



An
Bord
Pleanála

Inspector's Report

ABP-318257-23

Development	Construction of 46 no. apartments and all associated site works. A Natura Impact Statement (NIS) accompanies this application.
Location	Prior's Land, New Road, Thomondgate, Limerick
Planning Authority	Limerick City and County Council
Planning Authority Reg. Ref.	221400
Applicant(s)	Tinwat Holdings Ltd Partnership with Cluid Housing
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	St. Munchins Umbrella Group
Observer(s)	None
Date of Site Inspection	March 26 th , 2024

Inspector

Lorraine Dockery

1.0 Site Location and Description

- 1.1. The site, which has a stated area of 0.75 hectares and is roughly rectangular in shape, is located within the established area of New Road, Thomondgate, Limerick city. It is brownfield in nature and relatively flat, although there is a 2m fall across the site from west to east. The site is bordered by New Road to the west, the River Shannon to the east and to the north and south by residential properties. There is an ESB line running across the site. The eastern boundary of the site runs parallel to the River Shannon while the boundary with New Road is comprised of palisade fencing.
- 1.2. The prevailing height of buildings in the vicinity is single and two-storey.

2.0 Proposed Development

- 2.1. The proposal comprises the construction of a residential development of 46 apartments in two blocks and all associated site development works. An NIS was submitted with the application.

Site Area	0.75 hectares
No of units	46 units Block A- 37 units (23 x 1 bed; 14 x 2-bed) Block B- 9 x 2-bed units
Height	3-4 storeys
Other Uses	Community Room (in Block A)-46m ² Landscaped Biodiversity Park ESB substation & switchroom Surface water attenuation swale
Car Parking	39 spaces at surface level (increased to 47 no. spaces at FI stage)

- 2.2. The application is accompanied by a letter from Property and Community Facilities, Limerick City and County Council (dated 02/08/2022) giving consent to the applicants to the submission of a planning application on the lands, currently in the ownership of the Council, subject to a number of specified terms.
- 2.3. The application is also accompanied by a letter from Housing Development Directorate, Limerick City and County Council (dated 20/12/2022) which confirms that an agreement in principle to comply with the applicants Part V obligation has been reached with the transfer of 9 no. units on-site to the Council on condition that the units are managed by an Approved Housing Body. Final negotiation to be concluded on specific details of Part V before a commencement order is lodged under this permission.
- 2.4. A wayleave is demarcated on the submitted drawings, towards the southern end of the site.

3.0 Planning Authority Decision

3.1. Decision

Permission GRANTED, subject to 19 no. conditions

Further Information was requested by the planning authority in relation to (i) clarification if proposal is for sheltered housing (ii) surface Water/flood issues (iii) daylight/sunlight (iv) cycle storage (v) management of biodiversity park (vi) bin storage (vii) boundary treatment (viii) quantum of communal open space

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Planning Officer- Reflects decision of planning authority; recommends grant of permission
- Senior Planner- proposal acceptable with regards to AA and mitigation measures contained in NIS

3.2.2. Other Technical Reports

Roads, Traffic and Cleansing Section- Conditions recommended (10/08/2023)

Active Travel Section- Concerns remain regarding cycle storage (25/08/2023)

Flooding Department- Further Information requested in relation to surface water and flooding (30/01/2023). No objection on grounds of flood risk (20/09/2023)

Environment, Recreation and Climate Change- Conditions recommended in relation to invasive species and creation of buffer zone (23/02/2023)

Heritage Officer- Conditions recommended (21/09/2023)

Executive Scientist- No comment in relation to road noise (19/01/2023)

Fire Service- No objection (23/01/2023)

Archaeology Section- Agrees with recommendation of submitted Archaeological Assessment; conditions attached (17/02/2023)

3.3. Prescribed Bodies

Uisce Eireann: No objections, subject to conditions (dated 03/02/2023)

3.4. Third Party Observations

The planning authority received a number of observations which raised issues similar to those contained in the third-party appeal.

4.0 Planning History

None

5.0 Policy Context

5.1. National Planning Policy

Section 28 Ministerial Guidelines

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

- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities
- Urban Development and Building Heights, Guidelines for Planning Authorities
- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities
- Design Manual for Urban Roads and Streets
- The Planning System and Flood Risk Management (including the associated Technical Appendices)
- Childcare Facilities – Guidelines for Planning Authorities
- Architectural Heritage Protection, Guidelines for Planning Authorities
- Appropriate Assessment Guidelines for Planning Authorities
- EIA Guidance for Consent Authorities regarding Sub-Threshold Development
- Climate Action Plan

Other policy documents of note:

- National Planning Framework
- Regional Spatial & Economic Strategy for the Southern Region

5.2. Local Planning Policy

Development Plan

The Limerick Development Plan 2022-2028 applies.

Settlement Tier- Level 1 – Limerick City and Suburbs (in Limerick), Mungret and Annacotty

Zoning:

Part of the site, primarily along New Road frontage is zoned 'New Residential' which seeks to 'provide for new residential development in tandem with the provision of social and physical infrastructure' while the remainder of the site (including that fronting the River Shannon) is zoned 'Open Space and Recreation' which seeks to

‘protect, provide for and improve open space, active and passive recreational amenities’.

Density: - Level 1, Zone 2: Intermediate Urban Locations/Transport Corridors

A minimum net density of 45+ dwelling units per hectare are required at appropriate locations within:

- 800 metres of (i) the University Hospital; (ii) Raheen Business Park; (iii) National Technology Park; (iv) University of Limerick; (v) Technological University of the Shannon; (vi) Mary Immaculate College;
- 500m of high frequency (min. 10-minute peak hour frequency) existing or proposed urban bus services and;
- 400m of reasonably frequent (min. 15-minute peak hour frequency) urban bus services. (Map 2.2 and Map 4)

Building Height: Volume 6 Building Height Strategy for Limerick City

Table DM 9(a): Car and Bicycle Parking Standards Limerick City and Suburbs- site located within Zone 2

5.3. **Natural Heritage Designation**

The nearest designated site- Lower River Shannon SAC (Site Code 002165)- is located immediately adjacent to the subject site.

5.4. **EIA Screening**

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

- Construction of more than 500 dwelling units,

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

The need for a EIAR was raised in the third-party appeal submission where it was contended that a full EIAR should have been undertaken as the proposal could result in complete collapse of this unique biodiversity area. The proposed development is for 46 apartments on a site of c. 0.75 ha. The proposed development is considered to be sub-threshold in terms of EIA having regard to Schedule 5, Part 2, 10(b) (i) and (iv) of the Planning and Development Regulations 2001 (as amended). Accordingly, it does not attract the need for a mandatory EIA. The site is located within a designated development area of Limerick city, on lands partly zoned for residential purposes. Furthermore, as this proposal would fall below the relevant threshold, I conclude that, based on its nature, size, and location, there is no real likelihood of significant effects upon the environment and so the preparation of an EIAR is not required. The planning authority concur with this opinion.

5.5 Appropriate Assessment Screening

5.5.1 See Appendix 2, Form 2

5.5.2 The adequacy of the NIS was raised in the third-party appeal submission. In response, the first party state that it presents sufficient technical data and assessment to determine that potential for significant adverse effects can be avoided and furthermore that the location, proximity and relationship between the development site and SAC is fully acknowledged in the AA Screening Report and NIS. It has taken into account the existence of Japanese Knotweed (JK), notes the submission of the management plan to eradicate the species and the hydrological and flood characteristics of the property which presents an obvious source pathway connection; no direct effect to species has been considered to occur and indirect effects will be dealt with by proposed mitigation measures. Furthermore, the first party state that it is incorrect of the appellants to state that features of conservation interest listed in appeal exist on this site- this is incorrect and misleading and at odds with scientific evaluation in submitted NIS. They note that no scientific evidence was

put forward by appellants to challenge the findings of NIS. I would concur with this assertion.

- 5.5.3 In terms of adequacy of surveys undertaken to inform the NIS, I note that an ecological site walkover was undertaken in April 2021. In addition, it is stated that significant baseline surveys were carried out on receiving environment as part of installations of hydrokinetic turbines on River Shannon, just south of the subject site and this publicly available information was also used to inform the baseline for this project. The planning authority state that while the surveys date back to 2021, nothing has changed in relation to the site and the recommendations of the NIS remain valid. I am satisfied in this regard.
- 5.5.4 The planning authority state that the development as proposed should not exercise a significant effect on the conservation status of any SAC or SPA and therefore an Appropriate Assessment is not necessary.
- 5.5.5 In accordance with Section 177U(4) of the Planning and Development Act 2000 (as amended) and on the basis of objective information, I conclude that the proposed development is likely to have a significant effect on identified Qualifying Interests of the Lower River Shannon SAC (Site Code 002165) and River Shannon and River Fergus Estuaries SPA (Site Code 004077) 'alone' with the most likely impacts on the integrity of the designated sites resulting from decline in water quality due to construction activities in the absence of mitigation measures, together with impacts resulting from the spread of alien invasive plant species in the absence of mitigation measures. This is due to the presence of surface water and land/air pathways and the potential impacts posed to instream water quality, changes to riparian and instream habitats affecting fish and aquatic invertebrates, which may have an indirect impact on foraging opportunities of designated species of the SAC such as otter. It is therefore determined that Appropriate Assessment (Stage 2), under Section 177V of the Planning and Development Act 2000, is required on the basis of the effects of the project 'alone'.
- 5.5.6 A Natura Impact Statement was submitted with the application, and I refer the Board to same.

