



An
Bord
Pleanála

Inspector's Report

ABP-317106-23

Development

Construction of 97 residential units, crèche and pumping station, and all ancillary site development works. The planning application is accompanied by a Natura Impact Statement.

Location

Baunacloka, Raheen, Co. Limerick

Planning Authority

Limerick City and County Council

Planning Authority Reg. Ref.

22/841

Applicant(s)

Rockspring Developments Limited

Type of Application

Permission

Planning Authority Decision

Grant subject to conditions

Type of Appeal

Third Party v. Grant

Appellant(s)

Akhtar and Martine Khan

The Grange Residents Association

L. Reeves and C. Heeney and Others
(Residents of The Grange)

	Tom Ryan
Observer(s)	Sarah Mulcahy
Date of Site Inspection	15 July 2024
Inspector	Cáit Ryan

1.0 Site Location and Description

- 1.1. The site is located on the R526 on the southwestern approach to Limerick city from Patrickswell, and is approx. 5km from the city centre. It is located south east of Dooradoyle, and Raheen Business Park is located on the opposite (south eastern) side of R526. It is a backland site of irregular shape, with approx. 20m roadside frontage to R526. It comprises 2.78ha as shown on the application originally lodged, and the site area is increased to 2.86ha in the Significant Further Information (FI) response. The FI site plan shows an approximately 1946sqm roughly rectangular-shaped area within the site, located near the northern site boundary, which does not form part of the subject site.
- 1.2. The site is bounded along its roadside frontage to the south west by a motor sales premises, Empire Trade Car Sales. To the rear of this premises is a large, dilapidated former warehouse-type building, which has the appearance of fire damage. The main part of the site is accessed via an approx. 100m long route, north west of which is a roughly rectangular-shaped brownfield site. A small number of dilapidated vehicles, other scrap material and some heaps of spoil/other material are located. No commercial activity was evident in the 'scrapyard' area on date of site inspection.
- 1.3. Within the site there is an area of dense planting between the brownfield/commercial part of the site and the remaining greenfield part of the site. The site is bounded:
- Near its R526 roadside frontage and along the more southerly part of the subject site to the north east by a greenfield site;
 - Along the northern part of its north eastern boundary by The Grange, an established 2-storey residential scheme accessed from R510;
 - to north and west by the remainder of the field of which the site forms a part.
- 1.4. There are mature hedgerows along the north eastern site boundary and along the northern and western field boundaries of which the site forms a part. The site is generally level but rises slightly in the western half of the site. Lands west of the site boundary slope gradually downwards to a hedgerow at the field boundary.

- 1.5. On site inspection I noted that the LIHAF¹-funded Mungret Road Stage 2 road, approx. 265m north west of the subject site, is accessible and signage is in place indicating that this road was officially opened in April 2024. This road allows for connectivity between R510 (via Mungret Gate and other residential schemes) to the Limerick City East Educate Together NS.
- 1.6. Loughmore House, a protected structure, is approx. 35m south west of the site on R526; RPS Ref. 1672 refers. The Mungret monastic complex is a short distance north west of the site. Loughmore Canal is approx. 52m west of the site.

2.0 Proposed Development

- 2.1. The proposed development is a residential development comprising
- 97no. residential units, comprising 59no. houses and 38no. apartments
 - Crèche
 - Pumping station with pumped rising main connection to existing infrastructure at Raheen Roundabout
 - Construction of all roads, pavements, car parking, street lighting, foul and surface water drainage and all ancillary site development works.

A Natura Impact Statement (NIS) accompanies the application.

The breakdown of the units is outlined in the table below:

Block Number	Number of Storeys	1-bed units	2-bed units	3-bed units	4-bed units	Total Units
N/A - Houses only	2-storey	0	0	54no.	4no.	59no.
Blocks 1 and 2	4-storey	16no.	22no. (14no. 4person and 8no. 3person)	0	0	38no.
Total		16no.	22no.	54no.	5no.	97no.

¹ Local Infrastructure Housing Activation Fund

Car parking spaces:

- 144no. spaces are proposed to serve houses and apartments, 11no. of which are visitor spaces;
- 3no. EV charging points;
- 3no. disabled parking spaces are proposed, one of which serves the crèche;
- 9no. spaces for crèche (excluding disabled space).

2.2. Documentation submitted with the application includes a Design Statement, Appropriate Assessment (AA) Screening and Natura Impact Statement Report and a Site Specific Flood Risk Assessment (SSFRA). A letter from Limerick City and County Council (LCCC) Housing Development Directorate was lodged with the application, confirming agreement in principle relating to applicant's obligations to comply with Part V has been reached with the transfer of 19no. units on-site.

2.3. Significant Further Information (FI) reduces the number of proposed units from 97no. to 96no, whereby one detached unit is omitted. The FI housing unit mix is similar to that originally submitted, although a number of house types are amended. There is no change to the number of apartments.

The proposed development as amended in the FI response is outlined below:

Block Number	Number of Storeys	1-bed units	2-bed units	3-bed units	4-bed units	Total Units
N/A – Houses only	2-storey	0	0	54no.	4no.	58no.
Blocks 1 and 2	4-storey	16no.	22no. (14no. 4person and 8no. 3person)	0	0	38no.
Total		16no.	22no.	54no.	4no.	96no.

Other amendments included in the FI response are:

- The site area outlined in red is marginally increased, whereby an additional access route is shown to serve the proposed pumping station.
- proposed pedestrian and cycle connection to The Grange housing estate.

- An additional vehicular entrance to the site from future roadway to west.
- The number of car parking spaces is reduced, such that 125no. spaces are proposed to serve houses and apartments, with no visitor parking, and 8no. spaces would serve the crèche (excluding disabled space).

FI documentation includes a Stage 1/2 Road Safety Audit and a Traffic and Transport Assessment. The Traffic and Transport Assessment states that traffic is to be initially via an upgraded access off R526. Following completion of Mungret LIHAF (Stage 3) road onto R526, this access will be closed to vehicles, and vehicular access to the scheme will be via two new access junctions from the LIHAF road.

3.0 Planning Authority Decision

3.1. Decision

Following a request for Further Information, the planning authority made a decision to grant permission subject to 22no. conditions. Conditions of note are as follows:

Condition 1: Development to be carried out in accordance with application lodged on 29 July 2022, as amended by further plans and particulars submitted on 8 March 2023, 13 March 2023 and 26 April 2023.

Condition 2: Lodge cash deposit, bond or other security of €432,000.00.

Condition 3: Financial contribution of €190,878.00

Condition 5: Section 47 Agreement required that restricts all houses permitted to first occupation by individual purchasers.

Condition 6: Mitigation measures set out in NIS shall be carried out.

Condition 8: Submit and agree Construction and Environmental Management Plan.

Condition 10: Submit and agree a revised foul sewer layout showing a gravity foul sewer pipe which by-passes the pumping station and extends as far as the proposed Mungret LIHAF Stage 3 Road. Reason is in the interests of proper planning and sustainable development.

Condition 11: Submit and agree (i) phasing programme to include min. 3 phases (ii) crèche to be built under Phase 2 (iii) map showing areas to be taken in charge.

Condition 12: Submit and agree landscape and biodiversity scheme. Condition 12(h) includes hedge line forming existing site boundary shall be thickened planting by appropriate native species where possible, and particular attention shall be paid to western and eastern site boundaries.

Condition 16: Revised site layout plan to be submitted to include -

(ii) the No Build Zone shall be omitted and replaced with footpath/cycle lane shown on Drawing No. 101A that runs along boundary on R526.

(v) drop down bollards at Road 1 to prevent through access when LIHAF road is constructed are not acceptable. Alternative solution to be agreed.

(vi) drop down bollards to third party lands shall be replaced with a continuation of the proposed fencing.

Condition 17: Submit revised site layout to include –

(i) Implement recommendations of Stage 1 and 2 Road Safety Audit (RSA)

(ii) Stage 3 RSA shall be submitted upon completion of any phase

Condition 18: Submit revised surface water/SuDS Management Layout Plan to include addressing (a) details of discharge points and (d) discharge levels shall not exceed 2l/s/ha or Qbar whichever is the greater restriction for the entire site.

Condition 21: (a) Submit revised public lighting design.

Condition 22: Archaeological monitoring.

3.2. Planning Authority Reports

3.2.1. Planning Reports (20 September 2022, 28 April 2023)

First Executive Planner's report – States that following implementation of appropriate mitigation measures outlined in NIS, the development should not result in a significant effect on the integrity of qualifying interests of Lower River Shannon SAC. Recommends FI on 9no. items.

Second Executive Planner's report - Notes Development Applications Unit (DAU) submission and states that the proposal is approx. 30m from pNHA. Notes Heritage

Officer's report states it is too late to request an ecological impact assessment (EcIA) and that boundary hedgerow looks to be outside red line. States landscaping condition shall be attached for new hedge line with suitable species along western boundary. Recommends grant of permission subject to 22no. conditions.

Report countersigned by Senior Executive Planner on 28 April 2023.

3.2.2. Other Technical Reports

Planning, Environment and Place-Making

Senior Executive Engineer (First report undated, Second report 5 April 2023)

First report states the subject site will be bounded to west by the Mungret LIHAF stage 3 road. Stage 3 is at preliminary design stage. Requests FI on 5no. items.

Second report states conditions including that prior to commencement a revised foul sewer layout showing a gravity foul sewer pipe which by-passes the pumping station and extends to proposed LIHAF Stage 3 road shall be submitted and agreed.

Executive Scientist (Email 15 August 2022) states road noise at development is not likely to have a significant adverse impact for residents. No objection.

Planning, Environment and Place-Making (Email 30 August 2022) states proposal is located in Flood Zone C, and outside the documented groundwater flood extents available from GSI website (Groundwater Flood Map Viewer). No objections on fluvial, tidal or ground water flood risk grounds.

Roads, Traffic and Cleansing | Central Services (1 Sept. 2022 and 27 March 2023): First report requests FI on traffic/transportation, public lighting and surface water matters. Second report recommends conditions.

Active Travel (6 September 2022)

- R526 is identified as a feeder cycling route and bus priority route within the revised draft LSMATS 2040. An access to the site off R526 is proposed to only be accessible to pedestrians and cyclists once the future LIHAF road is completed. Recommends indicative site layout is provided demonstrating that bus and cycling infrastructure can be accommodated in the future.
- Site is within Mungret Opportunity Area (Map 3.8: Mungret Framework Plan).

MFP shows indicative connections with The Grange. Recommends removal of Nos 47 and 48 to enable the connection.

- Revised site plan required showing increased number of cycle parking spaces
- Crèche – requests staff numbers to be clarified re cycle parking

Heritage Officer: (Email 20 September 2022 and subsequent correspondence)

Email agrees with findings of AA screening and NIS. Requests that condition be attached requiring mitigation measures outlined in S4.2. of NIS be implemented in full, to minimise ecological effects on nearby Natura 2000 sites.

Subsequent correspondence states it seems too late to request EclA, and boundary hedgerow looks to be outside red line boundary. Recommends 3no. conditions to limit lightspill off site, to thicken hedge with native species though outside the site, and avail of native tree planning opportunities on pNHA on side of road.

Executive Archaeologist (31 August 2022) notes ringfort (Recorded Monument) c. 110m to north west, Mungret early Christian complex is further north and previously unrecorded prehistoric monuments were uncovered to south in Business Park and during construction of R-510-1607. Requests FI for archaeological assessment.

Fire Service (Email 22 August 2022) states no objection subject to comments relating to Fire Safety Certificate, Disability Access Certificate, Building Regulations and Building Control Regulations.

3.3. Prescribed Bodies

Irish Water/Uisce Éireann letter dated 29 August 2022 states no objection, subject to a number of observations. These include –

- Applicant to comply with all conditions specified by IW agreements as set out in pre-connection enquiry ref. no. CD520002725 and connection applications (incl. right of way, self-lay agreements, etc.)
- Where applicant proposes to connect to a public water/wastewater network operated by IW, applicant must sign a connection agreement with IW prior to commencement and adhere to standards and conditions of that agreement.
- Proposed connections to water and wastewater infrastructure will be subject

to constraints of IW Capital Investment Programme.

- There shall be no building over water mains, common pipes or sewers and if found IW must be contacted with a proposal for altering at applicant's cost.
- Limerick City and County Council/Irish Water will require certification from an engineering company with minimum €2m professional indemnity insurance on completion stating that all works in relation to surface water sewers, foul sewers and water mains have been completed to good engineering practice and in accordance with planning permission conditions. A further engineer's chartered certificate will be required at taking in charge stage.

Transport Infrastructure Ireland (TII) letter dated 30 August 2022 states that it will rely on the planning authority to abide by official policy outlined in DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (2012), and requests that the Council has regard to Chapter 3 of these Guidelines in the assessment and determination of the planning application.

In letter dated 14 March 2023, TII states that its position remains the same as set out in letter of 30 August 2022.

Gas Networks Ireland Email dated 15 August 2022 states it has no comment.

Health Service Executive (HSE) Report attached to email of 23 August 2022 from Limerick Environment Health Service refers *inter alia* to a food business and states that the Early Years (Pre-School) Services of Tusla should be contacted to ensure compliance with relevant legislation and standards.

Development Application Unit (DAU), Department of Housing, Local

Government and Heritage: Letter of 28 March 2023 states that there is no assessment of potential impacts on Loughmore Common Turlough pNHA (code 0438). It outlines that the site is directly adjacent and shares a boundary with this pNHA, and recommends that an ecological impact assessment (EclA) is requested to determine potential impacts on pNHA. The development may offer opportunities for limited enhancement of the pNHA through retention and enhancement of existing boundary hedgerow. This boundary will directly adjoin an access road to the development and there appears to be significant opportunity on pNHA side of road for native tree planting that would act as a buffer.

The EclA should consider potential benefits to the pNHA through diversion of runoff water to the wetland and potential adverse impacts from light spillover.

3.4. **Observations to the Planning Authority**

23no. observations were received by the planning authority. The main issues raised may be summarised as concerns relating to impacts on Loughmore Canal, Barnakyle River and Loughmore Turlough and on bats and other fauna, surface water and wastewater treatment, flood risk, overlooking, overshadowing, traffic safety, boundary treatments and links, anti-social behaviour and security, and air, noise, environmental and visual pollution.

Further to the submission of Significant Further Information, 19no. observations were received, one of which is from a public representative. The main issue raised relates to concerns regarding proposed provision of the link to The Grange, including anti-social behaviour, no cycle path infrastructure and lack of car parking spaces in The Grange. A range of other issues previously raised are also reiterated.

