



An
Bord
Pleanála

Inspector's Report ABP-317686-23

Development	Extension of Bloodmill Road Extension Scheme.
Location	Ballysimon, Limerick, Co. Limerick
Local Authority	Limerick City & County Council
Type of Application	Application for approval made under Section 177(AE) of the Planning and Development Act, 2000 (local authority development requiring appropriate assessment)
Prescribed Bodies	Office of Public Works (OPW) Uisce Eireann (IW)
Observer(s)	Finbar Murphy
Date of Site Inspection	12 th October 2023
Inspector	Karla Mc Bride

1.0 Introduction

- 1.1. Limerick County Council is seeking approval from An Bord Pleanála to undertake road works in the vicinity of the Towlerton Stream at Ballysimon in Co. Limerick. The stream forms a confluence with the River Groody a short distance to the NE, which ultimately discharges into the Lower River Shannon SAC to the NW. There are several other designated European sites in the wider area. A Natura Impact Statement (NIS) and application under Section 177AE was lodged by the Local Authority on the basis of the proposed development's likely significant effect on a European site.
- 1.2. Section 177AE of the Planning and Development act 2000 (as amended) requires that where an appropriate assessment is required in respect of development by a local authority the authority shall prepare an NIS and the development shall not be carried out unless the Board has approved the development with or without modifications. Furthermore, Section 177V of the Planning and Development Act 2000 (as amended) requires that the appropriate assessment shall include a determination by the Board as to whether or not the proposed development would adversely affect the integrity of a European site and the appropriate assessment shall be carried out by the Board before consent is given for the proposed development.

2.0 Site and Location

- 2.1. The site at Ballysimon is located to the E of Limerick City in the townlands of Towlerton and Singland. The surrounding area comprises a mix of amenity, commercial, residential, health and educational uses. The recently constructed sections of the new Bloodmill Road link road lie to the SE and NW of the project site, whilst the remaining intervening section of the old Bloodmill Road is narrow and winding, particularly at the bridge crossing over the Towlerton Stream.
- 2.2. The project site is located within the Groody Valley which comprises an extensive "green corridor" along the River Groody, which separates Limerick City from the outer development zones. This section of the Valley is mainly characterised by fields, hedgerows, wooded areas, and riparian embankments along the watercourses,

which ultimately drain NW to the River Shannon. The proposed works would provide for the culverting of a section of Towleron Stream.

- 2.3. The River Shannon forms part of the Lower River Shannon SAC which flows SW to the Shannon Estuary, and the boundary with the River Shannon and River Fergus Estuaries SPA is located further downstream. The Groody Valley may also be important for mobile species from this and other further afield European sites.
- 2.4. There are several features of historic and cultural heritage interest in the surrounding area including the Singland House to the N and King Williams Well to the S, which are designated Protected Structures.
- 2.5. Photographs & maps in Appendix 1 describe the site & surroundings in more detail.

3.0 Proposed Development

- 3.1. Limerick City and County Council propose to carry out road works at Ballysimon. The project would facilitate a c.260m connection between 2 x sections of a new link road.

The proposed works would comprise:

- Construction of c.260m of new road with: -
 - 6.2m wide carriageway
 - 2 x 2m wide footpaths
 - 2 x 2m wide landscaped verges
 - 2 x 2m wide off-road cycle tracks.
- New surface water drainage system
- New public lighting
- New culvert across the Towleron Stream where the existing newly constructed link road terminates.

3.2. Accompanying documents

The application was accompanied by the following documents:

- Drawings & photographs
- Natural Impact Assessment report (NIS)

- EIA Screening Determination report
- Project Description report
- Surface Water Drainage & Flood Risk Summary report
- Outline CEMP & Stage 1 Road Safety Audit
- Outdoor Lighting & Tree Survey reports.
- List of Prescribed Bodies & copies of Public Notices.

4.0 Planning History

- 4.1. No recent relevant planning cases for the project site.
- 4.2. Several planning cases in the vicinity, which are relevant to this case.

Plan Ref. 19546: permission granted for a new c.637m public road from the City East Roundabout on Groody Road across the “Towlerton Development Lands” to the NW boundary of the lands adjoining the project site.

Plan Ref. 22950: permission granted for a large mixed-use commercial & residential development (c.9,304sq.m.) with access of the newly constructed link road.

Plan Ref. 23102: permission granted for a new 5-storey medical building (c.5,529sq.m.) with access of the newly constructed link road.

ABP-315259-22: the Board determined that the project has the potential to result in likely significant effects on 1 x European Site (Lower River Shannon SAC), and that submission of an application and NIS to ABP was required.

5.0 Legislative and Policy Context

- 5.1. **The EU Habitats Directive (92/43/EEC):** This Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Articles 6(3) and 6(4) require an appropriate assessment of the likely significant effects of a proposed development on its own and in combination with other plans and projects which may have an effect on a European Site (SAC or SPA).

- 5.2. **European Communities (Birds and Natural Habitats) Regulations 2011:** These Regulations consolidate the European Communities (Natural Habitats) Regulations 1997 to 2005 and the European Communities (Birds and Natural Habitats) (Control of Recreational Activities) Regulations 2010, as well as addressing transposition failures identified in CJEU judgements. The Regulations in particular require in Reg 42(21) that where an appropriate assessment has already been carried out by a 'first' public authority for the same project (under a separate code of legislation) then a 'second' public authority considering that project for appropriate assessment under its own code of legislation is required to take account of the appropriate assessment of the first authority.
- 5.3. **National nature conservation designations:** The Department of Culture, Heritage and the Gaeltacht and the National Parks and Wildlife Service are responsible for the designation of conservation sites throughout the country. The three main types of designation are Natural Heritage Areas (NHA), Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) and the latter two form part of the European Natura 2000 Network.
- 5.4. European sites located within the Zone of Influence of the subject site include:
- Lower River Shannon SAC (Site code: 002165)
 - River Shannon & River Fergus Estuaries SPA (Site code: 004077)
- 5.5. **Planning and Development Acts 2000 (as amended):** Part XAB of the Planning and Development Acts 2000-2017 sets out the requirements for the appropriate assessment of developments which could have an effect on a European site or its conservation objectives.
- 177(AE) sets out the requirements for the appropriate assessment of developments carried out by or on behalf of local authorities.
 - Section 177(AE) (1) requires a local authority to prepare, or cause to be prepared, a Natura impact statement in respect of the proposed development.
 - Section 177(AE) (2) states that a proposed development in respect of which an appropriate assessment is required shall not be carried out unless the Board has approved it with or without modifications.