Stage 2- Appropriate Assessment

Introduction

- 5.5.7 The application included an NIS for the proposed development at New Road, Limerick. The NIS provides a description of the project and the existing environment. It also provides a background on the screening process and examines and assesses potential adverse effects of the proposed development on a number of European Sites (see Appendix 2). Potential impacts arising from the proposed development are outlined in section 4.2 and 4.3. Potentially significant impacts are identified in section 4.4. The most likely impact on the integrity of the designated sites was identified as impacts on designated species and/or habitats resulting from decline in water quality due to construction activities in the absence of mitigation measures and impacts resulting from the spread of invasive plant species in the absence of mitigation measures. Details of mitigation measures are outlined in section 4.5. Cumulative or in-combination effects are examined within section 4.6.1 and it is concluded that significant in combination effects of the proposed project with other projects and plans are not likely.
- 5.5.8 The NIS concludes that with the implementation of the mitigation measures during the construction and operational phases, it is considered that the proposed development will not have significant impacts on the integrity and quality of the Lower River Shannon SAC (Site Code: 002165) or River Shannon and River Fergus Estuaries SPA (Site Code: 004077).
- 5.5.9 On the basis of objective information, it is my opinion, that the designated sites in closest proximity to the development site, requires further consideration only. Based on the above, I consider that it is not possible to exclude that the proposed development, individually or in combination with other plans or projects, will have a likely significant effect on the following sites:

Table 1:

Site Name	Site Code	Distance
Lower River Shannon SAC	002165	Direct proximity on E side
River Shannon and River Fergus Estuaries SPA	004077	1.4km downstream

Appropriate Assessment of implications of the proposed development on each European Site

5.5.10 The following is a summary of the objective scientific assessment of the implications of the project on the qualifying interest features of the Lower River Shannon SAC and River Shannon and River Fergus Estuaries SPA 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.

5.5.11 I have relied on the following guidance:

- Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities, DoEHLG (2009);
- Assessment of plans and projects significantly affecting Natura 2000 sites. Methodological guidance on the provisions of Article 6(3) and 6(4) of the Habitats Directive 92/43/EC, EC (2002);
- Guidelines on the implementation of the Birds and Habitats Directives in Estuaries and coastal zones, EC (2011);
- Managing Natura 2000 sites, The provisions of Article 6 of the Habitats Directive 92/43/EEC, EC (2018).

5.5.12 A description of the designated site and its Conservation Objectives and Qualifying Interests, including any relevant attributes and targets, are set out in the NIS. I have also examined the Natura 2000 data forms as relevant and the Conservation Objectives/Statutory Instrument supporting documents for these sites available through the NPWS website (www.npws.ie).

Appropriate Assessment of implications of the proposed development on each European Site

Special Area of Conservation- Lower River Shannon SAC

5.5.13 The development is located wholly outside of any European site although it is immediately proximate to the Lower River Shannon SAC. Potential impacts of the proposed development on key habitats and species have been set out in section 4.2 and 4.3 of the NIS and I refer the Board to same. I also refer the Board to Appendix 2 of this report.

Table 2:

Designated Site	Qualifying Interests (*QI most likely to be impacted highlighted in BOLD)	Conservation Objective (favourable status)
Lower River Shannon SAC	<p>Sandbanks which are slightly covered by sea water all the time</p> <p>Estuaries</p> <p>Mudflats and sandflats not covered by seawater at low tide</p> <p>Coastal lagoons</p> <p>Large shallow inlets and bays</p> <p>Reefs</p> <p>Perennial vegetation of stony banks</p> <p>Vegetated sea cliffs of the Atlantic and Baltic coasts</p> <p>Salicornia and other annuals colonising mud and sand</p> <p>Atlantic salt meadows]</p> <p>Mediterranean salt meadows</p> <p>Water courses of plain to montane levels with the <i>Ranunculus fluitans</i> and <i>Callitriche-Batrachium</i> vegetation</p> <p>Molinia meadows on calcareous, peaty or clayey-silt-laden soils</p> <p>Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i></p> <p>Freshwater Pearl Mussel</p> <p>Sea Lamprey</p> <p>Brook Lamprey</p> <p>River Lamprey</p> <p>Salmon</p> <p>Common Bottlenose Dolphin</p> <p>Otter</p>	Maintain/Restore the favourable conservation status of habitats and species of community interest

5.5.14 The Lower River Shannon has been identified as an important spawning area (where suitable habitat exists) for sea lamprey- a QI of the Lower River Shannon SAC.

There is a potential risk of silt/contaminant input damaging or disturbing sea lamprey

spawning beds in the absence of adequate mitigation measures. Mitigation measures have been recommended including avoiding inputs/contaminates at all times but particularly during the spawning season (mid-May to July) and a two-week period following this time. The potential for operational phase drainage outfalls into the river to negatively impact sea lamprey spawning beds was also identified. Accordingly, during the design stage, it was decided to restrict discharge rates to greenfield volumes and install petrol interceptors in advance of settlement ponds on site. The outfall to the river will not be piped but will comprise of a swale of natural construction to minimise impacts on the bank of the river and associated riparian woodland.

- 5.5.15 Potential was also identified to negatively impacts other QI of the SAC including brook lamprey, river lamprey and Atlantic salmon due to siltation of spawning beds and contaminant impacts and/or impacts on prey species. Otter and Bottlenose dolphin can also be potentially impacted by contaminants or due to negative impacts on prey species. It was acknowledged in the NIS that the aquatic habitats upon which these species depend are afforded the highest level of protection.
- 5.5.16 Potential for limited impacts on QI habitats Watercourses and Estuaries due to contaminants was also identified. There will be no direct impacts or land take from this area. As stated, the outfall will not be piped, but a swale provided to minimise impacts on riverbank and riparian woodlands.
- 5.5.17 Impacts of Japanese Knotweed has been identified and transport can occur when it enters a river and is carried downstream. Eradication of growth will be required in the areas proposed for excavation. See detailed assessment of this matter in the 'Assessment' section below. These areas will be required to be excavated, transported and disposed of in accordance with relevant licensing, using strictly controlled pre-defined methodologies to ensure the prevention of spread. An Invasive Species Management Plan was submitted in this regard.
- 5.5.18 A summary of unmitigated impacts to Lower River Shannon SAC, and their potential significance are set out in Table 4.3 of NIS.
- 5.5.19 Mitigation measures, which are primarily general protection measures that would be used by any competent developer in the construction of a similar type development are proposed. Mitigation measures have been outlined in section 4.7 (see Table

4.5). An Invasive Species Management Plan has been submitted. No works will take place from May to July inclusive. Buffer zones will be maintained. Silt traps/fences will be installed; baseline water sampling will be taken; materials will be properly stored on site; refuelling will be confined to designated areas. A suitably experienced and qualified contractor will be appointed to ensure that the environmental control measures are fully and properly implemented. In addition, a Water Quality Monitoring Programme will be established to ensure water quality is maintained during construction phase of development (see section 4.5.1 of NIS).

5.5.20 Foul and surface water will only be discharged to the mains sewer under authorisation from Uisce Eireann and the local authority. All works will be undertaken in accordance with Uisce Eireann standard details and codes of practice. The planning authority have not raised concerns in this regard. I am satisfied that it is not likely that any pollution event at the development site could result in significant impacts on the SAC.

Special Protection Area - River Shannon and River Fergus Estuaries SPA

5.5.21 The subject site is located approximately 1.4km downstream from the River Shannon and River Fergus Estuaries SPA. The potential for the 21 bird species selected as SCIs for this SPA to be negatively impacted is low/unknown but is considered a possibility. Significant impacts due to direct disturbance were ruled out at screening stage, impacts from contaminants or harm to prey are the main possible impacts, due in part to mobile nature of species.

Table 3:

Designated Site	Qualifying Interests (*QI most likely to be impacted highlighted in BOLD)	Conservation Objective (favourable status)
River Shannon and River Fergus Estuaries SPA	Cormorant Whooper Swan Light-bellied Brent Goose Shelduck Wigeon Teal Pintail	Maintain/Restore the favourable conservation status of habitats and species of community interest

	Shoveler Scaup Ringed Plover Golden Plover Grey Plover Lapwing Knot Dunlin Black-tailed Godwit Bar-tailed Godwit Curlew Redshank Greenshank Black-headed Gull Wetland and Waterbirds	
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5.5.22 A summary of unmitigated impacts to River Shannon and River Fergus Estuaries SPA, and their potential significance are set out in Table 4.4 of NIS.