4.0 **Planning History**

Subject Site:

P.A. Ref. 20/1430: Permission was sought for 99 residential units, crèche and pumping station on a site substantially the same as the subject case. A NIS was submitted with the application. This application was withdrawn in 2021.

Sites in the Vicinity:

P.A. Ref. 24/60010 and ABP-319328-24: A decision to grant permission subject to conditions was made by the planning authority in 2024 for construction of a two-storey nursing home, single storey service building, a biodiversity area and associated site works. A NIS is submitted with the application. This site is located approx. 280m south west of the subject site's roadside frontage on the R526. This decision is currently under appeal.

P.A. Ref. 22/190 and ABP-314921-22: A 10-year permission was granted for biopharmaceutical manufacturing campus on the opposite side of R526 to the subject site. An AA and EIAR were submitted with the application. An appeal was withdrawn. Construction has commenced on site.

5.0 Policy Context

5.1. Limerick City and County Development Plan 2022-2028

Land Use Zoning and Density

The site is zoned New Residential, 'to provide for new residential development in tandem with the provision social and physical infrastructure'. **Section 12.3** (Land Use Zoning Objectives) states that this zone may include a range of other uses including childcare facilities.

The site is located within the 45+ density zone, save for two separate minor areas of irregular size at the north west area of the site. These two separate areas are located within the 35+ density area.

Volume 1: Written Statement

Chapter 3: Spatial Strategy

Objective CGR O3 Urban Lands and Compact Growth: It is an objective to (e) require owners of urban sites, in instances where phased development is proposed, or where such land adjoins other undeveloped, zoned land in third party ownership, to develop a masterplan for the coherent and sustainable development of such lands, addressing issues of the sustainable use of available lands, preservation of existing residential amenity, access, urban design and connectivity. These Masterplans shall set out the framework for the sustainable, phased and managed development of a particular area. The Masterplan should include the written consent of all landowners, where applicable, a conceptual layout, infrastructure proposals including any consultation with service providers and phasing details. It should clearly detail how adjoining undeveloped, zoned land in third party ownership, can be accessed and serviced in an integrated and coherent manner.

The site is within the **Mungret Framework Plan**, as shown on Map 3.8 (Vol.1).

Table 3.2: Urban Character and Objectives regarding Area UCA 04: Southern Environs – Dooradoyle/Raheen/Mungret includes (d) the Framework for Mungret to guide development at this location.

Section 3.4.3.8 Mungret Framework Limerick Shannon MASP recognises the potential for sustainable residential development in Mungret. Funding has been

secured through Local Infrastructure Housing Activation Fund (LIHAF) to deliver a link street, to unlock substantial lands within public and private ownership and allow for residential development, with potential approx. 1,950 dwelling units, supported by community and employment uses. It states that the framework will have cognisance of the area's environmental and historical assets including Loughmore Common proposed Natural Heritage Area and Mungret Monastic Complex.

Objective MF O1 includes it is an objective to

- a) Deliver an exemplar new neighbourhood with a clear identity and character that responds to the natural and historic environment and provides a great place to live.
- g) Create a walkable and cycle friendly neighbourhood that provides easy access to schools and amenities through a safe and attractive network of streets and paths
- h) Create a legible network of streets defined by new buildings and laid out as part of a clear hierarchy.
- i) Incorporate bus routes through the heart of the neighbourhood, reducing the need to travel by car
- k) Residential development shall be designed to create a streetscape along the main spine roads, with properties fronting onto the road where appropriate.
- l) Higher density development e.g. apartment blocks are encouraged along the LIHAF Road and at the corner of street blocks in particular

Chapter 5 – A Strong Economy

Objective ECON O5 Local/Neighbourhood Centre includes it is an objective to b) Promote the development of new neighbourhood centres at Mungret, Ballysimon and Old Cork Road to serve a growing population within their catchment.

Chapter 6: Environment, Heritage, Landscape and Green Infrastructure

Objective EH O9 Geological Sites includes it is an objective to (a) Protect from inappropriate development, the County Geological Sites contained in the Limerick Geological Heritage Survey 2021.

Objective EH O35 Special Control Areas Mungret It is an objective to protect and maintain the integrity of the Special Control Areas at Mungret Monastic Complex, incorporating all national monuments and protected views including:

- 1) View from Mungret College northeast to the Monastic Complex and;
- 2) Views northwest across the Monastic Complex. Development within this area will be prohibited with the exception of leisure facilities and moderate extensions to existing dwellings, which will not adversely impact on the character or setting of the complex. The Council will facilitate the provision of interpretative panels and directional signage for Mungret Monastic Complex and park, will be considered in consultation with local community groups.

Chapter 8: Infrastructure

It states at Section 8.5.3 that as part of Mungret LIHAF project, Irish Water is working with the Council to provide wastewater network infrastructure in the Mungret area.

Objective IN O21 Construction and Demolition: It is an objective to a) Require construction Waste Management Plans to be submitted as part of planning applications, to address waste management on site during construction and mitigation measures to address waste generation, in accordance with the principles of the circular economy and the principles of prevention, renewal and recycle.

Chapter 13: Implementation and Monitoring

It states (at 13.5.3 Supplementary Development Contributions) that a Supplementary Development Contribution Scheme applies to R526 Link Road Phase 3 Mungret.

Volume 2(a): Level 1 – Limerick City and Suburbs (in Limerick), Mungret and Annacotty.

The site forms part of overall No. 151 13.34ha landbank, set out in *Table 1: SCA Limerick City and Suburbs (in Limerick), Mungret and Annacotty lands identified for potential Residential, or a combination of Residential and other Mixed-Use development*. The estimated residential yield of this overall landbank is 586 units.

Map 6: Transport Map shows indicative link road and cycleways/walkways in roughly north-south direction approximately along western boundary of the subject site.

Volume 3a: Record of Protected Structures Metropolitan District of Limerick

Loughmore House, a protected structure (RPS Ref. 1672) is approx. 35m south west of the site entrance on R526.

5.2. The Geological Heritage of County Limerick – An audit of County Geological Sites in County Limerick (2021)

This audit states that the turlough locality at Loughmore Common is a feature which lies in a shallow basin, elongated in an east-west direction, and floods shallowly (30 – 40cm) in winter. The turlough does not have any unusual geomorphology or flora associated with it, and it is difficult to separate out the turlough from surrounding hills. Loughmore is apparently drier today than it has been in the past, and it seems that drainage of the surrounding land rather than of the site itself may be the reason. Hence, this site is rejected as a County Geological Site.

For clarity, this audit is referenced in Objective EH 09 Geological Sites (a) of the Development Plan (Vol. 1).

5.3. National Planning Policy

Section 28 Ministerial Guidelines

The following list of Section 28 Ministerial Guidelines are considered to be of relevance to the proposed development. Specific policies and objectives are referenced within the assessment where appropriate.

- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities
- Sustainable Urban Housing Design Standards for New Apartments Guidelines for Planning Authorities
- Urban Development and Building Heights
- Architectural Heritage Protection Guidelines for Planning Authorities
- The Planning System and Flood Risk Management Guidelines for Planning Authorities

Other policy documents of note:

- National Planning Framework
- Appropriate Assessment of Plans and Projects in Ireland Guidance for Planning Authorities

- Design Manual for Urban Roads and Streets

5.4. **Natural Heritage Designations**

The site is not located within nor does not it adjoin any Natura 2000 sites.

The nearest Natura 2000 sites are:

- Nearest part of Lower River Shannon SAC (Site Code 002165) is approx. 2.3km to north east.
- Nearest part of the River Shannon and River Fergus Estuaries SPA (Site Code 004077) is located approx. 2.4km to north.

Loughmore Common Turlough pNHA (Site Code 000438) is approx. 27m to west.

5.5. **EIA Screening**

See completed Form 1 and Form 2 on file.

Having regard to all information on file, the site context and the nature and scale of the proposed development, it is considered that there is significant and realistic doubt regarding the likelihood of significant effects on the environment.

In the event that the Board was minded to grant permission for the proposed development, I consider that Schedule 7A Information (of the Planning and Development Regulations 2001 as amended) would be required to enable a Screening Determination to be carried out.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

3no. third party appeals have been received.

Akhtar & Martine Khan:

- Overlooking: No.s 48 and 49 will look into rear garden of existing dwellings from ground floor windows. A 2m concrete block capped wall should be erected to rear of new housing development.

- No.s 48 and 49 were proposed at 12.0m FFL on the original application site section but identified as 12.5m on the site layout plan. 93 The Grange is currently c. 10.9FFL based on drawing. Screen planting this will not eliminate privacy being compromised.
- Pedestrian access is proposed into cul de sac adjacent to 92 and 93 The Grange. The existing hammerhead is used for vehicles turning and parking. Significant safety issues with bicycles and e-scooters exiting at a high velocity from a 20-1 gradient. No available information that road safety did an audit on proposed pedestrian link.
- Proposed dwelling not designed for active or passive surveillance of pedestrian link.
- No levels of adjacent adjoining properties were included in the application or the topographical survey provided.
- Adjoining lands/land contamination: a car scrapyards has been operating for many decades where thousands of vehicle engines have been dismantled. The council did not request a soil analysis. Queries whether a ²WAC analysis/soil testing was conducted, and sees this omission as a serious environmental issue.

The 2no. separate appeals from The Grange Residents Association and L. Reeves and C. Heeney and others (Residents of The Grange) are largely the same and are summarised as follows:

- Purpose of FI request is not intended to compel major infrastructural changes. Only residents who had raised an objection on other grounds received notification of the reintroduction on 8 March 2023. Use of FI process is *ultra vires* the powers conferred by the relevant legislation.
- Pedestrian/cyclist linkage has major implications for safety of new and existing pedestrians and cyclists. National guidelines make it clear that best practice necessitates engagement with stakeholders. There has been no consultation.
- Road width near proposed link is 5.435m from kerb to kerb. Parking is usually partially on footpaths. Impractical to encourage large numbers of pedestrians and cyclists to use this road and it is a safety risk.
- Part of the route of The Grange would involve use of a narrow S-bend section of

² This is assumed to be Waste Acceptance Criteria (WAC).

road. No consideration of lack of cycle lane infrastructure within The Grange estate.

- Affected section of The Grange did not envisage permeability. Existing footpath does not extend to join proposed linkage at boundary.
- Unclear if elevation difference between The Grange and new development will be addressed through an inclined road/pathway or steps. Incline would be hazard in cold weather. Steps may preclude wheelchair access or use by vulnerable persons.
- Linkage to half-hammerhead cul de sac in The Grange is significant traffic hazard.
- Proposed footpath/ cycle infrastructure connecting with existing infrastructure on Patrickswell Road (R526) is a much safer option. New amenities will be proposed in a neighbourhood centre on new Mungret Link Road.
- Planning authority has effectively accepted potential for anti-social behaviour. Houses on the link will only have upper landing window overlooking the link and will not contribute to deterring anti-social behaviour.
- Link would be safety risk to children in The Grange and in proposed development.

Tom Ryan:

- Loughmore canal and Barnakyle stream enters Barnakyle river through Mr. Ryan's lands. This watercourse is the outfall for storm water from proposed development.
- In 1970 Limerick County Council entered into an agreement with local landowners to facilitate an outfall for storm water from Raheen Industrial Estate. This facilitated the construction of Loughmore Canal through Loughmore Common which is a turlough. A section of this canal is on the third party's lands. This agreement was part of an overall drainage proposal which never materialised once the outfall was secured.
- LCCC ignored the Water Framework Directive and Habitats Directive where surface water discharges to Loughmore Canal/Turlough. They failed to properly risk assess ecological and hydrological implications of development on Groundwater Dependent Terrestrial Systems (GWDTEs) and ignored directives relating to planning decisions in the locality and over karst limestone.
- Multiple planning applications granted in the locality without control measures or flood risk assessments have led to extensive flooding of the third party's lands.
- This development connects into existing network prior to entering Loughmore Canal.

Expansions and multiple connections have resulted in misconnections in foul and storm water network within Raheen Industrial Estate. Report commissioned by LCCC confirms this industrial estate is the pollution source. This development will ensure that contaminated water is pushed onto the third party's lands.

- No further developments should take place that connect to Loughmore Canal.
- Third party's lands have been flooded due to destruction of Loughmore Turlough and livestock suffered unexplained physical distortions as seen with exposure to chemical pollution.

6.2. Applicant Response

The applicant's response to the grounds of appeal may be summarised as follows:

- The proposed greenfield run off is in accordance with the SUDS initiative.
- Pedestrian and cycle link to The Grange was not part of original design, and was included at FI stage following local authority's request. Applicant appreciates the rationale but agrees with appellants that it is unnecessary.
- To effect connectivity this link would need to be joined onto the turning head in the cul de sac of the adjoining estate. This would require works to be carried out on lands not in the applicant's ownership.
- The link would change the character of the adjoining cul de sac without significant benefit
- The masterplan demonstrates that there is potential in the long term to achieve connectivity through lands to the south east, which in conjunction with existing provision on R526 would provide direct connectivity for pedestrians and cyclists to other services in the neighbourhood without the need to go through The Grange. These potential cycle and pedestrian paths would be specifically designed for this purpose.
- Housing is very much needed in the area.

6.3. Planning Authority Response

The planning authority has not responded to the grounds of appeal.

6.4. Observations

1no. observation from Sarah Mulcahy is summarised as follows:

- The 2no. 4-storey blocks are out of character for Raheen/Dooradoyle area. Area is overpopulated and oversaturated with residential developments.
- Overlooking of existing properties and of Loughmore Common pNHA
- Negative impact on Loughmore habitat relating to light pollution. Construction will cause noise disturbance, air pollution and vibrations.
- Loughmore is a turlough, one that is very rare in Limerick region. It provides winter habitats for wildlife. Annex I bird species have been recorded here.
- Southern Environs Local Area Plan 2021-2027 includes that main dangers to Loughmore are gradual encroachment of housing and other development with consequent changes in hydrology.
- Loughmore Common houses 2 swallow holes and Loughmore Canal. Developer should construct 2.5m high wall on site's northern and western side adjoining observer's land, and 2.5m high wall on boundary of proposed roadway to prevent trespass and serious health and safety issues.
- Disagrees with submitted report that site is protected by large dogs at night.
- Planning permission is sought on basis of roadway which does not exist and has not gone for public consultation/planning.
- Applicant intends to drain storm water from their site via attenuation tank into an IDA-operated storm water canal. The canal, constructed in 1973, now serves multiple of the original 60 acres.
- Loughmore Canal is working under severe pressure, has overflowed on many occasions and is highly polluted.
- Storm water outfall discharges through a special area conservation in the form of Loughmore Turlough.
- LCCC have not completed an entire capacity audit on Loughmore Canal. More surface water will be feeding from this development.

