follows-

- Background to the proposal-
 - The subject application was lodged in December 2021. A Request for Further Information (RFI) issued in February 2022 which included a requirement for an overall Masterplan. A Masterplan was prepared and submitted. Two additional planning applications were lodged on adjoining and neighbouring land for a creche (22/790) and a neighbouring facility with 12 residential units (22/917). These addressed points 2 and 3 of the RFI. The RFI response was submitted in November 2022. The applicants made three further applications in 2022 for other parts of the lands.
 - The applicant also owns 5.83 ha on the southern site of the Cratloe Road. These are zoned for agricultural purposes and are not intended for development.
 - The Masterplan has been prepared for 14.1 ha with capacity to deliver 448 no. units, a childcare facility and a neighbourhood centre (4units).
 - The proposal comprises Delivery and Phase 1 of the overall masterplan.
- EIA
 - The proposal does not exceed the criteria for mandatory EIA.
 - The proposal does not trigger non-mandatory EIA as confirmed in the conclusion of the Preliminary EIA Screening undertaken by LCCC.
 - 99 units and 3.02ha are well below the specified thresholds of 500 units and 10ha. The characteristics of the proposal are not of a nature and scale that will give rise to any significant effects, given its location.

- The proposal is on lands zoned for residential use and the development is consistent with relevant policy provisions of the local Development Plan and is consistent with the existing/emerging pattern of development in the general area.
- The application was not split to circumvent the rigors of EIA. Large developments are often split into different phases with separate consents. As stated in the OPR's Practise Note PN02 Environmental Impact Assessment Screening- "where a project is part of an overarching masterplan and is 'sub-threshold' for the purpose of EIA, it should primarily be considered in its own right".
- Phase 1 can be operated as a single unit. It is the screening of subsequent phases which are required to have regard to cumulative effects with the first phase. The threshold for urban development of 10 ha is only met at Delivery 5 phase 3. An EIAR is being prepared and submitted as part of an FI request for that application (22/959) and takes account of cumulative development.
- The EIA directive only requires that existing and approved projects be taken into consideration of cumulative effects.
- The response refers to case law determined by the Supreme Court in *Fitzpatrick & Daly v ABP & Others*. This found that
 - EIA only need to assess the impacts of the proposed development, or in this case developments for which planning permission were sought
 - The entire masterplan did not need to be subject to EIA before deciding on applications for the data centre hall and substation.
 - The EIA process was required to take account as far as practically possible of potential later phases of the masterplan.
- Further clarification from the judgment is provided-

"the obligation to take account, when conducting the EIA of the proposed development which is the subject of the planning application, of potential environmental impacts of future phases of a masterplan, as far as is practically possible, does not amount to an obligation to

conduct an EIA of the masterplan. When and if an application for planning permission for further phases of the masterplan is made, a full EIA will be required which in turn will both assess cumulative impacts with all existing or approved developments, and look forward by taking account, as far as practically possible, of remaining future phases of the masterplan'.

- Appropriate Assessment Screening-
 - The AA Screening Report (AASR) and NIS did consider potential indirect impacts associated with the discharge of surface waters to the drainage ditch.
 - Discharge of surface water is controlled and therefore does not present a risk. It will be subject to standard mitigation measures including a Class 1 Bypass Separator with an alarm and dial out facility thereby preventing the discharge of emissions to the drainage ditch.
 - The AASR identified a potential risk during periods of high rainfall/storm periods of runoff into drainage ditches and subsequently to European Sites with a potential indirect effect on the qualifying species or habitats of the SAC and SPA.
 - It was on this basis the report concluded that the proposal cannot be screened out and an NIS was required.
 - The NIS concluded there are no pathways that would impact the otter. It also anticipated there will be no direct threats to any bird species as the site is not used by these species. It did highlight the indirect risk to water quality due to the hydrological link as discussed and thus mitigation measures were proposed.
 - Section 5.0 and 5.1 of the NIS did assess cumulative development. As stated As stated in the OPR Practice Note PN01 Appropriate Assessment Screening for Development Management-

"projects that are not yet proposed do not generally have to be taken into account in the assessment of in-combination effects, even if they are part of an overarching masterplan".

- Existing Septic Tanks

- There is a duty of care on each homeowner to ensure their domestic wastewater system is properly maintained and fit for purpose. Reference is made to the EPA's 2021 Code of Practice for Domestic Wastewater. It is the responsibility of each house on Pass Road and not the applicant to ensure their systems operate effectively and efficiently and there can be no justifiable basis for refusing or omitting proposed units on this basis.
- Traffic & Transport
 - The Coonagh-Knockalisheen Distributor Road (under construction) has planned for increase traffic in this area including from future residential development.
 - The revised TTA submitted in response to FI did include for future phases of development. It included all applications lodged with the LCCC.
 - Although during Covid, no travel restrictions were in place at the time of the traffic counts.
 - The Limerick Shannon Metropolitan Area Transport Strategy (LSMATS) indicates a bus corridor is to extend along the Old Cratloe Road beyond the application site effectively providing connectivity between the site and Limerick city centre. Further cycle infrastructure will be accommodated within and adjoining the proposal.
 - The Masterplan drawing does provide for a bus stop on the Old Cratloe Road. Future residents have a 6 minute walk to an existing bus stop.
- Flooding
 - The application site is not subject to flooding and the proposal will not give rise to additional flooding in the area or result in displacement of flood waters
 - The site is located in Flood Zone C. They are appropriately zoned. They lands have been subject to SEA and SFRA.

- Existing site levels in the area are between 5.0 and 108.0 AOD above existing flood levels. Proposed finished floor levels vary from 12.5 – 14 OD across the site well above anticipated flood levels.
- Stormwater does not discharge directly to the OPW channel. It discharges to the existing open drain at the western boundary of the site, following attenuation to the greenfield rate of the net impermeable area.
- Overlooking / Privacy
 - There is no explicit or mandatory separation distance provided in the Development Plan or national guidelines. The SRDUA 2009 states there should be adequate separation between first floor windows. It confirms such rules should be applied flexibly.
 - House numbers 64-71 and 74- 77 exceed 22 m separation distances. House No. 78 has been sensitively designed and positioned to ensure no potential for overlooking.
 - There is an existing hedgerow and trees defining the boundary with houses on Pass Road. It is proposed to retain this boundary and to provide a 1.8m plastered concrete block wall within the application site.
- Creche
 - The applicant commits to the construction and operation of the creche facility.
 - A creche is identified as 'Phase 2 Delivery' and it is intended to construct this following the completion and occupation of the proposed 99 units.
 - The site is proximate to three existing childcare facilities in the area within walking distance of the site.

7.3. Planning Authority Response

- None

7.4. Observations

A submission/observation to the Appeal has been received from the Limerick Childcare Committee. The submission/observation can be summarised as follows-

- A provisioning report is provided for the Limerick North Rural DED which plots current childcare provision against population and compares percentage coverage against EU recommendations.
- The report concludes the current level of provision is below the EU recommendations across all age ranges.
- The proposal for 99 units presupposes the demand for childcare in the area will significantly increase. The need for a childcare facility is established.
- The current planning guidelines require one such facility per 75 units.
- A link to the Universal Design Guidelines to support the development of appropriate and accessible childcare facilities, published by the Department of Children, Equality, Disability, Integration and Youth (DCEDIY) in 2016 is included.
- The Tusla Quality & Regulatory Framework for Full Day Care is also submitted. This outlines the requirements for compliance with regulation including premises and facilities.

8.0 Assessment

8.1. Introduction

8.1.1. I have examined the application details and all other documentation on file including the submissions and Appeal. I have inspected the site and have had regard to relevant local/regional/national policies and in particular Ministerial Guidelines and Specific Planning Policy Requirements (SPPR's).

8.1.2. Having considered the Planning Authority's thorough Assessment of the application I am satisfied the substantive issues to be addressed for this appeal are as follows-

- Procedural Matter
- Principle of the Development, Zoning, Masterplan and overall Quality

- Project Splitting and requirement for EIA
- Core Strategy and Density
- Apartment Standards (**NEW ISSUE**)
- Creche
- Impacts upon Amenity- Residential and Visual
- Flooding
- Surface Water Disposal
- Wastewater Issues
- Transport Related Issues.
- Other Matters
- Appropriate Assessment

8.2. Procedural Matter

- 8.2.1. The Board are advised that the red line site boundary was amended at Further Information (FI) stage to provide for surface water discharge to the drainage ditch along the western boundary of the landholding. Originally it was intended that surface water would dispose to the existing public storm network on the Old Cratloe Road.
- 8.2.2. I consider the extent and reason for this amendment to contain '*significant additional data, including information in relation to effects on the environment*⁷' in the context of the overall proposal. There is no evidence on the file before me to suggest this significant amendment was readvertised as per the provisions of Article 35 of the regulations.
- 8.2.3. Concerns relating to surface water matters and the revised discharge route and outfall location are raised by the Appellants (who made submission on the original proposal) and will be dealt with further in this assessment. The Board may wish to consider if other members of the public have been prejudiced from their rights to make a formal submission and subsequent appeal on the matter and therefore if the

⁷ Article 35 of the Planning and Development Regulations 2001-23 (as amended)

Board would be precluded from further consideration of the application. However it is noted that Observations to the Appeal would allow such persons to make their views known on that matter and no such observations have been received.

- 8.2.4. Notwithstanding this the Board are reminded Section 34 (4) of the Planning and Development Acts as amended allows for conditions to be imposed on a grant of permission for regulating the development or use of any land which adjoins, abuts or is adjacent to the land to be developed and which is under the control of the applicant if the imposition of such conditions appears to the planning authority to be expedient for the purposes of or in connection with the development authorised by the permission.

8.3. Principle of the Development, Zoning, Masterplan and overall Quality

- 8.3.1. The Limerick Development Plan 2022-2028 was adopted by the Elected Members of Limerick City and County Council on the 17th of June 2022. The Development Plan came into effect on the 29th of July 2022, six weeks after the date of adoption.
- 8.3.2. The Board are advised the application was lodged to the Council at a time when the operative Development Plan for the site was the Limerick City Development 2010-16 (as extended). Following an initial request for Further Information on the 23/02/22 and submission of a response to that request on 09/11/22 Limerick City and County Council (LCCC) permitted the development under the provisions of the new LDP.
- 8.3.3. The Applicants were requested by LCCC to submit a Masterplan for the application and Applicants wider landholding in the immediate area as per point 1 of the Further Information request of the 23/02/22. This appears to have been a requirement for the site of the previous development plan (2010-16 as extended). A Masterplan was submitted on the 09/11/22 and is shown in drawing PP-13. It is not a requirement of the current LDP.
- 8.3.4. Volume 2a of the LDP provides the 'Zoning and Other Maps' for the Limerick Area. The map relevant to the subject application is Map 3 on page 22. It shows the site is largely zoned "New Residential". The Board are advised a revised boundary and surface water drainage proposal was submitted in response to the FI request in which part of the revised western boundary of the site may be located in an area zoned 'Agriculture'. I do not consider the revised surface water proposal to an

existing drainage ditch to be inconsistent with the agriculture zoning objective in this context.

8.3.5. Chapter 12 of Volume 1 of the LDP deals with Land Use Zoning. The objective for 'New Residential' zoning is-

"to provide for new residential development in tandem with the provision of social and physical infrastructure."

The purpose of the zoning is then detailed as-

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

8.3.6. The Board are advised three other applications have been permitted within the Masterplan boundary (i.e. drawing PP-13) by LCCC since the making of this application. These include-

- 22/790 for a 107 child space creche
- 22/817 for 86 residential units
- and 22/917 for 12 residential units and a mixed use development including a coffee shop, two retail units and a food store.

Two further applications have been received within the Masterplan boundary for residential developments and both are under appeal-

- 22/959 (ABP-317626-23) for 98 residential units and
- 22/1114 (ABP-318378-23) 54 residential units.

- 8.3.7. The zoning objective specifically requires housing in tandem with the provision of social and physical infrastructure. In this regard, the site is served by recently developed road as part of the wider Coonagh to Knockalisheen Distributor Road (CKDR) which provides pedestrian, cycling and vehicular infrastructure and connectivity directly to the proposed site entrance. The application provides for water supply, wastewater and surface water drainage. A creche has already been permitted to serve the development identified within the Masterplan including the subject site. The Applicant response to point 2 of the Further Information request demonstrates the sites proximity to a number of existing social and community facilities as well as other proposed facilities. This is all consistent with the zoning objective.
- 8.3.8. The application proposes 87 housing units in a mix of housing tenure including 2, 3 and 4 bed units in terraces and semi-detached. It also proposes 12 apartments with six 1 and six 2 bed units in a standalone 3 storey block. This housing mix and tenure can cater for all members of society and can contribute and support to the provision of a balanced community as required by the zoning 'purpose'.
- 8.3.9. I have considered the quality and mix of the proposed housing units in the context of section 11.4.2 Residential Quality Standards – Houses as detailed in the LDP and the Quality Housing for Sustainable Communities: Best Practice Guidelines for Delivering Homes Sustaining Communities (2007). In terms of public open space provision, house size, floor areas, layout, garden depth, sizes, separation distances, aspect access to natural light and overall mix etc. the proposal provides a reasonable quality and acceptable standard of housing development consistent with the zoning objective and 'purpose'.
- 8.3.10. Consideration of Apartment quality is set out in section 8.6 of this assessment.
- 8.3.11. Consideration of impacts upon existing and neighbouring residential and visual amenities are set out in section 8.8 below.
- 8.3.12. Volume 2a of the LDP also includes a Settlement Capacity Audit (SCA) which focuses on the availability of infrastructure identified under the Tier 1 and Tier 2 definitions of the NPF, i.e. road and water services infrastructure, to determine whether lands zoned for residential are adequately serviced (Tier 1) or serviceable (Tier 2) during the lifetime of the Development Plan. Table 1 and Map 1 identifies such lands including the application site i.e. part of Site No. 7. These lands are

indicated as serviced with lighting, footpaths and with Road Access. Public Transport is indicated as located within a 1.5km walk. Investment is required however for Water, Foul and Surface Water. The application and Masterplan lands are detailed as Tier 2 which is described in section 1.1 of Volume 2a as-

“Serviceable Zoned Land – Lands that are not currently sufficiently serviced to support new development but have the potential to become fully serviced within the life of the plan.”

8.3.13. The Application provides developer led proposals to provide water supply , wastewater and surface water drainage. These matters are discussed in sections 8.10 and 8.11 below.

8.3.14. Having considered all of the above I am satisfied the development as proposed is consistent with the zoning objective and zoning ‘purpose’ as set out in the LDP and is therefore acceptable in principle. While a Masterplan is not considered necessary under the provisions of the current development plan, its submission is considered appropriate and the Applicant’s overall commitment to the Masterplan is evident through the subsequent permitted and under appeal planning applications.