5.5.23 The matter of impacts of Japanese Knotweed has been dealt with above and I refer the Board to same.

5.5.24 As above, mitigation measures have been outlined in section 4.7 (see Table 4.5). I have dealt with this in the Lower Shannon SAC section above and I refer the Board to same. Similarly, foul and surface water will only be discharged to the mains sewer under authorisation from Uisce Eireann and the local authority. All works will be undertaken in accordance with Uisce Eireann standard details and codes of practice. The planning authority have not raised concerns in this regard. I am satisfied that it is not likely that any pollution event at the development site could result in significant impacts on the SPA.

Appropriate Assessment Conclusion

- 5.5.25 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.
- 5.5.26 Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on two European Sites.
- 5.5.27 Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of those sites in light of its conservation objectives.
- 5.5.28 Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of these European Sites, in view of the site's Conservation Objectives.

This conclusion is based on:

- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures and ecological monitoring in relation to the Conservation Objectives of the aforementioned designated sites.
- Detailed assessment of in combination effects with other plans and projects including historical projects, current proposals and future plans.

6.0 The Appeal

6.1. Grounds of Appeal

One third-party appeal submission was received from St. Munchins Umbrella Group, which may be broadly summarised as follows:

- Recognises need for higher density in new builds and overall need for more social family housing
- Over 20 years local residents approached the Council with a view to creating a park, playground and housing for elderly on this site; would be of benefit to local community; huge local and wider support for same; site has potential to deliver a biodiversity and mammal habitat park

- Ecology: proposal wholly inappropriate for this sensitive ecological site in SAC on the River Shannon
- Japanese Knotweed (JK)- Concerns regarding Japanese Knotweed and how it has previously been addressed by City Council and how it will be addressed in this current application; concerns regarding its spread along riverfront and neighbouring properties; considers that there is an inadequate response to issue in this current appeal to eradicate it from site and neighbouring properties; comprehensive analysis required by registered specialist; comprehensive study of impacts of treating JK has not been assessed; input from NPWS and IFI needed
- Concerns regarding implications of extensive amount of soil removal and raises question such as where will contaminated soil go, is there capacity locally and would licence be granted; movement of electrical cables etc. Concerns regarding impacts on water table due to soil removal; concerns regarding flooding
- Impacts of JK eradication may have serious negative impacts on SAC, on flora/fauna and River Shannon; full EIAR should have been undertaken as proposal could result in complete collapse of this unique biodiversity area
- States that site needs to be JK free for 10 years before works can begin; implications of this on viability of site and insurance implications
- Biodiversity park- small scale, weak design; concerns regarding management
- AA- considers that NIS is deficient; no in-depth studies undertaken; timing of studies and that AA Screening does not prove beyond significant scientific doubt that this development will not have significant impacts on Lower Shannon SAC; list of flora and fauna identified on site by Mr. Pete Beaumont submitted
- Traffic and Transport Matters: traffic safety concerns; excessive quantity of carparking; emergency access; increased volume of traffic; road width; sightlines are compromised when exiting site; pedestrian safety compromised; no provision of cycle lanes; dangerous and busy road with anti-social behaviour

- Visual Amenity/Urban Design Matters: height and scale will dominate the surrounding built environment; proposal out of character with existing development; issues with elevational design of proposal; negative impacts on local community; lower impact housing scheme would be better suited to this site and would not impact on biodiversity of area; site not suitable for high density development; not socially inclusive or supportive of local community; lack of family units in area
- Residential Amenity Matters: impacts on daylight; stress of proposed building works on local residents.
- Flooding/Drainage concerns: considers flood management report to be flawed; used Government guidelines from 2009 which appellants consider not fit for purpose with climate crisis dramatically changed in interim; areas flooded during Storm Agnes (Sept 2023) are a few minutes' walk from the site; proposed site flooded during this storm up to road level, together with nearby pub; numerous recoded flooding to road level- photographs included. Concerns that there will be additional flooding on this site when proposed flood barriers on opposite side of river are built due to displacement; lack of clarity as to when flood barriers will be in place. No risk assessment undertaken without the proposed barriers undertaken and risk to site has not been adequately assessed. Site was zoned 20 years ago for residential development and question legitimacy of such given climate change in interim- reassessment needed with regards to removal of residential zoning from site.
- Other Matters: Misrepresentation in submitted documentation; inadequate consultation with local residents
- A significant volume of photographs was submitted with the appeal documentation

6.2. Applicant Response

A response was received on behalf of the applicant, which may be broadly summarised as follows:

- Refutes grounds of appeal

Japanese Knotweed

- Operations of Council/utility companies referenced has no bearing on this planning application/proposed development
- Proposed method of dealing with JK has taken account of the ecological integrity of the River Shannon SAC, its proximity and physical relationship along eastern boundary and potential effects of JK eradication and treatment programme on that designated area
- Planning application includes a site-specific methodology for the management of invasive species on site, which has also been referenced in NIS; prepared in accordance with best practice methodology; satisfied that it is an appropriate and practical manner to address the presence of JK; no basis to suggest it is flawed or incomplete or that the site should remain invasive species free for 10 years as contested in appeal; Condition No. 19 of PA decision noted; recommendations of Invasive Species Management Plan highlighted
- If/when interactions are encountered with water table, satisfied that dewatering of the excavations can be undertaken in accordance with best practice
- Clarifies that works are on-going to remove knotweed from site and adjoining properties with treatment programme commenced by Limerick City and County Council

Appropriate Assessment/EIA

- NIS presents sufficient technical data and assessment to determine that potential for significant adverse effects can be avoided; location, proximity and relationship between site and SAC is fully acknowledged in AA Screening and NIS
- NIS has taken into account the existence of JK, the management plan to eradicate the species and the hydrological and flood characteristics of the property which presents an obvious source pathway connection; no direct effect to species has been considered to occur; indirect effects will be dealt with by proposed mitigation measures

- Biodiversity value of site has been taken into account in proposal
- Incorrect to state that features of conservation interest listed in appeal exist on this site- incorrect, misleading and at odds with scientific evaluation in submitted NIS; no scientific evidence put forward by appellants to challenge the findings of NIS
- No requirement for mandatory EIA; nothing to suggest that a sub-threshold EIAR is warranted in this instance

Flood Management

- Flood Risk Management Guidelines (2009) are the relevant and current section 28 Ministerial guidelines that are used for development management function
- Proposed development is based on the inherent application of the Guidelines using most up to date flood data available through OPW CFRAM analysis- refers to section 5.16 of guidelines relating to guidance on floor levels and climate change
- Proposal includes additional flood risk protection of the surface water network to prevent surcharge during flood events
- Proposal is responsive to flooding characteristics of River Shannon; site is zoned for residential development and that zoning objective has been subject to strategic flood risk assessment as part of preparation of CDP; satisfied that proposal is consistent with operative Development Plan in this regard

Other Matters

- No intention to mislead community/Council with respect to tenure type; details clearly set out in application; response to housing demand requirements of County Council and of approved housing body; may include elderly and two-bed units can provide for smaller family units
- Suggestion for lower density housing would be at odds with national and local policy

- Height and scale responsive to urban location and prevailing planning policy; urban environment has sufficient visual capacity to accommodate proposal; appropriate design intervention relative to prevailing character
- Satisfied that proposal presents a sufficient quantum of parking; consistent with Development Plan provisions and provides less than maximum standards due to urban location and accessibility
- Internal layout compliant with DMURS and is not designed/intended to accommodate significant movement of traffic; traffic conflict arising is therefore unlikely
- Existing anti-social behaviour unrelated to proposed development
- Community group declined to engage further with regards the design of the park; local authority has agreed to take park in charge in due course; considered appropriate in terms of design and arrangement relative to its riparian edge adjacent to the river
- Technical response to appeal from Garland Consultancy in relation to flood management and Japanese Knotweed, which reiterates previous points made- reference made to same in my assessment below

6.3. **Planning Authority Response**

None

6.4. **Observations**

None

6.5. **Further Responses**

None

7.0 **Assessment**

- 7.1. The proposed development comprises the construction of 46 apartments and all ancillary site development works including biodiversity park.

7.2. Having examined the application details and all other documentation on file, including the reports of the planning authority and prescribed bodies, all appeal documentation received, observations received, together with having inspected the site, I consider that the main issues in this appeal are as follows:

- Principle of proposed development/policy context
- Drainage/flooding matters
- Invasive Species- Japanese Knotweed (JK)//Ecology
- Residential and visual amenity issues/Biodiversity Park/Urban Design
- Traffic and transport issues
- Other matters

Principle of proposed development/policy context

7.3 The site, which has a stated area of 0.75 hectares, is stated to have previously accommodated a residential area, now demolished. The third-party submission received states that the site was zoned 20 years ago for residential development and they question the legitimacy of such. I highlight to the Board that the examination of zoning objectives would have formed part of the most recent Development Plan process and note that the operative Plan came into effect relatively recently on 29th July 2022. Part of the site, primarily along New Road frontage is zoned 'New Residential' which seeks to 'provide for new residential development in tandem with the provision of social and physical infrastructure'. The residential and community room element of the proposed development is located on this portion of the site. Residential and community uses are 'Generally Permitted' within such zones. The remainder of the site (including that fronting the River Shannon and where the biodiversity park is located) is zoned 'Open Space and Recreation' which seeks to 'protect, provide for and improve open space, active and passive recreational amenities'. The planning authority consider the proposed development to be appropriate and in line with the zoning provisions, as set out in the Limerick Development Plan 2022.