- Section 177(AE) (3) states that where a Natura impact assessment has been prepared pursuant to subsection (1), the local authority shall apply to the Board for approval and the provisions of Part XAB shall apply to the carrying out of the appropriate assessment.
- Section 177(V) (3) states that a competent authority shall give consent for a proposed development only after having determined that the proposed development shall not adversely affect the integrity of a European site.
- Section 177AE (6) (a) states that before making a decision in respect of a proposed development the Board shall consider the NIS, any submissions or observations received and any other information relating to:
 - The likely effects on the environment.
 - The likely consequences for the proper planning and sustainable development of the area.
 - The likely significant effects on a European site.

5.6. National and Regional Planning policy

National Planning Framework, 2018-2040

This Plan sets out a high-level strategic plan for shaping future growth and development to 2040. It seeks to develop a region-focused strategy to manage growth and environmentally-focused planning at a local level. It contains several National Strategic Outcomes (NSOs) which include seeking to achieve empowered rural economies and communities, enhanced amenity and heritage, and a transition to a low-carbon and climate resilient society.

National Development Plan, 2021-2030

This Plan underpins the National Planning Framework 2018-2040. It contains several priorities which include investment in regional growth potential and enhancing the tourism potential of the region.

Climate Action Plan, 2024

This plan seeks to tackle climate breakdown and achieve net zero greenhouse gas emissions by 2050. It identifies several risks as a result of climate change including

rising sea-levels, extreme weather, further pressure on water resources and food production systems, and increased chance and scale of river and coastal flooding.

The Planning System and Flood Risk Management, 2009

These Guidelines seeks to avoid inappropriate development in areas at risk of flooding and avoid new developments increasing flood risk elsewhere and they advocate a sequential approach to risk assessment and a justification test.

National Biodiversity Action Plan, 2022

The Plan sets out actions through which a range of government, civil and private sectors will undertake to achieve Ireland's 'Vision for Biodiversity' and follows on from the work of the first and second National Biodiversity Action Plans. It contains 119 x targeted actions which are underpinned by 7 x strategic objectives.

Regional Spatial & Economic Strategy, the Southern Region (2020)

The RSES supports the delivery of the programme for change set out in the National Planning Framework and the National Development Plan. It sets out a strategic vision and policy objectives for climate change, sustainable development, renewable energy, urban and rural areas, the economy, the environment, connectivity, amenities and utilities. Several policy objectives seek to promote tourism and recreation, protect water quality, enhance biodiversity, and ensure the protection of sensitive sites and habitats.

5.7. Limerick County Development Plan 2022 - 2028

Zoning: the lands are zoned "Groody Valley Wedge"

Objective: To preserve and protect the Groody Valley from development.

Purpose: To maintain the areas importance in preventing the encroachment of the built-up area of Limerick City and to retain its important role as a wildlife corridor and a flood management zone.

Adjacent Zones: the surrounding lands are zoned for "Mixed-Use" & "Employment".

Transport:

Obj.TR 044: seeks to support and complete the delivery of new and improved link roads & junctions accommodating public transport, cycle & pedestrian connections.

Map 6 (Limerick City & Suburbs): identifies the proposed link road extension.

Limerick-Shannon Metropolitan Area Transport Strategy: Bloodmill Road is identified as a bus priority route (and also selected as a 10-minute bus route from Castletroy to the City Centre in the Draft Bus Connects network).

Cultural Heritage:

Singland House (Country House) to the N is a protected structure (RPS 1631).

King Williams Well (Spring Well) to the S is a protected structure (RPS 1632).

Natural Heritage:

Lower River Shannon SAC to the NW & W (Site code: 002165)

River Shannon & River Fergus Estuaries SPA to the W & SW (Site code: 004077)

6.0 Consultations

6.1. Prescribed Bodies:

The Council circulated the project details to several Prescribed Bodies and submissions were received from the Office of Public Works (OPW) and Uisce Eireann (IW):

OPW:

- Statutory duty to maintain Drainage Schemes under the Arterial Drainage Act & the site is intersected by the Channel C1/2 Groody Drainage Scheme.
- Request attachment of the following access / maintenance condition.
- A 5m wide strip of land running parallel with Channel C1/2, should be provided to facilitate access & maintenance activities in the immediate area. This area should be accessible to mechanical plant and should not be landscaped, paved, or otherwise developed in a manner that would prevent access.
- The site falls within the area deemed to benefit from drainage by No. C1/2 of the Groody Drainage Scheme and may be subject to an increased flood risk.
- Obtain consent from OPW in respect of any culverts, bridge or channel works.

Uisce Eireann (IW):

- No objection subject to protection of IW infrastructure & liaison with IW.

Public Submissions:

One submission received from Finbar Murphy who raised the following concerns:

- Proposed bus stop & cycle way would be located on Mr. Murphy's land (Folio No. 19599f) which comprises the space created by a boundary wall set back required under Plan Ref. 22928 and is used for occasional car parking.
- Site location map (Br-SLM-P01) is misleading as it does not describe the relationship between this plot, the proposed works, and the adjacent lands.
- The recently constructed cycleway does not conform with the permitted alignment as per the permission for neighbouring housing estate.
- Lack of consultation during design stage & does not consent to the works.

The submissions were circulated to the Council for information.