7.0 **Assessment**

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the local authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Zoning
- Compliance with Mungret Framework Plan – (1) Overall Site Configuration: (2) Protected Structure – New Issue and (3) Permeability
- Visual and Residential Amenities
- Drainage/Water Quality and Flooding
- Ecology
- Procedural Issues
- Supplementary Development Contribution Scheme – New Issue

7.2. **Zoning**

Zoning

7.2.1. The site is zoned New Residential in the Limerick City and County Development Plan 2022-2028. It states (at Section 12.3) that this zone may include a range of other uses such as childcare facilities. As such, the proposed development comprising 96no. residential units and a creche, as amended by FI, is in compliance with this land use zoning objective.

7.3. **Compliance with Mungret Framework Plan – (1) Overall Site Configuration, (2) Protected Structure: New Issue and (3) Permeability**

Overall Site Configuration

7.3.1. Mungret Framework Plan, hereafter referred to as Mungret Framework, is set out in Chapter 3: Spatial Strategy of the Development Plan. Based on all information on file, including in particular the FI site layout, I consider that the proposed

development would not be in compliance with the Objective MF O1 Mungret Framework, as discussed further below.

7.3.2. For clarity however I highlight that Map 3.8: Mungret Framework Plan shows 'Link Street' in the approximate location of the indicative LIHAF Stage 3 road. On the basis of the information on file, including internal reports, I do not consider that the proposed development would be in conflict with the future delivery of this key transportation/mobility route.

7.3.3. Separately, I note that 'Indicative Residential Blocks' (emphasis added) are stated in the legend on Map 3.8. However, notwithstanding this reference to 'indicative', I note the content of Objective MF O1 includes objectives to (h) *Create a legible network of streets defined by new buildings and laid out as part of a clear hierarchy* and (k) *Residential development shall be designed to create a streetscape along the main spine roads, with properties fronting onto the road where appropriate*. Having regard to Objective MF O1 and the detailing of Map 3.8, I consider that the FI site layout would be inconsistent with Mungret Framework in a number of respects, including:

- The Mungret Framework shows an access route from R526. Due to the NTS (not to scale) nature of this mapping, the exact location of this new route relative to the modified entrance to the serve the proposed development is not easily discernible. However, notwithstanding this, I estimate that the new route from the R526 shown on the Mungret Framework is a very short distance south east of the modified entrance in the current case, i.e., the proposed development would not be in compliance with the access point from the R526 as shown in the Mungret Framework, albeit by a limited distance. The Framework also shows that the access route from R526 would be flanked on either side by indicative residential blocks. I note that the FI Traffic and Transport Assessment states that access will initially be via an upgraded existing access off the R526, and that following completion of Mungret LIHAF (Stage 3) road, the R526 access will be closed to vehicles, and vehicular access will be via two new access junctions from the LIHAF road. While it is therefore anticipated that the transportation/mobility context of the site's immediate environs will evolve, I consider that given that the site configuration does not align with the Mungret Framework, that proposed development would not be in accordance with Objective MF O1 (h) and (k).

- The Mungret Framework shows a (new) access route running along a south west to north east axis, potentially connecting to Courtfields, a residential cul de sac to the north east. This part of Courtfields is a very short walking distance to Courtfields Shopping Centre and Great National South Court Hotel. Based on the FI site layout, it would appear that no provision has been made for linkage to this potential future route. I note that a masterplan drawing lodged with the application shows indicative site layouts on adjoining lands. However, no potential link is shown on the masterplan drawing which would correspond to the location shown on the Mungret Framework. I note that the applicant's response to the grounds of appeal states that the masterplan demonstrates that there is potential in the long term to achieve connectivity through lands to the south east. However, notwithstanding this, I consider that the proposed development would not be in compliance with the Mungret Framework due to the lack of this potential connection point to the north east. For completeness, south of the creche, a separate potential access route to lands to north east is shown on FI site plan.
- The overall street layout and location of open spaces in the proposed development are not in accordance with Map 3.8.

7.3.4. The Limerick City and County Development Plan 2022-2028 came into effect on 29 July 2022, i.e., the same date on which the planning application was lodged.

However, notwithstanding this, as this is the operative Development Plan at time of decision, I consider that the overall site configuration in the proposed development should not be in conflict with the Mungret Framework shown on Map 3.8 of this adopted Development Plan.

7.3.5. Based on all information on file, I consider that the overall site configuration would militate against the implementation of the Mungret Framework. Refusal of permission is recommended on this basis.

Protected Structure – New Issue

7.3.6. For clarity, I note that protected structures are not shown on Map 3.8. As Loughmore House (RPS Ref. 1672) is approx. 35m south west of the subject site entrance, it is unclear as what impacts Mungret Framework would have on this protected structure, i.e., any impacts arising from the access route shown from R526, the indicative

residential block and the open space area shown in this general area on Map 3.8.

- 7.3.7. I consider that the proposed development, particularly in terms of the modified access to the backland site, would not directly impact on this protected structure, due to its distance, albeit limited, from same.
- 7.3.8. However, notwithstanding this, I consider it relevant to highlight this matter in the context of the provisions of the current Development Plan (Map 3.8), which show an indicative access route at or in the vicinity of the protected structure. The matter of non-compliance with the Mungret Framework is outlined above and is recommended as a basis for refusal. If however the Board was minded to grant permission, it may consider that further clarity regarding proposed access arrangements to Mungret Frameworks lands from the R526, vis-à-vis its context to Loughmore House, a protected structure, would be required.
- 7.3.9. This is a new issue and circulation to the parties would be required.

Permeability

- 7.3.10. The FI response (to Item 1(a)) results in the omission of 1no. house and a revised site layout in order to provide potential permeability to The Grange housing estate to the east. I consider the revised site layout showing this amendment to be generally acceptable and would be in compliance with the Mungret Framework.
- 7.3.11. I note the concerns raised in the grounds of appeal and the applicant's response to same with regard to both the principle and the detailing of this potential connectivity link, including concerns raised regarding differences in ground levels between the subject site and the dwellings along the western side of The Grange.
- 7.3.12. I consider that the provision of a potential link to the existing residential development to the east to be acceptable in principle. It would allow for a slightly shorter walking/cycling route to the Courtfields shopping area from the subject site, and a route from The Grange to various educational establishments in Mungret via future road projects such as Stage 3 LIHAF road.
- 7.3.13. In terms of detailing, and having inspected the site, there does not appear to be a significant difference in levels at present between the subject site and the area between 92 and 93 The Grange to the east. Proposed Site Section B-B (Part B) lodged with the application shows that raised ground levels are proposed, which

would result in a finished floor level (FFL) at proposed No.s 48 and 49 approx. 1.5m above that existing at 93 The Grange.

- 7.3.14. I consider that this height differential to be acceptable in terms of impacts on residential amenities of existing dwelling houses at The Grange, which is discussed in the following section. However, with regard to detailing of the proposed link, the FI response does not appear to include an updated site section at this location.
- 7.3.15. While details to include site sections, site levels, boundary treatment details at the interface of the potential access/egress point to The Grange and incorporation of measures to prevent excessive speed on the proposed potential link to The Grange could, in the event that the Board was minded to grant permission, be submitted for agreement prior to commencement of development, I consider that this would not adequately address traffic safety concerns raised relating to this link.
- 7.3.16. Based on the existing footpath provision shown on revised FI site plan in the cul de sac directly east of the potential link, and as viewed on site inspection, I note that there is no existing footpath within The Grange directly adjacent to the site's eastern boundary at this point. There is a footpath approx. 12m east of the site boundary, bounding 93 The Grange. A footpath terminates in front of 92 The Grange, approx. 5m from the end of the proposed link. A limited part of its curtilage bounds the proposed link, i.e., part of the link does not adjoin the turning area.
- 7.3.17. It is therefore unclear as to how a new footpath/cycle path would easily tie-in with existing infrastructure within The Grange, without impacting on the turning area between 92 (to north) and 93 The Grange (to south). In this regard I note also that such adjoining lands at No. 93 are outside the red line boundary of the subject site.
- 7.3.18. The FI Stage 1 /2 Road Safety Audit indicates that it is based on the revised site layout, i.e., this would include the new link to The Grange. However, the RSA does not appear to comment specifically on this proposed route.
- 7.3.19. On the basis of the information on file, I consider that the provision of the proposed link to The Grange as shown on the FI site layout would in principle be in compliance with the current Development Plan. However, notwithstanding this and also notwithstanding that the proposed pedestrian/cycle access is onto a cul-de-sac, I consider that having regard to the lack of detail for the design of this route and particularly the lack of any indicative tie-in with The Grange to east of the site

boundary, that it has not been adequately demonstrated that the proposed development would be acceptable in terms of traffic safety, particularly for vulnerable road users, and would result in traffic hazard. Refusal of permission is recommended on this basis.

- 7.3.20. Separately, with regard to concerns raised relating to anti-social behaviour arising from the potential provision of a link to The Grange, I note the dwelling design for No.s 46 (House Type F1) and 47 (House Type F) which face onto the 14.6m wide pedestrian and cycle link. I consider that the house design would not adequately assist in providing passive surveillance of this route. A number of windows are proposed on the side elevations of these 2no. semi-detached houses. However, these houses are accessed from the front (south west), rather than from the side, i.e., they are not accessed from the potential link route. In the event that the Board was minded to grant permission for the proposed development, it may wish to consider that a revised house design at No.s 46 and 47 be provided, whereby access to main entrance to the dwelling is proposed from the north west and south east elevations respectively. It is considered that this would address the matter of adequate passive surveillance, in conjunction with boundary treatment details to be confirmed, and could be addressed by condition.

7.4. Residential and Visual Amenities

Visual Amenities and Residential - Apartment Blocks

- 7.4.1. Concerns are raised in the observation received that the 2no. 4-storey apartment blocks are out of character with the area. I note that Objective MF O1(I) states that higher density development e.g. apartment blocks are encouraged along the LIHAF Road and at the corner of street blocks in particular. In this regard I consider that the principle of locating apartments blocks along the future LIHAF Stage 3 road would be in compliance with this Development Plan objective.
- 7.4.2. Having regard to the proximity of the 2no. apartment blocks to the LIHAF road and the minimum approx. 28m separation distance to proposed dwelling houses to the east in this scheme, the provision of these 2no. apartment blocks would not adversely impact on the residential amenities of these proposed dwelling houses in terms of undue overlooking, overshadowing or visual overbearance.

- 7.4.3. While the 4-storey scale of these apartment blocks would alter the character of the area, this would be in the context of the site currently being part brownfield/part greenfield, and in the context of the evolving character of the wider Mungret area, for which the Mungret Framework has been prepared. Accordingly, I consider that the provision of the 2no. 4-storey apartment blocks would be acceptable in principle, and would not adversely impact on the visual amenities of the area.
- 7.4.4. However, while I consider the principle of providing apartment blocks of 4-storey scale along the LIHAF Stage 3 road to be acceptable, in this particular case the position of these blocks, as part of the overall site configuration, would not be in compliance with the indicative layout shown for Mungret Framework (Map 3.8). The matter of non-compliance with this framework is discussed in the previous section.
- 7.4.5. In terms of detail, with regard to proposed boundary treatment, I note that the 2no. apartment blocks are minimum 4m from the western site boundary. A 900mm high boundary comprising 600mm brick wall and 300mm railing over is proposed along this boundary facing the future Stage 3 LIHAF road. This detailing is shown on two separate FI drawings, namely (1) LIHAF Road Sections at Apt Blocks 1, 2 and 3; Sheet No. 115, which includes Wall Type Schedule and (2) Proposed Site Layout Plan; Sheet No. 101 – Rev. A. (For clarity, there is no Apt. Block 3 in this scheme).
- 7.4.6. The apartment blocks are accessed from both the north east and south west elevations, and do not appear to have demarcated communal open space areas. I note that the landscape masterplan indicates some *Carbinus betulus* ‘Fastigiata’ (European Hornbeam) along the future roadside boundary (to Stage 3 LIHAF road) in the vicinity of the apartment block. However, I consider that having regard to the ‘open’ character of the two apartment blocks’ curtilages, that additional planting or other alternative hard or soft landscaping features would be required to create a more pronounced defensible space to the ground floor apartment units. In the event the Board was minded to grant permission for the proposed development, it may wish to consider the inclusion of such a condition which requires revised landscape and boundary treatment proposals to address this matter for these apartment units, in the interests of residential amenities for the future occupiers of the scheme.
- 7.4.7. With regard to concerns raised relating to trespass, in the event that the Board was minded to grant permission, at construction stage hoarding may be provided along

the western site boundary, details of which could be confirmed in a construction management plan (CMP), to be addressed by way of condition. With regard to a requested 2.5m high wall on the boundary of the proposed roadway, I do not consider that this would be acceptable in terms of visual amenities, and would also create a sense of dead frontage along part of the future Stage 3 LIHAF road.

- 7.4.8. The red line boundary along much of the western boundary of the site bounds the future Stage 3 LIHAF road, and this adjoining road area is indicated to be within lands in the applicant's ownership outlined in blue. Given that no details have been provided on file regarding the design of the Stage 3 LIHAF road, and given that the future road is outside the red line boundary of the subject site, I do not consider it appropriate, in the event that the Board was minded to grant permission, that a high wall could reasonably be provided to bound lands to west of the future roadway.
- 7.4.9. With regard to residential amenities for future occupiers of the proposed apartment scheme, the amended FI bin/bike store building shows two separately accessed areas each comprising approx. 23.8sqm bike store containing 19no. cycle spaces. The Sustainable Residential and Compact Settlements Guidelines for Planning Authorities, hereafter referred to as the 'Settlement Guidelines', states at SPPR 4 – Cycle Parking and Storage a recommended minimum requirement of 1 cycle space per bedroom and provision of visitor parking. This would equate to 60no. cycle spaces for the apartments (16no. 1-bed units and 22no. 2-bed units). SPPR 4 outlines that it is important that provision is made for a mix of parking types including larger cargo bikes and electric bikes. Given that provision is indicated for 38no. cycle spaces in the bike store, this would not be consistent with SPPR 4.
- 7.4.10. However, I consider that in the event the Board was minded to grant permission, that matters relating to cycle parking could be adequately addressed by way of condition, whereby revised cycle parking proposals would be submitted for agreement which provide for min. 60 cycle spaces to serve the proposed apartment blocks, additional visitor parking and a mix of bike parking types, and that any additional outdoor cycle parking areas shall include covered parking. Separately, for completeness, I note that 10no. visitor cycle spaces are located at the crèche.

