



An  
Bord  
Pleanála

## Inspector's Report

### ABP-320696-24

#### Development

Modification to scheme permitted under planning ref. no. 21/873 to increase by 4 units with all associated site works. The planning application is accompanied by a Natura Impact Statement.

#### Location

Barnakyle, Patrickswell, Co. Limerick.

#### Planning Authority

Limerick City and County Council

#### Planning Authority Reg. Ref.

2460610

#### Applicant(s)

Michael Joyce Builder Ltd.

#### Type of Application

Permission

#### Planning Authority Decision

Grant

#### Type of Appeal

Third Party

#### Appellant(s)

Tom Ryan

#### Observer(s)

None

#### Date of Site Inspection

25<sup>th</sup> November 2024

**Inspector**

Emma Gosnell

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## 1.0 Site Location and Description

- 1.1. The appeal site (which is known as 'An Clochán') has a stated area of 0.480 hectares (ha) and is located in the townland of Barnakyle in the north-east environs of Patrickswell Village in Co. Limerick. The village adjoins Junction 4 of the M20 motorway which runs to its southeast.
- 1.2. The site, which is accessed from the southeast via a local road leading off the R526, is adjoined by the Barnakyle (Bearna Coille) housing estate to the northeast and by undeveloped lands to the north. The site is bordered to the northwest by a narrow watercourse (which is variously referred to as the Island Duane Stream/ the Barnakyle Stream and the Barnakyle River) together with the rear gardens of the residential properties at Ballyanrahan East. To the southeast and southwest the site is adjoined by a large, detached house and the Old School House residential estate. There is an Uisce Eireann (UE) sewer wayleave running north to south through the centre of the site and another Office of Public Works' River wayleave running along its northwest boundary.
- 1.3. The site subject of the appeal forms part of a larger landholding whose east and southeast sides are an active construction site where the build out of the 5 no. residential dwellings (2 no. pairs of semi-detached units and 1 no. detached unit) permitted under P.A. Ref. 21/873 are ongoing. The west/ northwest portion of the landholding, which would accommodate the proposed development, is currently in use for the storage of equipment and building materials and features a number of trees along the perimeter of a c. 2m blockwork boundary wall shared with the Bearna Coille housing estate. There is an overhead electricity line running along the northwestern boundary of the site which adjoins a watercourse and this is delineated from the site by a wooden fence.

## 2.0 Proposed Development

- 2.1. The proposed development comprises of modifications to the housing scheme of 5 no. units permitted under P.A. Ref. No. 21/873 and would deliver a net increase of 4 no. housing units on the landholding. The proposed units (No's 6-9), which would be located on the west/ northwest portion of the landholding, comprise of 2 no. pairs of 3-bed semi-detached units with in-curtilage parking and all associated

landscaping, supporting infrastructure and site works etc. The proposed modifications have been made in response to recent (April 2024) revisions to the Patrickswell Local Area Plan (LAP) which removed the western portion of the site adjoining the river from the LAP's Flood Risk Zones A&B. The planning application is accompanied by a Natura Impact Statement (NIS) and the proposal, in effect, represents Phase 2 of the residential development on the overall landholding and would bring the number of residential units to 9 no. in total.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

Permission granted subject to 9 no. standard conditions, including a condition to ensure that all mitigation measures set out in the NIS are carried out and a condition to clarify that the terms of the governing permission (P.A. Ref. 21/873) still apply.

#### **3.2. Planning Authority Reports**

##### **3.2.1. Planning Report**

A planning report (dated 12/08/2024) formed the basis of the assessment and recommends that permission be granted. The report considered, inter alia, the following:

- Proposal deemed acceptable in principle and compliant with national/ local policy – specifically re: flood risk policy and Patrickswell LAP.
- Impact on neighbouring residential amenity generally acceptable on account of siting and separation distances between proposed units and neighbouring properties.
- Amendments to scheme permitted under P.A. Ref. 21/873 deemed minor and acceptable.
- Car parking and site infrastructure proposals acceptable.
- Nature of hydrological connection to Natura 2000 sites and potential for surface water runoff to lead to deterioration of water quality in the Lower River Shannon SAC and in the River Shannon and River Fergus Estuaries SPA.

- Following Stage 2 Appropriate Assessment, surface water attenuation and discharge arrangements deemed acceptable and pollution risk to Barnakyle River satisfactorily mitigated in line with measures outlined in NIS.

### 3.2.2. Other Technical Reports

- Chief Fire Officer (23/07/2024) – raised no objections to proposal subject to its compliance with building control regulations.
- Roads Department (11/08/2024) – noted need for full compliance with conditions attached to P.A. Ref. 21/873 and recommends approval subject to conditions.
- Mid-West National Roads Design Office (17/07/2024) – no observations on proposal.
- Heritage Officer (HO) (17/07/2024) – satisfied with content of the submitted NIS and its conclusion. Notes that site is located outside flood prone areas and Natura 2000 sites and is satisfied with the site's proposed foul and surface water management arrangements. Recommends that NIS mitigation measures are secured by condition in the event of a grant of permission and that a 1.5m vegetated buffer between the river and the site is provided for duration of construction works.

### 3.3. Prescribed Bodies

- UE (19/07/2024) – seeks that applicant comply with all conditions specified in their pre-connection inquiry and connection application/ agreement(s). Recommends UE standard water supply and sewerage conditions applied if permission granted.
- Transport Infrastructure Ireland (TII) (05/07/2024) – sought that planning authority (PA) have regard to applicable national road guidance and TII publications.

### 3.4. Third Party Observations

4 no. third party submissions were received on behalf of neighbouring property owners (of which 1 no. is an appellant) with the following issues being raised:

- Issues re: overshadowing, overbearance, overlooking of No's 4, 5, 6 Bearná Coille.

- Concerns re: build out's compliance with P.A. Ref. 21/873 permitted unit design.
- Pollution in Barnakyle River: risk of not meeting Water Framework Directive (WFD) objectives, assessment issues & no further storm discharges should be permitted.

## 4.0 Planning History

### 4.1. Site

P.A. Ref. 21/873 – Permission granted for the construction of 5 no. dwelling houses comprising of 2 no. semi-detached dwellings, 1 no. detached dwelling and 2 no. single storey dwellings in addition to a new connection to the public sewer, new recessed site entrance and boundary walls, together with all ancillary site works, subject to 24 no. standard relatively standard conditions.

Permission had been sought for the construction of 9 no. dwelling houses (8 no. semi-detached and 1 no. detached dwelling houses). Proposed units 4-7 were omitted by condition no. 2 on account of their location within a zone of flood risk.

Condition no. 5 stated that no development to be constructed within wayleave area.

P.A. Ref. 19/173 – Application for the construction of 9 no. dwelling houses (comprising of 8 no. semi-detached dwellings and 1 no. detached dwelling), connection to public sewer, new recessed site entrance and boundary walls with all ancillary site works, declared withdrawn (in February 2020) after applicant failed to respond to the PA's FI request within the required statutory time period.