7.4 Given the locational context of the site, within the established neighbourhood of Thomondgate and within walking distance of the city centre, I consider it to be a central and/or accessible urban location, as per the Sustainable Urban Housing:

Design Standards for New Apartments, 2022. It is located within Zone 2: Intermediate Urban Locations within the operative Development Plan. I am satisfied that the principle of residential development is acceptable on the element of the site zoned for such and likewise for the remainder of the development on open space zoned lands. I also consider that the proposal would aid in achieving targets for residential development within the settlement. There are numerous policies and objectives within the operative Plan in support of compact growth and revitalisation (for example Policy CGR P1) which place an emphasis on revitalisation and the delivery of more compact and consolidated growth, integrating land use and transport, with the use of higher densities and mixed-use developments at an appropriate scale on brownfield, infill, backland, state lands and underutilised sites within the existing built footprint of Limerick's City, Towns and Villages. The current proposal provides a mix of uses on a brownfield, underutilised and infill site, which is stated to be in local authority ownership, located within the existing built-up area of Limerick city. I am satisfied in this regard.

Density

- 7.5 The third-party submission received raise concerns regarding the density proposed and states that a lower density of development would be more appropriate on the site. Table 2.6 of the operative Plan sets out Density Assumptions per Settlement Hierarchy while Map 2.2 outlines the density zones. The subject site is located within Level 1, Zone 2: Intermediate Urban Locations/Transport Corridors where, as outlined in Map 2.2 (Vol 1) and Map 4 (Vol 2a) a minimum net density of 45+ dwelling units per hectare is anticipated.
- 7.6 The stated area of the subject site is 0.75 hectares- this includes for the entire area as outlined in red, including the biodiversity park. The density of development is 61.3 units/ha and is therefore in compliance with the policies and objectives of the operative County Development Plan in this regard.
- 7.7 In terms of national guidance, I note the recently published Sustainable and Compact Settlements, Guidelines for Planning Authorities (2023). Table 3.2 of these Guidelines sets out density ranges for Limerick and Suburbs and I consider the site to be located within the City-Urban Neighbourhood, namely a highly accessible urban location with good access to employment, education and institutional uses and

public transport. The site is within walking distance of the city centre. The Guidelines state that it is a policy and objective that residential densities in the range of 50 dph to 200 dph (net) shall be generally applied in such urban neighbourhoods. I consider that the proposal is in compliance with these Guidelines in this regard. The adopted Development Plan seeks to encourage compact growth and seeks to make the most sustainable use of existing urban land within the built envelope of a settlement. I consider that this is being achieved in this instance and I consider the proposal to be in compliance with both local and national policy in this regard.

Drainage/Flooding Matters

- 7.8 The third-party submissions raise concerns in relation to drainage matters, with the issue of flooding being one of the main concerns expressed, in addition to the capacity of existing infrastructure. They consider the flood management report to be flawed as it used Government guidelines from 2009 which the appellants consider not fit for purpose and note that the climate crisis has dramatically changed in interim. In addition, the appellants cite previous flooding in the vicinity, in particular during Storm Agnes (Sept 2023) and that the proposed site flooded during this storm up to road level. The appellants have concerns that there will be additional flooding on this site when proposed flood barriers on the opposite side of the river are built and that there is a lack of clarity as to when flood barriers will be in place. They are of the opinion that the risk to site has not been adequately assessed.
- 7.9 The planning authority have not raised objection in this regard. They requested Further Information in relation to how the proposed surface water network would operate during a flood event. In response, the applicants stated that the attenuation basin was removed from the proposal and replaced with a porous asphalt attenuation system. The planning authority, including their technical departments, are satisfied in this regard. I note the report of Uisce Eireann that has no objections to the proposal, subject to conditions.
- 7.10 It is stated in the documentation that the surface water system for the development has been designed to cater for 1:100 year rainfall events plus 30% climate change and 10% urban creep. Therefore, contrary to the appellants submission, the matter of climate change has been taken into account in the design of the proposal. The

first party acknowledges that limited sections of the road and carparking areas will flood in large coastal flood events to a level of 5.16m in a 1:1000 year coastal flooding event. However, these coastal flood waters will subside and discharge from the development due to the tidal nature of the flood event.

7.11 In response to the appeal, the first party state that Flood Risk Management Guidelines (2009) are the current section 28 Ministerial guidelines that are used for development management function and that the proposed development is based on the inherent application of the Guidelines using most up to date flood data available through OPW CFRAM analysis, including guidance on floor levels and climate change. The first party further state that the proposal includes additional flood risk protection of the surface water network to prevent surcharge during flood events and is responsive to flooding characteristics of River Shannon. The site is zoned for residential development and that zoning objective has been subject to strategic flood risk assessment as part of preparation of CDP process. The first party are satisfied that proposal is consistent with operative Development Plan in this regard.

7.12 I note the photographs submitted with the appeal submission and highlight to the Board that some of these do not indicate when/when the photographs were taken. In terms of photographs where the location can be identified, for example Barrack Lane Boat Club, the first party note that existing ground levels vary along the River Shannon and these levels are susceptible to flooding to 1:10 year coastal flood events, and 1:10 and 1:100 year events at Donnellan's Field, as indicated on CFRAM mapping.

7.13 A Flood Risk Assessment was submitted with the application documentation. The site is located within Flood zones A and B. Possible sources of flooding have been identified as fluvial flood risk and coastal/tidal flood risk. A Justification Test was undertaken. The site is zoned for residential development. It is acknowledged by the first party that the development is expected to displace a small volume of water in large flood events, however this volume is minimal in the context of the scale of the tidal River Shannon. The proposal will not have an impact on water levels of the River Shannon and will not increase flood risk elsewhere. Buildings will be located on the highest part of the site fronting New Road, while the lower section of the site, adjacent to the River Shannon will be used for recreational purposes. A minimum FFL for residential buildings of 5.79m is proposed. This level is 1m above the 1:200

year coastal flood level of 4.79m to allow for a 0.5m rise in flood levels due to climate change and a 0.5m freeboard. The primary pedestrian/emergency access route from the development is onto New Road, which is above the 1:1000 year coastal flood level of 5.16m (in Flood Zone C), therefore access/egress will be possible even during extreme events.

7.14 In terms of the proposed flood defences referenced in the appeal submission, the first party responds by stating that these are notional and proposed as part of the Shannon Upper & Lower Flood Risk Management Plan. They further state that the proposed development is in no way reliant on the use or completion of these possible proposed food defences. The planning authority has not made comment on this matter. I am satisfied in this regard.

7.15 In terms of surface water drainage, Condition 12(a) of the planning authority decision is noted, which requires the submission of a revised Surface Wate Disposal Layout Plan. It further states that the proposed porous asphalt road surface and parking bays finish is not permitted and an alternative shall be agreed. This matter could be adequately dealt with by means of condition, if the Board is disposed towards a grant of permission.

7.16 Having regard to all of the information before me including the reports of the planning authority and Uisce Eireann, I have no information before me to believe that the proposal would lead to an increase in flooding elsewhere. An examination of the OPW website does not indicate any historical flooding in the immediate area. Infrastructural capacity would have been taken into account by the planning authority in the zoning of the land, during the Development Plan process. I have no information before me to believe that the proposal would be prejudicial to public health. I am satisfied in this regard.

Invasive Species- Japanese Knotweed (JK)/Ecology

7.17 The matter of invasive species and impacts on ecology were one of the main concerns raised in the third-party appeal submission. In terms of invasive species, I highlight to the Board that this matter has also been dealt with in the Appropriate Assessment section of my report. In the interests of brevity, I will not reiterate but refer the Board to same.

