



An  
Bord  
Pleanála

## Inspector's Report

### ABP-318076-23

#### Development

Works to raise the height of the River Maigue Railway bridge, the former Adare railway station platform and associated roadworks and level crossing works

#### Location

River Maigue Railway Bridge and level crossing on L1423 road, Ardshanbally, Islandea, Adare, Co. Limerick

#### Planning Authority

Limerick City and County Council

#### Planning Authority Reg. Ref.

23/201

#### Applicant(s)

Iarnród Éireann

#### Type of Application

Planning Permission

#### Planning Authority Decision

Grant

#### Type of Appeal

Third Party

#### Appellant(s)

Ms. Judith Dixon & Mr. Liam MacLoughlin; Mr. Peter Sweetman

#### Observer(s)

None

#### Date of Site Inspection

19<sup>th</sup> January 2024

#### Inspector

Gary Farrelly

## **1.0 Site Location and Description**

- 1.1. The subject site measures 0.321 hectares and is located within the townlands of Islandea and Ardshanbally, and approximately 700 metres northwest of the village centre of Adare, County Limerick. The site comprises of a section of the former Foynes to Limerick railway line, the former railway bridge which spans the River Maigue and the Local Road L-1423. The River Maigue discharges into the Shannon Estuary approximately 10km downstream (north) of the subject site.
- 1.2. The former railway bridge is a triple span structure built in 1856. It is a protected structure under the Limerick Development Plan 2022-2028 (ref. 872). The site also comprises of an existing car park which is the location of a former quay, also a protected structure under the Development Plan (Ref. 873).
- 1.3. The site is bounded by the former railway station and railway goods shed which were also built in 1856 and closed in 1963. The former railway station is now a residential dwelling and is a protected structure under the Limerick Development Plan 2022-2028 (ref. 871).
- 1.4. The subject site is located within Flood Zone A and Flood Zone B for coastal and fluvial flooding, as designated under the Shannon Catchment Flood Risk Assessment and Management Study.

## **2.0 Proposed Development**

- 2.1. It is proposed to raise the height of the River Maigue railway bridge by approximately 900mm to mitigate future forecasted flood levels. To achieve this height rise, steel components of the bridge will be lifted off and refurbished while the heights on top of each pier and abutment will be increased by approximately 900mm. It is proposed to raise the ground levels of the existing level crossing by approximately 900mm in line with future forecasted flood mitigation. A number of retaining walls will be constructed to accommodate this.
- 2.2. The existing platform at the former railway station is to be removed and replaced with a new retaining structure which will include the reuse of existing coping stones. The level of the new platform will be raised by approximately 520mm. A new boundary

fence will be installed on top of the new retaining wall. The height to the top of the new boundary fence will be 2.02 metres as measured from the level of the existing platform.

- 2.3. Alterations to the existing carpark and former quay are also proposed which include alterations to the existing height restriction barriers, provision of new kerbs and footpaths, resurfacing, lighting, drainage and line markings.
- 2.4. The application is accompanied by a number of documents including:
- Engineering Design Report
  - AA Screening Report and Natura Impact Statement (NIS);
  - EIA Screening Report
  - Ecological Impact Assessment Report
  - Preliminary Cultural Heritage Impact Assessment
  - Site Specific Flood Risk Assessment
  - Stage 1 Road Safety Audit
- 2.5. It was noted on the date of the site inspection that the existing track and bridge have been removed and site clearance works have taken place.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

In considering the application, Limerick City and County Council (The Planning Authority) sought further information in relation to updated surveys during the summer for the NIS, a road safety audit, traffic safety improvements, lighting design, surface water layout including in the context of the stationhouse, the relationship with the proposed Adare Bypass in terms of levels and a statement justifying the architectural conservation philosophy being applied.

The Planning Authority decided to grant permission by Order dated 28<sup>th</sup> August 2023, subject to 17 conditions.

- Condition 2 relates to the submission of a Construction and Environmental Management Plan prior to commencement;

- Conditions 3 and 4 relate to ecological measures during construction works and the appointment of an ecological clerk of works;
- Conditions 6, 7, 8, 9 and 10 relate to the protection of cultural heritage;
- Condition 11 relates to the installation of the communications cabinet to the northwest side of the line; and
- Condition 13 relates to submission of a stage 1, stage 2 and stage 3 road safety audit.

### 3.2. Planning Authority Reports

#### Planning Reports

- There are a total of 2 no. Area Planner's reports which assess the principle of the development, impact on the European Site (unclear whether appropriate assessment carried out by Planner), flooding, archaeological impact and architectural heritage. An EIA preliminary examination is carried out by the area planner. NIS and EclA were updated with summer surveys after further information request. Area Planner's reports, endorsed by Senior Executive Planner and Senior Planner, recommended that permission be granted subject to 17 conditions.

#### Other Technical Reports

- Roads Section (dated 31<sup>st</sup> May 2023 and 19<sup>th</sup> July 2023) – No objection subject to conditions after further information requested.
- Conservation Officer (dated 23<sup>rd</sup> May 2023 and 17<sup>th</sup> July 2023) – No objection subject to conditions after further information requested.
- Mid-West National Road Design Office (dated 10<sup>th</sup> May 2023 and 17<sup>th</sup> July 2023) – No observations after further information sought requesting no level changes that would impact the Foynes to Limerick road scheme.
- Ecology Section (email dated 24<sup>th</sup> May 2023 and 11<sup>th</sup> July 2023) – No objection subject to conditions.
- Flooding Section (email dated 29<sup>th</sup> May 2023) – No objection subject to conditions.

- Archaeology (email dated 26<sup>th</sup> May 2023) – No objection subject to conditions.
- Water Safety Development Officer (emailed dated 25<sup>th</sup> April 2023) – water safety recommendations.

### 3.3. Prescribed Bodies

- Department of Housing, Local Government and Heritage – No objection subject to condition in relation to mitigation measures to be implemented, CEMP and project archaeologist.
- Office of Public Works – A 5-metre-wide buffer strip requested for maintenance.
- Inland Fisheries Ireland – request consultation on final CEMP.
- Transport Infrastructure Ireland – Development located close to future national road scheme.
- Iarnród Éireann – No objection.
- Uisce Éireann – No objection subject to conditions.

### 3.4. Third Party Observations

5 no. third party submissions were received from Adare Community Trust, Adare Turf Quay Restoration, Mague Rivers Trust, Peter Sweetman and Liam MacLoughlin and Judith Dixon. A number of issues were raised including concerns in relation impact on residential amenity, impact on the setting and integrity of the station house protected structure, surface water flooding, traffic safety concerns, adequacy of the EIA Screening and adequacy of the NIS.

## 4.0 Relevant Planning History

*Station House adjoining the site*

PA Ref. 13/774 – Permission granted for repairs to existing building, extension to building and a new wastewater treatment plant.

*Site approximately 100 metres north*

An Bord Pleanála Reference 306146

Local Authority Foynes to Limerick Road (including Adare Bypass) development approved by ABP on 30<sup>th</sup> August 2022.

## 5.0 Policy Context

### 5.1. Development Plan

#### **Limerick Development Plan 2022-2028**

##### Objective TR O17 - Limerick to Foynes Line

It is an objective of the Council to retain the Limerick to Foynes rail line and avoid encroachment of inappropriate development, which may compromise the line's potential future use.

##### Objective TR O28 - Docks and Ports

It is an objective of the Council to support the continued development of Shannon Foynes Port as an EU Core Network Port (TEN-T) and Limerick Docks as marine related assets, in accordance with the 2013 National Ports Policy.

##### Objective EH O50 – Works to Protected Structures

It is an objective of the Council to:

- a) Protect structures included on the RPS from any works that would negatively impact their special character and appearance.
- b) Ensure that any development proposals to Protected Structures, their curtilage and setting, shall have regard to the Architectural Heritage Protection Guidelines for Planning Authorities published by the Department of the Arts, Heritage and the Gaeltacht.....