P.A. Ref. 11/7014 – Extension of Duration of P.A. Ref. 05/270 granted.

P.A. Ref. 05/2760 – Permission for the demolition of existing derelict domestic garage and construction of 7 no. houses, 11 no. apartments and a new entrance granted subject to 30 no. conditions.

## 5.0 Policy Context

### 5.1. National Policy

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

- NSO 9: Sustainable Management of Water, Waste and Environmental Resources
- NPO 57: Enhance Water Quality and Resource Management.

The Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (DoHLGH, 2024) – Section 5.3.1 Separation Distances/ SPPR1.

Nature Based Management of Urban Rainwater and Urban Surface Water Discharges - A National Strategy (DoHLGH, 2024).

Water Action Plan 2024 – A River Basin Management Plan for Ireland (Department of Housing, Local Government and Heritage).

Ireland’s 4th National Biodiversity Action Plan (NBAP) 2023-2030.

Water Services Strategic Plan 2015 (the Water Services Strategic Plan 2050 is currently at Draft stage).

The Planning System and Flood Risk Management - Guidelines for Planning Authorities and Technical Appendices (DoHLGH, 2009) and Circular PL2/2014.

Quality Housing for Sustainable Communities Best Practice Guidelines for Delivering Homes and Sustaining Communities (2007).

## 5.2. Regional Policy

Regional Spatial and Economic Strategy for Southern Region of Ireland (2020).

- Limerick-Shannon MASP Policy Objectives 1 (Limerick-Shannon Metropolitan Area) & 10 (Housing and Regeneration).

## 5.3. Local Policy

The Limerick County Development Plan 2022-2028 (LCDP) and Patrickswell LAP 2024-2030 apply.

### 5.3.1. Zoning

The bulk of the appeal site is zoned ‘New Residential – Phase 1’ under the LAP with the objective to ‘provide for new residential development in tandem with the provision of social and physical infrastructure’.

Section 10.4 (General Objectives and Purpose of Land Use Zones) of the LAP sets out how the purpose of this zoning is to balance the delivery of new high quality housing developments with safeguarding of existing/ adjoining residential amenities.

A small portion of the appeal site adjoining the Barnakyle River is zoned for 'Open Space and Recreation'.

### 5.3.2. Development Management

LCDP Section 3.3.1.5 (Backland Sites)

LCDP Section 11.4.2.1 (Separation Distances between Residential Units)

LAP Section 3.5.1 (Density, Housing Type and Mix) – Min. density of 22 units per ha.

LAP Sections 8.2.1 (Water Framework Directive) and 9.3 (Surface Water Management and SuDS).

LAP Section 10.6 (Settlement Capacity Audit) – Site No. 4.

LCDP Policy DS P1 – Development Strategy and CS P2 Compact Growth, CH P2 - Water Framework Directive.

LCDP Objectives: IN O6 – Water Services, IN O9 - Public Waste Water, IN O12 - Surface Water and SuDS, IN O21 – Construction and Demolition, CAF O11 - Nature Based Solutions.

LAP Objectives: CGR O16 Local Area Plans in Level 4 Settlements, DS O2 - Residential Development, DS O3 - Density and New Residential Developments - CH O1 Climate Change, CH O2 - Tree Protection and Nature Conservation, CH O4 – Ecological Impact Assessment, CH O5 - Designated Sites and Nature Conservation, IU O2 - Water Infrastructure, IU O3 - Wastewater Infrastructure, IU O4 - Surface Water Management and SuDS, IU O5 - Flood Risk Management, IU O6 - Flood Risk and Blue Green Infrastructure, IU O7 - Buffer Zone, IU O9 - Waste Management and Circular Economy.

### 5.3.3. Water Quality and Flood Risk

Section 6.3.9 (Water Quality) and Objectives EH O15/ EH O17 (Water Quality) and IN O9 (Public Waste Water) of the LCDP.

Section 8.2.1 (Water Framework Directive) and Policy CH P2 of the LAP.

Objectives IU O2 (Water Infrastructure) and IU O3 (Wastewater Infrastructure) of the LAP.

Section 8.3 of the LAP's Strategic Flood Risk Assessment illustrates how the 'New Residential' zoned portion of the appeal site is neither located in Flood Zone A or B.

The small portion of the site zoned for Open Space/ Recreation is located within Flood Zone A and B. This area corresponds with the site's existing riparian buffer zone adjoining the Barnakyle River.

## 6.0 Natural Heritage Designations

The appeal site is not located within or adjoining any designated site.

On account of the site's location directly adjoining the Barnakyle River, and the connectivity of that river downstream to the River Mague (c. 5km to the north-west) and in turn downstream to the River Shannon (c. 9km to the north), the nearest European Sites and Natural Heritage Areas in close proximity to the appeal site are as follows:

- River Shannon and River Fergus Estuaries SPA (Site Code 004077) - c. 5km to north/ northwest.
- Lower River Shannon SAC (Site Code 002165) – c. 6km to the north and c. 5km to the west.
- Inner Shannon Estuary - South Shore pNHA (Site Code 000435) - c. 5km to the north/ northwest.
- Fergus Estuary and Inner Shannon, North Shore pNHA (Site Code 002048) – c. 5km to the north.

## 7.0 Environmental Impact Assessment

There is no real likelihood of significant effects on the environment based on the characteristics and location of the proposed development and types and characteristics of potential impacts. No EIAR is required. Refer to Form 1 (EIA Pre-Screening) and Form 2 (EIA Preliminary Examination) in the Appendices.

## 8.0 The Appeal

### 8.1. Grounds of Appeal

#### 8.1.1. Context

A third party appeal was received from:

- Tom Ryan of Ballynoe, Mungret, Co. Limerick (owner of lands to the north/northeast of Patrickswell village).

The grounds of appeal are largely the same as those raised in the observation on the application.

I also wish to bring the Bord's attention to a further 3<sup>rd</sup> party appeal received which was subsequently withdrawn.

#### 8.1.2. Grounds of Appeal

##### *Water Quality*

- Barnakyle River has been identified by the EPA as a river waterbody at risk of not meeting WFD objectives.
- PA are investigating potential pollution of the Barnakyle River arising from local industrial estate and have found evidence of same. Until addressed, permission for further storm water outfalls/ discharges to the Barnakyle River should not be granted.
- Concerns raised about the existence of hazardous and priority substances in the Barnakyle River and potential to give rise to contamination of adjoining lands during flood events.

##### *Procedural Issues*

- Concerns raised in respect to the quality/ accuracy of the PA's assessment of the condition of the Barnakyle River.

The appellant included the following documentation with their appeal:

- Copy of planning decision in respect of P.A. Ref. 2460610 (the PA grant under appeal).
- Extract from an undated Flood Risk Review Report for Patrickswell.

- Shannon CFRAM Assessment Flood Risk Review Map dated June 2011.
- Copy of Loughmore Canal Environmental Report (Version 2, July 2024) prepared on behalf of Mr Ryan.