- 7.18 The third-party concerns relate to the Japanese Knotweed that is on-site and how it has previously been addressed by the City Council and how it will be addressed in this current application. They have concerns regarding its spread along the riverfront and to neighbouring properties and are of the opinion that there is an inadequate response to the issue in this current appeal to eradicate it from both the site and neighbouring properties. They further contend that a comprehensive study of impacts of treating JK has not been undertaken with input from prescribed bodies and that comprehensive analysis is required by a registered specialist and that this has not occurred.
- 7.19 In addition, the third party raises concerns regarding implications of extensive amount of soil removal and its subsequent management. They note that impacts of JK eradication may have serious negative impacts on the SAC, on flora/fauna and the River Shannon. They state that the site needs to be JK free for 10 years before works can begin and question the implications of this on the viability of the site and insurance.
- 7.20 The planning authority have addressed the matter of invasive species in their reports and have not raised concerns in this regard, subject to condition (No. 19) and I refer the Board to same. The Heritage Officer of the planning authority states that while the surveys contained in the NIS date back to 2021, they are of the opinion that nothing on site has changed in the interim and that the recommendations of the NIS remain valid. They verify that there were attempts to deal with the invasive species on site as far back as 2015 with only partial success. Conditions are recommended.
- 7.21 The first party address the matter in their response to the appeal. They state that the operations of the Council/utility companies referenced has no bearing on this planning application/proposed development. I would concur with this assertion. In addition, the first party clarify that works are on-going to remove Japanese Knotweed from the site and adjoining properties with a treatment programme commenced by Limerick City and County Council. I consider any works currently on-going by another party to be outside the remit of this planning appeal.
- 7.22 The first party further state that the proposed method of dealing with JK has taken account of the ecological integrity of the River Shannon SAC, its proximity and physical relationship to the River Shannon and potential effects of JK eradication and

treatment programme on that designated area. The planning application includes a site-specific methodology for the management of invasive species on site, which has also been referenced in NIS and prepared in accordance with best practice methodology. The first party are satisfied that it is an appropriate and practical manner to address the presence of JK and they contend that there is no basis to suggest it is flawed or incomplete or that the site should remain invasive species free for 10 years as contested in appeal. They note Condition No. 19 of the planning authority decision and the recommendations of the submitted Invasive Species Management Plan. They further state that if/when interactions are encountered with the water table, they are satisfied that dewatering of the excavations can be undertaken in accordance with best practice.

7.23 An Invasive Alien Species of Plant (IAPS) Phase 2 Management Plan was submitted with the application documentation, which contains recommendations for the management of the Japanese Knotweed on site to allow for the construction of the proposed development. In addition to a Screening for Appropriate Assessment and Natura Impact Assessment were also submitted, together with a Construction and Environmental Management Plan. It is stated that there is one invasive alien species infestation of plant (IAPS) listed under Schedule 3 of the Habitat Regulations (2011) located on the site -Japanese Knotweed. The Management Plan recognises that any soil disturbance where the rhizomes get fragmented, can and will most likely lead to the spread of the infestation. These rhizomes can penetrate the soils to depths of 3 metres and spread laterally for up to 7 metres from the main infestation. Therefore, the visible JK above ground level will extend to a much larger area below ground level. The total extent of Japanese Knotweed on site is stated as being 4,117m², with the infestation stated to be mature and well established. There were also neighbouring infestations noted within close proximity of the River Shannon and along both the northern and southern site boundaries. It is stated in the Management Plan that neighbouring infestations must be included within any scope of works to prevent future reinfestation.

7.24 Two different methods for removal of JK are proposed- removal using in-situ herbicide and by excavation. Excavation is proposed along the perimeter extending for 7m around the proposed development areas while the use of in-situ herbicide is proposed for the remaining areas. Excavation will take place over two main areas

(along NW and SE boundaries), with smaller isolated pockets also identified. The areas where excavation is required are located on elevated lands where ground levels are in excess of 3.5mOD, which are above the high-water mark of the site. Typically, knotweed excavations are required to be approximately 2m deep, however it is accepted in the documentation that excavations in excess of this can be required depending on depth of growth of the knotweed roots. Any such works will be undertaken by an experienced and insurance backed company and transported by a contractor in possession of a controlled waste carrier licence to a registered landfill which can legally accept and dispose of such material. Works will be undertaken in accordance with industry best practice including the Management of Invasive Alien Plant Species on National Roads- Technical Guidance produced by the TII. Given the proximity of the invasive species to the river, it is recommended in the submitted Management Plan that NPWS and Inland Fisheries be notified in advance of any works taking place, who may wish to apply amendments to the proposed excavation works within the designated buffer zone of the watercourse. I note from the information on file that it appears that the application was referred to the Department of Housing, Local Government and Heritage by the planning authority, with no response received.

7.25 Having examined all of the information before me in this regard, I am of the opinion that an appropriate response to dealing with the invasive species on site has been put forward in the submitted documentation. I acknowledge that this is a sensitive site, by virtue of its proximity to the River Shannon and its designated status, and that any such works must be undertaken to the highest standards. It is noted that eradication works are on-going by the local authority and this current proposal seeks to continue with these eradication works, in accordance with best scientific methodology and national guidance. The planning authority have not raised concern in this regard and are satisfied to deal with the matter by condition. I note the report of the Environment, Recreation and Climate Change Section in this regard, which does not raise objection to the proposal. I also refer to the Board Condition No. 19 of the planning authority decision to grant permission which states that prior to the commencement of development, the developer shall submit for the written agreement of the planning authority an assessment and method statement on how best to deal with invasive species contaminated material on site. This work shall be

carried out under the supervision of an invasive species specialist. The method statement shall provide details of the buffer zones, nominated authorised waste collector and ongoing treatment programme. On completion, the invasive species specialist shall submit a report certifying that the removal process of invasive species is satisfactory. I recommend that if the Board is disposed towards a grant of permission that a similarly worded condition be attached to any such grant.

7.26 In terms of impacts of the proposal on other habitats and species, the appellants have attached, what they refer to, as a full list of flora and fauna identified on the site. This list includes some of the Qualifying Interests of the Lower River Shannon SAC. No evidence has been submitted by the third-party appellants to validate these claims. The matter of effects on Qualifying Interests for this SAC has been dealt with comprehensively in the submitted NIS and no substantive evidence has been put forward by the appellants to lead me to believe otherwise. I refer the Board to Section 2 of the submitted AA Screening Report in this regard which lists the habitats and species identified on site during the survey undertaken in 2021. Many of the plants and species identified are of the common, everyday species, common to such urban sites. I note that groundworks have previously taken place on the site and it is brownfield in nature. The area of site zoned for open space and recreation is being maintained as a Biodiversity Park, with many existing trees and habitats being retained and supplemented by additional planting. In the area of the site zoned for new residential development, it is inevitable that there will be some loss of species/habitats as a result of the proposed works, none of which are Qualifying Interests for designated sites, and the proposal includes for compensatory landscaping. A Landscape Masterplan has been submitted with the application documentation. I am satisfied in this regard. The planning authority are also satisfied.

Residential and Visual Amenity/Biodiversity Park/Urban Design

7.27 I note that the third-party appeal submissions raise concerns in relation to residential amenity and concerns raised include issues of impacts on daylight; stress of proposed building works on local residents; small scale of proposed biodiversity park and weak design of same.

7.28 In terms of impacts on residential amenity, I am cognisant of the relationship of the proposed development to neighbouring properties. Having examined the proposal, I am of the opinion that separation distances typical of what would normally be anticipated within such an established, urban area are proposed with existing properties. This will ensure that any impacts are in line with what might be expected in an area such as this. A separation distance of 13m is proposed between the front elevation of the proposed development and existing development on the opposite side of New Road. Concerns regarding impacts on daylight were raised in the third-party appeal submission. I note that a Daylight and Sunlight Report was submitted as part of the FI response. I am satisfied with the conclusions contained therein. I note that the submitted Report has been prepared in accordance BRE BR209 'Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice', 3rd Edition 2022. I have considered the report submitted by the applicant and have had regard to BS 8206-2:2008 (British Standard Light for Buildings- Code of practice for daylighting) and BRE 209 – Site Layout Planning for Daylight and Sunlight: A guide to Good Practice (2011). The latter document is referenced in the section 28 Ministerial Guidelines on Urban Development and Building Heights (2018). While I note and acknowledge the publication of the updated British Standard (BS EN 17037:2018 'Daylight in Buildings'), which replaced the 2008 BS in May 2019 (in the UK), I am satisfied that this document/UK updated guidance does not have a material bearing on the outcome of the assessment and that the more relevant guidance documents remain those referenced in the Urban Development and Building Heights Guidelines. I have carried out a site inspection.

7.29 In designing a new development, it is important to safeguard the daylight to nearby buildings. I have had regard to the guidance documents referred to in the Ministerial Guidelines and the Limerick Development Plan to assist in identifying where potential issues/impacts may arise.

7.30 Neighbouring properties at 22, 23, 25 to 38, 56, 74 and 75 New Road were assessed. I consider this approach to be reasonable. A 13m separation distance is proposed between these existing properties and that proposed. Limited impacts on daylight/sunlight are anticipated, but it is acknowledged that some windows do not meet the BRE guidance levels. However, I note the proposal is setback marginally from the existing building line along New Road, which would aid in increasing levels.

Given the separation distances with existing properties, orientation and the design rationale put forward, I consider such potential impacts to be reasonable, having regard to the need to provide new homes within an area identified for residential development/compact growth, and increase densities within zoned, serviced and accessible sites, as well as ensuring that the potential impact on existing residents is not significantly adverse and is mitigated in so far as is reasonable and practical. The planning authority did not raise concerns in this regard. I am also satisfied in this regard.