7.0 Assessment

7.1. The likely consequences for the proper planning and sustainable development of the area:

The proposed development would comply with national, regional and local policy in respect of climate change, the environment, heritage, residential amenity and transportation. The Council states that the works are justified as they would provide for the completion of the Bloodmill Road link road extension, and that the works would take c.12 months to complete. The proposed works would implement Objective TR 044 of the Development Plan which seeks to support and complete the delivery of a new and improved link road, which would accommodate public transport, cycle and pedestrian connections, as identified in Map 6 (Limerick City & Suburbs). The Limerick-Shannon Metropolitan Area Transport Strategy also identifies Bloodmill Road as a bus priority route, and the Council noted that it was also selected as a 10-minute bus route from Castletroy to the City Centre in the Draft Bus Connects network). Furthermore, the proposed link road extension would provide for access to adjacent lands which are zoned for Mixed-use and Employment uses in the Development Plan.

The two submissions received from Prescribed Bodies did not raise any objections subject to compliance with normal OPW and IW requirements, and the retention of access to the Towleron Stream for maintenance purposes, which could be addressed by way of a planning condition.

One submission was received from an adjoining landowner (Finbar Murphy) who raised land ownership issues which are summarised in section 6.0 above. I consider this to be a legal issue as opposed to a planning or environmental issue. However, the Council should be satisfied that it has sufficient legal interest to carry out the proposed works before development commences.

No other submissions were received from members of the public.

Design and layout:

The location and design of the proposed road works at Ballysimon are described in sections 2.0 and 3.0 above. The site is located within the Groody Valley that is bound to the E and W by urban and suburban land uses which are connected by the

existing Bloodmill Road and recently constructed Bloodmill Link Road. The proposed extension to the link road would connect the two recently constructed sections of the link road, and by-pass the old road which is narrow and winding with poor visibility and no footpaths. The footprint of the extension is occupied by fields, hedgerows, a small wooded area, and the riparian embankment along the Towlerton Stream. The proposed link road extension would be similar to the existing sections to the E and W in terms of layout, design and materials (incl. footpaths, cycleways & lighting). The works would entail tree and vegetation removal, and associated construction works (incl. a culvert over the stream, attenuation tank & surface water drainage). Given that the project would provide improved and safe access arrangements for vehicles, cyclists and pedestrians in line with several Development Plan policies, the design and layout of the proposed road works are considered acceptable. It is noted that the project would also serve to achieve several key objectives for the area which seek to provide access to zoned lands and improved public transport facilities.

Residential & visual amenity:

The proposed development would traverse the Groody Valley and cross the Towlerton Stream. The immediately surrounding area to the W is mainly characterised by residential uses including detached bungalows and housing estates, with commercial, medical and education uses further to the E. There are two heritage features in the vicinity including a Country House to the N and a Spring Well to the S which are both Protected Structures. The River Shannon to the NW and River Fergus Estuary to the SW are designated European sites.

The site and environs are defined by the Tolerton Stream and riparian vegetation, grassland, and a small, wooded area which comprises trees of mixed species in various stages of maturity, all of which contribute to the overall character of the area. Although the proposed development would result in the removal of some trees, hedges and riparian vegetation, the project would serve to achieve several key Development Plan objectives which seek to complete the Bloodmill Link Road, provide access to zoned development lands, improve pedestrian and cycling safety, and accommodate public transport, as outlined above (Design & Layout).

In terms of general residential amenity, the proposed works would not overlook, overshadow, result in a loss of privacy, or otherwise adversely affect the amenity of

any nearby dwelling houses. However, any localised removal of woodland and riparian vegetation in the vicinity of the works would have a minor adverse impact on the visual amenities and character of the area in the short term. Notwithstanding these concerns, the proposed works will not give rise to an adverse visual impact on the character of the area or the amenities of nearby houses in the long term.

The land ownership concerns raised by Mr. Murphy are noted and addressed above.

Biodiversity:

The proposed link road extension would traverse the Groody Valley Wedge which the Development Plan seeks to preserve and protect from development and to retain its important role as a wildlife corridor and a flood management zone. The linear site, which mainly comprises fields bound by hedgerows, would also cross the Towlerton Stream. This stream drains N into the River Groody which discharges NW to the River Shannon which, in turn, forms part of the Lower River Shannon SAC. The area around the Towlerton Stream is characterised by a small wooded area with trees of mixed species in various stages of maturity and riparian vegetation (incl. Floating river vegetation), and it is crossed by an existing bridge along Bloodmill Road.

The Lower River Shannon SAC is designated for wide variety of terrestrial and aquatic habitats (incl. Floating river vegetation) and mobile species (incl. Otter & Fish), and it overlaps with the downstream River Shannon and River Fergus Estuaries SPA which is designated for several species of water bird. Appropriate Assessment issues will be addressed below.

The adjacent and nearby watercourses, embankments and bridge may provide a habitat, refuge, foraging area or resting place for a variety of terrestrial and aquatic animal species (incl. otters, birds, bats, fish & aquatic invertebrates) which have been described in the submitted documents. This includes a Natural Impact Assessment report (incl. Stage 1 AA screening & Stage 2 AA) which examined the relationship between the proposed development and European sites. These reports were informed by desk top studies and site surveys which described the ecological characteristics of the receiving environment and identified the potential impacts on Europeans Sites and biodiversity. The NIS report contains mitigation measures which should be incorporated into the CEMP.

No SAC QI habitats or species were recorded in the vicinity or immediately downstream of the proposed development, and no suitable habitat or the SPA SCI species was noted in the desktop studies and field surveys. However, the River Groody and River Shannon may provide suitable support habitat for several fish species (incl. Lampreys & Salmon). Otter may commute or forage along the rivers and their tributaries. The riparian vegetation along with the small, wooded area may contain suitable nesting and/or foraging habitat for birds and bats, and the underneath of the Bloodmill Road bridge may contain suitable bat roosting habitat.

There was no significant evidence of nesting **birds** in the vicinity of the proposed works or the in the wider area, possibly related to the proximity to the busy road and built-up areas. Notwithstanding this, a condition should be attached to ensure that the site clearance and construction works take place outside of the bird nesting season.