Residential Amenities

- 7.4.11. Concerns are raised regarding overlooking impacts from the proposed development

on existing dwelling houses in The Grange.

- 7.4.12. The depth of rear gardens which back onto 92-99 The Grange inclusive are in the range of 11m-12m. Save for 92 The Grange, the rear elevations of proposed dwellings are approx. 22m from those in The Grange. The side elevation of 92 The Grange is min. 5m from its western site boundary to the subject site, and annotated to be 16.1m from the rear elevation of proposed No.45. Notwithstanding the approx. 1.5m higher floor levels proposed in dwellings along the eastern site boundary, relative to those at The Grange (as per Site Section B-B (Part B) in the application originally lodged), I consider that the overall scale of the 2-storey houses and the separation distances to the established 2-storey houses at The Grange would not adversely impact on the residential amenities of these existing dwellings in terms of overlooking, overshadowing or overbearing impacts, and would be acceptable.
- 7.4.13. Furthermore, I note that SPPR 1 of the Settlement Guidelines states when considering a planning application for residential development, a separation distance of at least 16m between opposing windows serving habitable rooms at the rear or side of houses, duplex units and apartment units, above ground floor level shall be maintained. As the relevant separation distances in the proposed development exceed 16m, I consider that the provision of 11m-12m rear garden depths in this case is acceptable and would not be in conflict with SPPR 1.
- 7.4.14. With regard to concerns raised in the observation relating to construction impacts such as noise, air pollution and vibration, I consider that these matters could be adequately addressed in a construction management plan (CMP). In the event that the Board was minded to grant, it may wish to consider the attachment of a condition requiring submission and agreement of a detailed CMP prior to commencement.

7.5. Drainage/Water Quality and Flooding

Drainage/Water Quality

- 7.5.1. The planning application form states that the proposed **surface water** disposal is to watercourse. The Planning Application Services Report states (at Section 6.4) that a petrol interceptor is proposed at the outfall from the site, although I note the specific location of the outfall is not stated. It outlines that storm water disposal will be

attenuated to greenfield runoff and discharged to the proposed storm sewer manhole on the existing line south west of the site.

- 7.5.2. The FI drainage layout (Drawing No. 20-050-204) shows a bypass separator between S12 and S13 in the south western corner of the site. S13 is located outside the red line boundary of the site, but within the blue line boundary, and is indicated to be constructed on the existing storm sewer line. An existing storm sewer pipe culvert is shown approx. 35m west of S13, i.e., at the eastern end of Loughmore Canal. However, the plans and particulars lodged with the application and FI response do not appear to expressly state that storm water from the proposed development would discharge to the canal (via the existing storm sewer). As such, the applicant does not indicate if disposal is to a stagnant waterbody.
- 7.5.3. The grounds of appeal (from Mr. Ryan) state the canal discharges to Barnakyle Stream and outfalls to Barnakyle River, and that the proposed development connects into the existing network prior to entering Loughmore Canal, such that contaminated water is pushed onto the third party's lands. The separate observation to the appeal states that the canal is operated by the IDA.
- 7.5.4. Separately, the FI request (as viewed in full on the planning authority's website; FI Item 8(e) refers) sought revised modelling demonstrating climate change of 30% plus 10% for urban creep added at the Summary of Critical Results stage by Maximum Level (Rank 1) for Storm Design for both the 1/30 and 1/100, i.e., in contrast to climate change of 20% plus 10% for urban creep as originally proposed (Planning Application Services Report; Section 5.0 Stormwater refers). I note that while FI drainage layout and SuDS drawings are on file, there does not appear to be any associated revised modelling presented.
- 7.5.5. A 475m³ attenuation tank is proposed on FI Proposed Drainage Layout, an increase over the 356m³ tank originally shown. The Second Roads, Traffic and Cleansing report states cross sections of SuDS measures have been submitted, but are not shown on Surface Water/SuDS Management Layout Plan. I note that there does not appear to be an FI drawing titled 'Surface Water/SuDS Management Layout Plan' on file. The swale shown on FI Proposed Drainage Layout (Drawing No. 20-050-204) does not appear to be reflected on either the FI site plan or the FI landscape masterplan (Drawing 22226-1-100). In contrast the FI landscape masterplan shows

2no. areas of level amenity area grass space for informal ball play and recreation proximate to the swale shown on the FI drainage layout. In terms of detail, it would appear that the provision of the swale as shown may impact on the provision of a level amenity area as proposed in the FI landscape masterplan. I consider that the lack of clarity regarding the detailing of the swale is further underlined by reference to the FI Stage 1/2 Road Safety Audit which states (at Section 3.6) that there is a risk of pedestrian injury as pedestrians traverse the routes of the central open space area which are intersected by the proposed swale.

7.5.6. The planning authority's Condition 18 requires a revised surface water/SuDS management layout plan to be submitted and agreed. Condition 18(a) requires full details of discharge points and all SuDS measures to have an overflow system, and (d) requires discharge level not to exceed 2l/s/ha or Qbar whichever is the greater restriction. Notwithstanding that some matters relating to surface water management could be addressed by condition, I consider that the detailing of SuDS measures such as the swale, and information provided on file relating to stormwater discharge are limited. I am not satisfied on the basis of information on file that surface water management proposals could be adequately addressed by condition. This is discussed further below with reference to water quality.

7.5.7. Appropriate Assessment is discussed separately in this case at Appendix 2. However, I note that the AA Screening and Natura Impact Statement Report lodged with the application states (at Section 2.4) that several drainage ditches transverse the site which may form a tenuous link via surface water run off to Derryknockane Stream, which eventually joins the Lower River Shannon SAC and River Shannon and River Fergus Estuaries SPA as the Barnakyle River. Derryknockane Stream is stated to be 1.2km to east which is a tributary of Rootitagh (*sic*) River and ultimately the Barnakyle River. In contrast, submissions received on the file state the proposed development connects into the existing network prior to entering Loughmore Canal (to the west), which discharges to Barnakyle Stream and outfalls to Barnakyle River.

7.5.8. Based on all information file it would appear that the proposed development would connect into the existing network as shown on FI drainage layout, that it would thereafter enter the canal, which it is stated in submissions discharges to Barnakyle watercourse. This would mean that stormwater from the proposed development would indirectly outfall to Barnakyle River via Loughmore Canal, i.e., the outfall

would indirectly be to the same river (Barnakyle River) as that stated in the submitted AA Screening and NIS Report, albeit via different indirect hydrological pathways.

7.5.9. I have viewed the information available on www.catchments.ie (accessed on 06 September 2024) which outlines that the EPA has published an updated Cycle 3 Catchment Report for all 46 catchments which helps support the River Basin Management Plan 2022-2027 implementation process (Water Framework Directive 3rd Cycle; 2022-2027). It indicates that the WFD Risk for

- BARNAKYLE_020 (within **Ballynaclogh_SC_010** subcatchment) is 'At Risk'.
- Mague Estuary (IE_SH_060_0700; transitional waterbody) is 'At risk'
- Upper Shannon Estuary (IE_SH_060_0800; transitional waterbody) is 'At risk'.

Loughmore Canal is not assigned on www.catchments.ie.

7.5.10. I note that the IW report has no objections, subject to conditions including that LCCC/IW require certification from an engineering company with minimum €2m professional indemnity insurance on project completion stating that all works relating to *inter alia* surface water sewers have been completed to good engineering practices and in accordance with conditions of planning permission.

7.5.11. Notwithstanding that IW/UE has no objection to the proposed development, having regard however to the limited information on file relating to surface water management proposals and the eventual outfall for stormwater discharge (via the existing network), the current WFD 'At Risk' status of BARNAKYLE_020, the nature and scale of the proposed development and its close proximity to the more environmentally sensitive lands approx. 27m to west at Loughmore Common Turlough pNHA, and the absence of information regarding any potential impacts of the proposed development on the turlough, I consider that it has not been adequately demonstrated that the proposed development would be acceptable in terms of surface water management and would not adversely impact on the turlough, and I do not consider that these matters could be adequately addressed by way of condition. Refusal of permission is recommended on this basis.

7.5.12. With regard to **wastewater** treatment, the development would be served by a new pumping station provided as part of the scheme. The Second Public Realm and Place-making report states that Mungret LIHAF Stage 3 road is planned to include a

gravity sewer to a foul pumping station and a rising main from the pumping station to discharge to an existing manhole at Mungret Stage 2 road, approx. 800m to the north. The report recommends that provision is made for a gravity foul sewer pipe from the housing development, which bypasses the pumping station within the development, onto the road in order that this pumping station could be made redundant in the future. The P.A.'s Condition 10 requires submission and agreement of a revised foul sewer layout showing a gravity foul sewer pipe which by-passes the pumping station and extends as far as the proposed Mungret LIHAF Stage 3 Road.

- 7.5.13. While I consider this approach to be acceptable in principle, and while noting the very minimal distance between the pumping station along the red line boundary of the site and the indicative route of the Stage 3 LIHAF road to the west, it is unclear based on the information on file as to whether Condition 10 would involve works outside the red line boundary. While the adjoining lands to west at this location are within the blue line boundary, I consider that in the event that the Board was minded to grant permission that Condition 10 should not be attached in this instance due to the lack of information regarding the extent of any works/development which may be required outside the red line boundary of the subject site.
- 7.5.14. The IW report on file (dated 29 August 2022) references Pre-Connection Enquiry ref. CDS20002725. This Pre-Connection Enquiry is included Planning Application Services Report (at Appendix D). It is dated 15 June 2020 and therefore pre-dates the planning application lodgement date by in excess of 2 years. However, I note that the IW report states no objections subject to conditions. In the event that the Board was minded to grant permission for the proposed development, I consider that relevant conditions set out in the IW report may be attached as appropriate.

Flooding

- 7.5.15. The site is located within Flood Zone C. The nearest Flood Zones A and B are approx. 850m and 900m to south west respectively.
- 7.5.16. A Site Specific Flood Risk Assessment (SSFRA) lodged with the application notes that Preliminary FRA mapping indicates no flooding on site but some historical pluvial flooding to west. It states that surface water storage will be accommodated in an underground storage structure such as Stormbloc Optimum or similar in the open space area within the site. Proposed mitigation measures to address residual flood

risk are regular maintenance of proposed drainage system to reduce risk of blockage, and the site's drainage network has been designed to ensure that it can accommodate the 1 in 100 year rainfall event in surcharged conditions. The SSFRA concludes that no flooding is indicated on the site, the site is within Flood Zone C which is suitable for all land use types, the sequential approach in The Planning System and Flood Risk Management Guidelines (2009) is passed, and a justification test is not required.

7.5.17. The planning authority notes (Planning, Environment and Place-Making email dated 30 August 2022) that the proposal is located in Flood Zone C and outside the documented groundwater flood extents available from GSI website (Groundwater Flood Map Viewer). It concludes that there are no objections on fluvial, tidal or ground water flood risk grounds.

7.5.18. I note the location of the site within Flood Zone C, and as such, the proposed residential and childcare facility, in terms of land uses, would be acceptable in this regard. However, as outlined elsewhere in this report, FI Item 8(e) sought revised modelling demonstrating climate change of 30% plus 10% for urban creep, and the FI response does not appear to specifically refer to this. Notwithstanding that the size of the proposed attenuation tank is increased in the FI response, I do not consider that the detailing of surface water management proposals, including the provision of the swale and stormwater discharge outfall have been adequately set out in the proposed scheme. This is noting also the site's proximity to Loughmore Common Turlough pNHA. Accordingly, I do not consider that it has been adequately demonstrated on the basis of the information on file that the proposed development would be acceptable in terms of flood risk.

7.5.19. In the event that the Board was minded to grant, it may consider that further detailing of flood risk management for the proposed development would be required.

7.6. Ecology

7.6.1. A submission was received from Development Applications Unit (DAU), Department of Housing, Local Government and Heritage on 28 March 2023 (i.e., subsequent to the planning authority's receipt of FI), which is outlined at Section 3.0 of this report.

- 7.6.2. I note that the red line boundary of the subject site is approx. 27m east of Loughmore Common pNHA, and it therefore does not directly adjoin the pNHA. The DAU submission does not comment on Natura 2000 sites or species. With regard to the potential benefits to the pNHA that should be considered through diversion of runoff water to the wetland, the matter of surface water management in the proposed development is discussed elsewhere in this report. I do not consider that the matter of diverting surface water run off to the 'wetland' could be satisfactorily addressed by condition, and in addition, I consider that any such proposal would require further analysis as to its potential impacts, including hydrological impacts, on the pNHA.
- 7.6.3. With regard to matters raised by DAU relating to light overspill, I note that a FI public lighting design was submitted. The Second Roads, Traffic and Cleansing | Cleansing Services report states it is not in line with LCCC specifications. Condition 21(a) requires lighting stands to be located, oriented and cowled to limit lightspill off site.
- 7.6.4. In the event that the Board was minded to grant permission for the proposed development, I consider that the matter of potential lightspill onto pNHA lands could be adequately addressed by condition, including by way of cowled lighting if required. Accordingly, I consider that subject to condition that the proposed development would not adversely impact on the pNHA in terms of lightspill.
- 7.6.5. In addition, I consider it relevant to highlight that notwithstanding the attachment of such a condition, and for a broader context, the Stage 3 LIHAF road is anticipated to be located directly west of the subject site which would in turn approximately bound or be in very close proximity to the pNHA to its west. As such, the context of the subject site is expected to change significantly with the delivery of the future LIHAF road as set out in the Masterplan Framework (Map 3.8 of Development Plan; Vol. 1).
- 7.6.6. The appeal grounds (by Mr. Ryan) include suggested chemical pollution on livestock. However, based on the information on file including the submissions received, I do not consider that it has been demonstrated that the matter of chemical pollution on livestock would arise as a result of the proposed development.
- 7.6.7. With regard to concerns raised in the appeal grounds relating to the operation of a car scrapyards/engine dismantling, and the absence of a request for soil analysis, I note that no preliminary CMP nor construction and demolition waste management plan are on file. The site survey lodged with the application shows a scrapyards, with

a number of areas shown as clay/rubble stockpiles and small waste clay and rubble stockpiles. On site inspection these stockpiles were not easily discernible, as these areas were significantly overgrown. A small number of vehicles were on site on date of site inspection, and while there was also various scrap material present, the site did not appear to be in active commercial use.