## 8.2. Applicant Response to Third Party Appeal

A response was received from the applicant on the 27<sup>th</sup> September 2024.

The response comprises of a cover letter, a drawing illustrating the location and extent of the 2 no. 3<sup>rd</sup> party wayleaves affecting the site. The response also included a report which responds to the grounds of third party appeal and sets out how the proposal equates to sustainable development.

It should be noted that the applicant's response addressed issues raised in both 3<sup>rd</sup> party appeals – one of which was subsequently withdrawn.

### *Water Quality*

- Third party issues in respect to water supply, foul and surface water infrastructure/ capacity were comprehensively addressed under P.A. Ref. 21/873.
- Permitted foul and surface water management systems have sufficient design capacity to cater for 4 no. additional units (without requiring any upgrades) and will not give rise to adverse impacts on neighbouring properties or local environment.
- Site is not at risk of flooding and the development will not give rise to flooding or contamination of neighbouring lands.
- NIS submitted with the application addressed WFD concerns.
- The implementation of the best practice mitigation measures proposed by the NIS during the construction phase, together with the use of Sustainable Drainage Systems (SuDS) attenuation and flow control measures to manage surface water run-off once the development is operational, will safeguard water quality in the Barnakyle River.

### *Procedural Issues*

- Concerns re: raising of issues relating to strategic infrastructure/ upstream water pollution investigation/ water quality assessment process/ contamination with hazardous substances and historic pollution incidences in the grounds of appeal

on the basis that these matters all fall outside the scope of the application and should be addressed directly to the PA as they fall within their remit.

The applicant seeks that the Board uphold the PA's grant of permission, making a prompt decision on the appeal to allow the additional 5 no. units to be constructed.

### **8.3. Planning Authority Response**

None received.

### **8.4. Further Responses**

None received.

### **8.5. Prescribed Bodies**

No further responses received.

## **9.0 Assessment**

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

- Principle and Quantum of Development
- Water Quality
- Flood Risk
- Procedural Issues

### **9.1. Principle and Quantum of Development**

9.1.1. The bulk of the appeal site is zoned for residential development with the remainder being zoned for open space and recreation. The site forms part of a larger landholding which has been subject to numerous previous grants of permission for residential development, most recently for 5 no. infill residential units under P.A. Ref. 21/873 which are under construction. I therefore consider the principle of development to be acceptable, subject to the detailed considerations below.

9.1.2. In terms of the quantum of development proposed, the application red line provides for a site area of 0.480ha which would give rise to a residential density of c. 19 dwellings per hectare (dph). Whilst Table 3.3 of the Compact Settlement Guidelines (2024) states that unit density in 'Metropolitan Area – Village (<1,500 population)' should generally not fall below 25uph with the Patrickswell LAP specifying a minimum density of 22 units per ha, I note that the guidance provided in the preceding Section 3.2 (Tailoring Policy to Local Circumstances) provides some flexibility in this regard depending on site circumstances. In the case of the appeal site, I note that it is constrained by 2 no. 3<sup>rd</sup> party wayleaves and also accommodates a riparian corridor which is zoned for open space & recreation. In light of these site specific constraints, I consider the proposed density to be acceptable in this instance.

## 9.2. **Water Quality**

9.2.1. The grounds of appeal state that the Barnakyle River has been identified by the EPA as a waterbody at risk of not meeting Water Framework Directive (WFD) objectives and that the PA are currently investigating potential pollution of the Barnakyle River arising from a local industrial estate which is located downstream of the proposal. The appellant argues that, until this pollution is addressed, permission for further storm water outfalls/ discharges to the Barnakyle River should not be granted given the risk of further water quality deterioration.

9.2.2. The applicant submits that the proposed development will not give rise to a negative impact on water quality, flooding or to contamination of neighbouring lands on account of the mitigation measures proposed in the NIS during the construction phase, together with the use of best practice SuDS attenuation and flow control measures to manage surface water run-off once the development is operational. They also note that the issues raised in respect to water supply, foul and surface water infrastructure/ capacity were already comprehensively addressed under P.A. Ref. 21/873, with the NIS submitted with the application subject to appeal addressing WFD concerns.

9.2.3. It is detailed in the grounds of appeal that a water pollution investigation is ongoing into a separate (but connected) waterbody that is located downstream of the appeal site and adjacent to the Raheen Industrial Estate. The appellant has provided a copy of a Loughmore Canal Environmental Report (Version 2, July 2024) as part of their appeal and this report concludes that the canal is contaminated with anthropogenic

hazardous substances and recommends that further work is undertaken into the likely sources of these discharges to the canal from areas including Loughmore Common and Raheen Business Park with the potential for groundwater contamination also requiring further assessment. I note from the contents of this report that the canal is located c. 3.1km north-east of the appeal site and that it appears to connect with another tributary of the Barnakyle River, via a series of intervening OPW drainage channels.

9.2.4. Whilst I note the wider WFD context of the proposal, I am confined to assessing the likely impact of the proposed residential development on the adjoining river tributary and on downstream waterbodies which discharge to the WFD designated South Shannon Estuary Catchment.

9.2.5. The Shannon Estuary South Catchment (ID: 24, Area: 2037.74km<sup>2</sup>) is within the transitional waterbody of the Maigne Estuary with the ecological status of same being classed as 'poor' and 'moderate' respectively and with both being at risk of not achieving good status in WFD Cycle 2 (2016-2021)<sup>1</sup>. The adjoining Barnakyle River (BARNAKYLE\_020) was recorded as achieving a 'moderate' water quality status and as being at risk of not meeting its environmental objective of good status under the WFD Cycle 2 (2016-2021) (data<sup>2</sup> accessed on [www.catchments.ie](http://www.catchments.ie) on 25/02/2025) with the Environmental Protection Agency (EPA) report on Cycle 3 (May 2024) recording nutrient pollution as a significant pressure on this waterbody.

9.2.6. The WFD seeks to ensure that development does not give rise to a degradation in the status of any waterbody regardless of its status. The appeal site adjoins a tributary of the Barnakyle River, with the site being delineated from the watercourse by a 5m wide OPW wayleave which functions as a riparian buffer. Permission is sought for 4 no. further houses on the site which will connect into the existing SuDS surface-water management system (already serving the 5 no. houses permitted under P.A. Ref. 21/873) which attenuates run-off to greenfield rates before discharging to the adjoining watercourse via an outfall headwall & oil/ grit interceptor in line with best practice design. The development's foul water emissions will discharge to the Limerick Waste Water Treatment Plan at Bunlickey (Reg. No. D0013)<sup>3</sup> which has available capacity

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<sup>1</sup> [https://www.catchments.ie/data/#/subcatchment/24/24\\_10?k=rol223](https://www.catchments.ie/data/#/subcatchment/24/24_10?k=rol223)

<sup>2</sup> [https://www.catchments.ie/data/#/waterbody/IE\\_SH\\_24B050600?k=7feo88](https://www.catchments.ie/data/#/waterbody/IE_SH_24B050600?k=7feo88)

<sup>3</sup> UE Wastewater Treatment Capacity Register (accessed on 25/02/2025)

and, in this regard, I note that the submission from UE did not raise any concerns with the proposed arrangements. During the construction stage, the submitted NIS details how the applicant proposes to manage discharges to the adjoining watercourse via a range of standard pollution prevention measures including the erection of physical barriers, zonal material storage, personnel training and a site inspection regime. Furthermore, I note that the PA's HO recommended the use of a 1.5m wide vegetated buffer between the watercourse and the development site for the duration of the works and I consider that these mitigation measures together with the attachment of a planning condition requiring the submission of a pre-commencement Construction Environmental Management Plan (CEMP) to the PA, would adequately address any risk posed to water quality during the construction stage of the project.