8.4. Project Splitting and requirement for EIA

8.4.1.1. Introduction

- a) The Appellants raise concerns in relation to the requirement for Environmental Impact Assessment (EIA) and potential project splitting to avoid the requirement for EIA. They describe the subject application as one of six made within 10 months and which are presented as part of a Masterplan and the cumulative impacts of same have not been considered. They refer to other lands in the applicants ownership and other lands not in their ownership that are not accounted for in terms of the submitted Masterplan and the overall environmental impacts. They detail wastewater concerns from a pumping station and potential flooding risks. They refer to OPR & EPA guidance as well as court judgments in this regard.
- b) The Applicant’s Response to the Appeal argues the proposal does not exceed the criteria for mandatory EIA and does not trigger non-mandatory EIA as detailed in LCCC’s preliminary EIA screening. They refer to the lands

residential zoning and consistency with the Limerick Development Plan (LDP). They form a differing view to the Appellants in terms of the OPR Guidance and argue that the proposed development can be operated as a single unit and subsequent phases of the Masterplan are then required to consider cumulative environmental impacts. They point to the mandatory EIA threshold which will only be met at Delivery stage 5 or phase 3 of the overall Masterplan development. They also refer to case law determined by the Supreme Court in *Fitzpatrick & Daly v ABP & Others*.

- c) The Planning Authority carried out a Preliminary Examination in their initial Planners Report (22/02/22) and determined there is no real likelihood of significant effects on the environment.

8.4.1.2. **Project Splitting**

- a) It is clear the appeal site does form part of a larger landholding, for which an indicative Masterplan for the future development of these lands has been prepared and submitted in response to LCCC's request for Further Information.
- b) The Appellants concern in this regard relates to whether the Board is obliged as a matter of law to carry out an EIA of the entire masterplan development and if such consideration should be inclusive of lands in the vicinity both within and not within the Applicants control. The Masterplan is not a statutory plan and the application site and its zoning have been subject to mandatory Strategic Environmental Assessment as part of the preparation and implementation of the Limerick Development Plan 2022-28.
- c) It is evident that the development of the proposed first phase of this Masterplan is not functionally (as in the case of *O'Grianna & Ors. v An Bord Pleanála [2014]*⁸) dependent upon the build out of further phases, as envisaged in the Masterplan. On a standalone basis, the subject development could be operated independently and hence, in this sense can be considered on its own for the purpose of the EIA Directive. In accordance with the decision of the Supreme Court in the *Apple* case, *Fitzpatrick and anor v An*

⁸ Grid connection works must be regarded as an integral part of the overall wind farm project and the grid connection was inter-dependent in the sense that one could not function without the other.

Bord Pleanála and others [2019], the Board is therefore only required to subject the proposed development to the provisions of the EIA Directive at this time i.e. the development for which planning permission is sought.

- d) Five planning applications have been submitted after the subject application. Planning reference numbers 22/790, 22/817, 22/917, 22959 and 22/1114 are all from the Masterplan lands. For 22/790, LCCC considered a creche was not of a class requiring EIA and for 22/817 & 22/917 LCCC considered on preliminary examination significant effects on the environment would not be likely and therefore an EIAR/screening was not required. None of these three decisions were appealed.
- e) For 22/959⁹ and 22/1114¹⁰ LCCC sought Schedule 7A¹¹ information at Further Information Stage and the Applicant submitted an Environmental Impact Assessment Report (EIAR) in response.
- f) It is clear each planning application for the Masterplan lands have therefore been subject to the EIA Directive (in terms of consideration at preliminary examination, for EIA screening and/ or subsequent EIAR) and therefore I am satisfied no project splitting to avoid the rigours of EIA has arisen.
- g) I acknowledge the Applicants own other lands in the area that are not included in the Masterplan and there are also other zoned lands not owned by the Applicant in the vicinity. I am satisfied there is no basis for consideration of such lands at this stage in the knowledge any subsequent development proposals would be subject to the EIA Directive if considered of a class applicable to EIA.
- h) I have reviewed the EPA's 2022 *'Guidelines on the information to be contained in Environmental Impact Assessment Reports'* which discusses the Fitzpatrick & Daly v An Bord Pleanála & Others [2019] case law (page 39). I have also considered this against the OPR's *'Practice Note PN02 Environmental Impact Assessment Screening'* (page 18) which details it may be good practice to consider subsequent phases of a Masterplan in so far as

⁹ Under Appeal - ABP-317626-23 (not determined)

¹⁰ Grant by LCCC 11/10/23, appealed on the 03/11/23- ABP-318378-23 (not determined)

¹¹ Information to be provided by the applicant or developer for the purposes of screening sub-threshold development for environmental impact assessment.

this information is available and relevant. Such consideration of subsequent phases is carried out in section 8.4.1.3 below and Appendix 1.

- i) I am satisfied the consideration I have given is consistent with the guidance documents detailed above and project splitting for the purpose of avoiding EIA has not occurred.

8.4.1.3. Requirement for EIA – Preliminary Examination / Screening for EIA

- a) The proposed development provides for 99 no. residential units including 87 houses and 12 apartments on zoned lands within the identified development boundary for Limerick City and Suburbs (in Limerick), Mungret and Annacotty as per the Limerick Development plan 2022-28 (LDP). Following the Applicants submission of Further Information on the 09/11/22 the site area is indicated on drawing PP01 (1) to be 3.403 ha.
- b) 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.)
- c) The proposed development of 99 residential units is significantly below the threshold for residential development as set out in Class 10(b) (i) and well below the threshold for urban development of an area greater than 10 ha. The site does not come within the meaning of business district but does come within the meaning of built-up area¹². Therefore it is clear there is no requirement for mandatory EIA.

¹² Article 3 (Interpretation) (3) of the Planning and Development Regulations -2001 (as amended) - “built-up area” means a city or town (where “city” and “town” have the meanings assigned to them by the Local Government Act, 2001) or an adjoining developed area.

- d) However, the proposed development, being a class of development listed in Part 2 of Schedule 5, also needs to be considered with regard to Class 15 of Schedule 5 Part 2 which states-

“Any project listed in this Part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7”

- e) Schedule 7 sets out the *“Criteria for determining whether development listed in part 2 of schedule 5 should be subject to an environmental impact assessment”*
- f) Article 103 (1) of the Planning and Development Regulations 2001 (as amended) deals with the requirement to submit EIAR with subthreshold planning application and details where a planning application for subthreshold development is not accompanied by an EIAR, the planning authority shall carry out a preliminary examination of, at the least, the nature, size or location of the development. These are the detailed criteria as set out in Schedule 7 of the Regs.
- g) The Board are reminded LCCC have carried out their own Preliminary Assessment and considered the proposed development would not be likely to have a significant effects on the environment and the preparation and submission of an Environmental Impact Assessment Report (EIAR) is therefore not required. The Appellant’s disagree with this and consider an EIAR is required.
- h) I have carried out a Preliminary Assessment as set out in Appendix 1 Form 2 and referred to in section 6.6 above. There is no real likelihood of significant effects on the environment and therefore an Environmental Impact Assessment is not required for the proposed Development.

8.4.1.4. **Conclusion**

- a) Having regard to section 6.6 above, Appendix 1 of this assessment and having considered Article 103 and Schedule 5 & 7 of the Planning and Development Regulations 2001 (as amended) in relation to requirement for EIA and subthreshold developments, I am satisfied on the basis of the

submitted application that the proposed development on suitably zoned lands is not 'project splitting' as described by the Appellant, notwithstanding the preparation and submission of a Masterplan. I accept subsequent applications have been received and permitted with the Masterplan and recognise how each of these were subject to the provisions of the EIA Directive in their own right. Accordingly, the need for EIA for the subject proposal has been excluded at preliminary examination and neither a screening determination nor Environmental Impact Assessment is required in this instance.

8.5. Core Strategy and Density

- 8.5.1. Volume 1 Chapter 2 of the LDP 2022-28 sets out the Core Strategy for Limerick which acts as the fundamental link between national, regional and local planning levels by demonstrating that the local planning policy is consistent with higher-level national and regional policy.
- 8.5.2. Section 2.3.3 deals with the 'Settlement Hierarchy' for Limerick as a whole. Table 2.4 sets out the hierarchy with Limerick City and Suburbs (in Limerick), Mungret and Annacotty identified as Level 1 or the top of the hierarchy. The application site is located within this tier.
- 8.5.3. Table 2.5 deals with 'Projected population and household growth per settlement hierarchy' and identifies population in 2028 of 127,570 and additional households of 11,412.
- 8.5.4. Section 2.3.5.2 deals with 'Density' with Table 2.6 dividing the Level 1 Tier into three 'Density Zones'. Density Zones are identified on Map 2.2 with the application site is located within 'Density Zone 3: Suburban Edge' where the following is stated-
- "A minimum net density of 35+ dwelling units per hectare are required at sites in suburban development areas that do not meet proximity or accessibility criteria of the Intermediate Urban Locations."*
- 8.5.5. Section 2.4 sets out the 'Core Strategy Statement' and details there is a focus on increasing residential densities and employment in the City and main towns, thereby decreasing the distance that people have to travel from their home to work. It states-
- "The Plan aims to facilitate the sustainable growth of Limerick City and Suburbs (in Limerick), Mungret and Annacotty in line with the NPF and RSES,*

which supports ambitious growth targets to enable Limerick City and Suburbs (in Limerick), Mungret and Annacotty to grow by at least 50% by 2040 and to achieve its potential to become a City of scale. This area forms part of the Limerick Shannon Metropolitan Area in the RSES, coming within the scope of the Limerick Shannon Metropolitan Area Strategic Plan (MASP) and as such is a priority growth area within the strategy's policy framework. The MASP recognises that for the Metropolitan Area to prosper and develop in a sustainable manner, Limerick City must be the primary driver of economic and population growth in the Southern Region, so that it can compete effectively for investment and jobs.

8.5.6. Section 2.9 sets out the 'Core Strategy Table' with 'Target residential density ranges' of 35 unit per hectares (uph) required as detailed earlier.

8.5.7. Chapter 5 of the Sustainable Residential Development in Urban Areas Guidelines 2009 sets out guidance in relation to residential density in cities and larger towns. Paragraph (f) deals with "Outer Suburban / 'Greenfield' sites". It states-

"...the greatest efficiency in land usage on such lands will be achieved by providing net residential densities in the general range of 35-50 dwellings per hectare and such densities (involving a variety of housing types where possible) should be encouraged generally. Development at net densities less than 30 dwellings per hectare should generally be discouraged in the interests of land efficiency, particularly on sites in excess of 0.5 hectares.

This is consistent with Limericks designation of the site within Density Zone 3: Suburban Edge'

8.5.8. Appendix A of SRDUA 2009 provides guidance on 'Measuring residential density'. It distinguishes between 'Gross and net densities' and considers a net site density measure to be the appropriate measure for residential density to include parts of a site that developed for housing and directly associated uses. It includes-

- access roads within the site;
- private garden space;
- car parking areas;
- incidental open space and landscaping; and

- children's play areas where these are to be provided.

And excludes-

- major and local distributor roads;
- primary schools, churches, local shopping etc.;
- open spaces serving a wider area; and
- significant landscape buffer strips.

- 8.5.9. The application proposes 99 residential units in the form of 87 houses and 12 apartments on a stated site area of 3.3145 ha¹³. Drawing PP01 indicates a 'nett residential area boundary' of 3.017ha and refers to a 'Key Map'. This appears to be drawing PP02 which identifies a 'Nett residential Area' of 28,309 sq.m which is also the figure indicated in PP01. The Key Map appears to identify the net density area by highlighting the area of the distributor road and the area for services and utilities.
- 8.5.10. The application site boundary was amended at FI stage as shown in drawing PP01(1). The amendment increases the site area by including land to the west of the site to facilitate utilities. The site boundary is stated on the revised drawing to be 3.403 ha. The same drawing identifies the net residential area to be a slightly reduced figure of 2.87 ha. It then includes a density of 35 uph calculated as 99 units / 2.82 ha = 35.1 units/ Ha. A similar figure is also stated in section 7.1 of the Design Statement. 34.97 uph is indicated for the proposed development in the submitted Masterplan drawing PP13.
- 8.5.11. The submitted FI drawings do not include for a revised 'Key Plan' drawing identifying the revised net residential area. There is also no apparent explanation for the discrepancy in figures used for calculating density. The Board are advised of changes to the site boundary, the sizeable area for utilities and drainage that would not form part of the net residential area and other relatively minor changes to open space provision throughout the site.
- 8.5.12. I acknowledge the discrepancies identified, however they are considered minor in the overall context. Having considered all of the above, the density can reasonably be considered based on the metric of 99 units on a net residential area of 2.87 i.e. 34.4947 rounded up to 35 units per ha.

¹³ Question 11 of the Application Form.

- 8.5.13. The Planning Authority have raised no concerns in relation to density and consider the proposal in compliance with the SRDUA guidelines.
- 8.5.14. SPPR 4 of the Urban Development and Building Heights Guidelines (UDBH) 2018 places a statutory requirement that in planning the future development of greenfield or edge of city/town locations for housing purposes, planning authorities must secure the minimum densities for such locations set out in the SRDUA Guidelines.
- 8.5.15. Having consider all of the above, the proposed housing density of 35 uph is compliant with the core strategy of the LDP, the provisions of the 2009 SRDUA Guidelines, complies with SPPR 4 of the UDBH Guidelines and is therefore acceptable.

8.6. Apartment Standards (NEW ISSUE)

8.6.1. Introduction

- a) The application proposes 12 no. apartments in a 3 storey apartment block. The Planning Authority have raised no concerns in relation to the proposed apartment standards.
- b) For the purpose of the 2022 Apartment Guidelines and this assessment, the proposal is not considered to be a 'Building Refurbishment Scheme' or an 'Urban Infill Scheme'. There are no buildings on site to be refurbished and the site area clearly exceeds the specified 0.25ha for an Infill scheme. Therefore Specific Planning Policy Requirement (SPPR) 2 does not apply.
- c) Section 2.4 of the Guidelines details criteria for identifying location in cities and towns that may be suitable for apartment development. For the purpose of these Guidelines, I consider the subject site is most appropriately described as within a '*Peripheral and/or Less Accessible Urban Locations*' by virtue of being-

".....residential development of any scale that will include a minority of apartments at low-medium densities (will also vary, but broadly <45 dwellings per hectare net), including:

- *Sites in suburban development areas that do not meet proximity or accessibility criteria....*

..... *The range of locations outlined above is not exhaustive and will require local assessment that further considers these and other relevant planning factors.*"

d) I also note the contents of section 2.5 which state-

"While the provision of apartments may not be required below the 45 dwellings per hectare net density threshold, they can allow for greater diversity and flexibility in a housing scheme, whilst also increasing overall density. Accordingly, apartments may be considered as part of a mix of housing types in a given housing development at any urban location, including suburbs, towns and villages."

e) The proposed development will therefore be assessed against the requirements of the 2022 guidelines including its mandatory Specific Planning Policy Requirements- SPPR 1, 3, 4, 5, and 6.

8.6.2. **SPPR 1**

a) The application proposes 12 apartments consisting of-

- 6 two bedroom apartments and
- 6 one bedroom apartments

b) SPPR 1 states 'Housing Developments' may include up to 50% one bedroom apartments. In the context of the overall housing development one bedroom apartments represents c.6% of the proposed development. In the context of only apartments the development proposes 50% as one bedroom.

c) Having regard to the provisions of SPPR 1 in relation to Housing Mix I am satisfied the provision and range of apartment mix is acceptable.