The Bloodmill Road bridge and surrounding riparian lands, hedgerows and trees may provide suitable roosting, nesting or foraging habitat for **bats** although no evidence of bats was detected during the surveys. Notwithstanding this, a planning condition should be attached which would require the applicant to carry out a pre-construction survey of the bridge for bats, and to seek a Derogation Licence in the event that any roosts are present, to enable their safe and humane relocation to another suitable nearby habitat, as required.

The nearby River Shannon and its tributaries (incl. River Groody) may provide suitable habitat for several species of **fish** (incl. Lampreys & Salmon) along with suitable habitat for several prey species of **aquatic invertebrate** and macrophytes which form part of the food supply for fish species in the rivers. There was no records of Lampreys or Salmon in their various life cycle stages in the Towlerton Stream, although suitable support habitat may be present in the downstream River Groody. These watercourses have the potential to convey deleterious construction materials downstream in the absence of appropriate safeguards which could adversely affect water quality and fisheries (incl. riverbed smothering, changes to pH, clogging fish gills & habitat degradation). The proposed works have the potential to affect water quality along with general noise and disturbance. However, the mitigation measures contained in the NIS report would ensure that appropriate protection measures are put in place during the construction works (incl. buffer

zones, no concrete mixing or vehicle washing on site, and protection from silt & chemical contamination). In-stream works should be avoided during the fish spawning season and IFI Guidance should be complied with.

Otter has been recorded in the lower reaches of the River Shannon and the receiving watercourses may provide suitable habitat for foraging. No evidence of otter was detected during the surveys. However, a planning condition should be attached which would require the applicant to carry out a pre-construction survey of the area around the Towlerton Stream for this species before works commence.

The proposed works would require the removal of wooded areas along the Towlerton Stream and Bloodmill Road which comprise a mix of **trees and hedgerows**. The application was accompanied by a Tree Survey which contained an Arboricultural Impact Assessment and an Arboricultural Method Statement. Some 14 x trees (individual or small groups) and 1 x hedgerow would be removed, and several trees would be retained and protected by barriers during the construction works (incl. soils & roots). No significant adverse impacts on biodiversity are anticipated during the works. However, there could be some localised disturbance to foraging areas, resting places and refuges for birds and possibly bats. The removal of vegetation during the bird nesting season should be prohibited and pre-construction surveys for bats and otters required.

The proposed works would require the localised removal of **riparian vegetation** (incl. some in-stream Floating river vegetation) with no significant adverse impacts on biodiversity during the works anticipated, however there could be some localised disturbance to foraging areas, resting places and refuges for birds and possibly otter. The works should be conducted in accordance IFI guidance and outside the fish spawning seasons.

Invasive plant species a biosecurity condition should be attached to ensure that the works (and vehicles) do not introduce invasive species to the area.

An **Ecological Clerk of Works** would be appointed to oversee the works and the mitigation measures contained in the NIS report would protect sensitive species.

Conclusion: Having regard to all of the above, the predicted impacts on biodiversity would be temporary and short term. The proposed development would connect two recently constructed sections of the Bloodmill Road Link road and it would by-pass the existing substandard and heavily trafficked section of Bloodmill Road. It is noted that NPWS and IFI did not submit any observations, and that the OPW and IW did not raise any concerns about significant adverse impacts on water quality (and thus any species of fish). No significant adverse impacts on biodiversity are anticipated, subject to pre-construction otter and bat surveys, the avoidance of works during the bird nesting and fish spawning seasons, the implementation of water quality protection measures during the constructional and operational phases, and the continued maintenance of the flood plain.

Surface water drainage & flood risk:

The site lies within an area that is prone to fluvial flooding along the Towleron Stream and within the area deemed to benefit from OPW drainage measures along Channel No. C1/2 of the Groody Drainage Scheme, and it may be subject to an increased flood risk. The application was accompanied by a Surface Water and Flood Risk Summary report which described the site, environs, project, surface water management arrangements. Although the project will result in a larger impermeable area, the proposed storm sewer network (incl. culvert, hydrocarbon interceptor & attenuation tank) has been designed to cater for the 1:100-year storm event with a 20% allowance for climate change. I am therefore satisfied that the project will not give rise to an additional flood risk. I note that the OPW submission advised that the applicant obtain consent from OPW in respect of any culverts, bridge or channel works, and requested continued access to Channel No. C1/2 for maintenance purposes along with a 5m wide strip of land that should be permeable and accessible to mechanical plant. I also note that Uisic Eireann (IW) had no objection subject to the proposed development subject to the protection of IW infrastructure and liaison with IW. These concerns could be addressed by a planning condition.

Cultural heritage:

The site is not located within an area that is covered by any archaeological designations and there are no national or recorded monuments in the vicinity. It is not located within an architectural conservation area although there are two nearby Protected Structures which include Singland House (Country House) to the N and King Williams Well (Spring Well) (RPS 1631 & 1632). The Development Plan contains objectives which seek to protect protected structures, historic buildings and buildings/structures of archaeological significance, and the proposed development would comply with these objectives.

Need, effectiveness & alternatives:

I am satisfied that the applicant has provided adequate background information to justify the need for the proposed extension to the Bloodmill Lind Road Scheme which will connect the recently constructed sections to the E and W. It will provide access to zoned development lands, improve vehicular, pedestrian and cyclist movement and safety, and enhance public transport connections. I am also satisfied, on the basis of my examination of the submitted documents and assessment of the site and environs, that the proposed development will function effectively, and that the works constitute an appropriate and proportionate response to the aforementioned needs.

Conclusions:

Having regard to the foregoing, I am satisfied that the proposed development is acceptable in principle and that the works are justified.

7.2. Screening for Environmental Impact Assessment

The applicant's EIA Screening Report concluded that the proposed road works do not need to be subject to a mandatory or sub-threshold EIA and that no EIAR report is required for the proposed development.

