

# VINCENT JP FARRY AND CO. LTD

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### **BY HAND ON**

14 February 2020

The Secretary  
An Bord Pleanála  
64 Marlborough Street  
Dublin 1

AN BORD PLEANÁLA	
LDG-	024420-20
ABP-	
14 FEB 2020	
Fee: €	50 Type: <i>Chaelme</i>
Time:	11.28 By: <i>Henel</i>

### **FOYNES PORT TO LIMERICK ROAD INCL. ADARE BY-PASS AND RELATED WORK AN BORD PLEANALA (COMPETENT AUTHORITY) APPLICATION REF. PL 91.306146**

Dear Sir

We refer to the above and we act for Mr. John Dillon whose address is Clonshire, Adare, Co. Limerick.

We take this opportunity to lodge a submission in relation to the above proposal which has been lodged with the Board by Limerick City and County Council and which has been described on the notices as:

*'Foynes to Limerick Road (including Adare bypass) (incorporating the Foynes to Rathkeale protected Road Scheme, 2019, the Rathkeale to Attyflin Motorway Scheme, 2019 and the Foynes Service Area Scheme, 2019).'*

It is our opinion that this proposal is wholly ill-conceived, in terms of the route of the proposed road and that this project, as planned, would materially breach a key strategic provision of the *Development Plan*. This latter document expressly and explicitly envisages a wholly different link between Foynes Port, on one hand and Limerick City, which does not involve the provision of a substantial carriageway in the countryside of Co. Limerick and the proposed development thus conflicts with statutory policy.

Such policies instead support the development of National Primary Road N69, which already acts as the chief link between these points and do not envisage the provision of a new road near our Client's home. We ask the Board to place great weight on Objective IN O22 of the *Development Plan 2010* which is headed *'Promotion of improvements to the N69 Limerick to Foynes'* and which states that the Planning Authority will *'promote the strategic improvement of the N69 between Limerick City and Foynes to facilitate traffic by heavy goods vehicles into this important port from an easterly direction'*.

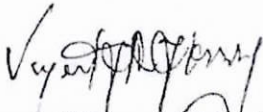
Moreover, while the Council has engaged in an assessment of alternative options, we query whether this exercise complies with planning law, on two grounds. Firstly, this study was carried out in 2016 and thus, pre-dates the current application by several years (this analysis was also undertaken prior to the erection of new housing in the Clonshire area, including our Client's home and this earlier report clearly fails to take account of the amenities of these newer properties). Indeed, we submit that an assessment of alternative scenarios should properly be undertaken in the context of the findings of the preliminary parts of an EIAR and we do not consider that the current study satisfies this requirement.

Secondly, we respectfully suggest that this particular assessment process has not been undertaken in a *bona fide* manner by the Planning Authority and has, in our view, been orchestrated merely to give authorisation to a particular proposal. The analysis which underpins the Council's application and which supports the selected route option is somewhat contradictory and inconsistent and we do not consider that it actually endorses the proposed route, from a purely technical or scientific standpoint.

In terms of the dual issues of design and visual amenity, we note how the townland of Clonshire (and adjacent land) is characterised by relatively level topography and we now highlight the fact that the planned road would tower above the flat open countryside in this part of rural Co. Limerick by about 9-10 metres. Such a design approach is, in our view, completely necessary and the prominent nature of this feature should, of itself, prompt the Planning Authority to re-think the route selection process.

Furthermore, the elevated nature of this carriageway would make it difficult, if not impossible, for the acoustic standard which the Board implemented in appeal ref. PL27.248054 to be satisfied. An Bord Pleanála, on that occasion, envisaged a 30dBA night-time limit as regards the effects of a national primary road on residential development and, in our respectful submission, it would be manifestly unreasonable for a different tolerance to be applied to the development which is proposed at this time.