8.6.3. **SPPR 3**

a) This requirement sets out minimum requirements for apartment floor areas and in particular requires-

- 45 sq.m for 1-bedroom apartment (2 persons) and
- 73 sq.m for 2-bedroom apartment (4 persons)

The Board are advised that SPPR 3 makes no provision for 2-bedroom apartments for 3 persons.

b) Section 8.7 - 8.9 on pages 52-54 of the Design Statement (Revision A- 7th November 2022) submitted with the response to the Request for Further Information (RFI) submitted on the 09/11/22 details the following-

- All one bed apartments have a stated floor area of 51 sq.m and 48.3 sq.m provided across the three floors.
- All two bedroom apartments have a stated target floor area for two bedroom three person apartments providing 64.5 sq.m and 70.9 sq.m across the three floors.

b) Appendix 1 of the Guidelines details '*Required Minimum Floor Areas and Standards*' and details the Minimum Floor area for two bedroom 3 person apartments to be 63 sq.m. A single asterisk notes this refers to the 1995 guidelines. A double asterisk states this is-

- '*Permissible in limited circumstances*'.

Section 3.5 of the Guidelines states-

'..... In relation to social housing, or purpose built housing for older people it is considered necessary that these guidelines would also make provision for a two-bedroom apartment to accommodate 3 persons¹⁴. This is in line with the Quality Housing for Sustainable Communities guidance published by the Department in 2007, for application to social housing schemes.

Section 3.6 states-

'Accordingly, planning authorities may also consider a two-bedroom apartment to accommodate 3 persons, with a minimum floor area of 63 square metres, in accordance with the standards set out in Quality Housing for Sustainable Communities (and reiterated here in Appendix 1). This type of unit may be particularly suited to certain social housing schemes such as sheltered housing.

¹⁴ Emphasis added.

Section 3.7 states-

While providing necessary variation in dwelling size, it would not be desirable that, if more generally permissible, this type of two-bedroom unit would displace the current two-bedroom four person apartment. Therefore, no more than 10% of the total number of units in any private residential development may comprise this category of two-bedroom three-person apartment. This is to allow for potential social housing provision further to Part V of the Planning and Development Act 2000 (as amended), or, if this type of unit is not required to meet social and affordable housing requirements, that it would allow for an acceptable level of variation in housing type.

- c) The proposed application is not for social housing¹⁵, or purpose built housing for older people and therefore a 2 bedroom 3 person apartment cannot be considered. The proposal does not comply with SPPR 3, section 3.5 - 3.7 and Appendix 1 of the Guidelines.
- d) The Planning Authority have not raised any concerns in this regard. The Board are advised that this is a **NEW ISSUE**.

8.6.4. Section 3.8- Safeguarding Higher Standards

- a) Section 3.8 of the Guidelines is titled 'Safeguarding Higher Standards' and seeks to ensure delivery of apartments that are not built down to a minimum standard, but that reflect a good mix of apartment sizes. Accordingly, it is a stated requirement of the Guidelines that the majority of all apartments in any proposed scheme of 10 or more apartments shall exceed the minimum floor area standard for any combination of the relevant bedroom unit types, by a minimum of 10%
- b) The Board are advised DWG No. PP01(1) 'Site Layout Plan' submitted on the 09/11/22 provides a 'House Type' style legend in which it indicates the following-
 - 6 No. 1 Bed Apts- 48.3 sq.m,

¹⁵ The Board is advised the attached sheet accompanying the application form indicates intended Part V provision which does not include any of the 6 no. 3 person 2 bedroom apartments.

- 6 No. 2 Bed Apts – 70.9 sq.m
- 12 No. Apts – 715.2 sq.m.

This drawing is consistent with DWG No. PP01 'Site Layout Plan' submitted with the original application.

- c) The application proposes 12 apartments. In accordance with the example provided in section 3.9 of the Guidelines and using Design Statement (Revision A- 7th November 2022), I have calculated the 'Cumulative Min Floor Area' for the proposed units to be- 708 sq.m¹⁶. The 'Total Required Minimum Floor Area' would be 708+70.8= 778.8 sq.m. Therefore 70.8 sq.m of additional floor space is required and needs to be allocated to at least the majority of the apartments i.e. at least 7 units.
- d) The total proposed apartment floor area is 704.1 sq.m¹⁷ which does not exceed the cumulative requirement of 778.8 sq.m. Furthermore only 3 of the proposed one bedroom apartments exceed the minimum floor area requirement by 10% and none of the two bedroom apartments meet the minimum required floor area of 73 sq.m.
- e) Section 3.12 allows for flexibility in allocation of additional floor space but as this proposal does not comply with SPPR 3 or provide sufficient additional floor space this flexibility cannot be considered applicable.
- f) The proposed development does not safeguard higher standards and does not comply with the requirements of section 3.8. The Board are advised that this is a **NEW ISSUE**.

8.6.5. SPPR 4

- a) This SPPR does not specify a minimum requirement for 'Peripheral and/or Less Accessible Urban Locations'. The site could be considered suburban and in this regard there shall generally be a minimum of 50% dual aspect apartments in a single scheme.
- b) Having reviewed the drawings submitted with the application the 6 two bedroom apartments benefit from dual aspect glazing with the 6 one bedroom

¹⁶ This differs from the figures stated in the 'Site Layout Plan' drawings referred to in the preceding paragraph.

¹⁷ (3*51) + (3*48.3) + (3*64.5) + (3*70.9) = 704.1 sq.m

apartments only having glazing to one aspect. Only 3 of these are south facing with the other 3 west facing.

- c) The proposal complies with SPPR 4 and sections 3.16 – 3.18 of the Guidelines.

8.6.6. SPPR 5

- a) This SPPR requires ground level apartments to have floor to ceiling heights of a minimum 2.7m.
- b) Section Drawing PP-09 submitted with the original application on the 22/12/21 appears to show a floor to ceiling height of 2.6m
- c) The proposed development **does not comply** with SPPR 5.

8.6.7. SPPR 6

- a) This SPPR requires a maximum of 12 apartments per floor per core may be provided in apartment schemes. The proposed development provides for 2 upper floors to one block. There are only two apartments per floor and one core.
- b) The proposed development complies with SPPR 6.

8.6.8. Daylight Impacts

8.6.8.1. Introduction

- a) Sections 6.5-6.7 of the Apartment Guidelines deals with provision of acceptable levels of natural light in new apartment developments with regard to be given to-

'quantitative performance approaches to daylight provision outlined in guides like A New European Standard for Daylighting in Buildings IS EN17037:2018, UK National Annex BS EN17037:2019 and the associated BRE Guide 209 2022 Edition (June 2022)'

- b) Section 6.7 details that if a proposal cannot fully meet all of the requirements of the daylight provisions in section 6.6, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out

which planning authorities should apply their discretion in accepting taking account of its assessment of specifics. Such reasoning may be due to design constraints associated with the site or location 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.

- c) The Board are also referred to the Urban Development and Building Height Guidelines (2018). Section 3.2 discusses the scale of the site/building and details that proposed developments should be designed to minimise overshadowing and loss of light. They also detail that '*appropriate and reasonable regard*' should be taken of quantitative performance approaches to daylight provision outlined in guides like BRE 209 and 'BS 8206-2: 2008.
- d) These Guidelines also outline considerations should a proposal not fully meet the requirements of the 'daylight provisions'. Similar to section 6.7 of the Apartment Guidelines and set out in paragraph b above , they 'must' be clearly identified and a rationale for any alternative, compensatory design solutions must be set out with possible provisions for accepting non-compliance detailed.
- e) While the criteria under 3.2 of the Building Height Guidelines 2018 refer to '*quantitative performance approaches to daylight provision*', it is also clear that '*appropriate and reasonable regard*' is required, rather than an insistence that proposed developments adhere to the 'approaches'. It is important to note that section 1.6 of BRE 209 specifically details that the advice given is not mandatory and should not be seen as an instrument of planning policy.
- f) The applicants have not submitted a 'Daylight Analysis and Sunlight Assessment' Report with the application. While Section 10.6 of the two submitted Design Statements refers to sunlight this is simply in the context of dual aspect provision.
- g) Having considered all of the above, I note BRE209 provides a number of measures that contribute to assessing 'Daylight Provision' and such impacts for new development. In the context of section 6.5-6.7 of the Apartment Guidelines 2022, the Building Height Guidelines 2018, the application, BRE209 and noting the absence of 'Daylight and Sunlight' report from the

Applicant's the following measures are consider pertinent for further assessment-

- Light from the Sky for New Development
- Interior daylighting (Appendix C)
 - Illuminance method (Table C1) or
 - Daylight factor method¹⁸
- Diffuse Daylight to neighbouring properties i.e. permitted development

8.6.8.2. Light from the Sky for New Development

- a) Section 2.1.6 of BRE209 identifies the type and size of window design required to new developments depending on the 'Visible Sky Angle'. This metric considers the angle of visible sky from the centre of the window relative to opposing obstructions to determine the size of windows required e.g.-
 - if the angle is greater than 65 degrees conventional window design will usually give reasonable results
 - if the angle is less than 25 degrees BRE209 suggests it is often impossible to achieve reasonable daylight to a room
- b) It is, therefore, necessary to consider if there are any obstructions to proposed windows. As per Figure 1 of BRE this is taken from the centre point of the windows. It is appropriate to consider ground level windows first as these are the most likely to be significantly affected with a reducing level of impact at higher floors.
- c) The only windows to the north elevation as shown on page 56 of the Design Statement (North East (NE) on the site layouts) are to internal communal circulation space and as such do not warrant assessment.
- d) The windows to the living and bedroom spaces of all apartments are generally quite large and close to floor to ceiling height. With the exemption of the one person bedroom to apartments G2¹⁹ (No's 3, 07 and 11) facing east, I am

¹⁸ Section C10 of BRE209 states- "In order to account for different climatic conditions at different locations, BS EN 17037[C] gives equivalent daylight factor targets (D) for each capital city in Europe."

¹⁹ Further consideration in section 8.6.8.4 diffuse daylight to neighbouring property

satisfied that there are no significant obstructions in a close distance to the windows and therefore the 'Angle of Visible Sky' would not be significantly obstructed and the window types proposed should give reasonable Daylight provision results as per Section 2.1.6 of BRE209.

8.6.8.3. Interior Daylighting

a) Section 2.1 of BRE209 discusses 'Light from the Sky' and 'New Developments' such as that proposed. Section 2.1.10 refers to BS EN 17037 which gives a range of recommendations for 'high', 'medium', and 'minimum' daylight provision. The National Annex A of BS EN 17037 also gives minimum values for housing, in living rooms, kitchens, and bedrooms.

b) Appendix C of BRE209 deals with Interior daylighting recommendations. Paragraphs C16 recommends the following-

- 100 lux in bedrooms,
- 150 lux in living rooms and
- 200 lux in kitchens

as median illuminances, to be exceeded over at least 50% of the assessment points in the room for at least half of the daylight hours. Paragraph C17 states-

"Where a room has a shared use, the highest target should apply"

c) It is also my understanding that European Standard EN 17037 requires a Target Value of 300 lux to be achieved across 50% of the space with a minimum value of 100 lux to be achieved across 95% of the space.

d) All proposed one bedroom apartments are single aspect only. These apartments have open plan living, dining and kitchen areas with the kitchens located at the rear and at the furthest point from the glazing for each i.e. 6.5m from the glazing. Section 2.1.15 of BRE209 states-

"Non-daylit internal kitchens should be avoided wherever possible, especially if the kitchen is used as a dining area too. Daylight levels in kitchen areas should be checked. If the layout means that a small

internal kitchen is inevitable, it should be directly linked to a well daylight room.

- e) Daylight provision into these one bed apartments and in particular the kitchens is further restricted by recessed windows below overhanging balconies adding an extra 1.6m depth. The drawings suggest a depth of c. 8.5m from the back of the kitchen to the end of the overhanging balcony. Section 2.1.17 of BRE209 states-

“Balconies and overhangs significantly reduce the light entering windows below them.”

- f) The application drawings (PP-09) do not provide a section through the ground floor 1 bedroom apartment showing the recessed window and balcony overhang. In this context, I am concerned that Daylight penetration into the apartment would be restricted as per Figure 10 of BRE209 and the proposal is unlikely to achieve BRE209 recommended 200 lux in the kitchens or other target values as discussed previously.
- g) The Board are reminded that the applicants have not submitted an assessment of Daylight Provision to the proposed apartments. In the absence of same and having regard to the above, I am not satisfied the proposed one bedrooms apartments particularly at ground level would achieve acceptable daylight provision in accordance with the recommended requirements. There is real concern the rear half of these rooms and especially the kitchen areas would appear gloomy and supplementary lighting maybe required.
- h) I also have similar concerns in relation to the smaller bedroom in the 2 Bed Apartment- G2 and G4 (No's 3 & 5), especially at ground level, noting both windows are recessed 2.57m behind protruding sections of the overall building. In particular, I refer to Figures 16, 17 and 18 of BRE209²⁰ in which the submitted application drawings suggest the centre of these bedroom windows lie within the 45° angle on both plan and elevation and therefore a significant reduction of light to these rooms is likely.

²⁰ I acknowledge these examples are cited in relation to domestic extensions and not developments such as that proposed.

- i) In this regard and considered section 2.1.22 of BRE209 an assessment of Daylight Factor or Interior Illuminance is considered necessary in order to ensure the kitchens and bedrooms comply with the recommendations set out in BS EN 17037 Daylight in buildings and Appendix C of BRE 209.²¹

8.6.8.4. **Diffuse Daylight to neighbouring properties i.e. permitted development 22/917**

- a) The Board are reminded that since the making of this application, planning permission has been granted for 12 residential units and a mixed use development under reference number 22/917 on the 03/10/23 (final grant). That permission was not appealed.
- b) The subject application proposes east facing windows located c. 4m from the site boundary. This boundary is indicated on Dwg. No. PP01(1) as 'H' - 'no fence / open boundary'.
- c) The 'Overall Masterplan Drawing' PP-13 submitted at FI stage on the 09/11/22 shows a side gable of an end of terrace house to be delivered as part of the 'Neighbourhood Centre Delivery 4 stage'. Scaling from this drawings suggests c. 5m of separation distance between the east facing bedroom windows to apartment G2 and the two storey end of terrace now permitted under 22/917.
- d) LCCC online drawings²² for 22/917 suggest this end of terrace house is an 8.836m high two storey with its side gable directly facing the east facing windows of the proposed apartment block. A 2m high side and rear boundary fence is also permitted.
- e) Section 2.2 of BRE209 deals with 'Existing Buildings' and details that it is important to safeguard daylight to nearby buildings and offers advice for rooms where daylight is required including living rooms, kitchens and bedrooms.
- f) Appendix F, paragraph F7 of BRE209 states-

²¹ in a space that combines a living room and a kitchen the target illuminance is recommended to be 200 lux. Bedroom- 100 lux, living room 150 lx- Appendix C- Paragraph C16 of BRE209.

²² <https://www.eplanning.ie/LimerickCCC/AppFileRefDetails/22917/0>

'In accessing the loss of light to an existing building the VSC is generally recommended as the appropriate parameter to use'.

Paragraph F8 states-

'Use of the daylight factor or daylight illuminance for loss of light to existing buildings is not generally recommended.'

g) However Paragraph F9 clearly details scenarios where meeting set daylight factor or illuminance target values with the new development in place could be appropriate as a criterion for loss of light. There are a number of scenarios provided and in my opinion the first scenario best suits this application and states-

- (i) *where the existing building is one of a series of new buildings that are being built one after another and each building has been designed as part of the larger group.*
- (ii) *As a special case of (i), where the existing building is proposed but not built. A typical situation might be where the neighbouring building has received planning permission but not yet been constructed.*

In this regard the development proposed under 22/917 is now permitted while the subject application/appeal is not yet determined.