The project is not listed as a type of development in Schedule 5 Part 1 or Part 2 of the Planning and Development Regulations 2001 (as amended).

The project falls under the EIA requirements of the Roads Act, 1993 as amended by the Planning and Development Acts (2000-2011) and the Roads Act (2007), as well as Regulations made under the Roads Act, the EC (EIAA) (Amendment) Regulations 1989-2001, and the EC Directives 85/337/EC and 97/11/E.

A road with the 1993 Act is defined to include:

- (a) Any street, lane, footpath, square, court, alley or passage,
- (b) Any bridge, viaduct, underpass, subway, tunnel, overpass, overbridge flyover, carriageway whether single, or multiple, pavement or footway,
- (c) Associated works (incl. weighbridges, toll plaza & service area).

However, a mandatory EIA is not required under Section 50 (1)(a) of the Roads Act, 1993 (as amended) or by way of Article 8 of the Road Regulations, 1994 (Road development prescribed for the purposes of S.50 of the Roads Act, as the proposed development: -

- is not a motorway, busway or service area,
- does not involve the provision of a road of 4 or more lanes for a distance of 8km or more in a rural area or 500m or more in an urban area, or
- does not involve the construction of a bridge or tunnel 100m or more in length.

In relation to sub-threshold development, having regard to the nature and small scale of the proposed development, which would comprise a 260m long section of carriageway along with associated and ancillary works, and the characteristics of the receiving environment which is not densely developed in the immediate vicinity, albeit proximate to urban and suburban areas to the E and W, nor covered by any sensitive geological, natural or cultural heritage designations, I am satisfied that the proposed development: -

- Would not have any significant adverse effects on population and human health, biodiversity, land, soil or water, air and climate, material assets, cultural heritage, or the landscape, or
- Would not result in any significant demolition works, use of natural resources, production of waste, pollution or nuisance, or give rise to a risk of major accidents and/or disasters, a risk to human health.

The need for a sub-threshold environmental impact assessment can, therefore, be excluded, as the project does not meet any of the criteria determining whether a sub-threshold development would be likely to have significant effects on the environment, with regard to the characteristics of the works, its location, and the characteristics of potential impacts. I note also that the project would result in improved public safety for pedestrians and cyclists.

7.3. The likely effects on the environment

Notwithstanding the conclusions reached in section 7.2 above in relation to EIA, the Board, in making its decision, is required to consider the likely effects on the environment in respect of the proposed development.

As stated previously, having regard to the nature and scale of the proposed development and the characteristics of the surrounding area, I am satisfied that the proposed works would not have any significant adverse effects on population and human health, biodiversity, land, soil or water, air and climate, material assets, cultural heritage or the landscape. Notwithstanding this conclusion, it is noted that the surrounding woodland/riparian habitats provide a refuge and foraging opportunities for a range of species (incl. mammals, fish, birds & possibly bats). As such the Council should ensure that the ecological mitigation measures contained in the NIS report are fully implemented, that a pre-construction bat and otter surveys are undertaken before works commence, and that the works do not take place during the bird nesting or fish spawning seasons.

7.4. **The likely significant effects on a European site:**

The areas addressed in this section are as follows:

- Compliance with Articles 6(3) of the EU Habitats Directive
- The Natura Impact Statement
- Appropriate Assessment

7.5. **Compliance with Articles 6(3) of the EU Habitats Directive**

The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site.

7.6. **The Natura Impact Statement**

The application was accompanied by a Natural Impact Statement report (incl. Stage 1 AA Screening & Stage 2 AA) which scientifically examined the proposed works and their relationship with European sites in the surrounding area. The reports were informed by desk top studies (incl. NPWS, EPA & OPW datasets).

The desk top studies and site survey described the site and surrounding area. This included details of potential connections between the proposed works and European sites (incl. Lower River Shannon SAC & River Shannon & River Fergus Estuaries SPA). The reports assessed the surrounding watercourses and environs for aquatic and mobile species of qualifying interest for the European sites. The ecological characteristics of the riparian site were described, EPA water quality data for the River Shannon and its relevant tributaries was provided (Moderate Status), and the European sites within the Zone of Influence were identified. No European site QI habitats and species were recorded on or in the vicinity of the site which is also outside the favourable reference range for many species, and it does not contain suitable habitat or foraging potential for many of these species.

The AA Screening report identified 2 x European sites located within a Zone of Influence of the proposed works, it examined connectivity and characterised the possible effects of the proposed development on these sites. It concluded that significant effects could not be ruled out for the Lower River Shannon SAC and that the preparation of a Stage 2 Appropriate Assessment report was required. The connection to the River Shannon & River Fergus Estuaries SPA was considered tenuous, given the substantial separation distance and the nature of the qualifying interests, and the SPA was screened out from further assessment.

The Stage 2 Appropriate Assessment report described the receiving environment and the proposed development. It described the Lower River Shannon SAC, listed its QI habitats and species and described the nature of the connection between the proposed works and the European site. It characterised the potential effects on the European site including in-combination effects in view of the site's Conservation Objectives. The identified effects related to surface water pollution, discharges resulting in loss/change to habitats and disturbance to commuting/forging territory. It concluded that there would be no significant direct, indirect or cumulative impacts on the integrity of the Lower River Shannon SAC provided the proposed mitigation measures are fully implemented.

Having reviewed the NIS report and supporting documentation, I am satisfied that it provides adequate information in respect of the baseline conditions, does clearly identify the potential impacts, and does use best scientific information and knowledge, and details of mitigation measures are provided. I am satisfied that the information is sufficient to allow for appropriate assessment of the proposed development, subject to the further consideration of European sites located within an enlarged Zone of Influence (further analysis below).

7.7. Appropriate Assessment

- 7.8. The proposed development would comprise the construction of a c.260m long section of link road and associated works, which include culverting a section of the Towlerton Stream that the road would traverse. This stream flows into the River Groody to the N which is a tributary of the River Shannon to the NW, and the River Shannon forms part of the Lower River Shannon SAC. The proposed works are not

directly connected with or necessary to the management of any European sites in the surrounding area.