#### **Adare Local Area Plan 2015-2021 (Extended to February 2024)**

#### **Draft Adare Local Area Plan 2024-2030**

### 5.2. National Policy

- Project Ireland 2040 – National Planning Framework (2018) and National Development Plan 2021-2030

## National Strategic Outcome (NSO) 6 – High Quality International Connectivity

It is an objective to improve land transport connections to the major ports.

- National Ports Policy (2013)
- Climate Action Plan 2023 (As updated)

### 5.3. **Regional Policy**

#### **Regional Spatial and Economic Strategy for the Southern Region**

##### RPO 140 – International Connectivity

It is an Objective to:

- a. Sustainably maintain, support and enhance the Region's International Connectivity Transport Network including the Trans European Transport Network (TEN-T) which seeks the development of a Europewide network of railway lines, roads, inland waterways, maritime shipping routes, ports, airports and railroad terminals.
- b. Sustainably maintain the strategic capacity and safety of the national roads and rail network including planning for future capacity enhancements to ensure effective land transport connections to the major ports, airports and markets.
- c. Support the role of our strategic road and sustainable transport networks including connectivity to the TEN-T Core and Comprehensive Network, connecting the Region's metropolitan areas, key towns, ports and airports with the Atlantic Economic Corridor, extended Dublin-Belfast Eastern Corridor and other urban networks as identified through Section 3.8 of the RSES and City and County Development Plans.

##### RPO144 – Port Infrastructure

It is an objective to complement investment in port infrastructure by seeking the sustainable development of improved access infrastructure to ports from their regional catchments, including the promotion of rail access where practicable.

##### RPO146 – High Quality International Connectivity - Ports

It is an objective to achieve NSO: High Quality International Connectivity.... through actions, inter alia, strengthening and maintaining access to ports through enhanced transport networks and improved journey times.

#### 5.4. **National Guidance**

- Department of Arts, Heritage and the Gaeltacht's Architectural Heritage Protection Guidelines for Planning Authorities (2011)
- The Planning System and Flood Risk Management Guidelines (2009)

#### 5.5. **Other Guidance**

- National Policy Framework Alternative Fuels Infrastructure for Transport in Ireland 2017 to 2030
- All-Island Strategic Rail Review (Public Consultation closed in September 2023)
- Irish Rail's Rail Freight 2040 Strategy

#### 5.6. **Natural Heritage Designations**

The subject site is located within the Lower River Shannon Special Area of Conservation (SAC) (Site Code 002165). The River Shannon and River Fergus Estuaries Special Protection Area (SPA) (Site Code 004077) is located approximately 6km north of the subject site.

#### 5.7. **Environmental Impact Assessment (EIA) Screening**

The application addresses the issue of EIA within an EIA Screening Report that contains information to be provided in line with Schedule 7A of the Planning and Development Regulations 2001, as amended (Planning Regulations). Where an application is made for subthreshold development and Schedule 7A information is submitted, the Board must carry out a screening determination, therefore, it cannot screen out the need for EIA at preliminary examination.

This proposed development is of a class of development included in Schedule 5 of the Planning Regulations. Part 2 of Schedule 5 of the Planning Regulations provides that mandatory EIA is required for various classes of development, including the following:



- Class 10(b)(iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.
- Class 10(c) All construction of railways and of intermodal transshipment facilities and of intermodal terminals not included in Part 1 of this Schedule which would exceed 15 hectares in area.
- Class 10(h) All tramways, elevated and underground railways, suspended lines or similar lines of a particular type, used exclusively or mainly for passenger transport.
- Class 15 Any project listed in this Part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development, but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.

The development relates to existing railway infrastructure. The area of the site measures 0.321 hectares. The criteria within Schedule 7 of the Planning Regulations are relevant in considering whether this proposed development would be likely to have significant effects on the environment that could and should be the subject of EIA.

I have completed an EIA screening assessment of the proposed development with respect to all relevant considerations, as set out in Appendix 1 of this report.

Having regard to the criteria in Schedule 7 of the Planning and Development Regulations 2001, as amended, the information provided by the applicant in accordance with Schedule 7A of the Planning and Development Regulations 2001, as amended, and the following:

- The nature and scale of the proposed development, which relates to the maintenance, improvement and repair of an existing railway and road;
- To the nature and scale of the proposed development which is significantly under the threshold in respect of Class 10(b)(iv) (Urban Development) and Class 10(c) of the Planning and Development Regulations 2001 (as amended),
- To the location of the site on unzoned lands relating to existing railway and road infrastructure and to the existing pattern of development in the vicinity,

- To the location of the site within the Lower River Shannon Special Area of Conservation (SAC) and to the hydrological connectivity to the River Shannon and River Fergus Estuaries Special Protection Area (SPA);
- To the submitted AA Screening Report, Natura Impact Statement and Ecological Impact Assessment Report and to my Appropriate Assessment carried out under sections 177U and 177V of the Planning and Development Act 2000;
- To the guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003), and
- To the Office of the Planning Regulator’s (OPR) Practice Note PN02 Environmental Impact Assessment Screening (2021),

I consider that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report (EIAR) is not therefore required.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

Two third party appeals were lodged to the Board: by Ms. Judith Dixon and Mr. Liam MacLoughlin on 22<sup>nd</sup> September 2023 and by Mr. Peter Sweetman on 25<sup>th</sup> September 2023, both opposing the Planning Authority’s (PA) decision. The grounds of appeal can be summarised as follows:

- The rebuilding of the railway line at a higher level, retaining walls, walls and fences will have impact on amenity and the setting of the protected structure of Adare railway station.
- Construction works will be substantial and affect amenity during this period;
- Concern with regards to the impact of the development on the structural integrity of the old goods store;

- Questions the findings of the cultural heritage impact assessment in terms of the proposed mitigation measures and further survey required. The EIA Screening does not address the environmental effects on the protected structure adequately. Effects in relation to architectural heritage are significant and also in terms of its impact on human beings and landscape.
- Site is located within Flood Zone A and concerns regarding surface water flooding. Submitted flood risk assessment only addresses the railway and not adjoining lands from displacement of flood waters. Further information response submitted and condition 16b are considered inadequate.
- Concern in relation to traffic safety due to increase in level of the road and construction of a retaining wall in terms of sightlines. The road safety audit does not adequately address this concern and condition 13 doesn't provide a solution.
- Concern regarding the visual impact of the roadside retaining wall.
- Concern of impact of diesel powered trains in terms of enjoyment of dwelling due to noise, vibration and fumes.
- Application should be subject to a railway order under the Transport (Railway Infrastructure) Act 2001 (As amended) and not appropriate to split off a small part of the overall project.
- The appropriate assessment does not contain complete, precise and definitive findings and conclusions due to condition requiring preparation and submission of a construction and environmental management plan prior to commencement of works.

## 6.2. Applicant Response

The Applicant addresses the grounds of appeal as follows:

- Alterations will be imperceptible with no impact on the subject dwelling, curtilage or setting of the protected structure, works will be carried out under supervision of conservationist, works will improve the visual appearance of the complex of buildings.

- The bridge will be revised at ground level to ensure that it is indistinguishable in terms of appearance and materials, and existing materials will be used for the platform.
- Works would be ordinarily considered exempted development under Section 4(1)(h) of the Planning and Development Act 2000, as amended and not subject to a railway order.
- Regarding impact during construction they are considered not significant and regarding structural integrity of the goods store, not envisaged to be any potential for damage due to nature of the work.
- The development will provide a reduction in flood risk to the local area and will be consistent and integrate with the future Adare Flood Relief scheme.
- Regarding the road safety audit, where problems were identified recommendations have been incorporated into the final design.
- The condition for a CEMP is appropriate and entirely in keeping with good planning control.

### **6.3. Planning Authority Response**

The PA response to the grounds of appeal is as follows:

- The CEMP is a necessary part of any grant of permission, but the applicant can only prepare a final up-to-date CEMP when they review the permission and conditions attached. Fixing the content of the CEMP at the time of the grant of permission does not afford the opportunity to respond to emerging ecological issues or threats. An example is outlined regarding a new invasive species to Ireland, the Quagga mussel.
- Conservation Officer was satisfied with the development subject to conditions;
- Development is in accordance with the proper planning and sustainable development of the area.