- 7.31 The third-party appeal submission states that there is a lack of family units in the area and lower density housing would be more appropriate at this location. I note Objective HO 05 of the operative Development Plan which states that it is an objective of the Council to encourage an increase in the scale and extent of apartment development while I also note the number of dwelling houses in the vicinity of the site. I highlight to the Board that there are 9 no. two-bed units within the proposed scheme, which could aid in providing housing to smaller families. Given the locational context of the site, I am generally satisfied in this regard and consider the proposed unit mix/type to be appropriate.
- 7.32 Given the height and design of the proposed blocks, I am of the opinion that they would not unduly overbear, overlook or overshadow adjoining properties, and would not seriously injure the amenities of property in the vicinity of the site. I am satisfied that impacts on privacy would not be so great as to warrant a refusal of permission. There is an acknowledged housing crisis and this is a serviceable site, in an established urban area, where there are adequate services, facilities and employment in close proximity.
- 7.33 In terms of construction impacts, while I acknowledge the concerns expressed, I do note that any such negative impacts would be short-lived and temporary in duration. A Construction and Environmental Management Plan was submitted with the application documentation, which states that a Preliminary Traffic Management Plan will be prepared for the site works. I consider that any negative impacts arising from construction traffic would not be so great as to warrant a refusal of permission. I recommend that the matter of construction management be dealt with by means of condition, if the Board is disposed towards a grant of permission.

7.34 The third-party submission received raised concerns in relation to the public open space provision/ biodiversity park scale and design. I note that private open space is proposed for all units. A stated 867.2m² of communal open space is proposed. The planning authority dealt with the matter of quantum of open space in their request for Further Information. The limited scale of the proposed Biodiversity Park was raised as a concern in the appeal submission. The proposed Biodiversity Park has an area of 2703m², which is in excess of Development Plan requirement of 10% public open space for brownfield/infill sites. It is located to the rear of the site, on lands zoned for open space and recreation, adjacent to the River Shannon in an area prone to flooding, and will contain wetland meadow, native hedging, seating, looped pathway and woodland groves. I note other areas of public open space within the vicinity of the site. I am satisfied with the scale of the proposed park and consider that it reflects the intentions of the planning authority due to its zoning, while the proposed residential use is located on residentially zoned lands. If the planning authority considered that a greater scale of biodiversity park was necessary at this location, they would have zoned the entirety of the site for such use. The planning authority state that given the site's location within a floodzone, the proposed use is considered appropriate and is welcomed by them. Passive surveillance from the proposed apartments is welcomed. A Landscape Masterplan was submitted as part of the Further Information response. The proposal is considered to meet the standards of the operative County Development Plan in this instance. The planning authority are satisfied in this regard. Exact details of the landscaping of this area could be dealt with by means of condition if the Board is disposed towards a grant of permission.

7.35 Concerns are raised in the appeal submission regarding the future management of the Biodiversity Park and capacity of the planning authority to adequately manage it. The planning authority have not expressed any concerns in relation to their role in managing the proposed biodiversity park, once completed, and I note a letter attached to the file from Parks and Recreation Department of Limerick City and County Council (dated 25/05/2023) which states that they will manage and maintain the Biodiversity Park including control of access once the development has been completed and handed over to the Council. I am satisfied in this regard.

7.36 In terms of visual amenity, I note that this has been raised as a concern in the third-party submission received, including the proposal being visually dominant at this sensitive location, that the height and scale will dominate the surrounding built environment and be out of character with existing development; together with issues with elevational design of proposal. The third-party submission considered that a development of lesser height/scale would be more appropriate at this location. A Design Statement and photomontages were submitted with the application documentation. I am satisfied with the heights proposed and consider that they would integrate well with existing development in the immediate locality. I note the top floor of Block A is setback. I am also generally satisfied with the design approach put forward in this instance, including elevational treatment. The prevailing heights in the immediate area are single and two-storey properties. The proposal is three and four-storeys in height. Generally, I do not consider the proposal to be excessively dominant, overbearing or obtrusive in its context and I consider that the subject site has capacity to accommodate a development of the nature and scale proposed, without detriment to the visual amenities of the area. I do not consider the proposal to be out of character with existing development in the vicinity nor does it represent over-development of the site. I am satisfied that the proposed development is in accordance with the operative Development Plan in this regard. The planning authority have not raised concern in this regard.

7.37 The site in its current state is overgrown and with palisade fencing along the street boundary, adds little to the amenity of the area. It could, in fact, be stated to detract from the visual amenity of the area. The planning authority state that the development as proposed for residential land use is a positive use of the site. I would concur and I also consider that the provision of the Biodiversity Park will add to the amenity of the area and become an attractive addition for existing and future residents.

7.38 I am generally satisfied with the design approach put forward. However, I do highlight to the Board that the layout is somewhat dominated by surface car parking. I am of the opinion that a lesser quantum of car parking at surface level would improve the amenity and provide for a higher quality environment for pedestrians. In particular, I note the area between the two blocks accommodates 15 surface car parking spaces. This had the potential to create an attractive vista down to the

Biodiversity Park and river beyond from New Road. It is now essentially a car park and that potential is being lost, in my opinion. I therefore consider that, with the exception of the two accessible spaces, all spaces between the two blocks (13 spaces) should be omitted from the proposal. In terms of compliance with Development Plan policy, I note that section 7.10.4 of the Plan states that maximum car parking standards have been applied in all areas, to support the shift away from car dependency and to support the modal shift to alternative modes of transport, particularly in the City Centre. I note that a Parking Justification Assessment was also submitted with the Further Information response. Section 11.8.3 of the Plan sets out circumstances where deviation from parking standards may be allowable. In terms of this site, I note that two car sharing spaces are proposed on-site; that there is existing undesignated car parking on New Road; that the proposal involves the regeneration of this brownfield site and that the removal of these 13 spaces would enhance the public realm at this location. National policy also supports the reduction in car parking provision at appropriate locations. While I acknowledge that there is not a high frequency public transport system in the immediate vicinity of the site, it is located within walking distance of the city centre and its associated services and facilities. It is incorrectly stated in the Design Statement that the site is less than 1 minutes' walk to Colbert bus and train station. It would appear to me (from an examination of Google maps) that it is more in the region of 30-minute walk. Notwithstanding this, I recommend the omission of 13 spaces located between Block A and B (namely spaces 25-28; 31-39 inclusive on Drawing No. PP-301/A). This matter could be adequately dealt with by means of condition. I do not consider the removal of these spaces to represent a material contravention of the operative Development Plan.

7.39 I am of the opinion that the proposed Knapp plaster finish should be omitted from the proposal and replaced with a more durable finish. This matter could be adequately dealt with by means of condition.

7.40 I consider that the site has capacity to absorb a development of the nature and scale proposed, without detriment to the amenities of the area. I am generally satisfied in this regard.

Traffic and Transport Matters

- 7.41 I highlight to the Board that this has been raised as an issue in the appeal submission received namely concerns regarding excessive quantity of car parking proposed; pedestrian and vehicular safety and additional traffic movements generated by the proposed development. A Construction and Environmental Management Plan, Traffic and Transport Assessment Report and Mobility Management Plan were submitted with the documentation.
- 7.42 I note that the planning authority, in arriving at their decision, requested both Further Information from the applicant in relation to traffic and transport matters. The number of car parking spaces increased in response to the FI request from 39 to 47 no. spaces, which includes for 2 no. dedicated car sharing spaces. A Parking Justification Assessment was also submitted with the response. On foot of the FI response, the Roads Section recommended conditions to be attached to any grant permission while the Active Travel section had concerns regarding the number of cycle storage spaces proposed. This matter was dealt with by means of condition by the planning authority.
- 7.43 Vehicular access is proposed from New Road and a total of 47 car parking spaces at surface level are proposed (including 2 no. accessible spaces), giving a little over 1 space/unit. The speed limit is 50 kmph. During my site visit on a Wednesday mid-morning, I noted that traffic levels on New Road were relatively low and speeds appeared to be within the limit. There appeared to be undesignated parking on the opposite side of New Road. Section 7.10.4 of the operative Plan deals with Car Parking and I refer the Board to Table DM 9(a) of the operative City Development Plan which sets out Car and Bicycle Parking Standards Limerick City and Suburbs which provides for 1 space per unit for 1-2 bed apartment and 1 space per 3 units for visitor/short term for development within Zone 2 (within which the subject site is located). This would equate to 62 no. required parking spaces. The Plan states that maximum car parking standards have been applied in all areas, to support the shift away from car dependency and to support the modal shift to alternative modes of transport, particularly in the City Centre. Given the locational context of the site, I am of the opinion that a lesser quantum of parking could be proposed. Notwithstanding this opinion, I consider the level of parking proposed to be in compliance with

Development Plan policy. Concerns regarding impacts of parking levels on layout are dealt with under the 'Visual Amenity' section of my assessment.

7.44 Concerns have been raised by some of third parties regarding concerns for HGV movements within the proposed development. The first party respond by stating that it is not anticipated that there would be high levels of HGV movement within the site. This is considered reasonable. The planning authority have not raised concerns in this regard and the Roads Planning Report were satisfied that all matters raised in the FI request could be dealt with my condition. I am satisfied in this regard.