7.9. Having regard to the information and submissions available, nature, size and location of the proposed development and its likely direct, indirect and cumulative effects, the source pathway receptor principle and sensitivities of the ecological receptors, the following European Sites are considered relevant to include for the purposes of initial screening for the requirement for Stage 2 appropriate assessment on the basis of likely significant effects.

7.10. The potential likely significant impacts that could arise during the construction and operational phases of the proposed development on the European site’s QI habitats and species, or SCI species are:

- Release of sediment & pollutants to surface & ground water during construction works.
- Loss of or damage to habitat/resting/foraging places used by QI/SCI species.
- Noise and disturbance to QI/SCI species during construction.
- Dispersal of invasive species with resultant impacts on QI habitats and species, or SCI species during the construction works.

Stage 1 Screening Assessment.

The European sites within the Zone of Influence (i.e the area over which an impact can have a potential effect in relation to proximity of European sites and the mobility of faunal species from further afield sites) of the proposed works and approximate separation distances are set out below.

European Site	Qualifying Interests	Aquatic Distance	Link
Lower River Shannon SAC (002165)	Sandbanks & Estuaries Mudflats & sandflats Coastal lagoons & Reefs Large shallow inlets and bays Perennial vegetation of stony banks	c. 2.0km	Yes

European Site	Qualifying Interests	Aquatic Distance	Link
	Vegetated sea cliffs Salicornia and other annuals Atlantic salt meadows Mediterranean salt meadows Common Bottlenose Dolphin Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation Molinia meadows Alluvial forests Freshwater Pearl Mussel Sea, Brook & River Lampreys Salmon & Otter		
River Shannon & River Fergus SPA (004077)	Cormorant & Whooper Swan Light-bellied Brent Goose Wigeon, Teal & Pintail Shoveler, Scaup & Shelduck Ringed, Golden, & Grey Plover Lapwing, Knot & Dunlin Black-tailed & Bar-tailed Godwit Curlew, Redshank & Greenshank Black-headed Gull Wetland and Waterbirds	c.9.0km	Yes

7.11. Based on my examination of the NIS report and supporting information (incl. the desktop studies & field surveys), NPWS website, aerial and satellite imagery, the scale of the proposed works and nature of the likely effects, the separation distance and functional relationship between the proposed works and the European sites and their conservation objectives, and the site (and species) specific characteristics and requirements, taken in conjunction with my assessment of the subject site and surrounding area, I conclude that a Stage 2 Appropriate Assessment is required for 1 of the European sites referred to above which I consider to be within the Zone of

Influence by reason of direct aquatic and/or mobile connections (Lower River Shannon SAC).

7.12. In coming to this conclusion, I am satisfied that the River Fergus and River Shannon SPA can be screened out from any further assessment, having regard to the relatively small scale of the proposed works and the substantial aquatic separation distance (c.9km) between the project and this European site, and to the site-specific coastal requirements and foraging preferences of its SCI bird species.

7.13. **Stage 2 Appropriate assessment:**

Lower River Shannon SAC:

This European site lies within the Zone of Influence of the proposed works as it has a direct aquatic connection to the site of the proposed works via the Towleron Stream and the River Groody.

European site description:

This very large European site stretches along the Shannon valley from Killaloe in Co. Clare to Loop Head/Kerry Head over a distance of c.120km. It encompasses the Shannon and Fergus estuaries, several river catchments, the freshwater lower reaches of the River Shannon, and the marine area between Loop Head and Kerry Head. Semi-natural habitats, such as wet grassland, wet woodland and marsh occur by the rivers, but improved grassland is the most common habitat type.

Qualifying Interest habitats and species:

This SAC is designated for its importance to a wide variety of habitats and species, which extend from the upland source of the watercourse (N) to the coastal estuary (SW). The full list of QI habitats and species is set out in the table above.

It is noted from the NPWS documentation and accompanying maps that several of the QI habitats and species for the SAC (coastal, estuarine & riparian) are located either upstream, or a considerable distance downstream of the proposed development. For this reason, combined with the modest scale of the proposed works, the specific QI site characteristics and locational requirements, and the dynamics of coastal and tidal processes, the following QI habitats will be excluded from any further consideration: -

- Sandbanks & Estuaries
- Mudflats & sandflats
- Coastal lagoons & Reefs
- Large shallow inlets and bays
- Perennial vegetation of stony banks
- Vegetated sea cliffs
- Salicornia and other annuals
- Atlantic salt meadows
- Mediterranean salt meadows
- Common Bottlenose Dolphin
- Molina meadows & Alluvial forests

It is further noted from the NPWS documentation and maps that several of the remaining QI species for this SAC are either located a considerable distance upstream of the proposed works or have site specific locational requirements (Freshwater pearl mussel in the Cloon River, Co. Clare), and the nearby section of the Lower River Shannon does not contain optimum habitat conditions for several reasons including its depth.

The NPWS documentation also notes that there are barriers to fish migration along the watercourses. Barriers are present in the River Fergus which block Sea Lamprey migration upstream to the River Shannon. However, it is possible that adult and juvenile Salmon may be present in the area, there may be some potential for spawning and the area could be considered a zone of passage for salmon.

For these reasons, combined with the modest scale and nature of the proposed works, and the specific QI site characteristics and locational requirements, the following QI habitats and species will be excluded from any further consideration:

- Freshwater pearl mussel
- Sea Lamprey

Conservation Objectives:

The Conservation Objectives for the various habitats and species seek to maintain the favourable conservation condition of the habitats and species in the Lower River Shannon SAC, which are defined by a specific list of attributes and targets.

Qualifying Interests, attributes & targets:

The relevant Qualifying Interests for the remaining habitats and species, and any applicable attributes and targets for the remaining QIs, are set out below.