- 7.6.8. The site is described in the Planning Application Services Report as Fenton's Yard, Raheen. Plans and particulars lodged with the application do not appear to set out in detail the current or previous land use of the brownfield part of the site, save for indicating 'scrapyard' on the site survey. Separately, the FI archaeological impact assessment includes photographs (Fig. 5 and Fig. 6) which show a large number of cars, including stacked cars, to the rear of the dilapidated warehouse building. As this building is approx. 29m south east of the red line boundary, I consider that many of the vehicles in Fig. 5 and Fig. 6 are not within the subject site. However, on the basis of Fig. 5, the submitted site survey and having inspected the site, I consider it reasonable to conclude that part of the site has been in use as a scrapyard.
- 7.6.9. The NIS Report references construction management, whereby Section 4.2.1 (Measures to Protect Surface Water Quality during Construction) includes that any spillage of fuels, lubricants or hydraulic oils will be immediately contained and contaminated soil removed from the site and disposed of in accordance with all relevant waste management legislation. However, there are no associated drawings to show location of a site compound, waste storage or construction waste areas, etc.
- 7.6.10. Having regard to the nature and scale of the proposed development, the lack of a preliminary or a detailed CMP and lack of a construction and demolition waste management plan, I consider that impacts, if any, arising from soil removal/construction waste in the scrapyard area on ecology, and in particular on the nearby turlough, have not been demonstrated. Accordingly, I am not satisfied on the basis of the information on file that it has been adequately demonstrated that the proposed development would be acceptable in terms of impacts on the turlough, which is a pNHA, and I do not consider that this matter could be adequately addressed by way of condition.
- 7.6.11. I note that the subject site by itself is relatively large at 2.86ha, and that it forms part of a much larger Mungret Framework area. As Section 3.4.3.8 of the Development

Plan states *inter alia* that the Mungret Framework will have cognisance of the environmental assets in the area including Loughmore Common pNHA, I consider that there is a lack of information on file relating to potential impacts on the pNHA arising from the proposed development. Refusal of permission is recommended on the basis of non-compliance with Section 3.4.3.8 of the Development Plan.

7.7. Procedural Issues

- 7.7.1. The grounds of appeal include that the matter of the linkage was reintroduced by the planning authority during the FI process, and that it precluded the right of residents to raise an objection to a major change in the application.
- 7.7.2. Revised public notices were submitted in this instance, and I consider therefore that there was sufficient notice to the public regarding the proposed development as amended in the Significant FI response. I consider this to be acceptable.

7.8. Supplementary Development Contribution Scheme – New Issue

- 7.8.1. The Development Plan states (at Section 13.5.3) that a Supplementary Development Contribution Scheme applies to R526 Link Road Phase 3 Mungret.
- 7.8.2. The planning authority's website contains Limerick City and County Council Supplementary Development Contribution Scheme (DCS) for the R526 Link Road (Phase 3). This Supplementary DCS was adopted at the Full Council Meeting on 3 December 2020, and is stated to commence with immediate effect. Section 11.0 states it shall take effect upon the formal adoption of this scheme, and its duration shall be for a period of 25 years from that date unless and until some other period of time shall be substituted for that period by order of the Council.
- 7.8.3. The area to which the Scheme relates (shown on associated Map 2) corresponds with the area delineated on Map 3.8 Mungret Framework Plan (Development Plan Vol. 1). The subject site is therefore within the Supplementary DCS area.
- 7.8.4. Of the 22 no. conditions attached to the planning authority's decision to grant, none relate to a Section 49 (of the Planning and Development Act 2000, as amended) SDCS. For completeness, Condition 3 relates to a Section 48 development contribution amounting to €190,878.00.
- 7.8.5. Having viewed the information currently available on the planning authority's website

relating to a Section 49 Supplementary Development Contribution Scheme which applies to a large area of which the subject site forms a part, in the event that the Board was minded to grant, it may wish to consider it appropriate in this instance to include a condition requiring the payment of a Section 49 development contribution.

7.8.6. However, this is a new issue and circulation to the parties may be required.

7.9. Conclusion

7.9.1. Having regard to the location of the subject site on lands zoned New Residential in the Limerick City and County Development Plan 2022-2028, the provision of 96 no. residential units and crèche would be in compliance with this land use zoning objective, and would subject to conditions be acceptable in terms of impacts on the visual and residential amenities of the area. However, having regard to the overall site layout which would not align with Map 3.8 Mungret Framework in terms of access from R536, street layout and location of open spaces, the proposal would not be in compliance with Objective MF O1 (h) and (k) of the Development Plan, and would also militate against development of adjoining lands being implemented in accordance with the Framework. Accordingly, it is recommended that permission is refused on this basis.

7.9.2. With regard to Appropriate Assessment which is discussed in Appendix 2 and to other ecological matters, based on all information on file I am not satisfied that matters relating to surface water management and any impacts on European sites and species and on Loughmore Common Turlough pNHA have been adequately demonstrated. In this regard refusal of permission is recommended, including in relation to non-compliance with Section 3.4.3.8 of the Development Plan.

8.0 AA Screening

8.1. Appropriate Assessment (AA) is discussed at Appendix 2.

8.2. The conclusion of the AA Screening is that an appropriate assessment is required as it cannot be excluded on the basis of objective information that the proposed development alone will not have a significant effect on European sites.

The conclusion of the Stage 2 AA is that on the basis of the information provided with the application and appeal, including the Natura Impact Statement, that it has not been satisfactorily demonstrated that the proposed development alone would not adversely affect the integrity of European sites Lower River Shannon SAC (002165) and River Shannon and River Fergus SPA (004077) in view of the sites' conservation objectives, and would not result in ex-situ impacts of qualifying interests of River Shannon and River Fergus SPA. In such circumstances the Board is precluded for granting permission. This conclusion is based on a lack of certainty regarding surface water management proposals and lack of demonstrably adequate mitigation measures at construction stage, and lack of certainty regarding surface water management proposals and lack of sufficient detailing of stormwater disposal at operation stage for the proposed development such that reasonable doubt remains as to the actual effects of the proposed development on the conservation objectives and site integrity of the protected sites.

9.0 Recommendation

It is recommended that permission be refused for the reasons set out below.

10.0 Reasons and Considerations

1. Based on the information provided with the application and appeal, including the Natura Impact Statement, the Board is not satisfied that the proposed development alone would not adversely affect the integrity of European sites, the Lower River Shannon SAC (Site Code 002165) and River Shannon and River Fergus Estuaries SPA (Site Code 004077) in view of the sites' conservation objectives. In such circumstances, the Board is precluded from granting permission. This conclusion is based on the lack of certainty regarding surface water drainage proposals at construction and operational stages, such that reasonable doubt remains as to the actual effects of the proposed development on the conservation objectives and site integrity of the protected sites and species.

2. The proposed development is located in very close proximity to Loughmore Common Turlough (Site Code 000438), a proposed Natural Heritage Area (pNHA). Having regard to the absence of sufficient detailing regarding surface water management proposals, and of details regarding potential for any impacts on Loughmore Common Turlough including any hydrological impacts, the Board is not satisfied that it has been demonstrated that the proposed development would not give rise to adverse impacts on the turlough. The proposed development would not, therefore, comply with Section 3.4.3.8 of the Limerick City and County Development Plan 2022-2028 which states *inter alia* that the Mungret Framework will have cognisance of the environmental assets in the area including Loughmore Common pNHA. The proposed development would, therefore, be contrary to the current City and County Development Plan and to the proper planning and sustainable development of the area.
3. The proposed development, by reason of its overall site configuration, would conflict with the indicative layout shown on Map 3.8 Mungret Framework in terms of access, permeability and overall site layout, and would not be in compliance with Objective MF O1 (h) and (k) of the Limerick City and County Development Plan 2022-2028. Furthermore, the proposed development would, if permitted, militate against adjoining lands being implemented in accordance with the Mungret Framework. The proposed development would, therefore, be contrary to the provisions of the current City and County Development Plan and to the proper planning and sustainable development of the area.
4. Having regard to the lack of detailed design for the proposed pedestrian/cycle access and in particular the absence of details of any indicative tie-in with the existing footpath infrastructure on adjoining lands to the east at The Grange housing scheme, it is considered that it has not been demonstrated that the proposed development would be acceptable in terms of traffic safety, particularly for vulnerable road users, and would result in traffic hazard. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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.

Cáit Ryan
Senior Planning Inspector

15 October 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-317106-23			
Proposed Development Summary	97no. residential units comprising houses and apartments, crèche and pumping station. Note: Number of proposed residential units reduced to 96 in Significant Further Information.			
Development Address	Baunacloka, Raheen, Co. Limerick.			
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X	
		No	No further action required	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?				
Yes			EIA Mandatory EIAR required	
No	X	Class 10(b)(i) Construction of more than 500 dwelling units.	Proceed to Q.3	
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?				
		Threshold	Comment (if relevant)	Conclusion
No		N/A		No EIAR or Preliminary Examination required
Yes		Class 10(b)(i) construction of more than 500 dwelling units.		Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____

Date: _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-317106-23	
Proposed Development Summary	Construction of 97no. residential units comprising houses and apartments, crèche and pumping station, and all ancillary site development works. The planning application is accompanied by a Natura Impact Statement. Note: Number of proposed residential units reduced to 96 in Significant Further Information (FI) response.	
Development Address	Baunacloka, Raheen, Co. Limerick.	
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.		
	Examination	Yes/No/ Uncertain
Nature of the Development Is the nature of the proposed development exceptional in the context of the existing environment?	The subject site is located on part brownfield/part greenfield lands. Raheen Business Park is on the opposite (south eastern) side of regional road R526. There are established housing estates to the east and north of the site, and new transportation/mobility (LIHAF Stage 2 road) infrastructure has recently been provided. New schools infrastructure has recently been provided in nearby Mungret area. The proposed development is not exceptional in the context of the existing environment.	No
Will the development result in the production of any significant waste, emissions or pollutants?	The proposed development would result in production of some waste, emissions or pollutants. Given that part of the site is indicated as scrapyards, and no construction management plan nor construction and demolition waste management plans have been submitted, it is uncertain as to whether significant waste or pollutants would result.	Uncertain

Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?	waste management proposals and lack of sufficient detailing of stormwater disposal at operation stage. Loughmore Common Turlough pNHA is approx. 27m to west. I have viewed the Geological Survey of Ireland website (www.gsi.ie) which indicates that groundwater vulnerability on site is High, and at Loughmore Canal area a short distance to the west, vulnerability categories are (1) X: rock at or near surface or karst, and (2) H: High. Having regard to the nature and scale of the proposed development and its context to the Natura 2000 sites outlined above, its proximity to the pNHA, and the absence of information on file regarding potential impacts of the proposed development on the nearby turlough, it is considered that the proposed development has the potential to significantly impact on ecologically sensitive sites. As outlined above, and based on information on file, it is considered that it has not been demonstrated that the proposed development does not have the potential to significantly affect other significant environmental sensitivities in the area.	Uncertain
Conclusion		
There is no real likelihood of significant effects on the environment. EIA not required.	There is significant and realistic doubt regarding the likelihood of significant effects on the environment. Schedule 7A Information required to enable a Screening Determination to be carried out.	There is a real likelihood of significant effects on the environment. EIAR required.

Inspector: _____

Date: _____

DP/ADP: _____ Date: _____

(only where Schedule 7A information or EIAR required)

Appendix 2 – Appropriate Assessment

Appropriate Assessment: Screening Determination

(Stage 1, Article 6(3) of Habitats Directive)

10.1.1. I have considered the proposed development in light of the requirements of S177S and 177U of the Planning and Development Act 2000 as amended. The applicant has submitted an Appropriate Assessment Screening and Natura Impact Statement Report, a Site Specific Flood Risk Assessment (SSFRA) and a Planning Applications Services Report with the planning application.

Screening Report Submitted

10.1.2. The lodged Appropriate Assessment Screening and Natura Impact Statement Report (the 'Report') states that the competent authority may determine that an AA for the proposed development is required as it cannot be excluded on the basis of objective information that the proposed development individually or in combination with other plans or projects will have a significant effect on two European sites: the Lower River Shannon SAC and the River Shannon and River Fergus Estuaries SPA. It concludes that a Stage 2 Appropriate Assessment is required in this instance.

10.1.3. This lodged Report states the site was visited on 11 August 2020. In this regard I note that OPR Practice Note PN01 Appropriate Assessment Screening for Development Management (2021) states that information should be up-to-date and based on best available techniques and methods to estimate the presence and extent of effects.

10.1.4. I note the intervening timeframe between the site visit and lodgement of the planning application on 29 July 2022. Having inspected the site, I consider that the description of various parts of the subject site in the lodged Report as 'Improved Agricultural Grassland', 'Buildings and Artificial Surfaces', 'Treelines/Hedgerow mosaics', and large area of 'Scrub' would still apply.

10.1.5. However, as discussed in the main report under Ecology, I note that areas indicated on the submitted site survey as clay and rubble stockpiles were not easily discernible on site, due to these areas being overgrown. In addition, with regard to the approximate 2-year timeframe between date of site visit for the purposes of the AA Screening and NIS Report and the lodgement date of the application, there does not appear to be any information on file outlining updates, if any, to survey information. I

note the Advice Note on the Lifespan of Ecological Reports and Surveys (2019) on CIEEM website (Chartered Institute of Ecology and Environmental Management; www.cieem.net), states *inter alia* that it is difficult to set a specific timeframe over which reports or survey data should be considered valid as this will vary. General advice includes that for data that is 18 months – 3 years old, a professional ecologist will need to undertake a site visit, may also need to update desk study information and then review the validity of the report. Accordingly, as no further site visit is outlined and no rationale presented in respect of the lack of same, I consider that there is an absence of updated information on file.

- 10.1.6. With regard to the August site visit date, the site synopsis on the NPWS website for River Shannon and River Fergus Estuaries SPA (004077) refers to vast expanses of intertidal flats which provide a rich food resource for wintering birds. I consider that it has not been demonstrated as to why an August site visit timeframe is an appropriate time of year for same, given the nature of the QIs for this European site.
- 10.1.7. The AA Screening and NIS Report states (at Section 2.4) that protected species previously recorded in grid square R55 where the site is located, taken from the NBDC³ website, is attached in Appendix B. Save for a reference in the table of contents to R55 being a 10km grid square, the area to which it relates is not shown.
- 10.1.8. Limerick City and County Development Plan 2022-2028 was adopted on 17 June 2022, and came into effect on 29 July 2022, i.e., the same date on which the planning application was lodged. As the lodged AA Screening and NIS Report includes key information sources to be Limerick County Development Plan 2010-2016 and Limerick City Development Plan 2010-2016. I note that the submitted Report does not reference the operative Development Plan.
- 10.1.9. Figure 1 (Site location map) and Figure 2 (Site Location Map (Aerial View) with Site Drainage Information) in the AA Screening and NIS Report both show the site location erroneously identified. A minor typographical error annotates Rootitagh River, instead of Rootiagh, on Fig. 2 and elsewhere in the Report.
- 10.1.10. The Report states (at Section 1.3) that the SuDS train uses a logical sequence of SuDS facilities in series thus allowing run-off to pass through several

³ National Biodiversity Data Centre

different SuDS before reaching the receiving watercourse or waterbodies.