- h) I am therefore satisfied that the appropriate test in this context would be to assess the daylight factor or illuminance target values of the apartments proposed to the east side of the apartment block which I note include single aspect bedrooms and dual aspect kitchens/dining/living rooms. Appendix C C16-17 of BRE209 details illuminance recommendations of 100 lux in bedrooms and 200 lux in kitchens/dining.
- i) The Board are also advised the ground floor bedroom window to Apartment G2 (No. 3) is enclosed by 'bin storage' to its northern side and the stepped forward building to its southern side. Both 'Site Layout Plan' drawings provide insets showing proposed 'Bin Store Types'. It is not clear from either drawing what height is proposed for the subject bin store but Drawing PP-08 shows a 'Bin Store Roof' which it is reasonable to assume will provide a head height of c. 2-2.4m. Section 2.2.18 of BRE209 discusses the need to avoid a 'tunnel

effect'. The bin store and stepped forward building line on either side of the bedroom are likely to significantly impact daylight provision to this bedroom.

- j) Having considered all of the above, I have significant concerns in relation to the extent of Daylight Provision to the proposed apartments in the context of section 6.5 – 6.7 of the Apartment Guidelines.

8.6.8.5. **Conclusion on Daylight Provision**

- a) Based on the above, the applicants have not demonstrated the provision of acceptable levels of natural light/daylight.
- b) Section 6.5 of the Apartment Guidelines requires planning authorities to weigh up the overall quality of the design and layout of the scheme and the measures proposed to maximise daylight provision with the location of the site and the need to ensure an appropriate scale of urban residential development.
- c) Having regard to the matters highlighted throughout section 8.6.8 as well as non-compliance with some SPPR's and other requirements, I am not satisfied the proposed apartment element of this housing development scheme provides adequate quality in terms of its design and layout nor does it maximise daylight provision for intended occupants of the apartments.

8.6.9. **Other Requirements**

- The 2022 Apartment Guidelines sets out a number of other requirements-
- Appendix 1 details requirements in relation to '*Required Minimum Floor Areas and Standards*' for living/dining/kitchen areas, bedrooms, storage, private amenity space and communal amenity space. The Board are advised the drawings and detailed submitted propose compliance for a 3 person two bed apartment which as discussed in section 8.6.3 does not comply with SPPR 3, section 3.5 - 3.7 and Appendix 1 of the Guidelines.
- Having reviewed the submitted Design Statement (November 2022) and submitted floor plan drawing PP-08, the proposed apartment development meets the requirements in terms of room type widths, room type floor area and aggregate room type floor area.

- Dedicated storage of at least 3 and 5 sq.m have been provided for both apartment types.
- A minimum of 5.2 sq.m to 6.5 sq.m balcony/terrace space is proposed for Private Amenity Space provision.
- Communal Amenity Space
 - The drawing provided above Section 10.10 of the submitted Design Statement suggests communal amenity space is proposed to the northern side of the apartment block. The Apartment Floor Plan Drawing PP-08 does not show this space but does show a canopy area over part of the area indicated in the Design Statement.
 - The overall Site Layout Plan drawing PP01(1) shows a green area that I estimate to be c. 9m wide by 2m deep giving 18 sq.m in total. The Apartment Guidelines requires 5 sq.m of space per one bed apartment and 6/7 sq.m per 2 bed apartment. Therefore, there is a requirement for 66-72 sq.m for 12 apartments.
 - The drawing in the design statement suggests a larger space but this appears to include the area proposed for a bicycle stand and enclosures as per the site layout plan.
 - Section 4.11 of the Guidelines requires “adequate levels of sunlight to reach communal amenity space throughout the year”. The proposed space located directly adjoining the northern boundary of the apartment block and of such a narrow width is not well designed, is not likely to achieve required sunlight provision as per BRE209 nor is it considered of sufficient quality or useability to meet the amenity needs of residents as set out in section 4.10 and 4.11 of the Guidelines.
- Section 4.15 - 4.19 deals with bicycle parking and sets requirements inter alia for location, quantity, design and management. There is a requirement for 1 space per bedroom and a visitor space per unit totalling 24 bicycle spaces. Drawing PP01(1) shows provision of a bicycle stand for 6 spaces and a bicycle storage enclosure. It is not clear how many bicycles spaces this can cater for. The Planning Authority attached a condition in this regard- No. 13 with details to be agreed.

- Section 4.24 deals with car parking in ‘Peripheral and/or Less Accessible Urban Locations’. The guidelines seek a ‘benchmark guideline’ in these areas of one car parking space per unit, together with an element of visitor parking, such as one space for every 3-4 apartments, should generally be required. Drawing PP01(1) shows provision of 15 spaces 9 of which are located a minimum of 30 m north of the apartment block along access road 3.
- Section 6.12 requires the submission of a Building Lifecycle Report to include an assessment of the long term running and maintenance costs of the development as they would apply on a per residential unit basis. The report should demonstrate what measures have been specifically considered to effectively manage and reduce costs for the benefit of residents. This requirement does not appear to have been complied with but could be addressed by condition if required.

8.6.10. Conclusion

- a) The site can be described as located in a ‘*Peripheral and/or Less Accessible Urban Locations*’ in accordance with section 2.4 of the Apartment Guidelines.
- b) In accordance with Section 28 1 (c) of the Planning and Development Act, 2000-20 (as amended) and Section 1.19 of the ‘Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, December 2022’, I consider the proposed development does not comply with SPPR 3- Minimum Apartment Floor Areas.
- c) In particular, I understand the provision of 6 No. 2-bedroom 3 person apartments as not permissible as set in sections 3.5 - 3.7 of the Guidelines. Furthermore, the proposed development does not comply with section 3.8 of the same guidelines in terms of ‘Safeguarding Higher Standards’.
- d) The proposed apartment block floor to ceiling height requirement does not comply with SPPR 5, however this can easily be addressed through condition.
- e) BRE209 details “*Non-daylit internal kitchens should be avoided wherever possible*”. Having considered the location of kitchens and in 1 bedroom apartments, the room depths, provision of overhanging balconies to glazed areas and in the absence of an assessment of Daylight Factor or Interior Illuminance in accordance with BRE209, it is considered such rooms would

not receive adequate daylight penetration as per the recommendations set out in BS EN 17037 Daylight in buildings and Appendix C of BRE 209.

- f) Similarly, and having particular regard to the development permitted under 22/917, the proximity of same to the eastern elevation of the proposed apartment block and the location of proposed bedroom windows 'winged' by a bin enclosure and full height building protrusion it is considered such proposed rooms would not receive adequate daylight penetration as per the recommendations set out in BS EN 17037 Daylight in buildings and Appendix C of BRE 209.
- g) The proposal does not provide sufficient quantity or quality of communal amenity space and the space proposed is unlikely to receive adequate sunlight in accordance with BRE209 given its narrow provision and northern orientation.
- h) It is unclear if the proposal provides adequate bicycle storage provision. This can be addressed by condition.
- i) I acknowledge SPPR 2 allows for discretion to be exercised on all standards in the guidance on a case-by-case basis, having regard to the overall quality of the proposed development. In my opinion the 'guidance' referred to here is that within SPPR 2 only for all building refurbishment schemes on sites of any size, or urban infill schemes on sites of up to 0.25ha and not the other requirements set out in the overall 2022 Apartment Guidelines. This is reinforced by the enclosure of this discretion within the SPPR 2 brown coloured box something which was not clearly evident in the 2018 and 2020 versions of the Guidelines. Notwithstanding this, I consider the proposed development lacks sufficient quality in terms of those matters highlighted in paragraphs c-h.
- j) I have considered addressing these matters by way of condition as follows-
 - i. The omission of all 6 No. 2-bedroom 3 person apartments and provision instead of 12 No. 2 person 1 bedroom apartments with generous internal floor area spaces providing quality to compensate communal amenity space requirements etc. However to do so would conflict with SPPR 1 in which only a maximum of 50% of a scheme should be one bedroom. I acknowledge this SPPR refers specifically to

‘housing development’ however in this context I am not convinced it includes for the other 87 proposed houses.

- ii. The omission of all 1 and 2 bed apartments and replacement with 3 No. 3 bedroom 5/6 person apartments i.e. one apartment unit on each floor. Such a proposal would comply with SPPR 1 and would provide significant floor space, internal quality and private amenity space to compensate for the lack of communal open space. Daylight provision could be addressed by glazing to three aspects and subsequent elevational changes. The Board would need to consider if such elevational changes could be considered significant and/or if they could be specified precisely by condition.
- k) While the amendments set out in (ii) above may adequately address the concerns detailed throughout this section the Board must be mindful of the impacts such a condition would have on overall density requirements. The replacement of the 12 proposed apartments with 3 no. three bedroom apartments would reduce the proposed density from 35 uph to c. 31 uph²³ based in a net residential area of 2.87 ha²⁴.
- l) SPPR 4 of The Urban Building Height Guidelines requires the minimum densities for such locations to comply with the SRDUA (2009) Guidelines for such areas.
- m) Section 5.11 of SRDUA seeks a ‘general range’ of 35-50 dwellings per hectare and such densities should be encouraged generally. The guidelines then state-

“Development at net densities less than 30 dwellings per hectare should generally be discouraged in the interests of land efficiency, particularly on sites in excess of 0.5 hectares.”
- n) Section 5.11 of SRDUA appears to provide flexibility and 35 uph is not an obligatory target with densities less than 30 dwellings only ‘discouraged’. In this context I would not consider such a revision to be contrary to SPPR 4 of the UBHG.

²³ 90 units / 2.87 ha = 31.3588850174216

²⁴ See section 8.5.12.

- o) However a minimum net density of 35+ dwelling units per hectare is a clear requirement of Table 2.6 for 'Density Zone 3: Suburban Edge' as set out in the LDP. I note Policy CS P1 of the LDP states-

It is a policy of the Council to implement the Core Strategy for Limerick to ensure consistency with policies at a national and regional level, in particular population targets and distribution

To revise the proposed apartment block to three apartments only, would in my opinion be an excessive intervention in this context and contrary to the provisions of the LDP. It is considered more appropriate to impose a condition omitting the apartment block from the development as a whole and replace it with an area of public open space for the wider housing development. Such a condition could/should also provide for subsequent future planning applications to address the concerns raised throughout this section.

- p) The Board are advised that this is a **NEW ISSUE** and they may wish to seek the views of the parties involved. There is certainly sufficient scope for these matters to be addressed through revised proposals in accordance with section 132 of the Planning and Development Act 2000-23 (as amended) should the Board consider it appropriate.
- q) However, based on the application as submitted, this element of the proposed development should, in my opinion, be **omitted by condition**.

8.7. Creche

- 8.7.1. The Applicants raise concerns that a creche is not proposed despite the proposal exceeding 75 units and as such is contrary to the SRDUA Guidelines 2009 and the then Draft 2022-28 LDP. They also refer to a serious shortage of childcare in the area.
- 8.7.2. An observation to the Appeal has been received from the Limerick Childcare Committee which details the current level of childcare provision is below the EU recommendations across all age ranges. They contend the proposal presupposes the demand for childcare in the area while the need for a childcare facility is already established.

- 8.7.3. The Planning Authority raised concerns in relation to non-provision of a creche at Further Information stage. In their FI response the Applicants detailed the submission of a separate application 22/790 for a creche within the landholding and delivery item 2 of the Masterplan. This was considered acceptable by the Planning Authority.
- 8.7.4. In the Applicant's response to the Appeal they indicate their commitment to construct and operate the childcare facility. They refer to the proximity of three existing childcare facilities proximate to the site which can serve the proposed development. They indicate that once the proposed development is constructed and occupied they commit to constructing the creche in advance of selling/facilitating occupation of any further housing on the site.
- 8.7.5. The Board are advised that planning permission 22/790 received a final grant of permission on the 15/05/23 and provides for 107 childcare spaces. This application was not appealed and the Board are advised condition 3 states-
- “The development forms part of a larger masterplan area. The crèche shall be completed once any 75 dwelling units are constructed on the adjoining masterplan lands. Within 2 months of the final grant of permission the developer shall enter into legal agreement to construct the crèche in accordance with the details received on the 16/03/23.”*
- 8.7.6. The Board are further advised 98 residential units have been permitted under 22/817 & 22/917. A further 98 units (22/959) and 54 units (22/1114) are currently under appeal (reference numbers ABP-317626-23 and ABP-318378-23 respectively). In total the submitted Masterplan (Drawing Number PP-13) details provision of 349 residential units and the one creche.
- 8.7.7. Appendix 2 of the Childcare Guidelines details assumptions for calculating a minimum number of childcare spaces for a residential area which is generally considered to be a minimum of 20 spaces per 75 units. The provision of 107 childcare spaces in the permitted creche development 22/790 more than adequately provides for the number of residential units already permitted, proposed in this application and proposed in other applications as per the Masterplan i.e. 349 residential units.
- 8.7.8. I appreciate the concerns of the Appellants in this regard and agree a creche application could have been more appropriately dealt with through the subject

application. The fact of the matter is the Applicants have subsequently applied for and received a grant of permission for a creche that can cater for the proposal and the overall Masterplan. I also note the LDP and Childcare Guidelines do not specifically or mandatorily require provision of a creche as part of application exceeding 75 units.

- 8.7.9. Having considered all of the above and subject to a condition requiring the construction and operation of the creche prior to the making available of more than 75 residential units in the entire landholding subject to the Masterplan shown in drawing PP-13²⁵ I am satisfied there is no reason relating to childcare provision to warrant refusing the proposed development.

8.8. Impacts upon Amenity- Residential and Visual

- 8.8.1. An Appellant raises significant concerns in relation to impacts on existing privacy from undue overlooking from the proposed development. Such impacts are considered contrary to the Charter of Fundamental Rights of the European Union, Article 40 of the Irish Constitution and Article 8 of the European Convention on Human Rights. In particular the appeal focuses on proposed house numbers 64-67 and their proximity to existing bungalows on the Pass Road. The Appellant challenges the interpretation of 22m separation distances between first floor opposing windows in the SRDUA Guidelines 2009 which are not considered relevant because first floor windows do not exist to the bungalows.
- 8.8.2. The appeal also requests the boundary between the proposal and the existing bungalows should be a solid block wall plastered on both sides of sufficient height to maintain the privacy and security of the residents of the existing bungalows and of sufficient strength to withstand storms currently predicted for the future. The appeal request this should be done prior to building the houses to avoid/minimise noise and dust etc. during site clearance and the construction stage.

²⁵ Section 34 (4) of the Planning and Development Acts as amended allows for conditions to be imposed on a grant of permission for regulating the development or use of any land which adjoins, abuts or is adjacent to the land to be developed and which is under the control of the applicant if the imposition of such conditions appears to the planning authority to be expedient for the purposes of or in connection with the development authorised by the permission.