9.2.7. On the basis of the above assessment, I am satisfied that the watercourse adjoining the site is adequately protected and that the proposed development would not prevent it or its adjoining waterbodies from meeting their WFD objectives.

9.2.8. I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

### 9.3. **Flood Risk**

9.3.1. The grounds of appeal raise concerns about the existence of hazardous and priority substances in the Barnakyle River and potential to give rise to contamination of adjoining lands during flood events. The appeal is accompanied by an undated extract from Flood Risk Review Report (FRRR) for Patrickswell together with a Shannon CFRAM Assessment Flood Risk Review Map dated June 2011 which shows the appeal site corresponding with Flood Zones A & B. The partial report is focused on the flood risk associated with the Barnakyle River, provides the results of a desktop review and site inspection undertaken by the consultants who prepared the FRRR and is particularly focused on the flood risk arising from the culverted sections of the watercourse under the village's main street and within Belgard Grove (a residential estate 350m south-west of the appeal site).

9.3.2. Whilst the above-mentioned material submitted as part of the grounds of appeal is noted, the FRRR primarily relates to upstream and culverted sections of the Barnakyle River rather than to the open section of the river which adjoins the appeal site. The Patrickswell flood risk review map provided by the appellant also dates from 2011. I note that more recent flood risk review mapping was undertaken in connection with the April 2024 revisions to the Patrickswell Local Area Plan (LAP). This exercise resulted in the removal of the appeal site from the LAP's flood risk zones A&B. On this basis, I consider that the 2011 map is no longer an accurate reflection of the site's flood risk. Furthermore, given that the appeal site is located outside the village's flood prone areas, on balance, I consider it unlikely the development would give rise to fluvial flooding and/ or contamination of neighbouring lands. Having reviewed the documentation on file, I am also satisfied that there would be no risk arising from pluvial flooding given the on-site attenuation proposed and strategy to attenuate run-off to greenfield rates thereby giving rise to no increase in the quantity of surface water run-off.

#### 9.4. **Procedural Issues**

9.4.1. The appellant raises various procedural issues in respect to the quality and accuracy of the ongoing investigation into the pollution of, and assessment of water quality condition within, the Barnakyle River. The applicant contends that such procedural matters are outside the scope of the application and should be addressed directly to the PA. The monitoring of water quality within transitional waterbodies, such as the falls under the remit of Limerick City and County Council and is not a matter for the Board to adjudicate on.

### 10.0 **Appropriate Assessment**

#### 10.1. **Stage 1 – Screening Determination for Appropriate Assessment**

10.1.1. Having carried out Appropriate Assessment Screening (Stage 1) of the project (included in Appendix 1 of this report), it has been determined that the project may give rise to likely significant impacts on the River Shannon and River Fergus Estuaries SPA (Site Code 004077) and the Lower River Shannon SAC (Site Code 002165) in view of the sites' conservation objectives and qualifying interests.

10.1.2. An Appropriate Assessment (Stage 2) is therefore required in order to determine whether the project will adversely affect the integrity of these European sites in view of the site's conservation objectives.

10.1.3. The possibility of likely significant effects on other European sites has been excluded on the basis of the nature and scale of the project, separation distances, and the absence of meaningful pathways or functional links to same.

## 10.2. **Stage 2 – Appropriate Assessment**

10.2.1. In carrying out an Appropriate Assessment (Stage 2) of the project, I have assessed the implications of the project on River Shannon and River Fergus Estuaries SPA and the Lower River Shannon SAC in view of the sites' conservation objectives. I have had regard to the applicant's NIS and all other relevant documentation and submissions on the case file. I consider that the information included in the case file is adequate to allow the Board to carry out an Appropriate Assessment.

10.2.2. Following the Appropriate Assessment (Stage 2), it has been concluded that the project, individually and/ or in-combination with other plans or projects would not adversely affect the integrity of River Shannon and River Fergus Estuaries SPA (Site Code 004077) and the Lower River Shannon SAC (Site Code 002165) in view of those sites' conservation objectives and qualifying interests.

10.2.3. This conclusion is based on:

- An assessment of all aspects of the project including proposed mitigation measures in relation to the conservation objectives of River Shannon and River Fergus Estuaries SPA and the Lower River Shannon SAC.
- An assessment of in-combination effects with other plans and projects including historical and current plans and projects provided for under the Patrickswell LAP 2024-2030.
- There being no reasonable scientific doubt as to the absence of adverse effects on the integrity of River Shannon and River Fergus Estuaries SPA and the Lower River Shannon SAC.

## 11.0 Recommendation

I recommend a GRANT of permission subject to the following conditions.

## 12.0 Reasons and Considerations

Having regard to the location of the site within the development boundary of the Patrickswell Local Area Plan 2024-2030, to the 'New Residential – Phase 1' zoning of the site the objective for which is to 'provide for new residential development in tandem with the provision of social and physical infrastructure', and to the planning policies, objectives and development standards of the Limerick County Development Plan 2022-2028 and Patrickswell Local Area Plan 2024-2030, the nature, scale and design of the proposed development relative to the planning history of the site and to the existing pattern of development in the wider area, it is considered that subject to compliance with the conditions set out below, the proposed development is an acceptable form of development at this location and would not seriously injure the amenities of adjoining properties, and would therefore, be in accordance with the proper planning and sustainable development of the area.