10.1.11. A new storm sewer is proposed which connects at a new manhole (S13) to an existing storm sewer line south west of (and outside) the site. The existing storm sewer line is shown to continue west to the existing storm sewer pipe culvert, approximately at the eastern end of Loughmore Canal. This aspect of the proposed development is not discussed as a potential indirect hydrological link to European sites in the submitted Report.

10.1.12. Discrepancies relating to the referenced Development Plans, mapping and the Rootiagh watercourse are noted, and in particular the absence of any reference to detailed stormwater proposals at operation stage and the implications of disposal of same, if any, to a watercourse and any potential effects this may have on European sites. In addition, having regard to the approximate 2-year timeframe between site visit date and application lodgement date and the absence of updated information in respect of same, and to the August site visit date vis-à-vis QIs the River Shannon and River Fergus SPA (004077) which are wintering birds, and the lack of mapping relating to the referenced grid square R55, I consider that the information provided in the AA Screening and NIS Report is incomplete and does not allow for a complete examination and identification of all aspects of the project that could have an effect, alone, or in combination with other plans or projects on European sites. These matters are further discussed in the following sections.

Planning Authority Determination

10.1.13. The First Planner's report on file states that following implementation of the appropriate mitigation measures outlined in the Natura Impact Statement it is considered that the development should not result in a significant effect on the integrity of the qualifying interests of the Lower River Shannon SAC. Condition 6 of the planning authority's decision states that mitigation measures set out in the Natura Impact Statement shall be carried out in full.

Description of the proposed development

10.1.14. The proposed development as amended by Significant FI is for 96 residential units, crèche and pumping station with a pumped rising main connection to existing infrastructure on a 2.86ha site, i.e., the FI site area as increased from 2.78ha originally proposed. Site preparation and construction works will require extensive

ground clearance including removal of hedgerows and dense overgrowth that currently bound the eastern site boundary and cross much of the site's central area.

10.1.15. The site survey indicates that a large area of the site is scrapyard. On site inspection, the site did not appear to be in active commercial use. A small number of vehicles only and various other scrap metal were noted, and areas indicated on site survey as waste clay/rubble stockpiles were overgrown. The more northerly and westerly areas of the site comprise agricultural grassland. The site is bounded to the west and north by a large tract of undeveloped lands. Loughmore Common Turlough (000438) pNHA is approx. 27m to west of the site.

10.1.16. The proposed development will be connected to a **public water and foul sewer network**. Other key civil engineering works involve:

- Excavation of material for foundations and deliveries of imported engineering fill, crushed stone, concrete, reinforcement and other construction materials
- Temporary car park and temporary storage of soils, cement and concrete materials with hydrocarbons for refuelling of construction vehicles

10.1.17. The plans and particulars on file, including planning authority internal reports, indicate that a new road is anticipated to be provided west of the subject site, at a location approximately between the subject site and Loughmore Common Turlough (000438) pNHA, i.e., the Stage 3 LIHAF road. There does not appear to be information on file regarding any Part 8 or other consent applied for in respect of the LIHAF Stage 3 road to date. For completeness, I note that a Part 8 was approved in 2020 for construction of a new 1700m road a short distance north of the subject site; **P.A. Ref. 19/8011** refers. This LIHAF-funded Mungret Road Stage 2 was officially opened in April 2024.

10.1.18. With regard to **surface water**, the submitted AA and NIS Report states the disposal of water will be attenuated to greenfield runoff and discharged to the proposed storm sewer manhole on the existing line south west of the site. Sewer was designed and sized for the masterplan. The allowable greenfield runoff rate was set at $Q_{bar} 15.4$ l/s. The tank has been designed to cater for 1 in 5 year storm. The size of the attenuation tank in the lodged application is $356m^3$. However, I note that this was subsequently increased in the FI drainage layout to $475m^3$.

- 10.1.19. It is stated that it is proposed as part of the planning application to incorporate a Storm Water Management Plan using SuDS techniques to treat and minimise surface water runoff from the development at source including interception storage. A hydrobrake downstream of the attenuation tank will be limited to the max. site discharge of Q_{bar} , therefore 15.4 l/s, and as the surface water runoff flow rate generated on site does not exceed the Q_{bar} , it is stated that there is no requirement for long term storage to limit the impact on the receiving watercourse.
- 10.1.20. Proposed SuDS techniques are permeable paving within driveways and parking spaces, cellular attenuation system, petrol interceptor and hydro-brake flow control device. Tree pits are proposed. It states water quality from this catchment should be of high quality due to these measures which are applied in a treatment train to treat the water before discharge at a restricted rate to the local network. The submitted Report does not appear to state the exact discharge location. The FI Proposed Drainage Layout (Drawing No. 20-050-204) shows the proposed storm sewer connects at a new manhole (S13) to the existing storm sewer line on lands outside the red line boundary, but within the blue line boundary, south west of the site. The existing storm sewer line is shown to continue west to the existing storm sewer pipe culvert. This location is at the eastern end of Loughmore Canal.
- 10.1.21. The submitted Report states none of the protected species in Appendix B were recorded on 11 August 2020. Appendix B is a list of protected species previously recorded in grid square R55.
- 10.1.22. It states that there are no surface water features with the site. It states (at Section 2.4) that several drainage ditches transverse the site which may form a tenuous link via surface water run-off to Derryknockane Stream, which eventually joins the Lower River Shannon SAC and River Shannon and River Fergus Estuaries SPA as the Barnakyle River. Derryknockane Stream is approx. 1.2km east of the site and is a tributary of Rootiagh River and ultimately Barnakyle River. I note that www.catchments.ie mapping shows 'Derryknockane Stream' is a tributary of Barnakyle River, which drains to River Maigue and the Upper Shannon Estuary.
- 10.1.23. It is stated that the site lies within Barnakyle WFD River Sub Basin (BARNAKYLE_020, IE_SH_24B050600). It is further stated that WFD Q-values for
- Barnkyle River in the vicinity of the site are Q3-4 (2020) downstream indicating

‘moderately’ polluted;

- River Maigue is tidally influenced downstream of its confluence with the Barnakyle River and is an ‘intermediate’ quality transitional waterbody; and
- Upper Shannon Estuary, into which River Maigue discharges, is ‘unpolluted’ transitional waterbody.

Separately, I note the following as viewed on www.catchments.ie (viewed on 6 September 2024), based on Water Framework Directive 3rd Cycle (2022-2027) for BALLYNACLOUGH_010 states:

- BARNAKYLE_020 is ‘At risk’.
- Maigue Estuary (IE_SH_060_0700), a transitional waterbody, is ‘At risk’
- Upper Shannon Estuary is ‘At risk’.

10.1.24. With regard to **water and wastewater infrastructure**, the scheme would be connected to the public water and foul sewer network. Irish Water (IW) in a report dated 29 August 2022 states no objection, subject to conditions.

10.1.25. The lower part of the Barnakyle River, River Maigue and Upper Shannon Estuary all lie within the **Lower River Shannon SAC (002165)**.

10.1.26. River Maigue, downstream of Barnakyle River and Upper Shannon Estuary confluence are all within River Shannon and River Fergus Estuaries SPA (**004077**).

Consultations and Submissions

10.1.27. A submission was received from Development Applications Unit (DAU), Department of Housing, Local Government and Heritage on 28 March 2023 (i.e., subsequent to the planning authority’s receipt of FI). For clarity, the DAU submission does not comment on Natura 2000 sites or species, and refers primarily to Loughmore Common Turlough pNHA (000438). The DAU submission is discussed in Section 7.0 of the main report.

European Sites

10.1.28. The proposed development site is not located within or immediately adjacent to any site designated as a European site, comprising a Special Area of Conservation (SAC) or Special Protection Area (SPA).

Two no. European sites are located within a potential zone of influence of the proposed development (Table 1 below).

I note that the applicant considered a further three sites in the wider area comprising:

- Askeaton Fen Complex (Site Code 002279): 12km to west
- Tory Hill (Site Code 000439): 8.9km to south
- Curraghchase Woods (Site Code 000174): 13.4km to west

The applicant rules these out for further examination due to distance and lack of hydrological connections.

I agree with the applicant that these sites can be removed from further consideration for the reasons outlined relating to distance and lack of hydrological connections.

The applicant identifies a potential pathway (for surface water run off) to River Shannon SAC (002165) and River Shannon and River Fergus Estuaries SPA (004077) via Derryknockane Stream approx. 1.2km to east which discharges to Rootiagh River. I note that the intervening area between the subject site and Derryknockane Stream and Rootiagh River is a built-up urban environment which includes a regional road (R526), Raheen Business Park and housing estates.

Separate to this stated potential pathway, I note also the detail shown on the FI Proposed Drainage Layout (Drawing No. 20-050-204), outlined previously, which shows that the proposed storm sewer connects at a new manhole (S13) to an existing storm sewer line south west of (and outside) the site. This potential indirect hydrological link via the culvert at the eastern end of Loughmore Canal is not discussed in the submitted Report.

The planning application form states that proposed surface water disposal is to watercourse. However, the watercourse does not appear to be specified on file.

The submissions received on the file state that the proposed development connects into the existing network prior to entering Loughmore Canal (to the west), which discharges to Barnakyle Stream and outfalls to Barnakyle River. I note that the lower reaches of Barnakyle River is within Lower River Shannon SAC (002165). Barnakyle River flows into River Maigue. River Maigue forms part of River Shannon and River Fergus Estuaries SPA (004077).

In terms of groundwater vulnerability, I have viewed mapping on the Geological Survey of Ireland website (www.gsi.ie) which indicates that the site is located within (H) High Vulnerability Category. The approximate canal location at Loughmore Common is shown as (1) X Vulnerability Category, which is described as rock at or near surface or karst, and (2) H (High) Vulnerability Category.

In respect of Lower River Shannon SAC and River Shannon and River Fergus Estuaries SPA, having regard to the proximity of the site and the presence of potential hydrological pathways via (as stated by applicant) Derryknockane Stream and separately, stormwater discharge from the proposed development to Loughmore Canal, both European sites are within the zone of influence. The matter of stormwater discharge to a canal has not been identified in the screening report.

Table 1: European sites located within a potential zone of influence of the proposed development.

European Site (Site Code)	Qualifying Interests (QIs) (Summary)	Conservation Objective (Summary) (favourable status)	Connections
Distance			
Lower River Shannon SAC (002165)	1110 Sandbanks which are slightly covered by sea water all the time	Maintain	No direct connection.
S.I. No. 328 of 2023	1130 Estuaries	Maintain	Indirect –
	1140 Mudflats and sandflats not covered by seawater at low tide	Maintain	Via Derryknockane Stream - surface water run off
	1150 Coastal lagoons	Restore	And
	1160 Large shallow inlets and bays	Maintain	
	1170 Reefs	Maintain	
Approx. 2.3km to north east	1220 Perennial vegetation of stony banks	Maintain	Via Barnkyle River - surface water discharge
	1230 Vegetated sea cliffs of the Atlantic and Baltic coasts	Maintain	
	1310 Salicornia and other annuals colonising mud and sand	Maintain	
	1330 Atlantic salt meadows (Glauco-Puccinellietalia maritimae)	Restore	Potential to generate contaminated surface water run-off during
	1410 Mediterranean salt meadows (Juncetalia maritimi)	Restore	

3260 Water courses of plain to montane levels with the <i>Ranunculus fluitans</i> and <i>Callitriche-Batrachion</i> vegetation	Maintain	As viewed on www.gsi.ie , the groundwater vulnerability on the subject site is High, and at the Loughmore Canal area a short distance to the west, vulnerability categories are (1) X: rock at or near surface or karst, and (2) H: High.
6410 <i>Molinia</i> meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinia caerulea</i>)	Maintain	
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>)*	Restore	
1029 Freshwater Pearl Mussel <i>Margaritifera margaritifera</i>	Restore	
1095 Sea Lamprey <i>Petromyzon marinus</i>	Restore	
1096 Brook Lamprey <i>Lampetra planeri</i>	Maintain	
1099 River Lamprey <i>Lampetra fluviatilis</i>	Maintain	
1106 Salmon <i>Salmo salar</i>	Restore	
1349 Common Bottlenose Dolphin <i>Tursiops truncatus</i>	Maintain	
1355 Otter <i>Lutra lutra</i>	Restore	

The site synopsis on NPWS website for **Lower River Shannon SAC (002165)** includes that this very large site stretches along the Shannon valley from Killaloe in Co. Clare to Loop Head/Kerry Head, a distance of some 120 km, and includes the Shannon and Fergus estuaries. These estuaries form the largest estuarine complex in Ireland, forming a unit stretching from the upper tidal limits of the Shannon and Fergus Rivers to the mouth of the Shannon Estuary. Within this main unit there are several tributaries with their own 'sub-estuaries' such as Maigue River. Five species of fish listed on Annex II of the E.U. Habitats Directive are found within the site. These are Sea Lamprey (*Petromyzon marinus*), Brook Lamprey (*Lampetra planeri*), River Lamprey (*Lampetra fluviatilis*), Twait Shad (*Allosa fallax fallax*) and Salmon (*Salmo salar*). Freshwater Pearl Mussel (*Margaritifera margaritifera*), a species listed on Annex II of the E.U. Habitats Directive, occurs abundantly in parts of the Cloon River.

It further states that this site is of great ecological interest as it contains a high number of habitats and species listed on Annexes I and II of the E.U. Habitats Directive, including the priority habitats lagoon and alluvial woodland, the only

known resident population of Bottle-nosed Dolphin in Ireland and all three Irish lamprey species. A number of species listed on Annex I of the E.U. Birds Directive are also present, either wintering or breeding. Most of the estuarine part of the site has been designated a Special Protection Area (SPA), under E.U. Birds Directive, primarily to protect the large numbers of migratory birds present in winter.