### **6.4. Observations**

None

## 7.0 Assessment

7.1. Having examined the application details and all other documentation on file, after an inspection of the site, and having regard to relevant local, regional and national policies and guidance, I consider that the main issues on this appeal are as follows:

- Statutory Process
- Residential Amenity
- Built Heritage & Visual Impact
- Flood Risk
- Traffic Safety
- Ecology
- Appropriate Assessment (AA)
- Overall Conclusion

7.2. The site is located on unzoned lands within the development boundary of Adare, as designated under the Adare Local Area Plan 2015-2021. I note that under the Draft Adare Local Area Plan 2024-2030 the site remains primarily unzoned with a section of the site (i.e. location of alternative position for communications cabinet) zoned as 'Existing Residential'.

7.3. The Board should note that the purpose of the proposed development, as described in the submitted documentation, is to raise the railway infrastructure and level crossing to a level that mitigates future forecasted flood levels. A Flood Relief Scheme (FRS) for Adare is currently being progressed, however this FRS project is separate to the subject appeal.

### **Statutory Process**

7.4. Firstly, I note that the Appellants' question the statutory process initiated by the Applicant and state that the proposed development should be subject to a railway order under the Transport (Railway Infrastructure) Act 2001 (as amended).

7.5. I note Class 2 of the Seventh Schedule of the Planning and Development Act 2000, as amended, which relates to strategic infrastructure. I also note Section 38 of the Transport (Railway Infrastructure) Act 2001, as amended, and Class 23, Schedule 2,

Part 1 and Article 9 (a)(viiB) of the Planning and Development Regulations 2001, as amended.

- 7.6. Having regard to the nature and purpose of the proposed works, I consider that they represent railway works for the maintenance, improvement and repair of existing railway infrastructure. The railway line subject to the said works is the established Foynes to Limerick railway line which I note was authorised by the government under the Limerick and Waterford Railway Act 1826. The project does not require an Environmental Impact Assessment Report (EIAR), as assessed within Appendix 1 and Section 5.7 of this report. Therefore, I am satisfied that the proposed development is not subject to the requirement for a railway order.

### **Residential Amenity**

- 7.7. I note the residential amenity concerns of the Appellants of the adjoining dwelling (i.e. the former railway station). In relation to the construction phase, I consider that this element of the proposed development should not result in a significant adverse impact on their residential amenity, having regard to the temporary and short-term nature of this period. Notwithstanding this, if the Board are minded to grant permission, I recommend that a condition is attached that limits the working hours of construction.
- 7.8. I note from the submitted section drawing that it is proposed to increase the height of the existing track by approximately 900mm in front of Appellants' dwelling. I note that the track will not be moved any closer to their dwelling. There will likely be intermittent noise issues associated with the reopening of this line, however, I do not consider that the proposed 900mm increase in track level will significantly adversely impact the amenity of this dwelling. Additionally, I note that the existing track is a single line and would not be as heavily trafficked in comparison to that of a twin track line. With regards to visual amenity, this is assessed below under paragraph 7.13.
- 7.9. I note the Appellants' concerns in relation to diesel emissions. I note the UK guidance LAQM. (TG16) (Defra). I consider that the development will not result in regular stationary trains outside the Appellants' dwelling. I also note that diesel locomotives are the only technology available in Ireland for freight rail at this moment. Alternative low emission fuels may come on stream in the future, as set out in the Climate Action Plan 2023 and the National Policy Framework Alternative Fuels Infrastructure for Transport in Ireland 2017 to 2030. It is my view that the reopening of this railway line

will decarbonise the country's transport system by providing an alternative to road freight which I consider to be in accordance with the policies and strategies set out in the Climate Action Plan 2023. A reduction in road freight will benefit the wider environment through a reduction in congestion and lower emissions. Notwithstanding this, I am satisfied that the raising of the track levels will not result in an increase in diesel fumes.

### **Built Heritage & Visual Impact**

- 7.10. I note the findings of the submitted Preliminary Cultural Heritage Impact Assessment (PCHIA) and further information response which assesses the impact of the proposed development on the railway bridge (RPS No. 872), the former railway station and goods store (RPS No. 871), and former quay (RPS No. 873). I note the Appellants' concerns in relation to this assessment. I also note that the PA's Conservation Officer had no objection to the development subject to conditions.
- 7.11. In my view the proposed development will have an impact on RPS 872 and 871 having regard to the direct altering of the appearance of the bridge and the railway platform. I am satisfied, however, that the proposed works, together with the recommendations set out in the PCHIA, will not result in a significant negative impact on the protected structures and, therefore, I consider that the development is appropriate in accordance with Objective EH O50 of the Limerick Development Plan 2022-2028 (CDP). Furthermore, it is my view that if the bridge and platform remain at their current height, they may be exposed to future flood damage.
- 7.12. I note the Appellants' concerns regarding the visual impact of the retaining walls. The cross sections provided illustrates that the retaining wall along the road is to be clad in stone with a capping stone. The wall on the east side of the road will be increased in height whilst replicating the existing wall. The proposed retaining wall in front of the Appellants' dwelling will comprise of new timber fencing to replicate the original station fence design. I consider this to an aesthetic improvement to the existing boundary treatment. Overall, I do consider that the proposed retaining walls and fencing will result in a significant negative visual impact.
- 7.13. With regards to the Appellants' concerns regarding the structural integrity of the former goods store, I noted on the date of my site inspection that this store is in a dilapidated state. I noted that the store is located southwest of the existing platform and therefore

will not be in the immediate vicinity of the construction works associated with the platform. The nature of the works in proximity to the former goods store will not involve heavy machinery works and will consist of the raising of the ground levels. Having regard to this, I am satisfied that the proposed development should not impact the structural integrity of the former goods store.

### **Flood Risk**

- 7.14. The site is located within Flood Zones A and B. A site-specific Flood Risk Assessment (SSFRA) which includes the application of the justification test, accompanies the application. I note the Appellants' concerns that the SSFRA does not adequately address any impact of floodwaters on adjoining lands. I note the Applicant's response to this concern. I note that the PA's Flooding Officer had regard to the SSFRA and justification test and had no objection to the development subject to conditions.
- 7.15. The existing track level is lower than the existing defence level adjacent to the track, creating a short gap at the top of the existing flood defence which is currently plugged by a temporary bund. The development will permanently raise the ground level across this gap, creating a more robust flood defence line, in advance of the implementation of the Adare flood relief scheme.
- 7.16. The stormwater layout submitted with the application proposes a stormwater drain between the proposed retaining wall and the Appellants' property. Stormwater will flow southwards and will be released into an existing culvert, via a dish drain, approximately 70 metres to the southwest of the Appellants' dwelling. The SSFRA states that there will be no change to the hardstanding area and no change to run-off conditions such that surface water run-off will be maintained to pre development run-off.
- 7.17. Furthermore, the raising of the bridge will increase the cross-sectional area below the bridge deck, which will ensure an increase in area for water flow and which will reduce the risk of floating debris trapped in the bridge and leading to blockage. Having regard to the above, I am satisfied that the proposed development will not result in an increased risk of flooding to other areas. I address this issue further within my EIA Screening within Appendix 1 of this report.



## **Traffic Safety**

7.18. I note the Appellants' concerns regarding sightlines. I noted on the date of my site inspection that this is an existing issue when exiting their property due to overgrown vegetation to the north of the access. I note that the submitted Stage 1 Road Safety Audit (RSA) raised this issue as a potential problem. The recommendation was to ensure that the required visibility splay from this access is kept free from obstruction. I note that the PA had no objection with the development in terms of traffic safety and conditioned the submission of a Stage 2 and 3 RSA prior to commencement of the development. Having regard to the above, I am satisfied that the proposed development is acceptable in terms of traffic safety, subject to this condition.