## 13.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 19 <sup>th</sup> day of June 2024, 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. <b>Reason:</b> In the interest of clarity.
2.	Apart from any departures specifically authorised by this permission, the development shall comply with the conditions of the parent permission [Register Reference 21/873] unless the conditions set out hereunder specify

	<p>otherwise. This permission shall expire on the same date as the parent permission (13/07/2027).</p> <p><b>Reason:</b> In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission.</p>
3.	<p>The mitigation measures outlined in the Natura Impact Statement (NIS) submitted with this application shall be carried out in full, except where otherwise required by conditions attached to this permission, and a 1.5m wide vegetated buffer between the stream and the development site shall be maintained for the duration of the construction works.</p> <p><b>Reason:</b> In the interest of protecting the environment, public health, and clarity.</p>
4.	<p>The glazing to the first floor gable window in unit No. 9 (hereby permitted) shall be manufactured opaque or frosted glass and shall be permanently maintained. The application of film to the surface of clear glass is not acceptable.</p> <p><b>Reason:</b> In the interest of residential amenity.</p>
5.	<p>A Construction and Environmental Management Plan (CEMP) shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The CEMP shall include but not be limited to construction phase controls for dust, noise and vibration, waste management, protection of soils, groundwaters, and surface waters, site housekeeping, emergency response planning, site environmental policy, and project roles and responsibilities.</p> <p><b>Reason:</b> In the interest of environmental protection.</p>
6.	<p>Prior to the commencement of development the developer shall enter into a Connection Agreement(s) with Uisce Éireann (Irish Water) to provide for a service connection(s) to the public water supply and/ or wastewater collection network.</p> <p>Reason: In the interest of public health and to ensure adequate water/wastewater facilities.</p>
7.	<p>The attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.</p>

	<b>Reason:</b> To prevent flooding and in the interests of sustainable drainage.
8.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p><b>Reason:</b> To safeguard the amenity of property in the vicinity.</p>
9.	<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 transfer of a percentage of the land, to be agreed with the planning authority, in accordance with the requirements of section 94(4) and section 96(2) and 96(3)(a), (Part V) of the Planning and Development Act 2000, as amended, and/or the provision of housing on lands in accordance with the requirements of section 94(4) and section 96(2) and 96(3) (b), (Part V) of the Planning and Development Act 2000, as amended], unless an exemption certificate has been granted under section 97 of the Act, as amended. Where such an agreement cannot be reached between the parties, the matter in dispute (other than a matter to which section 96(7) applies) shall be referred by the planning authority or any other prospective party to the agreement, to An Bord Pleanála for determination.</p> <p><b>Reason:</b> 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 for the area.</p>
10.	<p>(a) Prior to the commencement of the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all relevant residential units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.</p> <p>(b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years</p>

	<p>from the date of completion of each specified housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each of the residential units for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.</p> <p>(c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified housing units, in which case the planning authority shall confirm in writing to the applicant or any person with an interest in the land that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.</p> <p><b>Reason:</b> To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.</p>
11.	<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><b>Reason:</b> 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>

<b>12.</b>	<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 and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public 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 or maintenance 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><b>Reason:</b> To ensure the satisfactory completion and maintenance of the development until taken in charge.</p>
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I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Emma Gosnell  
Planning Inspector  
31<sup>st</sup> March 2025

**Appendix 1**  
**Appropriate Assessment – Stage 1 and Stage 2**

**Appropriate Assessment**  
**Stage 1 Screening Determination**

**Description of the project**

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

A screening report has been prepared and submitted with the application and the objective information presented in that report informs this screening determination.

Subject Site

The subject site is located at Barnakyle within the urban settlement boundary of Patrickswell village in Co. Limerick. The site is greenfield and backland in nature and is subject to the build-out of the residential development permitted under P.A. Ref. 21/873.

A watercourse known variously as the Island Duane Stream or the Barnakyle Stream flows from south to north along a portion of the northern site boundary. This stream is also known to be a tributary of the Barnakyle River which flows to the north of Patrickswell village before confluencing with the River Maigue c. 5km further to the northwest of Patrickswell and flowing towards the Shannon Estuary c. 9km to the north.

The site is situated approx. 5-6km to the south/ south-east/ east of the River Shannon and River Fergus Estuaries SPA (Site Code 004077) and the Lower River Shannon SAC (Site Code 002165).

Project

The project seeks modifications to the housing scheme of 5 no. units permitted under P.A. Ref. 21/873 in order to allow for the construction of a further 4 no.

housing units on the site. The proposed units (No's 6-9) comprise of 2 no. pairs of 3-bed semi-detached units with in-curtilage parking and all associated landscaping/ SuDS surface water drainage infrastructure and other site preparatory works etc. and would be located on the west/ northwest side of the site.

The proposed modifications have been made in response to recent revisions to the Patrickswell LAP in April 2024 which removed the western portion of the applicant's landholding adjoining the river from the LAP's flood risk zones A&B. The planning application is accompanied by a NIS and the proposal, in effect, represents Phase 2 of the residential development on the overall site.

The proposal will connect into the existing surface water management system permitted under P.A. Ref. 21/873 which provides for on-site attenuation of stormwater and discharge to the adjoining watercourse via an oil/ grit interceptor and outfall headwall.

The wastewater arising from the proposal will be discharged to Bunlickey WWTP for treatment. As noted in Section 9.2.6 of this report the UE Wastewater Treatment Capacity Register states that this treatment plant has been assigned a 'green' status with available capacity in the system to accommodate the proposal.

#### Submissions and Observations

Submissions on the application were made to the PA by 2 no. prescribed bodies (Uisce Eireann and TII) and 4 no. third parties (1 no. being the appellant).

The submission from Uisce Eireann (dated 19/07/2024) raises no concerns regarding the proposal, subject to the application of standard conditions and compliance with all conditions specified in their pre-connection inquiry and connection agreements/ application(s). Their report also noted that the submission on file relates to "*pollution issues in another location*" and that "*the sewer in this case discharges into the main drainage scheme at Limerick City*".

The third party submission made to the PA by the appellant raised issues in respect to water quality in the Barnakyle River due to pollution.

The PA undertook an AA of the project. The applicant's NIS was relied upon, as was the advice of the HO, and it was concluded that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any European sites, in view of their conservation objectives.

### **Potential Impact Mechanisms from the Project**

A Screening Report for Appropriate Assessment (SRAA) was submitted with the planning application. The SRAA identifies two European sites in the zone of influence of the project. These are River Shannon and River Fergus Estuaries SPA (Site Code 004077) and the Lower River Shannon SAC (Site Code 002165).

Tables 1 and 2 (pgs 10&13) list the qualifying interests (QIs)/ special conservation interests (SCIs) and the conservation objectives for the River Shannon and River Fergus Estuaries SPA and the Lower River Shannon SAC.

The SSRA does identify a pathway from the development site to the River Maigue, the River Shannon and its estuary and, as such, identifies a hydrological pathway between the project and the SPA and the SAC. The pathways are associated with:

- surface water run-off from the project to the Island Duane Stream (also known as the Barnakyle Stream/ Barnakyle River/ tributary of the Barnakyle River) to the Maigue River, to the Shannon Estuary and to the Lower River Shannon SAC which, in turn, connects the site to various coastal and intertidal habitats and species and to the River Shannon and River Fergus Estuaries SPA.

- Wastewater flows to the River Maigue and its estuary.

The SSRA presents an assessment of the significance of effects.