7.45 Concerns have been raised by the third party in relation to capacity of the road network, increased traffic volumes and inadequate sightlines. The site is located within an urban environment with an appropriate road network. It is not anticipated that the proposal would generate significant volumes of traffic, given its overall scale and quantum of car parking spaces proposed. A Mobility Management Plan is submitted. The planning authority have not raised concerns in this regard. I have no information before me to believe that the proposal would lead to the creation of a traffic hazard or obstruction of road users. I consider that the proposal is substantially in compliance with DMURS and other government guidance, together with local policy. Under the Design Manual for Urban Roads and Streets (DMURS), the needs of pedestrians and cyclists are to be prioritised. I am satisfied in this regard.

Other Matters

7.46 While consultation with local residents is welcomed and often beneficial for all parties, I note that there is no obligation in the legislation for the applicants to consult with local residents prior to submission of a planning application.

7.47 The matter of tenure has been raised in the appeal submission. I note that the site is in the ownership of Limerick City and County Council. The FI response to the planning authority sets out the proposal in relation to this site (see letter from WhiteBox, dated 08/07/2023) which states that while the proposal would be suitable for sheltered housing and has been designed specifically for the elderly or persons with mobility issues, there are no dedicated units in this development for sheltered housing. The applicant states that they will fully comply with the Council's Housing Delivery Action Plan which states that existing LA owned landbanks must deliver

mixed tenure with 30% requirement for social rental tenure, 50% affordable tenure and 20% private tenure including private downsizing. They further state that the provision of sheltered housing in these tenure types will depend on housing need and demand. The planning authority were satisfied with this response. As stated above, the application is also accompanied by a letter from Housing Development Directorate, Limerick City and County Council (dated 20/12/2022) which confirms that an agreement in principle to comply with the applicants Part V obligation has been reached with the transfer of 9 no. units on-site to the Council on condition that the units are managed by an Approved Housing Body. Final negotiation to be concluded on specific details. I am also satisfied in this regard.

7.48 Lack of clarity in the information submitted by the first party has been raised in the third-party submission. I am satisfied that there is adequate information on file for me to undertake a comprehensive assessment of the proposed development.

7.49 Matter of current anti-social behaviour are outside the remit of this planning appeal and are a matter for An Garda Síochána.

7.50 I am generally satisfied with the remainder of the proposal, subject to compliance with conditions. A good quality of accommodation is being offered to future occupiers and the proposal is generally in compliance with the standards set out in the Sustainable Urban Housing, Design Standards for New Apartments Guidelines. The proposal will be an attractive addition to the area at this location and would contribute to the residential mix in the area, in accordance with the zoning objective for the area. The public gain from the proposed Biodiversity Park will be a benefit to the wider community. The proposal is considered to be generally in compliance with relevant policies and objectives of the operative Development Plan and the proper planning and sustainable development of the area.

Conclusion

7.51 Having regard to the layout, height and design solution put forward, together with the enhanced open space facilities proposed, I am satisfied that the proposed development is in accordance with the zoning objectives of the Development Plan, is in keeping with the pattern of development in the area and is in accordance with the proper planning and sustainable development of the area.

8.0 Recommendation

- 8.1. I recommend that the decision of the planning authority be UPHELD and that permission be GRANTED, subject to the following conditions.

9.0 Reasons and Considerations

Having regard to the pattern of development in the area and its zoning under the Limerick Development Plan 2022-2028, it is considered that, subject to compliance with conditions below, the proposed development would not seriously injure the character of the area or the amenities of property in the vicinity, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience. 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 Further Information received by the planning authority on 31st 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>Reason: In the interest of clarity.</p>
2.	<p>The mitigation measures and monitoring commitments identified in the Natura Impact Statement, Invasive Alien Species of Plan (IAPS) Phase 2 Management Plan, Construction and Environmental Management Plan and other plans and particulars submitted with the application shall be carried out in full except as may otherwise be required in order to comply with other conditions.</p>

	<p>Prior to the commencement of development, the developer shall submit a schedule of mitigation measures and monitoring commitments in a single document, as identified in the submitted documents and details of a time schedule for implementation of the mitigation measures and associated monitoring, to the planning authority for written agreement</p> <p>Reason: In the interest of clarity and protection of the environment during the construction and operational phases of the proposed development.</p>
3.	<p>Prior to the commencement of any development of site, the applicant shall submit for the written agreement of the planning authority revised drawings showing:</p> <ul style="list-style-type: none"> (a) Omission of 13 car parking spaces between Blocks A and B (namely spaces 25-28; 31-39 inclusive on Drawing No. PP-301/A) with details of how this area shall be suitably landscaped. (b) Details of proposed covered cycle spaces, showing compliance with standards set out in the Limerick Development Plan 2022 (c) Stage 3 Road Safety Audi
4.	<p>Prior to the commencement of development on site, the applicants shall ascertain and comply with all requirements of the planning authority with regards to the eradication of invasive species from the site.</p> <p>In this regard, the applicants shall also submit an assessment and method statement on how best to deal with invasive species contaminated material on site shall be submitted to the planning authority, for their written agreement, prior to the commencement of any works on site. The method statement shall provide details of the buffer zones, nominated authorised waste collector and on-going treatment programme. The works shall be carried out under the supervision of an invasive species specialist, who shall monitor all site investigations and other works and who, on completion shall submit a report certifying that the removal process of invasive species is satisfactory.</p>

	Reason: In the interests of environmental protection and orderly development
5.	<p>No residential unit shall be occupied until such time as the proposed Biodiversity Park is fully completed to the written satisfaction of the planning authority.</p> <p>Reason: In the interest of social inclusion and to secure the integrity of the proposed development including open spaces.</p>
6.	<p>Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. Render shall not be used as an external finish.</p> <p>Reason: In the interest of visual amenity.</p>
7.	<p>Each apartment shall be used as a single dwelling unit only and shall not be sub-divided in any manner or used as two or more separate habitable units.</p> <p>Reason: In the interests of sustainable development and proper planning</p>
8.	<p>The developer shall comply with all requirements of the planning authority in relation to roads, access, lighting and parking arrangements, including facilities for the recharging of electric vehicles. In particular:</p> <p>(a) The roads and traffic arrangements serving the site (including signage) shall be in accordance with the detailed requirements of the Planning Authority for such works and shall be carried out at the developer's expense.</p> <p>(b) The roads layout shall comply with the requirements of the Design Manual for Urban Roads and Streets, in particular carriageway widths and corner radii;</p>

	<p>(c) The materials used in any roads / footpaths provided by the developer shall comply with the detailed standards of the Planning Authority for such road works,</p> <p>(d) A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site</p> <p>Reason: In the interests of traffic, cyclist and pedestrian safety and to protect residential amenity.</p>
9.	<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 - (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove. In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.</p>
10.	<p>Site development and building works shall be carried out only between the hours of 0800 to 2000, Mondays to Fridays inclusive, between 0800 to 1600 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional</p>

	<p>circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
11.	<p>Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any dwelling.</p> <p>Reason: In the interests of amenity and public safety.</p>
12.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health and to ensure a satisfactory standard of development.</p>
13.	<p>The applicant shall enter into water and wastewater connection agreements with Uisce Éireann, prior to commencement of development.</p> <p>Reason: In the interest of public health.</p>
14.	<p>The site shall be landscaped in accordance with the detailed comprehensive scheme of landscaping, which accompanied the application submitted, unless otherwise agreed in writing with, the planning authority prior to commencement of development. The developer shall retain the services of a suitably qualified Landscape Architect throughout the life of the site development works. The approved landscaping scheme shall be implemented fully in the first planting season following completion of the development or each phase of the development and any plant materials that die or are removed within 3 years of planting shall be replaced in the first planting season thereafter.</p>

	<p>Reason: To ensure a satisfactory completion and maintenance of the development in the interests of residential amenity and in the interests of protecting the environment</p>
15.	<p>The proposed development shall make provision for the charging of electrical vehicles. All car parking spaces serving the development shall be provided with electrical connections, to allow for the provision of future charging points and in the case of 10% of each of these spaces, shall be provided with electrical charging points by the developer. Details of how it is proposed to comply with these requirements, including details of design of, and signage for, the electrical charging points and the provision for the operation and maintenance of the charging points shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: in the interests of sustainable transportation</p>
16.	<p>Proposals for the development name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, and apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).</p> <p>Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.</p>
17.	<p>No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.</p>

	<p>Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.</p>
18.	<p>The construction of the development shall be managed in accordance with a Final Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide, inter alia: details and location of proposed construction compounds, details of intended construction practice for the development, including hours of working, noise and dust management measures, details of arrangements for routes for construction traffic, parking during the construction phase, and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
19.	<p>Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.</p> <p>Reason: In the interest of sustainable waste management.</p>
20.	<p>All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed</p>

	<p>development.</p> <p>Reason: In the interest of orderly development and the visual amenities of the area.</p>
21.	<p>A plan containing details for the management of waste (and, in particular recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.</p> <p>Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.</p>
22.	<p>The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall: (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works. The assessment shall address the following issues: (i) the nature and location of archaeological material on the site, and (ii) the impact of the proposed development on such archaeological material. A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works. In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p>

	<p>Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.</p>
23.	<p>Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.</p> <p>Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.</p>
24.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p>Reason: To ensure the satisfactory completion of the development.</p>

25.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
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Note: The applicants are advised to note section 34(13) of the Planning and Development Act, 2000 (as amended) which states that a person shall not be entitled solely by reason of a permission to carry out any development.