- 8.8.3. The Appeals also raise concerns in relation the visual impact of the proposed development of two and three storey semi-detached and terraced style housing upon the character of the wider area which is predominantly bungalows.
- 8.8.4. The Applicants Response to the Appeal acknowledges the single storey nature of houses adjoining the site and fronting the Pass Road. It details there is no explicit or mandatory separation distance provided in the Development Plan or National Guidelines. They refer to SRDUA 2009 which states there should be adequate separation distance between opposing first floor windows. (traditionally 22 m between two storey dwellings) and this should be applied flexibly. They highlight the existing hedgerow and trees defining the boundary which is intended to be retained. A 1.8 m block wall is also proposed. The wall and existing boundary ensure no overlooking at ground level.
- 8.8.5. In terms of the Appellant's concerns in relation to privacy and overlooking, I have reviewed the Charter of Fundamental Rights of the European Union, Article 40 of the Irish Constitution and Article 8 of the European Convention on Human Rights online. In this regard I acknowledge and appreciate their concerns.
- 8.8.6. Section 11.4..2 of the Limerick Development Plan (LDP) deals with "Residential Quality Standards – Houses". Subsection 11.4.2.1 states the following applies-
- "An appropriate separation distance between directly opposing rear windows at first floor level in the case of detached, semi-detached and terraced units;"*
- However no metric is provided, nor is reference made to such concerns from first floor windows to ground floor windows.
- 8.8.7. Section 7.4 of the 2009 SRDUA guidelines deals with 'Privacy and security'. It states-
- "...at the rear of dwellings, there should be adequate separation (traditionally about 22 m between 2-storey dwellings) between opposing first floor windows. However, such rules should be applied flexibly: the careful positioning and detailed design of opposing windows can prevent overlooking even with shorter back-to-back distances. Windows serving halls and landings do not require the same degree of privacy as, say, balconies and living rooms.*
- 8.8.8. The Appellant's concern relates to privacy impacts from proposed house numbers 64-67 and their proximity to existing bungalows on the Pass Road. Site Layout Plan

Drawing No. PP01(1) submitted on the 09/11/22 shows proposed private back gardens with garden depths of at least c. 11m i.e. from rear elevation to the site boundary. The rear elevation of the closest existing single storey house on Pass Road appears to be c. 36-39m from the rear of the proposed houses. The same drawing also shows a proposed 1.8m high rear boundary wall of solid block construction and rendered on both sides.

- 8.8.9. Having considered the contents of subsection 11.4.2.1 of the LDP and section 7.4 of SRDUA, I am satisfied that adequate separation distances have been provided between the proposed houses and the existing houses to ensure adequate protection of privacy from overlooking for both existing and proposed residents. I do not share the Appellants views in this context as regards to the Charter of Fundamental Rights of the European Union, Article 40 of the Irish Constitution and Article 8 of the European Convention on Human Rights. I consider concerns relating to the strength of the boundary wall to withstand storms predicted into the future to be excessive and more likely ones for building regulation/best practise and/or civil matters between the parties. However I would recommend the height of all boundary walls to the site should be increased to 2m and should the Board decide to grant permission this can be addressed by condition similar to LCCC condition No. 12.
- 8.8.10. Although the site is clearly located on the urban rural fringe of Limerick, the site is located within the designated 'Settlement Boundary' of Limerick, is identified as Level 1 within the Settlement Hierarchy for Limerick as per the LDP where a minimum residential density of 35 uph is required and is located within the Limerick-Shannon Metropolitan Area as per the RSES. SPPR 4 of the Urban Development and Building Heights Guidelines requires inter alia a greater mix of building heights and typologies in planning for the future development of suburban locations. Therefore an insistence for single storey dwellings at any location within the application site would be inappropriate and not necessary.
- 8.8.11. The site currently has an open and rural feel whose character is supplemented by the large individual single storey housing plots on the Pass Road. However, I am satisfied the proposed development of two and three storey semi-detached and terraced style housing including a three storey apartment block is an appropriate style of development given the wider plan-led planning context which includes for the physical road infrastructure already delivered to the site as part of the Coonagh to Knockalisheen Distributor Road development.

8.8.12. Having regard to all of the above, it is considered that the proposed development will not significantly impact upon the existing residential and visual amenities as regards to privacy and the existing character of the area.

8.9. Flooding

8.9.1. The Appellant's raise concerns in relation to Flooding. They detail much of the surrounding land is at high risk of both river and coastal flooding. They have concerns in relation to discharge to a drainage ditch in proximity to a residential property which they contend is already in a high flood risk area and is not maintained by the OPW. They cite concern in relation to requirements for OPW consents and refer to examples of flooding in Coonagh in recent years.

8.9.2. The Applicants Response to the Appeal asserts the site is located in Flood Zone C, is not subject to flooding and will not give rise to additional flooding in the area nor will it displace flood waters. The land is zoned residential and has been subject to Strategic Environmental Assessment (SEA) and Strategic Flood Risk Assessment (SFRA) as part of the Development Plan process. They highlight proposed Finished Floor Levels will vary from 12.5m – 14 m OD well above existing and anticipated flood levels. They detail stormwater discharge will be to the existing open drain just west of the site following attenuation to the greenfield rate of the net impermeable area.

8.9.3. The Planning Authority have detailed in the Planning Report the site is located within Flood Zone C and their 'Planning Environment and Placemaking' department have raised no concerns on grounds of flooding.

8.9.4. Volume 4 of the Development Plan (LDP) provides the SFRA for Limerick's functional area. Section 4.1 details 'Identification of Flood Risk' and states-

Flood Zone maps have been developed using the most appropriate and up to date data available for Limerick City and County at the time of preparing the Development Plan.

It goes on to state-

The Flood Zone maps show Flood Zones A and B, with all land outside these areas being Flood Zone C. Flood Zone A refers to areas where the probability of flooding from rivers is greater than 1% AEP or 1 in 100 year for river

flooding, or 0.5% AEP or 1 in 200 for coastal flooding. Flood Zone B refers to areas where the probability of flooding from rivers and seas is up to 0.1% AEP or 1 in 1000 and 1% AEP or 1 in 100 for river flooding and between 0.1% AEP or 1 in 1000 year and 0.5% AEP or 1 in 200 for coastal flooding. The rest of the map shows Flood Zone C, where there is less than a 0.1% AEP or 1 in 1000 chance of flooding.

Section 4.2 discusses Sources of Flooding and includes Fluvial, Tidal & Coastal, Flooding from overtopped flood defences/breaches, Pluvial, Drainage Systems and Groundwater.

- 8.9.5. Volume 2 of the LDC- Map 5 provides the Flood Map for Limerick City and Suburbs (in Limerick), including Mungret and Annacotty. The majority of the subject site is clearly located in Flood Zone C and the site benefits from residential zoning following the Development Plan process which included the SFRA. In this context, I have no concerns relating to flooding at the site of the proposed housing development.
- 8.9.6. The Board are reminded the site boundary was amended at Further Information Stage to include part of the western boundary of the landholding i.e. the existing drainage ditch and part of this does appear to be within Flood Zone B as per the Flood Map.
- 8.9.7. Section 6 of the Civil Engineering Report submitted with the application deals with Flood Risk. It simply details the site is located within Flood Zone C and existing site levels range from 12.0m to 16.0m AOD and is therefore suitable for development of housing in accordance with Flood Risk Management Guidelines. They conclude a site specific flood risk assessment is not necessary.
- 8.9.8. I appreciate the concerns of the Appellants in relation to flooding and the proposals for stormwater drainage. However I note section 4.2.5 of the SFRA deals with Flooding from such Drainage proposals and discusses storm water drainage systems exceeding discharge capacity and/or if they cannot discharge due to a high water level in the receiving watercourse i.e. in this case of the subject appeal the drainage ditch.
- 8.9.9. Section 5.5 of the SFRA deals with Development in Flood Zone C and details a site within Flood Zone C but adjoining or in close proximity of a watercourse, could lead to a risk of flooding. Section 5.7 deals with 'Drainage Impact Assessment' and requires all development including those in Flood Zone C to consider the impact of

surface water flood risks on the drainage design. It requires the drainage design to ensure no increase in flood risk to the site, or the downstream catchment.

- 8.9.10. While the Applicants do not specifically address flood risk as per the revised proposal at FI stage i.e. to the drainage ditch, they do clearly propose the peak discharge of attenuated surface water to be at greenfield rates with outfall to the existing drainage ditch which I have identified to likely be within Flood Zone B.
- 8.9.11. Section 2.2 of the Civil Engineering Report submitted with the application details the storm water network and SUDs will allow for 20% climate change and 10% urban creep for the application site. This is supplemented by the requirements of Condition 16 of the Council's decision to grant permission. Subject to a similar condition and appropriate implementation and management of the overall surface water network for the site, I see no reason why discharged surface waters would increase risk of flooding to the wider catchment network. In this regard, maintenance of the outfall and drainage ditch would be the responsibility of the developer/landowner until such time as the Council take the development in charge.
- 8.9.12. I have also considered the application in the context of the Planning System and Flood Risk Management Guidelines 2009. In accordance with section 5.15 I am satisfied the development is not located in an area at a high or moderate risk of flooding i.e. Flood Zone C and a site specific flood risk assessment is not warranted.
- 8.9.13. The matters of consent to connect to OPW channels is not one for An Bord Pleanála. Notwithstanding this, the applicants proposal for surface water drainage is to an existing ditch not maintained by the OPW and which already connects to the wider catchment network some of which is maintained by the OPW.
- 8.9.14. Having considered all of the above and subject to condition, I am satisfied that proposed development is not in an area at risk of flooding, is consistent with the zoning objective of the site as set out in the Development Plan which was subject to SFRA and subject to condition, will not lead to flooding at the site or contribute to increased flooding in the wider area.

8.10. **Surface Water Disposal**

- 8.10.1. Notwithstanding matters discussed above in relation to Flooding, the Appellants raise concerns in relation to surface water disposal including the capacity of the ditch

to accept such disposal and the submitted justification that half the development site will be impermeable. They also raise concerns of an absence of a cumulative assessment of surface water disposal for the overall Masterplan.

8.10.2. In the Applicant's Response to the Appeal they detail the application proposes discharge to the existing open drain along the western boundary of the development following attenuation and subsequent discharge at the greenfield rate for the net impermeable area. The design of the stormwater network allows for 30% climate change and 10% urban creep of the housing area²⁶.

8.10.3. The Board are advised that at FI stage (Point 16) and on foot of a report from the Operations Department²⁷ the Applicants were advised they would not be able to dispose of surface waters to the-

'new surface water system under construction as part of the CKDR²⁸'

as this would cater for road drainage only and instead they would need to find an alternative outfall. The FI request goes on to state-

"the surface water from the proposed development should drain to the north catchment".

8.10.4. In their FI response the Applicant submitted a Report from 'Garland' in which page 8 (requirement 1.8) details proposals to discharge stormwater to the existing watercourse to the west of the development and as shown on drawing R1971-020B. This would appear to be the '*drain to the north catchment*' as stated in the FI request.

8.10.5. A subsequent report was then received from the Operations Department which included a number of conditions which generally make up Condition 17 of the Council's decision to grant. These conditions are considered sufficiently robust for stormwater management and disposal. They include for revised modelling to confirm discharge levels which shall not exceed 2 l/s/ha or Qbar²⁹ whichever is the greater restriction with Qbar calculated using the net area drained and not the gross or application site.

²⁶ This differs from section 2.2 of the Civil Engineering Report submitted with the application and is considered a likely typing error. The Civil Engineering Report clearly takes precedent.

²⁷ As described in the LCCC Planning Report

²⁸ Coonagh to Knockalisheen Distributor Road

²⁹ Generally, the value of the average annual flood event recorded in a catchment.

- 8.10.6. I acknowledge the concerns of the Appellants in this regard, however the drainage ditch to the west of the site is clearly existing and already provides benefit to the sites drainage regime including subsequent discharge to the wider catchment network flow to the north of the site.
- 8.10.7. The application includes for attenuation and subsequent peak discharge at greenfield rates for the impermeable areas of the site. This is considered common practise for such modern developments with permeable areas such as open spaces providing infiltration and natural greenfield rate discharge whether to ground or to local ditches.
- 8.10.8. The application and subsequent FI submission also includes a number of other Sustainable Urban Drainage Systems (SUDs) such as those detailed in the Garland 'Civil Engineering Report' and updated in the Garland FI response e.g. permeable paving, tree pits, bioretention strips and rainwater harvesting providing reuse of such waters to homeowners, discharge to ground or with overflows provided to the storm network.
- 8.10.9. The Appellant's raise concerns relating to the cumulative surface water impacts from the overall Masterplan. The Applicants were requested to address this at FI stage and in their response Garland Report (Response 1.9) the applicants enclose drawing R1971-621. This drawing generally shows the overall Masterplan storm water layout and which includes for permitted development and those still under consideration³⁰.
- 8.10.10. In the context of surface water disposal, I am satisfied the Appellants concern as regards this application can be adequately addressed by condition similar to Condition 17 of the Planning Authority's decision to grant permission i.e. at an agreed discharge rate to the drainage ditch.

8.11. **Wastewater Issues**

- 8.11.1. The Appellants raise concerns that there are no proposals for a holistic waste management solution for the local area. They consider the proposal should take the opportunity to eliminate existing private septic tanks by providing new connections to the proposed wastewater network and public sewer. This should be provided to the

³⁰ See section 5.0

rear of houses along Pass Road and LCCC have necessary powers to acquire a strip of land by agreement or CPO for such services.

- 8.11.2. The Appellants also argue the existing and proposed public foul sewerage system does not have the sewer size or pump station capacity for the proposal or future phases.
- 8.11.3. The Applicants response to the Appeal details it is the reasonability of existing individual homeowners to manage and maintain their own on site wastewater systems and that there is no justifiable basis for refusing or omitting houses from the development for this reason .
- 8.11.4. I appreciate the sincerity of the Appellants concerns in this regard, however there is no obligation on a private developer to connect existing houses to proposed private services before ultimately connecting to public services. While a 'holistic wastewater management solution' would provide an overall planning and environmental gain it would be entirely inappropriate to insist on same through this appeal regardless of CPO provisions available to local authorities.
- 8.11.5. In terms of the concerns raised in relation to the existing and proposed public foul sewerage I note question 20 of the Planning Application Form indicates the applicants propose connecting to the Public Sewer. The details of this are set out in section 3 of the Civil Engineering Report submitted with the application in which a single gravity sewer is proposed with final discharge to the existing network on the Old Cratloe Road.
- 8.11.6. Appendix F of the report demonstrates the Applicants have received a confirmation of Feasibility from Irish Water based on their submitted pre-connection enquiry. This states a wastewater connection is feasible subject to upgrades with two options provided by Irish Water for further agreement. I am not entirely convinced the proposal in this application is in accordance with either of these options. There is no Prescribed Report of file from Uisce Eireann/Irish Water and the Board may wish to consider if its views should be sought.
- 8.11.7. Other than issues relating to possible conflict with future road infrastructure on the Old Cratloe Road which was addressed at FI stage the Planning Authority raised no concerns in this regard.

8.11.8. Notwithstanding the above, connection to the public water and wastewater systems would be subject to formal Uisce Eireann/Irish Water consent regardless of this planning application and can be adequately addressed by condition should the Board decide to grant permission.

8.12. Transport Related Issues

8.12.1. The Appellants raise transport related concerns in relation to the submitted Traffic and Transport Assessment (TTA). They argue it does not cover all the applicants zoned land or the other zoned lands to the north and therefore the projected traffic numbers are not correct. They also highlight the existing figures were taken during Covid in 2021 and are therefore not realistic.

8.12.2. An Appellant also considers the proposed location of the creche represents a serious safety hazard for children attending the creche from the proposed development and suggest an underground or overhead walkway would provide a safer access route.