Qualifying Interests	Attributes & targets
Floating river vegetation	Habitat Area (stable or increasing); Habitat Distribution (no decline); Hydrological regime (river flow & groundwater discharge); Substratum composition; Water chemistry; Water quality; Vegetation composition; Floodplain connectivity.
Brook & River Lamprey	Distribution; Population structure of juveniles; Juvenile density in fine sediment; Extent and distribution of spawning habitat; Availability of juvenile habitat.
Salmon	Distribution; Adult spawning fish; Salmon fry abundance; Out-migrating smolt abundance; Number and distribution of redds; Water quality.
Otter	Distribution; Extent of terrestrial & freshwater habitats; Couching sites & holts; and Fish biomass (no significant decline).

Potential direct effects: The proposed development would not be located within a European site, and it is not relevant to the maintenance of any European site. No potential for direct effects having regard to the location and scale of the proposed development and to the separation distance between the works and the QI habitats and species.

Potential indirect effects: There is potential for indirect effects on this European site during the **construction phase** as a result of: - water pollution from the unmitigated release of fine sediments in runoff during construction works and hydrocarbons by way of accidental spillages from machinery which could give rise to water pollution, chemical contamination, riverbed smothering and clogging of fish gills, with resultant impacts on the attributes and targets for the QI habitats and species, in the absence of mitigation. Further potential indirect effects relate to the uncontrolled spread and/or introduction of invasive species from works vehicles

which could give rise to the colonisation of habitats by invasive species, with resultant impacts on the attributes and targets for the QI habitats and species, in the absence of mitigation. There is no potential for any additional significant indirect adverse effects during the **operational phase** as the proposed works comprise a short extension to an existing roadway within an area to which the public already has access.

Mitigation measures: The Stage 2 NIS report contains a comprehensive list of mitigation measures which would serve to protect the SAC and its QI habitats and species from adverse effects, and these include: -

- Preparation of a CEMP
- Pollution Prevention & Emergency Response Plans
- Adherence to best construction practices & IFI Guidance
- Buffer Zones & fenced off work areas.
- Timing & seasonality of works.
- Maintenance of mammal passage
- Appointment of Ecological Clerk of Works
- Surface water management measures to protect water quality including:
 - regular surface water monitoring,
 - no concrete mixing, refuelling or washing out on site,
 - protection of the river from sediment & chemical contamination.

Floating river vegetation: The site and environs drain to the River Shannon which forms part of the Lower River Shannon SAC. The NPWS Site Synopsis notes that Floating River vegetation is present throughout the major river systems within the SAC. NPWS Map No.13 also indicates the presence of this habitat in some of the River Shannon tributaries located downstream of the confluence of the River Groody and River Shannon and the thus the project. Having regard to the nature and small scale of the proposed development, I am satisfied that following the implementation of the mitigation measures and any recommended conditions (incl. the management of sediments & accidental spills, and the control of invasive species) the proposed works would not have an adverse impact on water quality in the Lower River Shannon SAC or introduce invasive species to the watercourses during any of the

works. There would be no resultant adverse effects on this QI habitat with respect to its attributes and targets (incl. Habitat Area & Distribution, Hydrological regime, Substratum composition, Water quality, Vegetation composition/diversity, and floodplain connectivity). Although the proposed culverting works could affect a small area of Floating river vegetation within the Tolerton Stream, I note that the stream is not covered by the SAC designation, and that the specimens at this location do not form part of the QI population for the Lower River Shannon SAC.

Fisheries: The site and environs drain to the River Shannon which forms part of the Lower Shannon SAC, and several species of fish (incl. Salmon, and River & Brook Lamprey) have been recorded in the river and its tributaries during their various lifecycle stages. The NPWS documentation notes that artificial barriers can block or cause difficulties to fish migration, both up- and downstream, thereby possibly limiting the species to specific stretches (Lampreys). The main channel of the River Shannon may be considered a zone of passage for Salmon, but there are no records of any of this species (or support habitat) in the vicinity of the project. Any deterioration of biological or chemical water quality or smothering of the riverbed substratum because of siltation, accidental fuel spills or poorly managed in-stream works could have adverse resultant impacts on the QI fish species, by affecting spawning grounds, food availability (incl. macro-invertebrates & macrophytes) and health (incl. clogging of fish gills). However, I am satisfied that following the implementation of the mitigation measures and any recommended conditions (incl. the management of sediments & accidental spills, ongoing water quality monitoring and the control of invasive species), the proposed development would not have an adverse impact on fisheries in the Lower River Shannon SAC during the works. There would be no resultant adverse effects on these QI species with respect to their attributes and targets (incl. Distribution, Population structure & density, Extent and distribution of spawning habitat, Availability of juvenile habitat, & Water quality).

Otter: Otter has been recorded commuting and foraging along the larger rivers in the SAC and it is possible that it utilises the nearby watercourse and tributaries. Any deterioration of water quality because of the proposed works and resultant impacts on the availability of fish biomass for Otter could have an adverse impact on this QI species. However, I am satisfied that following the implementation of the mitigation

measures (incl. the measures to protect water quality and hence the availability of prey species) the proposed development would not have an adverse impact on Otter in nearby watercourses during the construction and operational phases. Therefore, there would be no resultant adverse effects on this QI species respect to its attributes and targets (incl. Distribution, Extent of terrestrial & freshwater habitats, Couching sites & holts, and availability of fish biomass).

Potential in-combination effects: Potential indirect in-combination effects relate to damage to QI habitats and species because of accidental spillages and sediment run off during the road and associated works (incl. the Towlerton culvert), and the accidental introduction of invasive species by construction vehicles. This could give rise to pollution, contamination and/or colonisation with resultant impacts on water quality, fisheries, and the availability of prey species for otter, having regard to the various plans or projects in wider area (incl. agriculture, domestic & industrial discharges, and recreation) in the absence of mitigation. However, having regard to the implementation of the aforementioned mitigation measures and recommended conditions (see below), I am satisfied that there would be no adverse cumulative effects on the European site or its QI habitats and species.