#### Habitat Loss

I consider that the project would not give rise to habitat loss due to the separation distance between the site and the SAC & SPA but that indirect habitat loss could potentially arise from a change in water quality during the construction stage. On this basis, it is my view indirect impacts are therefore possible. I consider that

potential effects on water quality arising from excessive sedimentation or polluting discharges during the construction stage could impact on the SAC's Annex 1 spawning and nursery habitats in relation to River Lamprey [1099] and Salmon [1106] which could, in turn, impact on the fish biomass available in the foraging territories of the SPA's Annex 2 species such as the otter [1355].

#### Ex-Situ Effects

In terms of ex-situ effects, as per Section 6.0 of the Inspector's report, I consider that the site is too far from either the SAC or SPA to result in disturbance effects during either the construction or operational phases.

#### Pollution

I note that there is a pathway from the site via surface and wastewater flows to the River Maigue and its estuary. The SRAA states that the water quality in this waterbody is of a moderate status and is also not known to be affecting any of the conservation objectives for the SPA/SAC.

The waters within the SPA/SAC in this vicinity are intertidal in nature and there is no link to water quality conservation objectives of species in the freshwater portion of the River Shannon. There are no water quality conservation objectives for species or habitats in the marine, intertidal zone, including for bird populations in the SPA.

#### *Pollution from wastewater during operational stage*

The proposed additional homes will increase the quantity of waste water generated on site and will add to the foul sewerage loading of the municipal waste water treatment plant at Bunlickey in Limerick City. Surface water will be managed separately from the scheme's foul sewerage and so will not add pressure to the Bunlickey plant. However, as per section 9.2.6 of this Inspector's report, it has been determined that the plant has sufficient capacity and therefore, there is no evidence that negative effects to water quality would arise from this discharge.

#### *Pollution from surface water during operational stage*

The 4 no. dwellings proposed will be connected into the site's Sustainable Drainage System (SUDS) permitted under P.A. Ref. 21/873 which will manage

the quality and quantity of surface water run-off via on-site attenuation and in line with best practice. The SRAA predicts that there will be no changes to the quantity or quality of run-off.

In their assessment of likely effects, the PA determined that the operational phase of the project – specifically its surface water run-off from soil excavation/ infill and landscaping - may give rise to possible significant effects on the SPA and/or SAC on account of the hydrological connection via the stream adjoining the site with this watercourse ultimately discharging to the River Shannon.

Having further considered the description of the operational stage impacts identified by the PA (i.e. from soil excavation/ infill/ landscaping which I determine to be site enabling/ preparation activities which would take place during the development of the scheme rather than once the estate is operational and occupied by new residents), I consider that these impacts to be construction stage impacts rather than operational impacts.

#### *Pollution during construction stage*

The SRAA identifies how the project has the potential to moderately effect water quality during the construction stage (i.e. via sediment and small quantities of hydrocarbon pollutants which may impact river ecosystems) given the increase in the development activity on site together with the site's proximity to the Island Duane Stream.

In Section 9.2.4 of this Inspector's report, I identify the potential for effects on water quality during the construction stage arising from surface water run-off/ discharges. This potential for significant direct effects on the SAC's qualifying interests (such as invertebrate life in intertidal habitats such as estuaries, mud flats and shallow bays & inlets) and indirect effects on the SPA's qualifying interests (birdlife) which arises, which may in turn give rise to negative effects on both the SAC and SPA, cannot be ruled out.

Therefore, whilst the development site is not located within or directly adjacent to any Natura 2000 site, hydrological pathways exist to the Shannon Estuary and, on this basis, significant effects cannot be ruled out to the following areas:

- Lower River Shannon SAC

- River Shannon and River Fergus Estuaries SPA.

Effect Mechanisms

The applicant’s SRAA identifies the hydrological pathways between the project and the European sites as being direct. I find the hydrological pathways to be indirect in nature on account of the separation distances involved; the morphology of the Barnakyle River; the tidal nature of the River Maigue and River Shannon estuaries; and, the related potential for dilution/ dispersal that could occur before any surface water (or sediment) reaches the European sites.

I note that the use of sustainable drainage systems (SuDS) is classified as a ‘standardised embedded mitigation’ which is incorporated into the design of the project in order to manage the quantity and quality of surface-water run-off. The primary reason for the proposed use of SuDS is not to protect a European site.

On this basis, the potential for likely significant effects during the project’s operational phase from surface water impacts through the hydrological pathways can be screened out. I conclude that these operational phase effects can be reasonably screened out from further consideration.

Notwithstanding, having regard to the characteristics of the project in terms of the site’s features, location and the project’s scale of works, I consider the following impacts and effect mechanisms require examination for implications for a likely significant effect on two European sites, River Shannon and River Fergus Estuaries SPA (Site Code 004077) and the Lower River Shannon SAC (Site Code 002165).

- A. Surface water pollution during the construction phase.
- B. Indirect habit loss.

**Step 3: European Sites at Risk**

<b>Table 1 European Sites at risk from impacts of the proposed project</b>			
<b>Effect mechanism</b>	<b>Impact pathway/Zone of influence</b>	<b>European Site(s)</b>	<b>Qualifying interest features at risk</b>

<p>(A) Surface water pollution during construction phase.</p> <p>(B) Indirect habitat loss.</p>	<p>Impact via an indirect hydrological pathway.</p>	<p>Lower River Shannon SAC (Site Code 002165), downstream c. 6km to the north and c. 5km to the west.</p>	<p>Sandbanks which are slightly covered by sea water all the time [1110]</p> <p>Estuaries [1130]</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Coastal lagoons [1150]</p> <p>Large shallow inlets and bays [1160]</p> <p>Reefs [1170]</p> <p>Perennial vegetation of stony banks [1220]</p> <p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glaucopuccinellietalia maritima</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation [3260]</p>
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			<p>Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) [6410]</p> <p>Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0]</p> <p>Margaritifera margaritifera (Freshwater Pearl Mussel) [1029]</p> <p>Petromyzon marinus (Sea Lamprey) [1095]</p> <p>Lampetra planeri (Brook Lamprey) [1096]</p> <p>Lampetra fluviatilis (River Lamprey) [1099]</p> <p>Salmo salar (Salmon) [1106]</p> <p>Tursiops truncatus (Common Bottlenose Dolphin) [1349]</p> <p>Lutra lutra (Otter) [1355].</p>
		<p>River Shannon and River Fergus Estuaries SPA (Site Code 004077) downstream, c. 5km to north/north-west.</p>	<p>Cormorant (Phalacrocorax carbo) [A017]</p> <p>Whooper Swan (Cygnus cygnus) [A038]</p> <p>Light-bellied Brent Goose (Branta bernicla hrota) [A046]</p> <p>Shelduck (Tadorna tadorna) [A048]</p> <p>Wigeon (Anas penelope) [A050]</p> <p>Teal (Anas crecca) [A052]</p>