European Site (Site Code) Distance	Qualifying Interests (QIs) (Summary)	Conservation Objective (Summary) (favourable status)	Connections
River Shannon and River Fergus Estuaries SPA (004077) *S.I. No. 329 of 2019 Approx. 2.4km to north	A017 Cormorant <i>Phalacrocorax carbo</i> A038 Whooper Swan <i>Cygnus cygnus</i> A046 Light-bellied Brent Goose <i>Branta bernicla hrota</i> A048 Shelduck <i>Tadorna tadorna</i> A050 Wigeon <i>Anas penelope</i> A052 Teal <i>Anas crecca</i> A054 Pintail <i>Anas acuta</i> A056 Shoveler <i>Anas clypeata</i> A062 Scaup <i>Aythya marila</i> A137 Ringed Plover <i>Charadrius hiaticula</i> A140 Golden Plover <i>Pluvialis apricaria</i> A141 Grey Plover <i>Pluvialis squatarola</i> A142 Lapwing <i>Vanellus vanellus</i> A143 Knot Calidris <i>canutus</i> A149 Dunlin Calidris <i>alpina</i> A156 Black-tailed Godwit <i>Limosa limosa</i> A157 Bar-tailed Godwit <i>Limosa lapponica</i> A160 Curlew <i>Numenius arquata</i> A162 Redshank <i>Tringa totanus</i> A164 Greenshank <i>Tringa nebularia</i> A179 Black-headed Gull <i>Chroicocephalus ridibundus</i>	Maintain (all)	No direct connection. Indirect – Via Derryknockane Stream - surface water run off And Via Barnkyle River - surface water discharge. Potential to generate contaminated surface water run-off during construction and operational phases. As viewed on www.gsi.ie , the groundwater vulnerability on the subject site is High, and at the Loughmore Canal area a short distance to the west, vulnerability categories are (1) X: rock at or near

			surface or karst, and (2) H: High
* S.I. No. 329 of 2019 list 21no. species as outlined above. <i>Classification of Special Protection Area</i> outlines under Article 3(3) that particular attention shall be paid to the protection of the wetlands in the area identified in Schedules 1 and 2. Schedule 1 is a map of the SPA. Schedule 2 is description of area classified as a SPA. I highlight the above matter for the Board's information, given that it contrasts with the NPWS Conservation Objectives document for SPA 004077 (2012). For completeness, the 2012 NPWS document lists A999 Wetlands as a Qualifying Interest (QI), of which it is an objective to maintain the favourable conservation status. It notes that the wetland habitat area was estimated as 32,261ha using OSI data and relevant orthophotographs. QI 'A999 Wetlands' is not included in the more recent S.I. No. 329 of 2019. The site synopsis on the NPWS website for <u>River Shannon and River Fergus Estuaries SPA (004077)</u> states the site comprises the entire estuarine habitat from Limerick City westwards as far as Doonaha in Co. Clare and Dooneen Point in Co. Kerry. It has vast expanses of intertidal flats which contain a diverse macro-invertebrate community, e.g. Macoma-Scrobicularia-Nereis, which provides a rich food resource for the wintering birds. Salt marsh vegetation frequently fringes the mudflats and this provides important high tide roost areas for the wintering birds. Elsewhere the shoreline comprises stony or shingle beaches. The site is a Special Protection Area (SPA) under the E.U. Birds Directive, of special conservation interest for the following species: Cormorant, Whooper Swan, Light-bellied Brent Goose, Shelduck, Wigeon, Teal, Pintail, Shoveler, Scaup, Ringed Plover, Golden Plover, Grey Plover, Lapwing, Knot, Dunlin, Black-tailed Godwit, Bar-tailed Godwit, Curlew, Redshank, Greenshank and Black-headed Gull. It further states that the site is the most important coastal wetland site in the country and regularly supports in excess of 50,000 wintering waterfowl (57,133 - five year mean for the period 1995/96 to 1999/2000).			

Likely impacts of the project (alone or in combination with other plans and projects)

- 10.1.29. As the subject site is not located within or adjacent to a European site there will be no direct impacts and no risk of habitat loss, fragmentation or any other direct impact.

- 10.1.30. With regard to indirect impacts, it is stated that drainage ditches which transverse the site may form a tenuous link via surface water run-off to Derryknockane Stream (BARNAKYLE_020) which eventually joins the Lower River Shannon and SAC and River Shannon and River Fergus Estuaries SPA.
- 10.1.31. It would appear from information viewed on www.catchments.ie that the route of Derryknockane Stream is through established housing estates. However, it does not appear to be stated on file that the upper reaches of this watercourse have been culverted. Notwithstanding this, I consider the 1.2km distance between the subject site and Derryknockane Stream to be a considerable terrestrial buffer. It would appear that this indicated tenuous link would be an abundance of caution approach in the AA screening process. Having regard to this separation distance and the built-up area between the site and this stream, I consider this potential hydrological link whereby surface water run-off from the proposed development would enter BARNAKYLE_020 to be very weak.
- 10.1.32. In the unlikely event of this occurring, any runoff reaching this watercourse would then be diluted by approx. 11km of intervening watercourse (estimated from www.catchments.ie) prior to reaching Lower River Shannon SAC (002165) at the lower reaches of Barnakyle River), and subsequently by the considerable volume of flowing water into the estuary including from Mague River which Barnakyle River joins. I consider that potential indirect effects arising from surface water run-off from the site via this indirect hydrological pathway on Lower River Shannon SAC (002165) and River Shannon and River Fergus Estuaries SPA (004077) can be screened out.
- 10.1.33. With regard to potential impacts from surface water during construction, no construction management plan (CMP) was submitted with the application. (Some construction management details are outlined as mitigation measures in the submitted NIS). In the absence of a CMP, I note that standard construction measures, which could be regarded as best work practices integral to a development, that would be implemented by those carrying out the development at the same time and as part of the same process, as opposed to separate measures that would be conceived and implemented to mitigate potential impact on European sites, have not been set out in this case by the applicant at screening stage.

- 10.1.34. Given also that part of the site is indicated as 'scrapyard', albeit one which does not appear to be in active commercial use, and given that no CMP has been submitted, I consider the information on file is insufficient to allow for potential indirect effects arising during construction on Lower River Shannon SAC (002165) and River Shannon and River Fergus Estuaries SPA (004077) to be screened out.
- 10.1.35. With regard to potential impacts from surface water during operation, surface water discharge rates will be controlled by hydro-brake flow control device and associated attenuation tank, and a proprietary oil/water separator is proposed. Plans and particulars on file propose a range of SuDS measures to reduce surface water run-off. A bypass separator is proposed between S12 and S13 on the proposed storm sewer (as shown on FI drainage layout; Drawing No. 20-050-204 refers). A suite of SuDS measures will be incorporated into the proposed development. While the use of SuDS measures are not intended to avoid or reduce the harmful effects of a proposed development on a European site, they will reduce peak flow rates and the likelihood of suspended solids or hydrocarbons entering the water system. They are not included as a measure to mitigate potential impacts on European sites.
- 10.1.36. However, as outlined in the main report at Section 7.0, I consider that some detailing of the surface water management proposals remain outstanding, including the detail of the swale. It would appear that the proposed development would connect into the existing network as shown on the FI drainage layout and thereafter discharge to the canal, which it is stated in submissions received on file discharges to Barnakyle watercourse. This would mean that stormwater from the proposed development would, via Loughmore Canal, indirectly outfall to Barnakyle River, which in turn drains to Maigne River and Upper Shannon Estuary. However, I note that the canal is not assigned on www.catchments.ie, and in the absence of information on file, it is not clear as to whether this may be a stagnant waterbody.
- 10.1.37. I note the separation distance to the nearest European sites, the indirect hydrological pathway from the site to Upper Shannon Estuary and in particular I note the dilution effects that would arise in the estuary due to considerable volume of water. However, notwithstanding this, I consider that detailed operational surface water management proposals have not been clearly set out in the application, and on this basis I consider that it has not been demonstrated that the proposed development would not be likely to result in significant impacts on the Lower River

Shannon SAC and River Shannon and River Fergus Estuaries SPA.

- 10.1.38. With regard to wastewater discharge during operation, the proposed development would be served by the local foul sewer network. The submitted Report states that it is treated at Limerick City and Environs wastewater treatment plant before discharge to Upper Shannon Estuary, and that there is no risk of impacts to water quality in this estuary from operational foul water discharges. Having regard to the project being serviced by public wastewater infrastructure, and in noting also that IW has no objection to the proposed development subject to conditions, I consider that the proposed development would not have any likely impacts on the Lower River Shannon SAC and River Shannon and River Fergus Estuaries SPA in this regard.

Likely significant effects on the European sites in view of the conservation objectives

- 10.1.39. The submitted Report states that this area has extensive housing to the east, and that none of the protected species in Appendix B were recorded. However, it is also stated that Appendix B outlines protected species previously recorded in grid square R55 (a 10km grid square).
- 10.1.40. A substantial area of the site comprises a brownfield site, and northern and western areas comprise agricultural grassland. The proposed development would result in the removal of some hedgerow/overgrowth along parts of the eastern and south eastern site boundaries, and in the loss of some greenfield lands.

Lower River Shannon SAC (002165)

- 10.1.41. With regard to likely significant effects on **Lower River Shannon SAC (002165)** in view of the conservation objectives, I highlight freshwater pearl mussel (FPM), 3no. lamprey species, salmon and otter in the following sections.
- 10.1.42. River Shannon SAC (002165) includes Freshwater Pearl Mussel (*Margaritifera margaritifera*) (FMP) of which the conservation objective is to restore. The NPWS site synopsis outlines that FPM, a species on Annex II of E.U. Habitats Directive, occurs abundantly in parts of Cloon River. This population is confined to the main channel, distributed from Croany Bridge to approx. 1.5km upstream of Clonderlaw Bridge. I note this river is in Co. Clare, and the Clonderlaw area is minimum 40km west of the site on opposite side of the Shannon estuary. Having

regard to the separation distance and to dilution effects of this substantial waterbody, I consider that the proposed development would not give rise to any impacts on FMP in Cloon River, and that potential impacts on FPM can be screened out.

10.1.43. The NPWS site synopsis states that the three no. lamprey species and salmon have all been observed spawning in the lower Shannon or its tributaries. On the basis of a potential hydrological connection from the proposed development, namely stormwater discharge via the culvert to Loughmore Canal, and on the basis of all information on file, I consider that potential negative effects on this species cannot be screened out.

10.1.44. European Otter (*Lutra lutra*) is listed in Appendix B, which is a qualifying species for Lower River Shannon SAC (002165). Date of last record is stated in Appendix B as 2018. It states (at Section 3.2) that for otter, disturbance effects would not be expected to extend beyond 250m, and that as the proposed development is 2.3km from the nearest European site there is no risk of disturbance impacts to qualifying interest species on SAC or SPA sites. I note that the nearest waterbody is the canal a short distance to west. While otter was previously recorded on R55 this relates to a 10km grid square, and having regard to the absence of a watercourse on the subject site, the existing partially brownfield nature of the site and in particular the distance of the site to the otter commuting areas shown on Map 17 of NPWS Conservation Objectives (for 002165), and as outlined further in Table 3 below, I consider that the proposed development would not result in disturbance impacts on otter, and as such that potential impacts on otter can be screened out.

10.1.45. I note all other qualifying interests, both habitats and species, of this European site and the conservation objectives to either maintain or restore their favourable status. While noting the separation distance and the dilution effects that would arise in the estuary due to the considerable volume of water in particular, I consider that based on the information on file, and having regard to the qualifying interests of the River Shannon SAC (002165), that it has not been demonstrated that the conservation objectives of same relating to the 3no. lamprey species and salmon would not be compromised in the event of a release of suspended sediments or other pollutants, nor that there would be no deterioration in water quality as a result of the proposed development. Accordingly, I consider that it has not been demonstrated that the proposed development would not give rise to likely significant

effects on the conservation objectives of this European site. The following table summarises the risk of impact of the proposed development on this SAC.

Table 2: European Sites at risk from impacts of the proposed development; Lower River Shannon SAC.

Effect mechanism	Impact pathway/zone of influence	European Site(s)	Qualifying interest features at risk
Deterioration in water quality	Indirect pathway from development site via stormwater discharge to culvert and Loughmore Canal and downstream to SAC.	Lower River Shannon SAC (002165)	Freshwater species dependent on high water quality: Freshwater Pearl Mussel 3no. Lamprey species Salmon

Table 3: Could the project undermine the conservation objectives 'alone'?

European Site and qualifying feature	Conservation objective (summary)	Could the conservation objectives be undermined (Y/N)?
		Deterioration of Water Quality
Lower River Shannon SAC (002165)		
<u>Habitats</u> 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 1220 Perennial vegetation of stony banks 1230 Vegetated sea cliffs of the Atlantic and Baltic coasts 1310 Salicornia and other annuals colonising mud and sand 1330 Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>)	Maintain Maintain Maintain Restore Maintain Maintain Maintain Maintain Restore	N Having regard to the location of these habitats, the majority of which are shown on NPWS Conservation Objective mapping for this SAC, the separation distances from the subject site to these habitats and the dilution effects that would arise in the substantial volume of the River Shannon (including Mouth of the Shannon and Shannon Estuary) in the case of an accidental pollution event, I consider that impacts on these conservation objectives can be screened out.

1410 Mediterranean salt meadows (<i>Juncetalia maritimi</i>) 3260 Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation 6410 <i>Molinia</i> meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>) 91E0 Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, Alnion incanae, <i>Salicion albae</i>)*	Restore Maintain Maintain Restore	
<u>Species</u> 1029 Freshwater pearl mussel 1095 Sea Lamprey 1096 Brook Lamprey 1099 River Lamprey 1106 Salmon	Restore Restore Maintain Maintain Restore	N This conservation objective applies to FPM population in Cloon River, Co. Clare, only. The Cloon population is confined to the main channel and is distributed from Croany Bridge to approx. 1.5km upstream of Clonderlaw Bridge. Having regard to the min. 40km (as the crow flies) distance to this location, on the opposite side of the Lower Shannon Estuary, I consider that the proposed development would not give rise to impacts on FPM in the Cloon River and that potential impacts on FPM can be screened out. Y The NPWS site synopsis states that the three lamprey species and salmon have all been observed spawning in the lower Shannon or <u>its tributaries</u>. The submitted AA Screening states that an accidental pollution event of sufficient magnitude could potentially negatively affect water quality in River Maigue and Shannon Estuary (via Derryknockane Stream). While I do not consider it likely

1349 Common Bottlenose Dolphin	Maintain	that potential negative effects would arise on these species via Derryknockane Stream, on the basis however of potential hydrological connections from surface stormwater discharge via the culvert discharging to Loughmore Canal, I consider that these impacts on conservation objectives cannot be ruled out. N Bottlenose Dolphin habitat is indicated to be mouth of the Shannon upriver to the approach to Limerick city. I consider that in the event of deterioration of water quality as a result of the proposed development, that it is not likely, due to dilution effects of the significant volume of the estuarine waters to result in adverse impacts on this species.
1355 Otter	Restore	N The NPWS site synopsis states that otter, a species listed on Annex II is commonly found on the site. NPWS conservation objective Notes state that with regard to extent of freshwater (river) habitat, river length calculated on the basis that otters will utilise freshwater habitats from estuary to headwaters. Associated Map 17 shows otter 250m commuting buffer, which extends upriver of River Maigue, in vicinity of Adare. Barnakyle River is a tributary of River Maigue. Otter commuting is not shown on Barnakyle River. This would suggest that the otters do not extend onto the subject site. The subject site is approx. 6.5km east of River Maigue (as the crow flies). The submitted AA Screening and NIS report states that otters were recorded on (10km grid square) R55, although

		this is not delineated on file. I consider based on NPWS conservation objective and Map 17, whereby no commuting otter on Barnakyle River are shown, that potential impacts on otter can be screened out.
--	--	---

River Shannon and River Fergus Estuaries SPA (004077)

Table 4: European Sites at risk from impacts of the proposed development; Lower River Shannon SAC.