## **Ecology**

7.19. An Ecological Impact Assessment (EclA) was prepared as part of the application. The area adjacent to the proposed works was assessed for bats and found that the site offers no significant potential for roosting bats or foraging and/or commuting bats. No mammal tracks were identified on the site, however, the site was identified as an ideal habitat for otters. Furthermore, the White-clawed Crayfish and a number of invasive species were identified. A number of mitigation measures are proposed which are outlined within Section 7 of the EclA. Having regard to the proposed mitigation measures and to my Appropriate Assessment carried out below, I am satisfied that the proposed development will not have a significant negative impact on the ecology of the area.

## **Appropriate Assessment (AA)**

7.20. The requirements of Article 6(3) as related to appropriate assessment of a project under part XAB, sections 177U and 177V of the Planning and Development Act 2000 (as amended) are considered fully in this section. The areas addressed in this section are as follows:

- Compliance with Article 6(3) of the EU Habitats Directive
- Screening the need for appropriate assessment
- The Natura Impact Statement and associated documents
- Appropriate assessment of implications of the proposed development on the integrity of each European site.

## Compliance with Article 6(3) of the EU Habitats Directive

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

### Screening the need for Appropriate Assessment

#### Description of proposed development and site characteristics

The proposed development involves the raising of the height of the existing railway bridge over the River Maigue, the former railway station platform and associated roadworks and level crossing works. The site spans the River Maigue which forms part of the Lower River Shannon Special Area of Conservation (SAC) (Site Code 002165).

#### Identification of relevant European Sites

European Site (Code)	List of Qualifying Interest	Distance from proposed development	Connections	Considered further in screening
Lower River Shannon SAC (002165)	21 QIs <a href="https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/C0002165.pdf">https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/C0002165.pdf</a>	Within subject site	Yes via the River Maigue.	Yes
River Shannon and River Fergus Estuaries SPA (004077)	22 QIs <a href="https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/C0004077.pdf">https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/C0004077.pdf</a>	6km north	Yes via the River Maigue.	Yes

Curraghchase Woods SAC (000174)	4 QIs <a href="https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/C000174.pdf">https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/C000174.pdf</a>	4km north west	No hydrological connection.  No ecological connection via air due to separation distance.	No
Askeaton Complex Fen SAC (002279)	Calcareous fens with Cladium mariscus and species of the Caricion davallianae [7210]  Alkaline fens [7230]	6km north	No hydrological connection.  No ecological connection via air due to separation distance.	No
Tory Hill SAC (000439)	3 QIs <a href="https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/C000439.pdf">https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/C000439.pdf</a>	7km south east	No hydrological connection.  No ecological connection via air due to separation distance.	No

### Assessment of likely significant effects

7.22. The construction and operational phases of the proposed development have the potential to impact SAC 002165 and SPA 004077 by introducing effects such as disturbance due to noise and vibration, increased siltation and turbidity to surface runoff from the construction works and potential for pollution of surface runoff from accidental oil and fuel spillages. There is potential for habitat reduction, species disturbance and habitat or species fragmentation during the construction phase.

### Screening Determination

7.23. Following the screening process, it has been determined that Appropriate Assessment 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 the following European sites:

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

7.24. The possibility of significant effects on other European sites has been excluded on the basis of objective information. The following European sites have been screened out for the need for appropriate assessment.

- Curraghchase Woods SAC (Site Code 000174)
- Askeaton Fen Complex SAC (Site Code 002279)
- Tory Hill SAC (Site Code 000439)

7.25. Measures intended to reduce or avoid significant effects have not been considered in the screening process for European Sites 000174, 002279 or 000439.

### **The Natura Impact Statement and associated documents**

7.26. A Natura Impact Statement (NIS) has been submitted as part of the application which assesses the potential adverse effects of the proposed development on the Lower River Shannon SAC (002165). A site visit was undertaken by an ecologist on 26<sup>th</sup> January 2023 and on 8<sup>th</sup> June 2023. Habitats were identified, described and classified and features of ecological interest, if present, were noted. A desktop analysis was undertaken which included a review of the water quality status and identification of the European Sites within 15km of the subject site.

7.27. The Applicant's NIS concluded that *"subject to the implementation of mitigation measures included in this NIS, the impacts on the conservation status of the Natura 2000 network and its associated habitats and species as a result of this development are anticipated to be unlikely and not significant"*.

7.28. Having reviewed the documents, I note that the submitted AA Screening report screened out the River Shannon and River Fergus Estuaries SPA (Site Code 004077) having regard to its distance 9km downstream. I also note that the in-combination impact of the proposed development with other plans or projects is not included in the NIS (although a section is included in the screening for appropriate assessment report). Additionally, I note that the proposed Adare Bypass, which was approved by the Board in August 2022 under ref. 306146, was not included in the in-combination assessment, notwithstanding the location of the site approximately 100 metres north of the subject site.

7.29. Notwithstanding this, I am satisfied that there is sufficient information to allow for a complete assessment of any adverse effects of the development, on the conservation

objectives of the Lower River Shannon SAC and River Shannon and River Fergus Estuaries SPA, alone, or in combination with other plans and projects.

**Appropriate Assessment of implications of the proposed development on the integrity of each European site**

7.30. The following is a summary of the objective scientific assessment of the implications of the project on the qualifying interest features of the European sites using the best scientific knowledge in the field. All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are considered and assessed. The following sites are subject to Appropriate Assessment:

- The Lower River Shannon SAC (Site Code 002165)
- River Shannon and River Fergus Estuaries SPA (Site Code 004077)

7.31. A description of the site and its Conservation and Qualifying Interests/Special Conservation Interests, are set out as part of my assessment within Appendix 2 of this report and partially within the submitted NIS. I have also examined the Natura 2000 data forms as relevant (including the NPWS' Article 17 Species and Habitats reports) and the Conservation Objectives supporting documents for these sites available through the National Parks and Wildlife Service's website.

7.32. The main aspects of the proposed development that could adversely affect the conservation objectives of these European sites include the following.

- Potential direct and indirect impacts during the construction phase are potential water quality impacts by increased siltation and turbidity to surface run-off and pollution from surface run-off due to accidental spillages of oils or fuels from machinery and concrete and cement. In addition, the works may generate noise and dust which could indirectly impact nearby protected areas.
- Introduction of invasive species including Himalayan Balsam or Japanese Knotweed may have negative effects on the surrounding environs.

7.33. I am satisfied that there will be no potential operational impacts as a result of the proposed development. Mammal resistant fencing will be erected during the construction phase to protect otters from the proposed works, however should not act

as a barrier to movement along the river having regard to the proposed additional planting along the river following construction.

7.34. Section 5 of the submitted NIS outlines a number of mitigation measures including the following:

- The implementation of a site-specific construction environmental management plan (CEMP). This CEMP proposed to be agreed prior to commencement of the development also includes a number of these measures.
- Silt management measures to prevent silt from entering protected habitats.
- Control measures during refuelling operations.
- Surface water drainage measures such as, inter alia, preservation of natural vegetation on the verges of the site, control of stockpiles and installation of silt fencing.
- Use of directional task lighting and works to be undertaken during daylight hours to alleviate any interference on bat species.
- Prevention of invasive species introduction by, inter alia, cleaning of machinery prior to introduction to site and screening of soil and topsoil.
- Installation of mammal-resistant fencing either side of the watercourse and bridge.
- Ecological supervision during the works.

I consider these mitigation measures to satisfactorily address the potential site effects highlighted in paragraph 7.33 above.

7.35. The CEMP was considered a mitigation measure within the NIS and I note the Appellant's concerns with this CEMP being conditioned to be submitted prior to commencement of the development. I note the Appellant's argument in this regard that the appropriate assessment does not contain complete, precise and definitive findings as a result. I note the PA's response.

7.36. I consider that the conditioning of a final CEMP to be agreed prior to commencement of development is an appropriate mitigation measure and condition. This condition ensures that the development can respond to emerging ecological threats or issues that might arise prior to commencement of works and its conditioning is in the interest

of protecting the integrity of the European Sites. I am satisfied that the Appropriate Assessment is complete with the attachment of this condition.