8.12.3. In the Applicants response to the Appeals they detail inter alia the -

- The Coonagh-Knockalisheen Distributor Road has planned for increase traffic in this area including from future residential development.
- Future phases of development including those other submitted applications were addressed in the revised TTA submitted at FI stage.
- There were no Covid travel restrictions at the time of the traffic counts.

8.12.4. The Applicants submitted a TTA with the original planning application. The Planning Authority sought Further Information (point 13) in relation to a number of traffic and pedestrian issues including a request for a Road Safety Audit (RSA). A revised TTA was submitted on the 09/11/22. The Planning Authority raised no further concerns and granted permission. Conditions 14 and 15 of the Council grant of permission sets out further related requirements.

8.12.5. The submitted Traffic and Transport Assessments (TTA) submitted with the application and at FI stage were completed by Coakley Consulting Engineers. It assesses the road network and traffic flows including existing and proposed traffic volumes and provides a Road Safety Audit carried out by PMCE Consulting

Engineers. It details an independent³¹ turning count survey was undertaken on Thursday 11th of November 2021. It details no formal Covid travel restrictions were in place at the time and schools were open. It acknowledges the Pass Road/Meelick Road was closed at the time due to ongoing construction work but allowed for an assumed 'worst case' peak hour traffic flow of 40 vehicles (two way). A summary of the existing AM and PM peaks (8-9 am & 5-6 pm) are shown in figure 2.3. Annual Average Daily Traffic (AADT) were then estimated suggesting the Old Cratloe Road operates under capacity with substantial reserve for future growth and traffic from zoned development lands. Future Traffic volumes are then considered allowing for Transport Infrastructure Ireland (TII) growth rates, modelling considered for the CKDR 2010 EIS Report and the 'Limerick and Shannon Metropolitan Area Transport Strategy (LSMATS)'. The TTA assumes that traffic flows from the development of the subject zoned lands have been included in the CKDR modelling and road scheme.

8.12.6. The TTA includes a Traffic Impact Assessment (TIA) with-

- Estimated traffic generation
- Trip assignment and distribution
- Future traffic flows
- Consideration of the Masterplan
- Junction capacity analysis using modelling PICADY and ARCADY detailing results in line with the CKDR EIS traffic modelling results.

8.12.7. The TIA is included in section 4 of the TTA. It considers the traffic impact of the proposal on the local road network by analysing the capacity of the T-junction with the Old Cratloe Road and the recently constructed roundabout on the Pass Road (Meelick Road). It estimates traffic generation based on the TRICS database for housing and apartment developments and assign and distribute trips based on the estimated traffic flows.

8.12.8. The TTA concludes in terms of roads, traffic and junction capacity the proposal would operate in a safe and efficient manner with minimal impact on other road users and on the capacity of the local road network well in to the future.

³¹ Traffinomics Ltd.

- 8.12.9. In response to the Councils FI request the Applicants submitted a revised TTA to include further details of junction analysis for detailed scenarios, submission of a Road Safety Audit and revised drawings to address other site layout matters. The Councils Operations Department raised no further concerns and recommended a number of related conditions be applied.
- 8.12.10. Having considered the TIA as submitted as part of the overall TTA, the FI submission and the subsequent Council reports, I am satisfied that the scope (including for Applicants landholding as part of the Masterplan and developable zoned lands), assumptions, modelling, allowances and traffic count used to inform the submitted TIA are a reasonable representation and reflection of the traffic conditions at the time in order to allow for an assessment of the potential transport impacts of the proposed development of 99 houses on the local and wider road network including the CKDR. The Applicants indicate were no Covid travel restrictions at the time of the traffic survey and the Appellants have not adequately justified how such counts are not realistic.
- 8.12.11. The information submitted in the TIA is therefore considered detailed, robust and is generally in keeping with Transport Infrastructure Ireland's 'Traffic and Transport Assessment Guidelines May 2014' which includes the modelling software used.
- 8.12.12. A creche has already been permitted under planning reference 22/790 and while it is clearly intended to serve the proposed development and further Masterplan lands, I do not agree with the Appellants concerns the creche location would represent a serious traffic hazard. Insisting upon an underground or overhead walkway from the application site would not be appropriate in this context.
- 8.12.13. Having considered the sites location, zoning and all of the contents of the two submitted TTA's, I am satisfied the development as proposed will not lead to significant traffic congestion on the local or nearby national road network to an extent that would warranting refusal and as a result, the proposal would not significantly endanger public safety or create a traffic hazard.

8.13. Other Matters

- Archaeology- I note the proximity of the site to Recorded Monument LI005-007 'children's playground'. The Applicants submitted an Archaeological

Testing Report and Archaeological Management Plan in response to a request for Further Information. The Planning Authority raised no further concerns in this regard and imposed condition 19 seeking the identified intervention measures to be adhered to. Noting the proximity of the site to the recorded monument and the extent of works proposed it is considered appropriate to attach a condition for archaeological monitoring to include the active intervention measures required by LCCC.

- The Planning Authority sought Further Information in relation to a landscaping scheme for the site. They raised no further significant concerns after receipt of same. Having regard to section 8.6 of this report and the recommended omission of the Apartment development it is considered appropriate to apply a further condition requiring the landscaping to be revised to include for this recommended amendment.

8.14. Appropriate Assessment

8.14.1. Introduction

- a) The requirements of Article 6(3) as related to appropriate assessment of a project under part XAB, sections 177U and 177V of the Planning and Development Act 2000 (as amended) are considered fully in this section. The areas addressed in this section are as follows:
 - Compliance with Article 6(3) of the EU Habitats Directive
 - Screening the need for appropriate assessment
 - The Natura Impact Statement and associated documents
 - Appropriate assessment of implications of the proposed development on the integrity each European site.
- b) The Appellants raise concerns in relation to the submitted Appropriate Assessment Screening Report (AASR) and Natura Impact Statement (NIS) relating to stormwater discharge from the proposed network to a drainage ditch and on to the OPW maintained catchment downstream. They highlight the lack of cumulative assessment of other plans and projects notably the Masterplan despite the application being the first of six phases. The Appeals do not specifically identify any weakness in the Local Authority's assessment but do highlight how the submitted AASR and NIS do not consider the revised

surface water drainage proposal received after the Further Information request.

- c) The Applicants response to the Appeal details the AASR and NIS did consider and have due regard to potential impacts associated with the discharge of surface water to the drainage ditch. They also contend consideration was given to cumulative development and refer to OPR guidance that details projects not yet proposed do not have to be considered even if part of a Masterplan.

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

- a) The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given. The proposed development is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).
- b) The application was accompanied by a Stage 1 Appropriate Assessment Screening Report (AASR) and a Stage 2 Natura Impact Statement (NIS) prepared by Dr Jane Russell-O'Connor of Russell Environmental and Sustainability Services dated the 16/12/21.

8.14.3. **Stage 1 – Screening**

- a) The applicant's Stage 1 AASR was generally prepared in line with current guidance, provides a description of the proposed development, a site description, some baseline information and identifies European Sites within a 15 km radius of the site based on 2010 DEHLG Guidance.
- b) The AASR identified the following sites-
 - the Lower River Shannon SAC (002165) and

- the River Shannon and River Fergus Estuaries SPA (004077)
- c) Section 4.1 and 4.2 of the Applicant's AASR sets out a 'Statement of Screening' which states inter alia-
- "..... In relation to the effects to the qualifying species and habitats of the Lower River Shannon SAC and River Shannon and River Fergus Estuaries SPA, there is a potential indirect risk during periods of high rainfall/storm periods of runoff into the drainage ditch and subsequently the European Sites. Therefore, the development cannot be 'screened out' and a Stage 2 Appropriate Assessment (AA) is required for the Lower River Shannon SAC IE0002165 and River Shannon and River Fergus Estuaries SPA IE004077."*
- d) 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.
- e) The AASR details use of a 15km radius to identify subject sites based on 2010 guidance. This is an outdated approach and I note the OPR's Practice Note PN01 Appropriate Assessment Screening for Development Management and current best practise requires identification of the Zone of Influence³² to be established on a case by case basis, using the Source – Pathway - Receptor framework.
- f) Having reviewed the documents, submissions and all other information on file, I am satisfied that appropriate European Sites have been identified and the information submitted allows for the examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.
- g) The Board are reminded since the making of this application and subsequent Appeal, a number of other planning applications on lands in the immediate vicinity of the site have been lodged and granted by the Council without recourse to appeal. In this circumstance such finalised development consents will be considered as part of this stage 1 assessment.

³² the area over which a development could affect the receiving environment in a way that may have significant effects on the Qualifying Interests of a European site to be identified

8.14.4. The Proposed Development and Receiving Environment

- a) The applicant provides a description of the project on page 4 of the AASR screening report. In summary, the development comprises-
- 99 residential units in the form of 87 houses and 12 apartments including car and bicycle parking,
 - vehicular and pedestrian connections to public roundabout on Pass Road,
 - installation of foul and surface water drains connecting to public mains on Old Cratloe Road,
 - On-site surface water attenuation prior to discharge
- b) The development site and baseline information are described on pages 5-11 of the AASR. A Field Survey was carried out on the 15th of November 2021. Four vegetation habitats were identified as described in Fossitt's Guide to Habitats in Ireland (2000) i.e. comprising of-
- GA1 Improved agricultural grassland / GS1 Cry calcareous and neutral grassland
 - Hedgerow
 - Drainage Ditch³³
 - Eutrophic lakes pond
- c) I note an Appeal details the site was previously a golf course and is classified as 'made ground' but no evidence of this was submitted. OSI Geohive aerial photography from 1995³⁴ suggests the site was indeed used as a golf course at that time but aerial photography from 1996-2000 suggests the site has been in its current use and layout for a considerable period of time.

³³ This is detailed as containing no moving water at the time of the survey. An Appellant appears to raise concerns about this and asserts it should be considered invalid. While I do not fully understand the concern in the context of the field survey, I see no reason why it would be invalid given that this was just an observation of the survey. It is highlighted as drainage ditch and moving water would thereby be evident during periods of heavy and/or prolonged precipitation and figure 3 shows its connectivity to the 'flow network' and onto the SAC and SPA .

³⁴ <https://webapps.geohive.ie/mapviewer/index.html> accessed 23/10/23

d) Fossitt's 2000 guide to Habitats in Ireland³⁵ published by the Heritage Council is considered a best practise and frequent reference document for identifying, describing and classifying wildlife habitats in Ireland. It covers natural, semi-natural and artificial habitats of terrestrial and freshwater environments, of inshore marine waters, and of urban and rural areas. Golf courses fairways are generally considered in Fossitt as 'Amenity grassland (improved) GA2'. Having visited and inspected the site and accepting its likely historical use, I consider the site is more appropriately categorised as detailed in the AASR.

8.14.5. European Sites

a) Given the location of the site, and the nature and scale of the proposed development, and using Source-Pathway-Receptor Framework, I consider the following designated European sites to be within the zone of influence of the application site-

Table 1-

European Site	List of Qualifying interest /Special Conservation Interest	Distance from proposed development (m)	Connections (source, pathway receptor)	Considered further in screening Y/N
Lower River Shannon SAC 002165	1029 Freshwater Pearl Mussel Margaritifera 1095 Sea Lamprey Petromyzon marinus 1096 Brook Lamprey Lampetra planeri 1099 River Lamprey Lampetra fluviatilis 1106 Atlantic Salmon Salmo salar (only in fresh water) 1110 Sandbanks which are slightly covered by sea water all the time 1130 Estuaries 1140 Mudflats and sandflats not covered by seawater at low tide 1150 *Coastal lagoons 1160 Large shallow inlets and bays 1170 Reefs	c. 1.4km to the north east and south west	Hydrological connectivity- presence of drainage ditch along western boundary of site as amended at Further Information stage.	Y

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<https://www.npws.ie/sites/default/files/publications/pdf/A%20Guide%20to%20Habitats%20in%20Ireland%20-%20Fossitt.pdf>

	<p>1220 Perennial vegetation of stony banks</p> <p>1230 Vegetated sea cliffs of the Atlantic and Baltic coasts</p> <p>1310 Salicornia and other annuals colonizing mud and sand</p> <p>1330 Atlantic salt meadows (Glauco-Puccinellietalia maritima)</p> <p>1349 Bottlenose Dolphin <i>Tursiops truncatus</i></p> <p>1355 Otter <i>Lutra</i></p> <p>1410 Mediterranean salt meadows (<i>Juncetalia maritimi</i>)</p> <p>3260 Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation</p> <p>6410 <i>Molinia</i> meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>)</p> <p>91E0 *Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i>, <i>Alnion incanae</i>, <i>Salicion albae</i>)</p>			
<p>River Shannon and River Fergus Estuaries SPA 004077</p>	<p>A017 Cormorant <i>Phalacrocorax carbo</i> breeding + wintering</p> <p>A038 Whooper Swan <i>Cygnus</i> wintering</p> <p>A046 Light-bellied Brent Goose <i>Branta bernicla hrota</i> wintering</p> <p>A048 Shelduck <i>Tadorna</i> wintering</p> <p>A050 Wigeon <i>Anas penelope</i> wintering</p> <p>A052 Teal <i>Anas crecca</i> wintering</p> <p>A054 Pintail <i>Anas acuta</i> wintering</p> <p>A056 Shoveler <i>Anas clypeata</i> wintering</p> <p>A062 Scaup <i>Aythya marila</i> wintering</p> <p>A137 Ringed Plover <i>Charadrius hiaticula</i> wintering</p> <p>A140 Golden Plover <i>Pluvialis apricaria</i> wintering</p> <p>A141 Grey Plover <i>Pluvialis squatarola</i> wintering</p> <p>A142 Lapwing <i>Vanellus</i> wintering</p>	<p>c.1.4km to the south west</p>	<p>Hydrological connectivity- presence of drainage ditch along western boundary of site as amended at Further Information stage. The submitted AASR details no rare or protected species were recorded on the site.</p>	<p>Y</p>

	A143 Knot Calidris canutus wintering A149 Dunlin Calidris alpina wintering A156 Black-tailed Godwit Limosa wintering A157 Bar-tailed Godwit Limosa lapponica wintering A160 Curlew Numenius arquata wintering A162 Redshank Tringa totanus wintering A164 Greenshank Tringa nebularia wintering A179 Black-headed Gull Chroicocephalus ridibundus wintering A999 Wetlands			
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b) Conservation Objectives-

- 002165 SAC- Available to view at- https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO002165.pdf
- 004077 SPA- Available to view at- https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004077.pdf

c) I have considered other European Sites in the wider area. I am satisfied that other European sites proximate to the appeal site can be ‘screened out’ on the basis that significant impacts on such European sites could be ruled out, either as a result of the separation distance from the appeal site, the extent of marine and other waters or given the absence of any direct hydrological or other pathway to those sites from the appeal site.

8.14.6. **Identification of likely effects**

- a) The project is not directly connected to or necessary to the management of any European site. The proposed development is therefore, examined in relation to any possible interaction with the identified European sites to assess whether it may give rise to significant effects on in view of the conservation objectives for those sites.
- b) I have reviewed the conservation objectives series for both European Sites as applicable and sections 4.1 and 4.2 of the submitted AASR. These identify

the particular Qualifying Interests within the identified European Sites and how the proposed development has the potential to significantly impact upon such sites.