Effect mechanism	Impact pathway/zone of influence	European Site(s)	Qualifying interest features at risk
Deterioration in water quality	Indirect pathway from development site via stormwater discharge to culvert and Loughmore Canal and downstream to SPA.	River Shannon and River Fergus SPA (004077)	Wintering birds

Table 5: Could the project undermine the conservation objectives 'alone'?

European Site and qualifying feature	Conservation objective (summary)	Could the conservation objectives be undermined (Y/N)?
		Deterioration of Water Quality
River Shannon and River Fergus Estuaries SPA (004077)		
<u>Species</u> A017 Cormorant <i>Phalacrocorax carbo</i> A038 Whooper Swan <i>Cygnus cygnus</i> A046 Light-bellied Brent Goose <i>Branta bernicla hrota</i> A048 Shelduck <i>Tadorna tadorna</i> A050 Wigeon <i>Anas penelope</i> A052 Teal <i>Anas crecca</i> A054 Pintail <i>Anas acuta</i> A056 Shoveler <i>Anas clypeata</i>	Maintain (all)	Y The submitted AA Screening states that an accidental pollution event during construction or operation of sufficient magnitude could potentially affect water quality in the River Maigue and the Shannon Estuary, which could affect the aquatic, wetland and

A062 Scaup <i>Aythya marila</i> A137 Ringed Plover <i>Charadrius hiaticula</i> A140 Golden Plover <i>Pluvialis apricaria</i> A141 Grey Plover <i>Pluvialis squatarola</i> A142 Lapwing <i>Vanellus vanellus</i> A143 Knot Calidris <i>canutus</i> A149 Dunlin Calidris <i>alpina</i> A156 Black-tailed Godwit <i>Limosa limosa</i> A157 Bar-tailed Godwit <i>Limosa lapponica</i> A160 Curlew <i>Numenius arquata</i> A162 Redshank <i>Tringa totanus</i> A164 Greenshank <i>Tringa nebularia</i> A179 Black-headed Gull <i>Chroicocephalus ridibundus</i>		estuarine environments that support the special conservation interest bird species of the SPA, thereby potentially affecting the conservation objectives of the SPA. Appendix B states that protected species were previously recorded in grid square R55 where the site is located. Given that the conservation objectives relate to wintering birds, I consider that impacts on same cannot be screened out. This is further discussed below.
---	--	--

10.1.46. Species listed in Appendix B (i.e., the species been recorded in NBDC 10km grid square R55) which are qualifying species of River Shannon and River Fergus Estuaries SPA (004077) are as follows (Note: Naming in Appendix B differs from S.I. No. 329 of 2019, and accordingly Latin name refers):

Table 6:

Species	Date of last record
Dunlin (<i>Calidris alpina</i>)	2011
Eurasian Teal (<i>Anas crecca</i>)	2017
Eurasian Wigeon (<i>Anas Penelope</i>)	2016
Eurasian Curlew (<i>Numenius arquata</i>)	2011
European Golden Plover (<i>Pluvialis apricaria</i>)	2011
Great Cormorant (<i>Phalacrocorax carbo</i>)	2016
Greater Scaup (<i>Aythya marila</i>)	2011
Northern Lapwing (<i>Vanellus vanellus</i>)	2013

Northern Pintail (<i>Anas acuta</i>)	2011
Northern shoveler (<i>Anas clypeata</i>)	2017
Ringed Plover (<i>Charadrius hiaticula</i>)	2011
Whooper Swan (<i>Cygnus cygnus</i>)	2011

10.1.47. While the site is not located within this SPA, I consider that any impacts that the proposed development may have on the 12no. QIs of River Shannon and River Fergus Estuaries SPA listed in Table 6, would be required to be assessed.

10.1.48. With reference to the site visit on 11 August 2020, the applicant states that none of the protected species listed in Appendix B were recorded. I note that the dates of last record range from 2011 to 2017. However, I consider that the information presented is very limited, i.e., site visit was carried out 2 years prior to lodgement of planning application, and no information relating to any surveys, if relevant, nor the geographic area to which (10km grid square) R55 relates have been provided. In addition, it has not been outlined as to why an August site visit date was considered appropriate in the case whereby QIs are wintering birds. I consider therefore that impacts, including ex-situ impacts, of the proposed development on QIs of this SPA cannot be screened out. In the absence of further detailed analysis, it is not possible to come to a finding of no significant effects and therefore further detailed assessment is required. An appropriate assessment is required on the basis of the effects of the project 'alone'. Further assessment in combination with other plans and projects is not required at this time.

Overall Conclusion

10.1.49. In accordance with Section 177U of the Planning and Development Act 2000 (as amended), it is considered that an appropriate assessment is required as it cannot be excluded on the basis of objective information that the proposed development alone will not have a significant effect on European sites.

Stage 2 Appropriate Assessment

Key data and issues:

10.1.50. The application includes an NIS. Other relevant documents include a SSFRA

and at FI stage a public lighting plan was submitted.

10.1.51. The planning authority's Condition 6 requires mitigation measures contained in the NIS to be complied with in full.

10.1.52. Appendices D and E of the NIS outline potential impacts on conservation objectives of Lower River Shannon SAC and River Shannon and River Fergus SPA respectively.

Assessment of likely potentially direct and indirect effects on integrity of European sites:

10.1.53. The NIS concludes (at Section 4.4) that none of the potential direct or indirect impacts of the proposed development will affect the conservation objectives of any of the qualifying interest habitats or species of the Lower River Shannon SAC or any of the special conservation interest species of the River Shannon and River Fergus Estuaries SPA. Mitigation measures are included to ensure that water quality in the receiving surface water environment is protected.

10.1.54. It is further outlined (at Section 5.0 In Combination Assessment) that the only potential impact pathway connecting the proposed development to these European sites is the existing surface water network which drains to the Shannon Estuary via Derryknockane Stream located 1.2km east of the site which is a tributary of Rootiagh River and ultimately Barnakyle River.

10.1.55. The NIS conclusion (at Section 6.0) states that it has been objectively concluded following an examination, analysis and evaluation of relevant information, including in particular the nature of the predicted impacts from the proposed development and with the implementation of the mitigation measures proposed, that the proposed development will not adversely affect (either directly or indirectly) the integrity (of) any European site, either alone or in combination with other plans or projects, and there is no reasonable scientific doubt in relation to this conclusion.

10.1.56. Mitigation measures are set out at Sections 4.2.1 to 4.2.6 of the submitted NIS report and include

- Measures to protect surface water quality during construction, comprising
 - standard best practice environmental controls to protect surrounding environment during construction and operation to minimise any potential risk

of surface and/or groundwater pollution through siltation, nutrient release or contamination. These controls will minimise potential construction run-off impacts into the wider environment including Lower River Shannon SAC and River Shannon and River Fergus Estuaries SPA even if this is not the primary aim of these protection measures.

- eroded sediments will not be allowed into drainage ditches on site
- avoidance of extreme wet weather conditions during all site works.
- raw or uncured waste concrete will be removed and disposed of in accordance with the relevant waste management legislation.
- spillage of fuels, lubricants or hydraulic oils will be immediately contained and contaminated soil removed and disposed of in accordance with all relevant waste management legislation.

10.1.57. With regard to reduction and prevention of suspended solids pollution, the NIS states that key factors in erosion and sediment control are to intercept and manage on-site run-off, which limits the potential for soils to be eroded and enter the drainage network, in runoff.

10.1.58. I note that the appeal site is not located within a European site and no direct impacts on the integrity of European sites would arise.

10.1.59. I consider that potential impact mechanisms of the project are indirect impacts on Lower River Shannon SAC (002165) and River Shannon and River Fergus Estuaries SPA (004077) that could occur during construction and operation:

- Surface water pollution from construction works resulting in changes to environmental conditions such as water quality;
- Surface water pollution from operation resulting in changes to environmental conditions such as water quality;

10.1.60. With regard to indirect effects on the integrity of European sites, I note the conclusions of the NIS and the content of Appendices D and E.

10.1.61. However, I do not agree that the only potential impact pathway connecting the proposed development to the 2no. European sites is via Derryknockane Stream 1.2km to the east. In contrast, stormwater discharge from the proposed development

is indicated to be to the existing network which continues to a culvert at Loughmore Canal to the west. The submissions received on file indicate that the canal discharges to Barnakyle watercourse. Barnakyle River joins the Mague River, which in turn discharges to Upper Shannon Estuary. In this regard therefore given that the NIS does not refer to the culvert to Loughmore Canal, I do not consider that the information provided is a complete overview of potential impacts of the proposed development on European sites.

- 10.1.62. Appendix D includes that potential impact on Lower River Shannon SAC is that an accidental pollution of sufficient magnitude could impact fish through silt smothering spawning grounds of affecting respiration, chemical contaminants physically damaging fish or causing mortality as a result of toxins, and that such impacts could result in at least temporary reduction in fish numbers, including reduced in salmon fry abundance downstream. It states that mitigation measures to maintain water quality in receiving watercourses will be implemented.
- 10.1.63. Regarding River Shannon and River Fergus Estuaries SPA, Appendix E outlines that there is no suitable habitat for cormorant within the development site and therefore no impact on connectivity. A potential impact is an accidental pollution event of sufficient magnitude could potentially negatively affect aquatic habitats in the SPA, which could affect factors that support breeding population such as prey abundance/biomass, potentially affecting nest occupation. Mitigation measures to maintain water quality in receiving watercourses will be implemented.
- 10.1.64. With regard to the remaining 20no. qualifying interests of this SPA, it is stated that there is no significant decrease in the range, timing or intensity of use other than that occurring from natural patterns of variation. It similarly states that an accidental pollution event of sufficient magnitude could potentially negatively affect aquatic habitats in the SPA, which could affect factors which support breeding population, potentially affecting nest population and productivity which could affect the number and range of areas used by cormorant and population numbers in the SPA. (I note that the reference to cormorant would appear to be in error). Mitigation measures to maintain water quality in receiving watercourses will be implemented.
- 10.1.65. While the measures outlined above to protect surface water quality during construction would be consistent with standard construction practices, I note that no

associated mapping/drawing relating to the stated measures outlined above have been provided. As such, no information relating to location and configuration of a site compound, designated areas for materials storage and waste storage, etc., are on file. In the absence of such information, namely the type of information that would be included in a CMP, I do not consider that it has been adequately demonstrated that watercourses in the vicinity of the subject site would not be adversely affected by the proposed development during construction.

10.1.66. In addition, I consider that these 'mitigation measures' described in the NIS appear, in contrast, to be standard construction measures, which could be regarded as best work practices integral to a development, that would be implemented by those carrying out the development at the same time and as part of the same process, albeit in the absence of associated drawings or CMP, as opposed to separate measures that would be conceived and implemented to mitigate potential impact on European sites. Accordingly, I do not consider the practices described would comprise 'mitigation measures'.

10.1.67. With regard to the 'scrapyard' on part of the site, the NIS does not discuss potential impacts, if any, relating to this land use on European sites. While no active commercial use was noted on site inspection date, I consider that the matter of potential soil contamination on the scrapyard part of the site would be required to be addressed. In the absence of this matter being addressed in the NIS or in the other plans and particulars on file, and in the absence of any CMP or a construction and demolition waste management plan on file, and notwithstanding that there are no watercourses on the subject site, I consider that the potential for adverse impacts on the integrity of European sites as a result of soil contamination including possible effects of same on any watercourses has not been adequately addressed.

10.1.68. In the absence of detailed information regarding surface water management proposals for the proposed development at both construction and operational stages, I consider that surface water impacts of the proposed development could potentially impact on water quality. The potential for significant adverse impact on the conservation objectives of these European sites remain of concern.

10.1.69. Furthermore, QIs of River Shannon and River Fergus Estuaries SPA (004077) are indicated to have been recorded in (10km grid square) R55. Notwithstanding that

the extent of R55 is not shown, and the older 2011-2017 date range for these records, it remains that it has not been demonstrated that the proposed development would not result in ex-situ impacts on the conservation objectives of this SPA.

10.1.70. On the basis of all information on file, I recommend that the Board cannot be satisfied that it has been adequately demonstrated that mitigation measures outlined in respect of surface water management at construction and operation stages would be adequate

- to ensure that the proposed development would not adversely impact on the conservation objectives of the nearest European sites: Lower River Shannon SAC (002165) and River Shannon and River Fergus SPA (004077); and
- to ensure that the proposed development would not result in ex-situ impacts which would adversely impact on the conservation objectives of River Shannon and River Fergus SPA (004077).

Appropriate Assessment Conclusion

10.1.71. On the basis of the information provided with the application and appeal, including the Natura Impact Statement, I consider that it has not been satisfactorily demonstrated that the proposed development alone would not adversely affect the integrity of European sites Lower River Shannon SAC (002165) and River Shannon and River Fergus SPA (004077) in view of the sites' conservation objectives. Furthermore, I am not satisfied that the proposed development would not result in ex-situ impacts of conservation objectives of River Shannon and River Fergus SPA. In such circumstances the Board is precluded for granting permission.

10.1.72. This conclusion is based on a

- lack of certainty regarding surface water management proposals and lack of demonstrably adequate mitigation measures at construction stage, and
- lack of certainty regarding surface water management proposals and lack of sufficient detailing regarding stormwater disposal at operation stage

for the proposed development such that reasonable doubt remains as to the actual effects of the proposed development on the conservation objectives and site integrity of the protected sites.