- 7.37. Having regard to the downstream distance of the River Shannon and River Fergus Estuaries SPA from the subject site, I am satisfied that no likely adverse impact is expected to the integrity of the bird species in terms of, inter alia, noise or light disturbance. However, I note a further QI of this SPA is wetland habitat, which in my view, could be impacted by water pollution and/or sedimentation. Whilst I note that the mitigation measures outlined in the NIS relate to the protection of the QIs of the Lower River Shannon SAC, I consider that they are also appropriate and relevant mitigation measures for the protection of the QIs of the River Shannon and River Fergus Estuaries SPA.
- 7.38. With regard to potential in-combination effects, having reviewed the Department of Housing, Local Government and Heritage's National Planning Application database and EIA Portal and the Limerick City and County Council's planning register, I consider that there is potential for an in-combination effect with the proposed Adare Bypass, which I note was approved by the Board in August 2022 under ref. 306146. I note that this application was accompanied by an NIS and mitigation measures were proposed to protect the integrity of the European Sites. Having regard to the nature of the proposed development and to the implementation of mitigation measures, I am satisfied that the in-combination impact of this project, and any other project, will not affect the overall integrity of the European Sites.
- 7.39. Furthermore, I note that there is a planned flood relief scheme for Adare and the public consultation period closed in December 2023. This is not an existing or permitted development and no planning application has been submitted to date. Therefore, it would not be practicable to assess the in-combination effect with this project.
- 7.40. Following the appropriate assessment and the consideration of mitigation measures (which are outlined under Appendix 2), I am able to ascertain with confidence that the project would not adversely affect the integrity of the Lower River Shannon SAC or the River Shannon and River Fergus Estuaries SPA, or any other European site, in view of the site's Conservation Objectives. This conclusion has been based on a complete assessment of all implications of the project alone and in combination with plans and projects.

### Appropriate Assessment Conclusion

- 7.41. The proposed development has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000, as amended. Having carried out screening for Appropriate Assessment of the project, I conclude that it may have a significant effect on the Lower River Shannon SAC (Site Code 002165) and the River Shannon and River Fergus Estuaries (Site Code 004077). Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of these sites in light of their conservation objectives.
- 7.42. Following an Appropriate Assessment, I have ascertained that the proposed development, individually or in combination with other plans or projects, would not adversely affect the integrity of these said European sites, or any other European site, in view of the sites' Conservation Objectives. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects.

## **8.0 Overall Conclusion & Recommendation**

- 8.1. Having regard to the Appellants' concerns in relation to the impact of the development on their residential amenity, built heritage and visual amenity, flood risk and traffic safety, I am satisfied that the proposed development will not adversely impact their residential amenity, will not be detrimental to the protected structures or their settings, and will not result in a significant negative impact on the visual amenity of the area. Furthermore, I am satisfied that the proposed development will not increase flood risk elsewhere and I consider the development acceptable in terms of traffic safety.
- 8.2. Having regard to the nature of the proposed development which is to mitigate future forecasted flood levels and to assist in the safe operation of an existing established railway line, I consider that the proposed development would be in accordance with the provisions of the Limerick Development Plan 2022-2028 (CDP) and Adare Local Area Plan 2015-2021, the provisions of the National Planning Framework (NPF), including National Strategic Outcome 6, and the provisions of the Southern Regional Assembly's Regional Spatial and Economic Strategy (RSES), including Regional Policy Objectives (RPOs) 140, 144 and 146.



- 8.3. Additionally, the nature of the proposed development will help to decarbonise the country's transport system by providing an alternative to road freight which I consider to be in accordance with the policies and strategies set out in the Climate Action Plan 2023. This shift from road freight to rail freight will reduce congestion, improve air quality and increase road safety with less HGV traffic using the road network. The proposed development will also support the economic growth and regional development of Foynes Port in accordance with objective TR O28 of the CDP.
- 8.4. I recommend that permission is granted for the following reasons and considerations.

## 9.0 Reasons and Considerations

Having regard to the nature, purpose and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of the area, would not be seriously detrimental to the Protected Structures or their settings, and would be acceptable in terms of public health and traffic safety. Additionally, the proposed development would support the decarbonisation of the country's transport system in accordance with the Climate Action Plan 2023. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on 4<sup>th</sup> July 2023, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
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2.	<p>(a) The mitigation measures contained in the Natura Impact Statement and Ecological Impact Assessment report submitted with the application shall be implemented in full.</p> <p>(b) An Ecological Clerk of Works shall be appointed to oversee works at the site and such appointment shall be confirmed in writing to the Planning Authority, prior to commencement of development.</p> <p><b>Reason:</b> In the interests of clarity and of the protection of the environment during the construction and operational phases of the development and to protect the integrity of the European Sites.</p>
3.	<p>Prior to the commencement of development, the developer shall submit a detailed Construction Environmental Management Plan (CEMP) for the written agreement of the planning authority. The CEMP shall incorporate the details as outlined in Section 5.1 of the submitted Natura Impact Statement.</p> <p>A record of daily checks that the works are being undertaken in accordance with the CEMP shall be kept at the construction site office for inspection by the planning authority.</p> <p><b>Reason:</b> In the interest of environmental protection, to protect the integrity of the European Sites and in the interest of residential amenities, public health and safety.</p>
4.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>

5.	<p>All the archaeological heritage and built heritage recommendations set out in the Preliminary Cultural Heritage Assessment Report shall be implemented in full.</p> <p><b>Reason:</b> In order to protect archaeological and architectural heritage.</p>
6.	<p>(a) All works to the protected structures shall be agreed in writing with the planning authority prior to commencement of the development.</p> <p>(b) A schedule and appropriate samples of all materials to be used in the external treatment of the development shall be submitted to and agreed in writing with, the planning authority prior to commencement of development.</p> <p>(c) All works to the protected structure, shall be carried out under the supervision of a qualified professional with specialised conservation expertise.</p> <p><b>Reason:</b> In the interest of the protection of architectural heritage.</p>
7.	<p>The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall;</p> <p>(a) Notify the planning authority in writing at least four weeks in advance of the commencement of development works on the site (including hydrological and geotechnical investigations) relating to the proposed development;</p> <p>(b) Employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works;</p> <p>(c) Provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.</p> <p>(d) Provide a final archaeological report to the planning authority describing the results of all archaeological monitoring and any archaeological work/excavation required, following the completion of works on site;</p>

	<p>(e) If any works are proposed within the river, a licenced underwater Archaeological Impact Assessment shall be submitted to the planning authority for written approval prior to commencement of such works.</p> <p><b>Reason:</b> In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.</p>
8.	<p>Prior to the commencement of the development, the developer shall submit a Traffic Management Plan (TMP) for the construction phase of the development for the written agreement of the planning authority. The TMP shall incorporate details of the road network to be used by construction traffic including oversized loads, detailed proposals for the protection of bridges, culverts and other structures to be traversed, as may be required. The agreed TMP shall be implemented in full during the course of construction of the development.</p> <p><b>Reason:</b> In the interest of sustainable transport and safety.</p>
9.	<p>Prior to the commencement of development, the developer shall prepare a Resource Waste Management Plan (RWMP) as set out in the Environmental Protection Agency's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.</p> <p><b>Reason:</b> In the interest of sustainable waste management.</p>

10.	<p>The communications cabinet shall be installed on the north-western side of the line of the railway track. Prior to commencement of development, the developer shall submit screening measures in respect of the visual impact of this development to the planning authority for written approval.</p> <p><b>Reason:</b> In the interest of visual amenity and to protect architectural heritage.</p>
11.	<p>Surface water drainage arrangements shall comply with the detailed requirements of the planning authority for such works and services. No surface water shall discharge to adjoining properties.</p> <p><b>Reason:</b> In the interest of public health and residential amenity.</p>
12.	<p>Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interests of amenity and public safety.</p>
13.	<p>A Stage 2 and Stage 3 Road Safety Audit shall be submitted to the Planning Authority for their written approval, prior to commencement of the development, in compliance with the Transport Infrastructure Ireland's (TII) publication 'Road Safety Audit GE-STY-01024'.</p> <p><b>Reason:</b> In the interest of traffic safety.</p>
14.	<p>A 5-metre wide strip of land running parallel with Channel C1 of the Mague Outfall, shall be provided to facilitate access and maintenance activities. This area shall be accessible to mechanical plant and shall not be landscaped, paved or otherwise developed in a manner that would prevent access.</p> <p><b>Reason:</b> To ensure adequate access to services.</p>

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.