- c) Based on the source-pathway-receptor model and taking account of the characteristics of the proposed development in terms of its nature, location and the scale of works, as well as the revised surface water drainage proposal submitted at Further Information Stage, the sites proximity to European sites and having regard to the NIS carried out for the Limerick Development Plan 2022-28 and implications for this site, the following issues are considered for examination in terms of likely effects-
- Potential for impacts upon surface water quality e.g. silt, sediment and pollutants
 - Wastewater Disposal
 - Habitat disturbance /species disturbance and fragmentation (construction and or operational)
 - Cumulative impact including with other plans and projects in the area

8.14.6.1. Lower River Shannon SAC (002165) Impacts

- Direct Impacts-
 - *Construction Stage-*
 - The site is not located within the SAC.
 - *Operational Stage-*
 - The site is not located within the SAC and is sufficiently distant considering the nature of use proposed.
- Indirect Impacts (noting the hydrological connectivity from the drainage ditch on the western boundary of the site, as amended at FI stage)-
 - *Construction Stage-*
 - Potential for increased runoff and/or contaminated discharge to the identified drainage ditch during periods of high rainfall. Noting the proximity of the drainage ditch I also consider potential for contaminated run off resulting from machinery and site spillages including oils, fluids, silt, sediment and site works etc. Vibration impacts also likely. The AASR details indirect

water quality impacts may arise impacting Freshwater Pearl Mussel and Lamprey.

- On site wastewater discharge risks.
- *Operational Stage-*
 - Due to the proximity of a drainage ditch and its linkages to the surface water 'flow network' in the wider area there are potential pathways for water quality impacts from pollutants including oils/fuels from vehicles accessing the proposed homes including residents, delivery, maintenance and service vehicles etc.
 - Wastewater connections to public sewers. The application proposes connecting to existing Uisce Eireann mains supply and wastewater services. The 'Civil Engineering Report' submitted with the application details the applicants have received a confirmation of Feasibility from Irish Water. This is provided in Appendix G of the report and states water and wastewater connections are feasible subject to upgrades with two options provided by Irish Water. Connection to the public system would be subject to formal Irish Water consent and I understand would only be given where compliance with EPA licensing in respect of the operation of the plant would not be breached. I also consider that pollutants in discharge post treatment would be minimal and would be sufficiently diluted and dispersed. I am satisfied that wastewater from the operation stage of the proposed development will not have a significant effects and would not adversely affect the integrity of the identified European sites.

8.14.6.2. **River Shannon and River Fergus Estuaries SPA (004077)**

- Direct Impacts-
 - *Construction Stage-*
 - The site is not located within the SPA and is sufficiently distant to avoid direct impacts.
 - LCCC Heritage Officer's report considers the site could serve as a foraging habitat for wildfowl species during the winter months
 - *Operational Stage-*

- The site is not located within the SPA and is sufficiently distant considered the nature of use proposed.
- Indirect Impacts to SPA
 - Construction Stage-
 - The AASR details water quality impacts may arise impacting bird and habitat species identified in the SPA. Other contaminated runoffs possible.
 - Noise disturbance to protected bird species and
 - Impacts to possible foraging grounds
 - Operational Stage-
 - Contaminated surface water discharges. Otherwise not considered likely given nature of use.

8.14.6.3. In-combination Impacts

- a) The applicants AASR details potential impacts were not identified with regard to any other European Site.
- b) The AASR is dated the 16/12/21 and does not refer to any other permitted planning applications in the general area. However since the making of the application and subsequent appeal the Board are advised that a number of other applications within the applicants landholding have been received and have been determined by LCCC with two of these currently under appeal to ABP. These are-
 - 22/1114 / ABP-318378/23- 54 residential units (lodged to ABP 03/11/23)
 - 22/959 / ABP-317626-23- 98 residential units (under appeal)
 - 22/917- 12 residential units, and a mixed use development- coffee shop, two retail units, a food store etc.
 - 22/817- 86 Residential units
 - 22/790- A creche
- c) The Applicants response to the Appeal contends that projects that are 'not yet proposed' to not have to be considered, even if part of a Masterplan. Generally I would agree with this, however all of the above applications were

made by the same Applicant within a generally short period of time³⁶. Three of these have received a 'Final Grant' of permission and therefore in-combination effects should now be considered as part of this assessment.

- d) Noting the extent of permitted works in combination with each other and with this application and in particular the proximity of the drainage ditch and overall surface water drainage proposals along the western boundary of the subject site, the likely effects discussed could reasonably be considered to be exacerbated and therefore significant effects cannot be ruled out.

8.14.7. **Mitigation Measures**

- a) No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise.

8.14.8. **Screening Determination Conclusion**

- a) 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 and having regard to the submitted AASR, it has been concluded that the project individually (or in combination with other plans or projects) could potentially have significant effects on the following European Sites-
- the Lower River Shannon SAC (002165) and
 - the River Shannon and River Fergus Estuaries SPA (004077)
- in view of these site's Conservation Objectives, and a Stage 2 Appropriate Assessment to include mitigation measures is therefore required. The Applicants have submitted a NIS with the application.

8.14.9. **Stage 2 – Appropriate Assessment**

- a) Following the screening process, it has been determined that Appropriate Assessment is required as it cannot be excluded that the proposed development individually or in-combination with other plans or projects will not have a significant effect on the following European sites-

³⁶ The delay in dealing with this appeal is acknowledged.

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

8.14.10. **The Natura Impact Statement (NIS)**

- The application includes a NIS dated 16/12/21, prepared by Russell Environmental and Sustainability Services, which examines and assesses likely effects of the proposed development on the European Sites listed above.
- Section 1.2 of the NIS details its Methodology and section 2.1 sets out the results of the desk and field surveys undertaken. The field survey was carried out on the 15/11/21 with no typical evidence observed of otter activity, waterfowl species and rare/or protected species recorded.
- In summary the NIS proposes mitigation measures in section 4.4 to prevent indirect impacts in the form of surface water pollution during construction. The NIS concludes that-

“It can be excluded, on the basis of objective scientific information, that the project, individually or in combination with other plans or projects, will not affect the integrity of the European Sites (Lower River Shannon SAC and River Shannon and River Fergus Estuaries SPA).”
- I have reviewed the documents on file. I am satisfied that they provide reasonable information in respect of the baseline conditions relevant to the site and proposal. Potential impacts have been identified and the information provided allows for a reasonable assessment of any adverse effects of the development, on the conservation objectives of the identified European sites alone, or in combination with other plans and projects.

8.14.11. **Appropriate Assessment of implications of the proposed development**

8.14.11.1. **Introduction**

- The following is a summary of the objective scientific assessment of the implications of the project on the qualifying interest features of the European sites. Having considered the submitted NIS and the application as a whole I am satisfied the NIS has been prepared by a qualified and competent person and all aspects of this project which could result in significant effects have

been adequately identified, considered and mitigation measures designed to avoid or reduce such adverse effects have been evaluated and reasonably proposed.

b) The following guidance has also been considered in the context of the submitted NIS and this assessment.

- OPR Practice Note PN01 (2021), Appropriate Assessment Screening for Development Management
- DoEHLG (2009). Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities. Department of the Environment, Heritage and Local Government, National Parks and Wildlife Service, Dublin.
- EC (2002) Assessment of plans and projects significantly affecting Natura 2000 sites. Methodological guidance on the provisions of Article 6(3) and 6(4) of the Habitats Directive 92/43/EC
- EC (2018) Managing Natura 2000 sites. The provisions of Article 6 of the Habitats Directive 92/43/EEC]
- Information available at www.npws.ie

8.14.11.2. European Sites

a) The following sites are subject to Appropriate Assessment:

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

b) Table 1 in section 8.14.5 of this assessment details my examination of the Natura 2000 data forms as relevant and the Conservation Objectives supporting documents for these sites.

c) A description of the proposed development and the sites baseline information is set out in section 2.0 of the NIS. Section 2.1.1 details the National Biodiversity Data Centre³⁷ was used to consider any 'Qualifying Interest' Specie recorded in the area of the site.

³⁷ <https://maps.biodiversityireland.ie/>

- d) The only QI identified for the SAC in the vicinity of the site is the Otter. Of the SPA the majority of species were recorded in the vicinity of the site or the Shannon Estuary and are set out in Table 1 of the NIS.

8.14.11.3. Main Aspects

- a) Having considered all of the above and the contents of the NIS, I am satisfied the likely effects of the proposed development that could adversely affect the conservation objectives of the SAC during construction and operation are-
1. The drainage ditch along the western boundary of the site provides an indirect hydrological connection to existing surface water 'Flow Network' (see Figure 3 of the submitted AASR) which drains directly to the SAC. As a result adverse impacts from contaminated surface water discharges from the site during construction and operation are likely.
 2. On site wastewater discharge risks. The extent of development as proposed will require wastewater management to ensure no direct discharge to the SAC during construction. During operation wastewater will be to public services.
 3. Using the SAC Conservation Objectives and associated mapping these indirect impacts could therefore have adverse implications for the following protected species and habitats-
 - 1029 Freshwater Pearl Mussel- Map 15. I acknowledge the area of interest is significantly distant from the site however reliance of the mussel on salmonoid spawning is detailed in the conservation objective which has a consequence for 1106 below.
 - 1095 Sea Lamprey- Greater than 75% of main stem length of rivers accessible from estuary
 - 1096 Brook Lamprey- Access to all water courses down to first order streams
 - 1099 River Lamprey- Access to all water courses down to first order streams

- 1106 Atlantic Salmon- 100% of river channels down to second order accessible from estuary
- 1130 Estuaries- Map 4
- 1140 Mudflats and sandflats not covered by sea water at low tide- Map 5
- 1330 Atlantic salt meadows- Map 12
- 1349 Bottlenose Dolphin - *Tursiops truncatus* Habitat- Map 16
- 1355 Otter - *Lutra lutra* Map 17
- 3260 Watercourses of Floating River Vegetation- Map 13
- Impacts to Atlantic Salmon and Lamprey species are considered to include run off settlement and contaminants impacting spawning redds, prey source reduction, quality and availability of rearing habitat reduction, visibility impairment to source food and suspension impacting by abrasion and clogging of gills potentially causing infection etc.
- In terms of the Otter, I have not been able to identify the findings and the grids referred to in the NIS on the biodiversity mapping website. However having consulted Map 17 of the NPWS Conservation Objective which identifies the Otters 250m commuting buffer as well as considering the results of the field survey where no evidence of otter was observed and in which the nearby drainage ditch was generally dry, I am satisfied the Otter is not likely to be significantly impacted through disturbance, fragmentation or ability to forage.
- Impacts to habitats detailed above include changes to hydrological and morphological conditions and impacts to water quality thereby potentially undermining conservation objective targets.

b) I have considered all of the above and the contents of the NIS which details the site is not used as a habitat by any of the SPA species. I note the report of the LCCC Heritage Officer (21/01/22) details that no species were recorded

during the survey it is still a suitable habitat for such species to forage. I tend to agree with the Heritage Officer that given the amount of such habitat in the wider area any impact would not be significant. In this context, I also do not consider noise impacts or disruption to foraging to be significant. Overall I am satisfied the main aspects of the proposed development that could adversely affect the conservation objectives of the SPA are-

1. The drainage ditch along the western boundary of the site provides an indirect hydrological connection to existing surface water 'Flow Network' (see Figure 3 of AASR) which drains directly to the SPA. As a result adverse impacts from contaminated surface water discharges on water quality from the site during construction and operation are likely and in turn could potentially impact the foraging resources of protected birds.
2. On site wastewater discharge risks. The extent of development as proposed will require wastewater management to ensure no direct discharge to the SAC during construction. During operation wastewater will be too public services.
3. Using the SAC Conservation Objectives and associated mapping these indirect impacts could therefore have adverse implications on water quality and the identified habitats and species that use the SPA.

8.14.11.4. Mitigation Measures

- a) Section 4.4 of the NIS sets out proposed mitigation measures to avoid any significant impacts SAC and SPA, which could potentially arise from the proposed development in the absence of such measures.
- b) The measures proposed include-
 1. Construction of a temporary berm approximately 1m high at the western boundary of the site and
 2. A number of detailed site based work (Pages 15 and 16) including periodic monitoring by a qualified ecologist.
- c) The mitigation measures proposed are generally considered best practise measures for such developments. However, it is unusual that the measures

and the application itself do not provide for an Outline Construction Environmental Management Plan (OCEMP). I note LCCC have attached condition 18 seeking the submission and their agreement for a Construction Management and Delivery Plan to address issues such as noise, dust, vibration and wheel washing etc. A detailed OCEMP while in many cases is a best practise measure for any development site of this scale, is also a typical best practise and/or mitigation measures necessary to prevent surface and waste water pollution to existing surface water catchments during construction.

- d) The Civil Engineering Report submitted with the application details Surface Water Drainage proposals. It includes a number of SUDs set out in section 2.1. This is supplemented by the Further information Response submission. The measures proposed provide for rainfall drainage to ground rather to surface waters as well as attenuation with discharge at greenfield rates and may be considered mitigation measures in this context. In particular I note section 2.1.3 'Regional Controls' which focus on facilities to reduce pollutants from runoff and control surface water runoff to the greenfield rate. Attenuation tanks with bypass interceptors to capture petrol/oil containments are proposed. While in many cases such proposals are best practise measures for any development site of this scale, they can be considered mitigation measures necessary to prevent surface water pollution to existing surface water catchments during operation.
- e) The application is also accompanied by a 'Maintenance Plan' for storm sewers and systems and resubmitted as part of the FI response. This plan sets out how the proposal is to be properly maintained and operated including cleaning out pollutants that are trapped within gullies, manholes, oil water separators etc. etc. While generally best practise I am satisfied this should form part of the mitigation measures as detailed in the NIS in order to ensure non-contaminated surface waters discharge to the drainage ditch.

8.14.11.5. In-combination Effects

- a) Section 5.0 of the submitted NIS considers the potential for in-combination effects on the SAC and SPA. It details a search of the Council's planning website for developments in the vicinity of the application site. It identifies the

recently constructed and virtually complete Coonagh to Knockalisheen Distributor Road. It does not identify any other developments. Section 5.1 states-

*The potential cumulative impacts of the proposed development were considered following research of **known and likely plans**³⁸ and projects in the area and on the basis that the proposed development has been designed to avoid significant adverse impacts on the integrity of European Sites. It is concluded that there will be no significant cumulative impact on the ecology of the area as a result of the proposed development*

- b) The Board are reminded that the Appellants highlight the submission of the Masterplan and later phases of developments within the landholding which should be considered as part of the AA process. The Applicant's response to the Appeal details consideration was given to cumulative development and they refer to the OPR guidance that details projects not yet proposed do not have to be considered even if part of a Masterplan.
- c) Generally speaking, I would share the Applicants position on this matter and only permitted developments should be considered as there is no guarantee a planning application would receive a grant regardless of the preparation of a non-statutory Masterplan. However in this context, it must be highlighted that 5 planning applications including the subject appeal have been lodged within the Applicant's landholding and within the immediate vicinity of the site, all within a relatively short period of time.
- d) Four of these applications included an AASR and an NIS within which the Field Survey dates identified are the 15/11/21 and the 15/06/22³⁹. The former date is also the date of the field survey identified in the NIS of the subject appeal. Therefore it appears to me the author of the subject AASR and NIS (also the author of relevant documents for three of the four other planning applications) would have been reasonably aware of '**known and likely plans**' as stated in section 5.1 of the subject NIS.

³⁸ Emphasis added.