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.

Lorraine Dockery
Senior Planning Inspector

28th May 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-318257-23			
Proposed Development Summary	Construction of 46 no. apartments, biodiversity park and all associated site works.			
Development Address	Prior's Land, New Road, Thomondgate, Limerick			
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? <small>(that is involving construction works, demolition, or interventions in the natural surroundings)</small>		Yes	x	
		No	No further action required	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?				
Yes		Class.....	EIA Mandatory EIAR required	
No	x		Proceed to Q.3	
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?				
		Threshold	Comment (if relevant)	Conclusion
No	x	N/A		No EIAR or Preliminary Examination required
Yes		Class/Threshold.....		Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: Lorraine Dockery Date: 28th May 2024

Appendix 2- Form 2

Screening for Appropriate Assessment Screening Determination

Step 1: Description of the project

I have considered the proposed residential development and associated site works in light of the requirements of S177U of the Planning and Development Act 2000 as amended.

The subject site is not located within any designated European site but is located in direct proximity to the Lower Shannon SAC (Site Code 002165). This designated site borders the development site on its north-eastern side.

It is proposed to construct a residential development comprising 46 no. apartments in two blocks (3 and 4 storey in height), a biodiversity park and ancillary works at New Road, Limerick. An outfall from the attenuation basin is required. This outfall will not be piped but a swale constructed instead, 300mm in depth of natural construction to minimise impacts on the bank of the river and associated Riparian woodland. There is over a 2m fall across the site.

The development site can be best described as Improved Depositing/Lowland Rivers (FW1), Spoil and Bare Ground (ED2), Recolonising Bare Ground (ED3), Buildings and Artificial Surface (BL3), Stone Walls and Other Stonework (BL1), Riparian Woodland (WN5) and Scrub (WS1) as per Fossitt (2000).

An Invasive species, Japanese Knotweed, has been identified on site. It is currently being actively managed with the intention that it be treated and appropriately dealt with, prior to the commencement of development on site- details outlined in Management Plan prepared by Veon.

I have provided a detailed description of the development in my report and detailed specifications of the proposal are provided in the AA Screening Report, NIS, and other planning documents provided by the applicant.

Step 2: Potential impact mechanisms from the project [consider direct, indirect, temporary/permanent impacts that could occur during construction, operation and, if relevant, decommissioning]

The proposed development will not result in any habitat loss of any European Site. The proposed project is not directly connected with or necessary to the management of any Natura 2000 site.

Potential direct effects mechanisms include:

- Impacts on instream species such as fish and potential to disrupt the natural flow of the river/change sedimentation in the vicinity of the outfall
- Potential for otter and other species to interact with the outfall
- Potential for direct impacts on river bed habitat

Examples of Indirect impacts and effect mechanism include:

- Surface water pollution (silt/ hydrocarbon/ construction related) from construction works resulting in changes to environmental conditions such as water quality.
- Potential for decline in habitat quality due to contaminant input/construction activities which may impact on foraging opportunities of annexed species
- Potential for impacts to spawning beds due to silt/contaminant input, or impacts to health of adults due to contaminant input
- Surface water impacts during operational phase
- Indirect habitat alteration/fragmentation/disturbance impacts owing to hydrology changes due to construction activities
- Potential for invasive species to spread and cause further negative impacts on designated sites

Step 3: European Sites at risk

With reference to the potential impact mechanisms from the proposal, identify the European site(s) and qualifying features potentially at risk. Examine Site specific conservation objectives and relevant and supporting documents.

Table 1 European Sites at risk from impacts of the proposed project

Effect mechanism	Impact pathway/Zone of influence	European Site(s)	Qualifying interest features at risk
Potential for decline in water quality due to contaminant input	Located in direct proximity to SAC	Lower River Shannon SAC	See Step 4, Table 2 below

<p>Potential for decline in habitat quality due to contaminant input/construction activities</p> <p>Potential for impacts to spawning beds due to silt/contaminant input, or impacts to health of adults due to contaminant input</p> <p>Impacts affecting prey species</p> <p>Spread of invasive species</p>			
Impacts to health due to contaminant input and/or impacts to prey species	Mobility of species between sites	Lower River Shannon and River Fergus Estuaries SPA	See Step 4, Table 2 below

The Lower River Shannon SAC (Site Code 002165) and the River Shannon and River Fergus Estuaries SPA (Site Code 004077) are the only Natura 2000 sites considered to be potentially impacted by the development. All others have been screened out due to distance, lack of suitable habitat, lack of hydrological connections, together with nature and scale of development proposed.

Step 4: Likely significant effects on the European site(s) 'alone'

Table 2: Could the project undermine the conservation objectives 'alone'

European Site and qualifying feature	Conservation objective	Could the conservation objectives be undermined (Y/N)?
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	(summary)	Water Quality	Pollution/ contamination	Siltation	
Lower River Shannon SAC (Site Code 002165)	<u>Lower River Shannon SAC National Parks & Wildlife Service (npws.ie)</u>				
Water courses of plain to montane levels with the Ranunculus fluitans and Callitriche-Batrachium vegetation	<p>Maintain FCS</p> <p>Habitat area stable or increasing; no decline in habitat distribution. Maintain appropriate hydrological regimes; hydrological regimes; substratum should be dominated by the particle size ranges, appropriate to the habitat sub-type.</p> <p>Area of active floodplain and area of riparian woodland at and upstream of the habitat should be maintained; Typical species of the relevant habitat sub-type should be present and in good condition; concentration of nutrients in the water column should be sufficiently low</p>	Y	Y	N	
Estuaries	<p>Maintain FCS</p> <p>Permanent habitat area stable or increasing; conserve identified community distribution</p>	Y	Y	Y	
Alluvial forests with Alnus glutinosa and Fraxinus excelsior	<p>Restore FCS</p> <p>Habitat area stable or increasing; no decline in habitat distribution. Maintain/restore appropriate hydrological regimes. Maintain/restore woodland structure</p> <p>No decline in vegetation composition.</p>	Y	Y	Y	
Sea Lamprey	<p>Restore FCS</p> <p>Greater than 75% of main stem length of rivers accessible from</p>	N	Y	Y	

	estuary; no decline extent and distribution of spawning beds. More than 50% of sample sites of juvenile habitat positive.				
Brook Lamprey	Maintain FCS Access to all water courses down to first order streams No decline in extent or distribution of spawning beds. More than 50% of sample sites of juvenile habitat positive	N	Y	Y	
River Lamprey	Maintain FCS Access to all water courses down to first order streams No decline in extent or distribution of spawning beds. More than 50% of sample sites of juvenile habitat positive	N	Y	Y	
Atlantic Salmon	Restore FCS 100% of river channels down to second order accessible from estuary in terms of distribution; adult spawning fish Conservation Limit (CL) for each system consistently exceeded; Maintain or exceed mean catchment-wide abundance threshold value. No significant declines in out-migrating smolt abundance; no decline in number and distribution of spawning redds due to anthropogenic causes; at least Q4 water quality at all sites sampled by EPA	N	Y	Y	
Otter	Restore FCS No significant decline in habitat extent/ distribution/couching sites & holts; available fish biomass. No significant increase in barriers to connectivity.	N	Y	Y	
Common Bottlenose Dolphin	Maintain FCS Species range within the site should not be restricted by	N	Y	Y	

	artificial barriers to site use; Critical areas, representing habitat used preferentially by bottlenose dolphin, should be maintained in a natural condition; human activities should occur at levels that do not adversely affect the bottlenose dolphin population at the site (disturbance)				
River Shannon and River Fergus Estuaries SPA (Site Code 004077)	<u>River Shannon and River Fergus Estuaries SPA National Parks & Wildlife Service (npws.ie)</u>				
<p><u>Conservation Objective:</u> To maintain the favourable conservation condition of all identified species</p> <p>Notwithstanding distance, due to mobile nature of species there is potential for all 21 bird species selected as SCI to be negatively impacted is a possibility.</p> <p>Direct disturbance during construction phase ruled out.</p> <p>Direct health impacts due to contaminant input and/or impacts via harm to prey species could be significant.</p> <p>There is no direct habitat loss. 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).</p> <p>I conclude that the proposed development would have a likely significant effect 'alone' on conservation objectives of the Lower River Shannon SAC (Site Code 002165) and River Shannon and River Fergus Estuaries SPA (Site Code: 004077) from effects on water quality associated with siltation during construction works and construction pollution impacting aquatic habitats and species in the catchment area. An appropriate assessment is required on the basis of the effects of the project 'alone'. Further assessment in-combination with other plans and projects is not required at this time.</p>					

Inspector: Lorraine Dockery

Date: 28th May 2024