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Gary Farrelly  
Planning Inspector

13<sup>th</sup> February 2024

## Appendix 1: Environmental Impact Assessment (EIA) Screening Determination

A. Case Details		
An Bord Pleanála Case Reference	318076-23	
Proposed Development Summary	The raising of the height of the railway bridge, railway track and former train station platform and the local road network to mitigate future forecasted flood levels. Construction of retaining walls, alterations to the existing car park and associated works.	
	YES / NO / N/A	Comment (if relevant)
1. Was a Screening Determination carried out by the Planning Authority (PA)?	No. PA Considered that a screening determination was not required as they considered that the development is not a class under Schedule 5 of the Planning and Development Regulations 2001, as amended. They completed a preliminary examination.	Having regard to the nature of the project, i.e. maintenance, improvement and repair works to a road and an existing railway line, I consider that the project can fall under Class 10(b)(iv), Class 10(c) and Class 15 of Schedule 5, Part 2, of the Planning and Development Regulations 2001, as amended.  I do not consider that the project falls under Class 7 of Schedule 5, Part 1, or Class 10(h) of Schedule 5, Part 2, of the Planning and Development Regulations 2001, as amended, having regard to the nature of the project.
2. Has Schedule 7A information been submitted?	Yes	An EIA Screening report accompanies the application, however, the screening report does not specify which class type the project is being screened against.

<b>3. Has an AA screening report or NIS been submitted?</b>	Yes	An AA Screening Report and Natura Impact Statement (NIS) accompany the application. Additionally, an ecological impact assessment report (EcIA) accompanies the application.
<b>4. Is a IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?</b>	No	
<b>5. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA</b>	N/A	The site is located on unzoned lands that form part of railway infrastructure and the road network. Part of the site is zoned 'existing residential' within the Draft Adare Local Area Plan 2024-2030 which is subject to a strategic environmental assessment (SEA).
<b>B. Examination</b>	<b>Where relevant, briefly describe the characteristics of impacts (i.e the nature and extent) and any Mitigation Measures proposed to avoid or prevent a significant effect (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact).</b>	<b>Is this likely to result in significant effects on the environment? Yes/ No/ Uncertain</b>
<b>1. Characteristics of proposed development</b> (including demolition, construction, operation, or decommissioning)		



<b>1.1 Is the project significantly different in character or scale to the existing surrounding or environment?</b>	The subject site measures 0.321 hectares and the project relates to an existing established railway line and although there are proposed to be some increases in levels they are not considered to be significant.	No
<b>1.2 Will construction, operation, decommissioning or demolition works causing physical changes to the locality (topography, land use, waterbodies)?</b>	The railway track will be raised by approximately 900mm which will result in raising of the railway bridge over the River Maigue and the raising of the existing platform associated with the former train station and construction of retaining walls. The local road and level crossing will also be raised. The existing bridge will be removed off-site and rebuilt.	No
<b>1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?</b>	There will be some use of material during construction, however, not significant in nature.	No
<b>1.4 Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?</b>	Best practice construction methods will be implemented by the contractor. Air pollution will be limited to typical construction nuisance such as dust. No significant impact predicted subject to the implementation of these measures.	No
<b>1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?</b>	Excavated topsoil will be reused for landscaping and excavated material will be reused for backfill. Any offsite disposal will be managed in accordance with waste management legislation. No generation of waste following completion of the project.	No

<b>1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?</b>	There is potential for surface water pollution (by silt or hydrocarbons) via run-off. A CEMP will be implemented detailing any necessary environmental control measures. Mitigation measures proposed as part of the submitted NIS and EclA to prevent pollution of the River Meague. Such measures are standard in nature.	No
<b>1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?</b>	There will be a temporary increase in noise during the construction phase, however, this will be short term in nature. There will be a slight increase in traffic disruption during construction, however, again this will be short term. Dust generation will be managed in line with best practice. Typical noise or vibration for an established railway line expected after completion of the development, however, not considered significant.	No
<b>1.8 Will there be any risks to human health, for example due to water contamination or air pollution?</b>	No reported groundwater source protection zones within 3km of the site. There are 9 boreholes located within 1.5km of the site. Due to short term nature of construction phase, no risk to groundwater quality is envisaged. Air pollution will be limited to typical construction nuisance such as dust.	No
<b>1.9 Will there be any risk of major accidents that could affect human health or the environment?</b>	Minimal risk due to scale and short term nature of the construction works. A site specific CEMP will be implemented detailing all necessary environmental control measures. No additional risks expected after completion of the project.	No

<p><b>1.10 Will the project affect the social environment (population, employment)?</b></p>	<p>Localised increase in employment during the construction phase of the project.</p> <p>The use of the old station house is now residential and the occupants will be affected by the construction and operation phases of the project in terms of nuisances such as construction activity and traffic and intermittent noise associated with the operation of the track. However, such impact is not considered significant in terms of the EIA Directive.</p>	<p>No</p>
<p><b>1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?</b></p>	<p>Having reviewed the Department of Housing, Local Government and Heritage's National Planning Application database and EIA Portal and the Limerick City and County Council's planning register, there is potential for cumulative effects with the proposed Adare Bypass, which was approved by the Board in August 2022 under ref. 306146.</p> <p>Having regard to the nature of the proposed development and to the implementation of mitigation measures, no significant effect is considered likely.</p> <p>Furthermore, there is a planned flood relief scheme for Adare and the public consultation period closed in December 2023. This is not an existing or permitted development and no planning application has been submitted to date. However, regard has been had to this scheme and the objectives of both schemes are aligned. Limerick City and County Council, as the lead authority for the flood relief scheme, have no objection to the works.</p>	<p>No</p>

<b>2. Location of Proposed Development</b>		
<b>2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:</b> <b>a) European site (SAC/ SPA/ pSAC/ pSPA)</b> <b>b) NHA/ pNHA</b> <b>c) Designated Nature Reserve</b> <b>d) Designated refuge for flora or fauna</b> <b>e) Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan</b>	<p>The proposed development is located within the Lower River Shannon SAC and upstream of the River Shannon and River Fergus Estuaries SPA. The application has been accompanied by a NIS: My Appropriate Assessment undertaken concludes that the proposed development will not adversely affect the integrity of the European sites.</p> <p>An Ecological Impact Assessment (EclA) also prepared and mitigation measures proposed to protect biodiversity.</p>	No
<b>2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be significantly affected by the project?</b>	<p>The EclA that accompanies the application outlines that the site area offers no significant potential for roosting bats or foraging and/or commuting bats. The area is well connected by trees and hedgerows, however, these are outside the boundary of the site.</p> <p>Freshwater white-clawed crayfish may be impacted by water pollution. The area is an ideal habitat for otters. Mitigation measures are proposed within the EclA and NIS for protection of water quality. Enhancement measures such as bat boxes are also proposed.</p>	No
<b>2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</b>	<p>A preliminary Cultural Heritage Impact Assessment accompanies the application and identifies a number of assets in the area including 3 sites on the record of monuments and places and 3 protected structures within the site or adjoining the site (The railway bridge</p>	No