			Pintail ( <i>Anas acuta</i> ) [A054] Shoveler ( <i>Anas clypeata</i> ) [A056] Scaup ( <i>Aythya marila</i> ) [A062] Ringed Plover ( <i>Charadrius hiaticula</i> ) [A137] Golden Plover ( <i>Pluvialis apricaria</i> ) [A140] Grey Plover ( <i>Pluvialis squatarola</i> ) [A141] Lapwing ( <i>Vanellus vanellus</i> ) [A142] Knot ( <i>Calidris canutus</i> ) [A143] Dunlin ( <i>Calidris alpina</i> ) [A149] Black-tailed Godwit ( <i>Limosa limosa</i> ) [A156] Bar-tailed Godwit ( <i>Limosa lapponica</i> ) [A157] Curlew ( <i>Numenius arquata</i> ) [A160] Redshank ( <i>Tringa totanus</i> ) [A162] Greenshank ( <i>Tringa nebularia</i> ) [A164] Black-headed Gull ( <i>Chroicocephalus ridibundus</i> ) [A179] Wetland and Waterbirds [A999].
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**Identification of 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)?	
		Effect A	Effect B

<p><i>Lower River Shannon SAC (Site Code 002165)</i></p> <p>Estuaries [1130], Mudflats [1140], Large shallow inlets and bays [1160], Reefs [1170], Perennial vegetation of stony banks [1220], Salicornia mudflats [1310], Atlantic salt meadows [1330], Mediterranean salt meadows [1410], Petromyzon marinus (Sea Lamprey) [1095], Lampetra planeri (Brook Lamprey) [1096], Lampetra fluviatilis (River Lamprey) [1099], Salmo salar (Salmon) [1106], Lutra lutra (Otter) [1355].</p>	<p>To maintain the favourable conservation condition of each of the qualifying interests listed for the SAC, as detailed in <a href="https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO002165.pdf">https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO002165.pdf</a> (published 07/08/2012 and accessed on 07/01/2025).</p>	<p>Yes</p>	<p>Yes</p>
<p><i>River Shannon and River Fergus Estuaries SPA (Site Code 004077)</i></p> <p>Birds species listed in Column 4 of Table 1 above...</p> <p>Wetland and Waterbirds [A999]</p>	<p>To maintain the favourable conservation condition of each of the qualifying interests listed for the SPA, as detailed in <a href="https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004077.pdf">https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004077.pdf</a> (published 17/09/2012 and accessed on 07/01/2025).</p> <p>Conservation objective for birds is similar for all species i.e. long terms population trend is stable or increasing with no significant decrease in numbers or range of areas used by waterbird species, other than that occurring from natural patterns of variation.</p>	<p>Yes</p>	<p>Yes</p>

Effect Mechanism A (surface water pollution during construction phase)

Surface water run-off from the project via the Island Duane Stream/ Barnakyle River tributary and in turn to the European sites.

Effect Mechanism B (indirect habitat loss arising from water quality issues)

Surface water run-off from the project via the Island Duane Stream/ Barnakyle River tributary and in turn to the European sites.

Based on my examination of the information on file, the NPWS website, aerial and satellite imagery, the scale of the proposed development and likely effects, separation distance and functional relationship between the proposed works and the European sites, their conservation objectives and taken in conjunction with my assessment of the subject site and the surrounding area, I would conclude that a Stage 2 Appropriate Assessment is required for the River Shannon and River Fergus Estuaries SPA (Site Code 004077) and Lower River Shannon SAC (Site Code 002165).

The possibility of likely significant effects on other European sites has been excluded on the basis of the nature and scale of the project, separation distances, and the absence of meaningful pathways to other European sites as per Section 6.0 of this report.

**Appropriate Assessment: Stage 1 Conclusion – Screening Determination**

In accordance with section 177U of the Planning and Development Act 2000, as amended, and on the basis of objective information provided by the applicant, having carried out Appropriate Assessment Screening (Stage 1) of the project, I have determined that the project may have likely significant effects on River Shannon and River Fergus Estuaries SPA (Site Code 004077) and the Lower River Shannon SAC (Site Code 002165) in view of the conservation objectives of a number of qualifying interest features of those sites.

It is therefore determined that Appropriate Assessment (Stage 2) under Section 177V of the Planning and Development Act 2000, as amended, of the proposed development is required.

## Appropriate Assessment Stage 2

### **Aspects of the Proposed Development**

#### Construction Phase

The project involves preparatory site works of excavation (removal of top and subsoils), infilling and some ground re-profiling. Construction works also include laying of services infrastructure, pouring of concrete for foundations and other hard surfaces. During construction works, especially during periods of wet weather, there is potential for an increase in siltation and pollution of surface water run-off with hydrocarbons, cement and concrete. There is the potential for contaminated run-off to be discharged to the site's surface water network and in turn to Island Duane Stream/ the Barnakyle River which could have (a) significant effect(s) on the European site(s).

#### Operational Phase

Once operational, the project will be served by and connected to the public waste water network (via an enclosed piped system), and will be operated and maintained in accordance with the requirements of UE and the PA. The existing, permitted on-site surface water management system incorporates attenuation and treatment stages prior to discharge to the adjoining watercourse and it is proposed that the scheme subject to appeal will connect into this existing system once operational. On this basis, there is limited potential for pollution events to surface waterbodies and therefore no likely significant effects on the QIs/ SCIs of the European sites are reasonably anticipated

### **Mitigation Measures**

The description and consideration of the impacts of the proposed development are the subject of the SRAA and NIS. A range of mitigation measures are identified during the construction and operational phases of the project to protect surface water quality and prevent pollution events.

The mitigation measures relevant to protecting the European Sites are included in the NIS and are outlined as follows:

- Construction will follow guidance from Inland Fisheries Ireland (IFI, 2016) for

the protection of fish habitat. This will include the erection of a robust silt curtain (or similar barrier) along the north-western boundary to prevent the ingress of silt to the Island Duane Stream. Water leaving the site will pass through an appropriately-sized silt trap or settlement pond so that only silt-free run-off will enter the environment.

- Dangerous substances, such as oils, fuels etc., will be stored in a bunded zone. Emergency contact numbers for the Local Authority Environment Section, Inland Fisheries Ireland, the Environmental Protection Agency and the National Parks and Wildlife Service will be displayed in a prominent position within the site compound. These agencies will be notified immediately in the event of a pollution incident.
- Site personnel will be trained in the importance of preventing pollution and the mitigation measures described here to ensure same.
- Any works at the Island Duane stream, including the installation of a surface water headwall, will be done in dry weather. Under no circumstances will wet concrete be allowed to escape to the environment.
- The site manager will be responsible for the implementation of these measures. They will be inspected on at least a daily basis for the duration of works, and a record of these inspections will be maintained.

**Where relevant, likely significant effects on the European site(s) ‘in-combination with other plans and projects’**

**Table 3: Plans and projects that could act in combination with effect mechanisms of the proposed project (e.g. approved but uncompleted, or proposed)**

Plan / Project	Effect mechanism
Listed in Section entitled ‘Step 2 – Impact Prediction’ of the NIS (pgs 6-7) and supplemented by information in Sections 4.0 & 5.0 of this report.	A & B - as per Table 1 above

I have had regard to all information on file and particularly that included in the SSRA and NIS and the information submitted in the third party appeal response relevant to a consideration of in-combination impacts in respect to water quality in the Barnakyle River. I have also had regard to the site’s planning history and to recent/ proposed

development in Patrickswell village (see Sections 4.0 & 5.0 of this report above). I do not identify any significant in-combination effect from same.