³⁹ Following an inspection of each file on LCCC online planning enquiry system- <https://maps.limerick.ie/planningenquiry> accessed 25/10/23-06/11/23.

- e) Regardless of this, the Applicants clearly knew of other such plans when they submitted their FI response on the 09/11/22. I also note the four applications subsequent to the subject application were lodged with the Council at a time when the subject application was still at Further Information stage i.e. they were submitted prior to the FI response date of 09/11/22. It is considered the Applicants must have been aware there was a possibility all planning applications could have been permitted by the Council before this one was decided upon.
- f) Notwithstanding the above, the current situation is that three applications have now been permitted-
- 22/790 Creche,
 - 22/817 86 residential units, and
 - 22/917 12 units and a sizeable mixed use development and
- the following are subject to Appeal-
- 22/959 / ABP-317626-23 for 98 residential units and
 - 22/1114 / ABP-318378/23 for 54 residential units.
- g) 22/817, 22/917, 22/959 and 22/1114 were all subject to Appropriate Assessment Stage 1 and 2 with an NIS submitted.
- h) From an in-combination perspective and noting the scale and extent of works permitted it is considered that the cumulative impact of 22/790, 22/817 and 22/917 should now be considered as part of this Appropriate Assessment. I have therefore carried out an online analysis of Limerick's online planning system (see footnote 36). The Board are advised the permitted applications were all submitted before the Applicants responded to a request for Further Information on the subject appeal i.e. before the 09/11/22. However, none of these were granted by LCCC before the Applicant's Response to this Appeal dated 27/02/23. Should the Board have concerns in this regard, they may wish to provide the Applicants the opportunity to address in-combination effects of permitted development in their NIS under the provisions of section 132 of the Planning and Development Act 2000-23 (as amended).

- i) I acknowledge the submitted NIS does not thoroughly and adequately consider the effects of developments that were known to the Applicants within the immediate vicinity of the site i.e. within their own landholding, that in-combination with the subject application and without consideration of subsequent requirements for mitigation measures, could adversely and negatively impact upon protected habitats and species, and therefore, could adversely affect the integrity of the identified SAC and SPA.
- j) I have reviewed the identified likely effects set out for 22/817, 22/917, 22/959 and 22/1114. I have considered these (as well as the potential impacts of the Creche (22/790) which in isolation I would not consider significant) in combination with the subject application. These impacts are considered consistent with the ones identified in the subject application AASR and NIS. These mitigation measures form part of a condition for each permitted development and therefore I am satisfied in-combinations effects will be suitably mitigated to avoid significant adverse in-combination impacts.
- k) Other than the planning applications detailed above, I have not been able to identify any other plans or projects (including permitted developments) that would be likely to have significant in-combination effects.

8.14.11.6. Integrity Test

- a) Having considered the submitted AASR and NIS, permitted developments in the area and following this Appropriate Assessment including consideration of all proposed mitigation measures within the applicants landholding, I satisfied the proposed development would not adversely affect the integrity of the identified European sites in view of their Conservation Objectives.
- b) This conclusion has been based on a pragmatic and reasonable assessment of the implications of the proposal alone and in-combination with other plans and projects including permitted developments.

8.14.12. Conclusion

- a) The proposed development has been considered in light of the requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended. Having carried out stage 1 screening for Appropriate Assessment

of the proposed development, it was concluded that it may have a significant effect on the Lower River Shannon SAC (002165) and the River Shannon and River Fergus Estuaries SPA (004077)

- b) Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of those European sites in light of their conservation objectives. Following stage 2 Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects (including recently permitted) would not adversely affect the integrity of European site No's 002165 and 004077, or any other European site, in view of those site's Conservation Objectives.
- c) This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects.

9.0 Recommendation

9.1. I recommend permission is granted subject to the following Conditions-

10.0 Reasons and Considerations

Having regard to-

- a) the Limerick City and County Development Plan 2022-2028 and the location of the site in an area zoned for 'New Residential' development
- b) the National Planning Framework including National Policy Objectives 1a, 1b, 2a, 3b, 4, 5, 8, 11 and 35
- c) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns & Villages) Sustainable Residential Development in Urban Areas Guidelines (DEHLG, 2009)
- d) Urban Development and Building Heights Guidelines for Planning Authorities 2018 and in particular Specific Planning Policy Requirement SPPR 4
- e) Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities (DHLGH 2022) and in particular Specific

Planning Policy Requirement SPPR 3 & 5, sections 3.5 - 3.8, 4.10-12 & 6.5-6.7 and Appendix 1

- f) The Childcare Facilities Guidelines for Planning Authorities June, 2001
- g) the general pattern of development in the area and the nature and scale of the proposed development, and
- h) Article 103 and Schedules 5 and 7 of the Planning and Development Regulations 2001 (as amended),

it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable quantum of development, housing mix and appropriate density for the area, would not seriously injure the residential or visual amenity of the area, would not detract from the character and setting of the area, would be acceptable in terms of traffic and public safety and would not be prejudicial to public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 22nd day of December, 2021 and, as amended by the further plans and particulars submitted on the 09th day of November, 2022 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. All mitigation measures set out in the Natura Impact Statement and associated documentation received with the planning application and by way of the submitted Further Information shall be implemented in full, including the

provision of a berm along the western boundary of the landholding, except as may otherwise be required in order to comply with the conditions attached to this permission.

Reason: In the interest of clarity and the protection of European Sites and the environment during the construction and operational phases of the development

3. The proposed development shall be amended as follows:
 - a. The 12 no. apartments in the 3 storey apartment block shall be omitted in full and replaced with an area of public open space to serve the overall housing development unless this area of the site is subject to a revised planning application for development in accordance with the applicable zoning requirement.
 - b. A 2-metre high privacy wall shall be constructed along the rear, side and dividing boundary between houses. The wall shall be solid block, capped and rendered. Where there is a difference in ground levels between this site and adjoining properties, the level shall be taken as their average level.
 - c. Screen walls abutting open space or estate roads shall be 2m high, plastered and capped with piers.

Revised drawings and details showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of compliance with the Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities (DHLGH 2022) and residential amenity.

4. No more than 75 residual units within the Masterplan lands as identified in Drawing No PP-13 submitted to the Planning Authority on the 09th day of November, 2022 shall be made available for occupation, until such time as the Creche permitted under planning reference number 22/790 has been

completed and is in operation, unless otherwise agreed in writing with the Planning Authority.

Reason: In the interests of orderly development.

5. 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 shall monitor all site investigations and other excavation works, and
- c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.
- d) Adhere to the list of active interventions detailed in the Archaeological Management Plan submitted to the Planning Authority on the 09th day of November, 2022

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 of any remains that may exist within the site.

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

Reason: In the interest of visual amenity.

7. (a) The internal road and vehicular circulation network serving the proposed development including turning bays, junctions, parking areas, footpaths and kerbs shall be in accordance with the detailed construction standards of the planning authority for such road works and design standards outlined in the

Design Manual for Urban Roads and Streets (DMURS). Drawings and particulars showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. shall comply with all relevant aspects of DMURS.

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

8. (a) All of the parking areas serving the residential units shall be provided with functional electric vehicle charging points, and all of the in-curtilage car parking spaces serving residential units shall be provided with electric connections to the exterior of the houses to allow for the provision of electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

(b) No car parking spaces shall be sold, rented or otherwise sub-let or leased.

Reason: in the interest of sustainable transportation.

9. Proposals for naming and numbering of the proposed scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs and house 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 legibility.

10. Water supply and drainage arrangements, including the attenuation and disposal of surface water and implementation of Sustainable Urban Drainage

measures, shall comply with the detailed requirements of the planning authority for such works and services.

Reason: In the interest of public health.

11. Prior to commencement of development the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.

Reason: In the interest of public health.

12. Site development and building works shall be carried out only between the hours of 0700 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 amenities of property in the vicinity.

13. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. The developer shall provide ducting to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

14. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The agreed lighting system shall be fully implemented and operational before any of the residential or commercial units are made available for occupation.

Reason: In the interests of amenity and public safety.

15. The site shall be landscaped in accordance with drawings PP-01(1), PP-15 and the particulars submitted on the 09th day of November, 2022. These

drawings and particulars shall be amended to make provision for condition 2 of this Order and submitted for the written agreement of the Planning Authority prior to the commencement of any development on site. The agreed landscaping scheme shall be carried out within the first planting season following substantial completion of external construction works. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

16. The construction of the development shall be managed in accordance with a Construction Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development with measures to reflect mitigation measures detailed in the submitted NIS for the application, in addition to the following:

- a. Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- b. Location of access points to the site for any construction related activity;
- c. Location of areas for construction site offices and staff facilities;
- d. Details of site security fencing and hoardings;
- e. Details of on-site car parking facilities for site workers during the course of construction;
- f. Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;

- g. Measures to obviate queuing of construction traffic on the adjoining road network;
- h. Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network and for the cleaning of the same;
- i. Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- j. Details of appropriate mitigation and monitoring measures for noise, dust and vibration, and monitoring of such levels;
- k. Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- l. Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soils and other materials;
- m. Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- n. A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

Reason: In the interest of amenities, public health and safety.

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

Reason: In the interest of sustainable waste management.

18. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: To ensure the satisfactory completion and maintenance of this development.

19. Prior to the commencement of any house in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house unit), pursuant to Section 47 of the Planning and Development Act, 2000, that restricts all houses permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

20. 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.

21. 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

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

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

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

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

Adrian Ormsby
Planning Inspector

06th of November 2023

12.0 Appendix 1

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-315673-23	
Proposed Development Summary	99 houses and all associated works.	
Development Address	Clonconane, Old Cratloe Road, Limerick	
<p>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</p>		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p>	<p>The site is rural in appearance but is located the urban rural fringe of Limerick. It is located on land zoned for residential purposes as per the Limerick Development Plan 2022 – 2028 (LDP). It is served by a recently developed road, roundabout, foot paths, street lighting and cycle lanes as part of the Coonagh to Knockalisheen Distributor Road (CKDR).</p> <p>The nature of the proposed development is therefore not exceptional in the context of the existing environment</p>	No
<p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The application proposes connections to existing public wastewater services and have received a confirmation of Feasibility from Uisce Eireann/Irish Water based on their submitted pre-connection enquiry.</p> <p>The application proposes a number of onsite SUD's to ground with impermeable surface water discharge following attenuation proposed to an existing drainage ditch along the western boundary of the site at greenfield rates.</p>	No

	There are no other significant waste, emissions or pollutants envisaged in the context of the proposed development.																
<p>Size of the Development</p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	<p>An application for 99 residential units is not exceptional in size given the sites location within Limerick.</p> <p>The site area as per the revised site boundary submitted in response to Further Information (FI) on the 09/11/22 is 3.403ha. The site forms part of an overall landholding of 14.1 hectares (indicated in section 3.3 of the Applicants response to the Appeal). Volume 2 of the LDP- Table 2.1 and Map 1 (Residential Settlement Capacity Map) identifies the site and surrounding zoned lands as plots 5, 6, 7 and 8 with a combined area of c. 17.943 ha. The application site size is not considered exceptional in this context.</p> <p>Recent and relevant planning applications in the area include-</p> <table border="1" data-bbox="531 1249 1259 2011"> <tr> <td data-bbox="531 1249 774 1379">22/1114 ABP-318378-23</td> <td data-bbox="774 1249 1016 1379">54 units</td> <td data-bbox="1016 1249 1259 1379">Under consideration (appealed)</td> </tr> <tr> <td data-bbox="531 1379 774 1518">22/959 ABP-317626-23</td> <td data-bbox="774 1379 1016 1518">98 units</td> <td data-bbox="1016 1379 1259 1518">Under consideration (appealed)</td> </tr> <tr> <td data-bbox="531 1518 774 1686">22/917</td> <td data-bbox="774 1518 1016 1686">12 units and small mixed use development</td> <td data-bbox="1016 1518 1259 1686">Lodged and permitted after the making of this application</td> </tr> <tr> <td data-bbox="531 1686 774 1854">22/817</td> <td data-bbox="774 1686 1016 1854">86 units</td> <td data-bbox="1016 1686 1259 1854">Lodged and permitted after the making of this application</td> </tr> <tr> <td data-bbox="531 1854 774 2011">22/790</td> <td data-bbox="774 1854 1016 2011">Creche</td> <td data-bbox="1016 1854 1259 2011">Lodged and permitted after the making of this application</td> </tr> </table>	22/1114 ABP-318378-23	54 units	Under consideration (appealed)	22/959 ABP-317626-23	98 units	Under consideration (appealed)	22/917	12 units and small mixed use development	Lodged and permitted after the making of this application	22/817	86 units	Lodged and permitted after the making of this application	22/790	Creche	Lodged and permitted after the making of this application	<p>No</p> <p>No</p>
22/1114 ABP-318378-23	54 units	Under consideration (appealed)															
22/959 ABP-317626-23	98 units	Under consideration (appealed)															
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22/790	Creche	Lodged and permitted after the making of this application															

	22/290	One house (not within masterplan or landholding)	Lodged and permitted after the making of this application	
<p>Location of the Development</p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly</p>	<p>Each application detailed above was submitted after the lodgement of the subject proposal. The combined area of permitted development is c. 7.33 ha. Each of these (and those now under appeal) were subject to the EIA directive whether by preliminary examination, requests for schedule 7A information and subsequent submission of EIAR by the Applicant and determination by LCCC. Further EIA consideration will be given to those applications under Appeal by ABP in due course.</p> <p>The application is served by recently completed road infrastructure as part of the CKDR. The application is accompanied by a Traffic and Transport Assessment (TTA) which included a Traffic Impact Assessment. The TTA was updated at FI stage. This indicates the Transport modelling for the CKDR Environmental Impact Assessment included for the cumulative impacts from the subject zoned lands.</p> <p>In this context I am satisfied there are no significant cumulative considerations of existing and permitted developments in the context of EIA.</p>			No
	<p>The site is located-</p> <p>c. 1.4km north east of the-</p> <ul style="list-style-type: none"> • Lower River Shannon SAC (002165) • River Shannon and River Fergus Estuaries SPA (004077) • the Fergus Estuary And Inner Shannon, North Shore pNHA (002048) <p>c. 1.3 km west of the-</p> <ul style="list-style-type: none"> • Knockalisheen Marsh pNHA (002001) and 			

<p>affect other significant environmental sensitivities in the area?</p>	<p>c. 4km southeast of the</p> <ul style="list-style-type: none"> • Woodcock Hill Bog NHA (002402) <p>The applicants have submitted an NIS which identifies an indirect hydrological link to the SAC via surface water drainage proposal to a drainage ditch along the western boundary of the site which connects to the wider catchment network in the area and onto the Shannon. Subject to the mitigation measures proposed in the NIS the proposal does not have the potential to significantly impact upon designated European Sites nor will it significantly affect other significant environmental sensitivities in the area.</p> <p>It is also noted the site is located within Flood Zone C. Notwithstanding the apparent location of the drainage ditch within Flood Zone B proposed surface water discharge at greenfield rates (subject to condition) will not increase flood risk at the site or further downstream.</p> <p>Furthermore the proposed development is consistent with the zoning objective for the site as per the LDP. The LPP was subject to Strategic Environmental Assessment and stage 1 and 2 Appropriate Assessment.</p>	
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Conclusion

<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required.</p>	<p>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</p> <p>N/A.</p>	<p>There is a real likelihood of significant effects on the environment.</p> <p>N/A</p>
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Inspector: _____

Date: _____