	<p>RPS 872, The former railway station RPS 871 and the former canal and associated quay RPS 873).</p> <p>There is potential for the embankments to contain archaeological objects and thus archaeological monitoring of groundworks will take place along with a detailed method statement. As no in-channel works are proposed, no underwater archaeological assessment is required.</p> <p>There will be impacts on protected structures through the altering of the bridge and platform as well as impacts of views on the setting of the station complex and the former canal and quay. Works to the bridge will be undertaken by experienced heritage masonry and specialist contractors in accordance with an agreed method statement. A built heritage and topographical survey of the railway bridge and piers will be carried out in accordance with the method statement.</p> <p>No impact on the structural integrity of the former goods shed envisaged, having regard to the nature of the works within the vicinity of this structure.</p>	
<b>2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?</b>	The site spans the River Mague. The NIS and EclA which accompany the application outline a number of mitigation measures to protect this waterbody from pollution. A Construction Environmental Management Plan (CEMP) will be implemented.	No
<b>2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which</b>	The railway infrastructure is considered a highly vulnerable development as per Table 3.1 of the Planning System and Flood Risk Management Guidelines for Planning Authorities (2009). The site	No

<b>could be affected by the project, particularly in terms of their volume and flood risk?</b>	<p>spans the River Maigue and the site is located within Flood Zone A as per the flood maps created through the Shannon CFRAM Study. A flood relief scheme for Adare is being prepared which is separate to this application. A site specific flood risk assessment accompanies the application and includes a justification test.</p> <p>The level of the track is being increased to above the 0.5% AEP level (c. 4.80mOD) to 5.3mOD to include a 300mm freeboard allowance and a 200mm allowance for potential increase in flood level once the hydraulic modelling work is substantially complete.</p> <p>The nature of the raising of the bridge level will increase the cross-sectional area available for the conveyance of flow and will reduce the risk of floating debris being trapped in the bridge and leading to blockage.</p> <p>There will be no change to the extent of existing hardstanding and therefore no change to run-off conditions. Surface water runoff will be maintained to pre development run-off rates.</p>	
<b>2.6 Is the location susceptible to subsidence, landslides or erosion?</b>	No evidence of these risks.	No
<b>2.7 Are there any key transport routes(e.g. National primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?</b>	The project is in proximity to the National Road N-21 and to the route of the proposed Adare Bypass, which was approved by the Board in August 2022 under ref. 306146. The nature of the project may lead to a positive impact on the road network. The use of freight transport by rail may lead to a reduction in HGV congestion on the road network, thereby reducing emissions.	No
<b>2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be significantly affected by the project?</b>	The former station house which is now a private dwelling, adjoins the railway line. There is potential for an impact on the amenity of this dwelling during the construction phase and operational phase, having regard to the proximity of this dwelling to the existing railway	No

	track. However, such impact is considered not significant having regard to the temporary nature of the construction phase, to the established railway line onsite, to the level of increase of the track, to the single tracked nature of the line and to the maintaining of surface water run-off to pre development run-off rates.	
<b>3. Any other factors that should be considered which could lead to environmental impacts</b>		
<b>3.1 Cumulative Effects: Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?</b>	No existing or permitted developments have been identified in the immediate vicinity that would give rise to significant cumulative environmental effects with the project (See answer to Question 1.11 above).	No
<b>3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?</b>	No transboundary considerations arise.	No
<b>3.3 Are there any other relevant considerations?</b>	No	No
<b>C. Conclusion</b>		
No real likelihood of significant effects on the environment.	✓	<b>EIAR Not Required.</b>
Real likelihood of significant effects on the environment.		EIAR Required.
<b>D. Main Reasons and Considerations</b>		

Having regard to the criteria in Schedule 7 of the Planning and Development Regulations 2001, as amended, the information provided by the applicant in accordance with Schedule 7A of the Planning and Development Regulations 2001, as amended, and the following:

- (a) The nature and scale of the proposed development, which relates to the maintenance, improvement and repair of an existing railway and road;
- (b) To the nature and scale of the proposed development which is significantly under the threshold in respect of Class 10(b)(iv) (Urban Development) and Class 10(c) of the Planning and Development Regulations 2001 (as amended),
- (c) To the location of the site on unzoned lands relating to existing railway and road infrastructure and to the existing pattern of development in the vicinity,
- (d) To the location of the site within the Lower River Shannon Special Area of Conservation (SAC) and to the hydrological connectivity to the River Shannon and River Fergus Estuaries Special Protection Area (SPA);
- (e) To the submitted AA Screening Report, Natura Impact Statement and Ecological Impact Assessment Report and to my Appropriate Assessment carried out under sections 177U and 177V of the Planning and Development Act 2000;
- (f) To the guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003), and
- (g) To the Office of the Planning Regulator’s (OPR) Practice Note PN02 Environmental Impact Assessment Screening (2021),

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

Inspector: \_\_\_\_\_

Date:

**Gary Farrelly**



## Appendix 2: Appropriate Assessment (AA)

Lower River Shannon SAC (Site Code 002165)					
Qualifying Interest	Conservation Objective	Potential Adverse Effect	Mitigation Measures	In-Combination Effect	Can Adverse Effect on Integrity be excluded
1029 Freshwater Pearl Mussel ( <i>Margaritifera margaritifera</i> )	To restore the favourable conservation condition.	<ul style="list-style-type: none"> <li>• Water Pollution</li> <li>• Sedimentation</li> <li>• Introduction of invasive species</li> </ul>	<ul style="list-style-type: none"> <li>• Implementation of a CEMP</li> <li>• Silt management including fencing</li> <li>• Refuelling control measures</li> <li>• Drainage measures including vegetation preservation</li> <li>• ECoW Supervision</li> <li>• Invasive species management</li> </ul>	None	Yes
1095 Sea Lamprey ( <i>Petromyzon marinus</i> )	To restore the favourable conservation condition.	<ul style="list-style-type: none"> <li>• Water Pollution</li> <li>• Sedimentation</li> <li>• Introduction of invasive species</li> </ul>	<ul style="list-style-type: none"> <li>• Implementation of a CEMP</li> <li>• Silt management including fencing</li> <li>• Refuelling control measures</li> <li>• Drainage measures including vegetation preservation</li> <li>• ECoW Supervision</li> <li>• Invasive species management</li> </ul>	None	Yes

1096 Brook Lamprey <i>Lampetra planeri</i>	To maintain the favourable conservation condition.	<ul style="list-style-type: none"> <li>• Water Pollution</li> <li>• Sedimentation</li> <li>• Introduction of invasive species</li> </ul>	<ul style="list-style-type: none"> <li>• Implementation of a CEMP</li> <li>• Silt management including fencing</li> <li>• Refuelling control measures</li> <li>• Drainage measures including vegetation preservation</li> <li>• ECoW Supervision</li> <li>• Invasive species management</li> </ul>	None	Yes
1099 River Lamprey <i>Lampetra fluviatilis</i>	To maintain the favourable conservation condition	<ul style="list-style-type: none"> <li>• Water Pollution</li> <li>• Sedimentation</li> <li>• Introduction of invasive species</li> </ul>	<ul style="list-style-type: none"> <li>• Implementation of a CEMP</li> <li>• Silt management including fencing</li> <li>• Refuelling control measures</li> <li>• Drainage measures including vegetation preservation</li> <li>• ECoW Supervision</li> <li>• Invasive species management</li> </ul>	None	Yes
1106 Atlantic Salmon <i>Salmo salar</i> (only in fresh water)	To restore the favourable conservation condition.	<ul style="list-style-type: none"> <li>• Water Pollution</li> <li>• Sedimentation</li> <li>• Introduction of invasive species</li> </ul>	<ul style="list-style-type: none"> <li>• Implementation of a CEMP</li> <li>• Silt management including fencing</li> <li>• Refuelling control measures</li> <li>• Drainage measures including vegetation preservation</li> <li>• ECoW Supervision</li> <li>• Invasive species management</li> </ul>	None	Yes
1110 Sandbanks which are slightly	To maintain the favourable	No pressures or threats related to the project		None	Yes

covered by sea water all the time	conservation condition	are identified having regard to the nature of the development and to the 2019 Article 17 Habitat Assessment. Main pressures or threats are development of windfarms, climate change and benthic dredging.			
1130 Estuaries	To maintain the favourable conservation condition of Estuaries.  2019 Article 17 Habitat Assessment classified the QI as unfavourable-inadequate.	<ul style="list-style-type: none"> <li>• Water pollution</li> <li>• Sedimentation</li> <li>• Introduction of invasive species</li> </ul>	<ul style="list-style-type: none"> <li>• Implementation of a CEMP</li> <li>• Silt management including fencing</li> <li>• Refuelling control measures</li> <li>• Drainage measures including vegetation preservation</li> <li>• ECoW Supervision</li> <li>• Invasive species management</li> </ul>	None	Yes
1140 Mudflats and sandflats not covered by seawater at low tide	To maintain the favourable conservation condition	<ul style="list-style-type: none"> <li>• Water Pollution</li> <li>• Sedimentation</li> </ul>	<ul style="list-style-type: none"> <li>• Implementation of a CEMP</li> <li>• Silt management including fencing</li> <li>• Refuelling control measures</li> </ul>	None	Yes