In respect of relevant plans, I identify that Strategic Environmental Assessment, Appropriate Assessment/ Screening and Strategic Flood Risk Assessment were undertaken by the PA in respect of the Limerick County Development Plan 2022-2028 (LCDP) and Patrickswell LAP 2024-2030. Both plans include policies and objectives seeking environmental protection and pollution prevention and requiring projects to be constructed to/ operate within industry standards with connection to/ servicing by public water services infrastructure.

**Table 4: Could the project undermine the Conservation Objectives in combination with other plans and projects?**

European Site and qualifying feature	Conservation objective	Could the conservation objectives be undermined (Y/ N)?	
		Effect A	Effect B
River Shannon and River Fergus Estuaries SPA (Site Code 004077) As per Table 1 above	As per Table 2 above	No	No
Lower River Shannon SAC (Site Code 002165) As per Table 1 above	As per Table 2 above	No	No

**Appropriate Assessment: Stage 2 Conclusion**

The project has been considered in light of the assessment requirements of sections 177U and 177V of the Planning and Development Act 2000, as amended. On the basis of objective information, I have assessed the implications of the project on River Shannon and River Fergus Estuaries SPA (Site Code 004077) and the Lower River Shannon SAC (Site Code 002165) in view of the sites' conservation objectives. I have had regard to the applicant's Natura Impact Statement and all other relevant

documentation and submissions on the case file. I consider that the information included in the case file is adequate to allow the Board to carry out an Appropriate Assessment.

Following the Appropriate Assessment (Stage 2), it has been concluded that the project, individually and/ or in-combination with other plans or projects would not adversely affect the integrity of River Shannon and River Fergus Estuaries SPA (Site Code 004077) and the Lower River Shannon SAC (Site Code 002165) in view of the sites' conservation objectives and qualifying interests.

This conclusion is based on:

- An assessment of all aspects of the project including proposed mitigation measures in relation to the conservation objectives of River Shannon and River Fergus Estuaries SPA (Site Code 004077) and the Lower River Shannon SAC (Site Code 002165).
- An assessment of in-combination effects with other plans and projects including historical and current plans and projects.
- There being no reasonable scientific doubt as to the absence of adverse effects on the integrity of River Shannon and River Fergus Estuaries SPA and the Lower River Shannon SAC.

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

**Date:** \_\_\_\_\_

**Appendix 2**  
**Form 1**  
**EIA Pre-Screening Form**

<b>An Bord Pleanála</b>	ABP-320696-24		
<b>Case Reference</b>			
<b>Proposed Development Summary</b>	Modification to scheme permitted under P.A. Ref. 21/873 to increase by 4 units with all associated site works. The planning application is accompanied by a Natura Impact Statement.		
<b>Development Address</b>	Barnakyle, Patrickswell, Co. Limerick		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b>		<b>Yes</b>	✓
(that is involving construction works, demolition, or interventions in the natural surroundings)		<b>No</b>	
<b>2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?</b>			
<b>Yes</b>	✓	Part 2, Class 10(b)(i) (infrastructure – Dwelling Units) Part 2, Class 10(b)(i) Infrastructure – urban development	Proceed to Q3.
<b>No</b>			
<b>3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?</b>			
<b>Yes</b>			EIA Mandatory EIAR required
<b>No</b>	✓		Proceed to Q4

<b>4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?</b>			
<b>Yes</b>	✓	500 units – proposal is for 4 no. units 100 hectares – site is 0.480 ha	Preliminary examination required (Form 2)

<b>5. Has Schedule 7A information been submitted?</b>		
<b>No</b>	✓	<b>Screening determination remains as above (Q1 to Q4)</b>
<b>Yes</b>		<b>Screening Determination required</b>

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

Date: \_

## Form 2

### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	ABP-320696-24
<b>Proposed Development Summary</b>	Modification to scheme permitted under P.A. Ref. 21/873 to increase by 4 units with all associated site works. The planning application is accompanied by a Natura Impact Statement.
<b>Development Address</b>	Barnakyle, Patrickswell, Co. Limerick
<p><b>The Bord carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.</b></p> <p><b>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</b></p>	
<p><b>Characteristics of proposed development</b> (In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).</p>	<p>The proposed development seeks the construction of 4 no. residential units together with all ancillary site works.</p> <p>The project (in combination with that already permitted under P.A. Ref. 21/873 which is currently under construction) will change the land use from use a temporary construction compound to use for residential dwellings. This change will result in physical changes to the built environment at the site, involving the provision of houses in different residential formats (conventional semi-detached buildings etc) and a series of supporting internal site roads/footpaths and open spaces. These physical changes are consistent with the character of the existing village area (mid-scaled, low/mid-density built forms).</p>

	<p>The development does not require the use of substantial natural resources, or give rise to significant risk of pollution or nuisance.</p> <p>The development, by virtue of its type and scale, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health.</p>
<p><b>Location of development</b></p> <p>(The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).</p>	<p>The subject site is located at Barnakyle within the urban settlement boundary of Patrickswell village in Co. Limerick. The site is greenfield and backland in nature and is subject to the build-out of the residential development permitted under P.A. Ref. 21/873.</p> <p>A watercourse known variously as the Island Duane Stream or the Barnakyle Stream flows from south to north along a portion of the northern site boundary. This stream is also known to be a tributary of the Barnakyle River which flows to the north of Patrickswell village before confluencing with the River Maigue c. 5km further to the northwest of Patrickswell and flowing towards the Shannon Estuary c. 9km to the north.</p> <p>The site is situated approx. 5-6km to the south/ south-east/ east of the River Shannon and River Fergus Estuaries SPA (Site Code 004077) and the Lower River Shannon SAC (Site Code 002165).</p>

<p><b>Types and characteristics of potential impacts</b></p> <p>(Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).</p>	<p>Having regard to the modest nature of the proposed development, its location relative to sensitive habitats/features, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.</p>	
<b>Conclusion</b>		
<p><b>Likelihood of Significant Effects</b></p>	<p><b>Conclusion in respect of EIA</b></p>	<p><b>Yes or No</b></p>
<p>There is no real likelihood of significant effects on the environment.</p>	<p>EIA is not required.</p>	<p style="text-align: center;">✓</p>
<p>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</p>	<p>Schedule 7A Information required to enable a Screening Determination to be carried out.</p>	
<p>There is a real likelihood of significant effects on the environment.</p>	<p>EIAR required.</p>	

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

**Date:** \_\_\_\_\_

**DP/ADP:** \_\_\_\_\_

**Date:** \_\_\_\_\_

(only where Schedule 7A information or EIAR required)