Residual effects: None anticipated post mitigation.

NIS Omissions: None noted.

Suggested conditions: All works should take place outside the bird breeding and fish spawning seasons. Compliance with IFI “Guidelines on protection of fisheries during construction works in and adjacent to waters” should be required. A Project Ecologist should be appointed to oversee the works. All plant and machinery used during the works should be thoroughly cleaned and washed before delivery to the site to prevent the spread of hazardous invasive species and pathogens.

Conclusion: I am satisfied that the proposed development individually or in combination with other plans or projects would not adversely affect the integrity of this European site in light of its Conservation Objectives, subject to the implementation of mitigation measures outlined above.

7.14. **Appropriate Assessment Conclusions:**

Having regard to the foregoing I consider that it is reasonable to conclude on the basis of the information on the file, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, that the proposed development, individually or in combination with other plans and projects would not adversely affect the integrity of the European site no. 002165 or any other European site, in view of the site's Conservation Objectives.

8.0 **Recommendation**

On the basis of the above assessment, I recommend that the Board approve the proposed development subject to the reasons and considerations below and subject to conditions including those requiring compliance with the submitted details and with the mitigation measures as set out in the NIS.

Reasons and Considerations

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

- (a) the EU Habitats Directive (92/43/EEC),
- (b) the European Union (Birds and Natural Habitats) Regulations 2011-2015,
- (c) the Government of Ireland Climate Action Plan, 2024,
- (d) the Southern Regional Economic & Spatial Strategy, 2020,
- (e) the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the likely significant effects of the proposed development on a European Site,
- (f) the conservation objectives, qualifying interests and special conservation interests for the Lower River Shannon SAC (site code: 002165),
- (g) the policies and objectives of the Limerick Development Plan, 2022 to 2028,
- (h) the nature and extent of the proposed works as set out in the application for approval,

- (i) the information submitted in relation to the potential impacts on habitats, flora and fauna, including the Natural Impact Statement report (NIS), and
- (j) the report and recommendation of the person appointed by the Board to make a report and recommendation on the matter.

Appropriate Assessment:

The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report that Lower River Shannon SAC (site code: 002165) is the only European Sites in respect of which the proposed development has the potential to have a significant effect.

The Board considered the Stage 2 Appropriate Screening report and associated documentation submitted with the application for approval, the mitigation measures contained therein, the submissions and observations on file, and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed development for the affected European Site, namely the Lower River Shannon SAC, in view of the site's conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment. In completing the appropriate assessment, the Board considered, in particular, the following:

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

In completing the appropriate assessment, the Board accepted and adopted the appropriate assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the integrity of the aforementioned European Sites, having regard to the site's conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Site, in view of the site's conservation objectives.

Proper Planning and Sustainable Development and Likely Effects on the Environment:

It is considered that, subject to compliance with the conditions set out below, the proposed development would not have significant negative effects on the environment or the community in the vicinity, would not give rise to a risk of pollution, would not be detrimental to the visual or landscape amenities of the area, would not seriously injure the amenities of property in the vicinity, would not adversely impact on the cultural, archaeological and built heritage of the area and would not interfere with the existing land uses in the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area and it would not give rise to likely effects on the environment.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. The mitigation and monitoring measures outlined in the plans and particulars relating to the proposed development or as may be required in order to comply with the following conditions shall be implemented. Prior to the commencement of development, details of a time schedule for implementation of mitigation measures and associated monitoring shall be prepared by the local authority and placed on file and retained as part of the public record.

Reason: In the interest of protecting the environment and European Sites.

3. Prior to the commencement of development, the local authority, or any agent acting on its behalf, shall prepare in consultation with the relevant statutory agencies, a Construction Environmental Management Plan (CEMP), incorporating all mitigation measures indicated in the Natura Impact Statement (NIS) report, and demonstration of proposals to adhere to best practice and protocols.

Reason: In the interest of protecting the European Sites and biodiversity.

4. The following nature conservation requirements shall be complied with:
 - (a) The works shall be carried out in compliance with the Inland Fisheries Ireland document “Guidelines on protection of fisheries during construction works in and adjacent to waters.”
 - (b) No in-stream works shall be undertaken without prior consultation with Inland Fisheries Ireland, and the works shall only be undertaken between October and June (inclusive).
 - (c) No vegetation removal shall take place during the period 1st March to 31st August (inclusive).
 - (d) A pre-construction otter survey by a suitably qualified ecologist shall be carried out before works commence.
 - (e) A pre-construction bat survey shall be carried out by a suitably qualified ecologist during the active bat season.
 - (f) Any destruction of bat roosting sites or relocation of bat species shall be carried out by a suitably qualified ecologist under a Derogation Licence granted by the Minister for Housing, Local Government and Heritage.

Reason: In the interest of biodiversity and nature conservation.

5. A suitably qualified ecologist shall be retained by the local authority to oversee the site set up and construction of the proposed development and implementation of mitigation measures relating to ecology. The ecologist shall be present during construction works. Upon completion of works, an ecological report of the site works shall be prepared by the appointed ecologist to be kept on file as part of the public record.

Reason: In the interest of nature conservation and the protection of biodiversity.

6. The County Council and any agent acting on its behalf shall ensure that all plant and machinery used during the works should be thoroughly cleaned and washed before delivery to the site to prevent the spread of hazardous invasive species and pathogens.

Reason: In the interest of the proper planning and sustainable development of the area and to ensure the protection of the European sites.

7. Drainage arrangements, including the attenuation and disposal of surface water, and flood risk management shall comply with the requirements of Irish Water and the planning authority for such works and services as appropriate. A 5m wide strip of land running parallel with Channel C1/2, should be provided to facilitate access and maintenance activities in the immediate area. This area should be accessible to mechanical plant and should not be landscaped, paved, or otherwise developed in a manner that would prevent access.

Reason: In the interest of public health and to ensure a proper standard of development.

Professional declaration

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.

Karla Mc Bride

Senior Planning Inspector

09th January 2024