	2019 Article 17 Habitat Assessment classified the QI as unfavourable-inadequate.		<ul style="list-style-type: none"> <li>• Drainage measures including vegetation preservation</li> <li>• ECoW Supervision</li> </ul>		
1150 *Coastal lagoons	To restore the favourable conservation condition	<ul style="list-style-type: none"> <li>• Water Pollution</li> <li>• Sedimentation</li> </ul>	<ul style="list-style-type: none"> <li>• Implementation of a CEMP</li> <li>• Silt management including fencing</li> <li>• Refuelling control measures</li> <li>• Drainage measures including vegetation preservation</li> <li>• ECoW Supervision</li> </ul>	None	Yes
1160 Large shallow inlets and bays	To maintain the favourable conservation condition	<ul style="list-style-type: none"> <li>• Water Pollution</li> <li>• Sedimentation</li> <li>• Introduction of invasive species</li> </ul>	<ul style="list-style-type: none"> <li>• Implementation of a CEMP</li> <li>• Silt management including fencing</li> <li>• Refuelling control measures</li> <li>• Drainage measures including vegetation preservation</li> <li>• ECoW Supervision</li> <li>• Invasive species management</li> </ul>	None	Yes
1170 Reefs	To maintain the favourable conservation condition	<ul style="list-style-type: none"> <li>• Introduction of invasive species</li> </ul>	<ul style="list-style-type: none"> <li>• Implementation of a CEMP</li> <li>• Invasive species management</li> </ul>	None	Yes

1220 Perennial vegetation of stony banks	To maintain the favourable conservation condition	<ul style="list-style-type: none"> <li>• Introduction of invasive species</li> </ul>	<ul style="list-style-type: none"> <li>• Implementation of a CEMP</li> <li>• Invasive species management</li> </ul>	None	Yes
1230 Vegetated sea cliffs of the Atlantic and Baltic coasts	To maintain the favourable conservation condition	<ul style="list-style-type: none"> <li>• Introduction of invasive species</li> </ul>	<ul style="list-style-type: none"> <li>• Implementation of a CEMP</li> <li>• Invasive species management</li> </ul>	None	Yes
1310 Salicornia and other annuals colonizing mud and sand	To maintain the favourable conservation condition	<ul style="list-style-type: none"> <li>• Introduction of invasive species</li> </ul>	<ul style="list-style-type: none"> <li>• Implementation of a CEMP</li> <li>• Invasive species management</li> </ul>	None	Yes
1330 Atlantic salt meadows (Glauco-Puccinellietalia maritima)	To restore the favourable conservation condition	<ul style="list-style-type: none"> <li>• Introduction of invasive species</li> </ul>	<ul style="list-style-type: none"> <li>• Implementation of a CEMP</li> <li>• Invasive species management.</li> </ul>	None	Yes
1349 Bottlenose Dolphin Tursiops truncatus	To maintain the favourable conservation condition	No pressures or threats related to the project identified having regard to 2019 Article 17 Species Assessment and to the nature of the development. Main pressure or threat is marine fishing and geotechnical surveying.		None	Yes

1355 Otter <i>Lutra lutra</i>	To restore the favourable conservation condition	<ul style="list-style-type: none"> <li>• Water Pollution</li> <li>• Sedimentation</li> <li>• Loss of Habitat</li> </ul>	<ul style="list-style-type: none"> <li>• Implementation of a CEMP</li> <li>• Silt fencing</li> <li>• Refuelling control measures</li> <li>• Vegetation preservation</li> <li>• ECoW Supervision</li> </ul>	None	Yes
1410 Mediterranean salt meadows ( <i>Juncetalia maritimi</i> )	To restore the favourable conservation condition	No pressures or threats related to the project identified having regard to 2019 Article 17 Habitat Assessment and to the nature of the development. Main pressures and threats relate to agriculture and climate change.			
3260 Water courses of plain to montane levels with the <i>Ranunculus fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation	To maintain the favourable conservation condition	<ul style="list-style-type: none"> <li>• Water pollution</li> <li>• Sedimentation</li> </ul>	<ul style="list-style-type: none"> <li>• Implementation of a CEMP</li> <li>• Silt management including fencing</li> <li>• Refuelling control measures</li> <li>• ECoW Supervision</li> </ul>	None	Yes
6410 <i>Molinia</i> meadows on calcareous, peaty or	To maintain the favourable conservation condition	No pressures or threats related to the project identified having regard to 2019 Article 17			

clayey-silt-laden soils (Molinion caeruleae)		Habitat Assessment and to the nature of the development. Main pressures and threats related to agriculture and afforestation.			
91E0 *Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae)	To restore the favourable conservation condition	<ul style="list-style-type: none"> <li>• Introduction of invasive species</li> <li>• Water pollution</li> </ul>	<ul style="list-style-type: none"> <li>• Implementation of a CEMP,</li> <li>• Silt management including fencing,</li> <li>• Refuelling control measures,</li> <li>• ECoW Supervision,</li> <li>• Invasive species management.</li> </ul>	None	Yes
<b>Overall conclusion: Integrity test</b> Following the implementation of mitigation, the construction and operation of this proposed development will not adversely affect the integrity of this European site and no reasonable doubt remains as to the absence of such effects.					

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

<b>Qualifying Interest</b>	<b>Conservation Objective</b>	<b>Potential Adverse Effect</b>	<b>Mitigation Measures</b>	<b>In-Combination Effect</b>	<b>Can Adverse Effect on Integrity be excluded</b>
SCI Bird Species (All)	To maintain their favourable conservation condition	<ul style="list-style-type: none"> <li>• Noise</li> <li>• Light disturbance</li> <li>• Water pollution</li> </ul>	<p>A number of mitigation measures outlined in the submitted NIS relate to protection of 002165, however, the following, inter alia, are considered relevant to this SPA:</p> <ul style="list-style-type: none"> <li>• Implementation of a CEMP,</li> <li>• Silt management including fencing,</li> <li>• Refuelling control measures,</li> <li>• Supervision of construction work by an ecologist,</li> </ul>	None	Yes



			<ul style="list-style-type: none"> <li>• Import of clean backfilled material, checked for invasive species.</li> <li>• Directional task lighting</li> </ul>		
A999 Wetlands	To maintain the favourable conservation condition of the wetland habitat as a resource for the regularly-occurring migratory waterbirds that utilise it.	<ul style="list-style-type: none"> <li>• Water pollution</li> <li>• Airborne pollution</li> </ul>	<ul style="list-style-type: none"> <li>• Implementation of a CEMP,</li> <li>• Silt management including fencing,</li> <li>• Refuelling control measures,</li> <li>• Supervision of construction work by an ecologist,</li> <li>• Import of clean backfilled material, checked for invasive species.</li> </ul>	None	Yes

**Overall conclusion: Integrity test**

Following the implementation of mitigation, the construction and operation of this proposed development will not adversely affect the integrity of the European Site in view of the site's conservation objectives. No reasonable scientific doubt remains as to the absence of such effects.