Yours faithfully



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**REPORT IN RELATION TO A DEVELOPMENT WITHIN THE TOWNLANDS OF SHANGOLDEN, CRAGGS, ASKEATON WEST, LISMAKEERY, NANTIAN, RIDDLESTOWN, RATHKEALE RURAL, RATHKEALY URBAN, DROMARD, CROAGH, ADARE NORTH, ADARE SOUTH, CLARINA AND PATRICKSWELL, ALL OF WHICH ARE LOCATED IN COUNTY LIMERICK**

**TOWN PLANNING SUBMISSION PREPARED BY  
VINCENT JP FARRY AND CO. LTD  
ON BEHALF OF  
MR. JOHN DILLON**

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## 1. Introduction

On 11 December 2019, Limerick City and County Council (hereafter '*The Applicant*' or '*The Planning Authority*') lodged an application for approval under the Roads Acts, 1993-2015 with An Bord Pleanála (otherwise '*The Competent Authority*') in respect of a development proposal which can briefly be described as the Limerick to Foynes Road, including the Adare by-pass. This application is accompanied by both an Environmental Impact Assessment Report and a Natura Impact Statement.

This present report has been drafted for submission to An Bord Pleanála on behalf of a local resident, whose home and small-holding is immediately adjacent to the planned route corridor and seeks to show how the scheme which has been advanced by the Planning Authority is wholly inappropriate, on a number of grounds. Having perused the application particulars, having inspected the site and its surroundings and having examined a number of practical, policy and historical documents, we consider that the proposal for which consent is being sought would adversely affect the environment.

Specifically, it is our view that the overall principle of this project is highly questionable, on a combination of policy and practical grounds, that this road would be detrimental to the character of the rural area which it would traverse and would adversely affect the amenities of local residents, in terms of noise / disturbance and visual intrusion, to an unreasonable and to an unnecessary degree.

## 2. The Site and its Surroundings

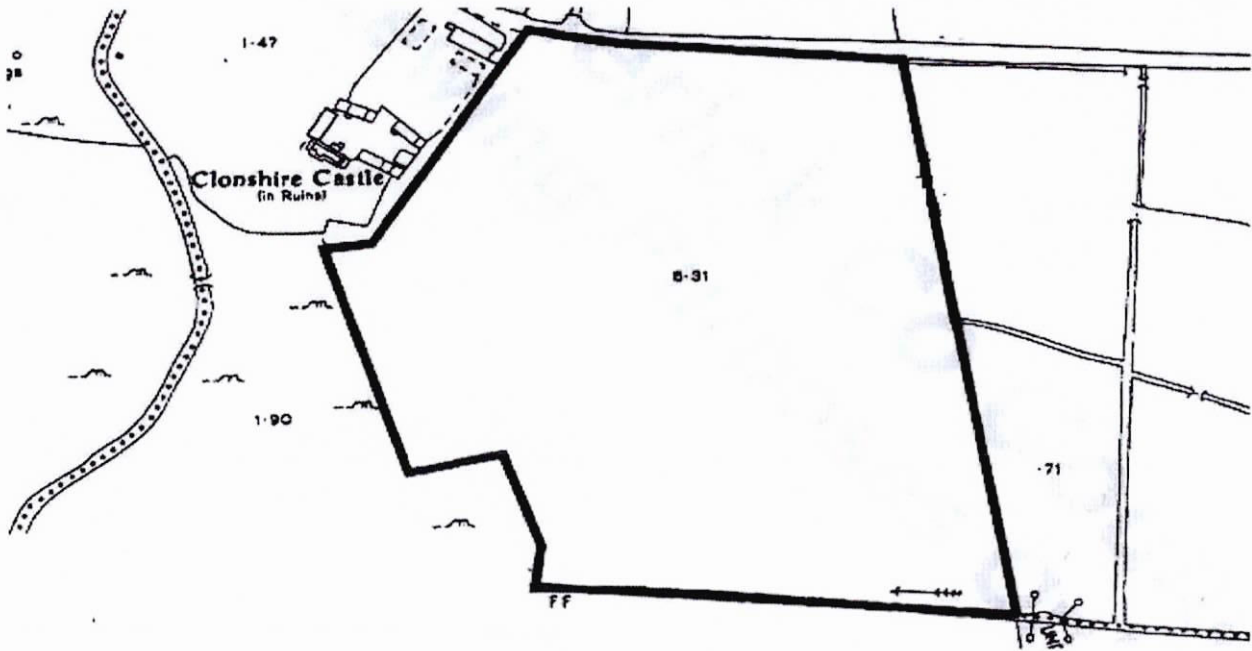
The proposed development would be located in west and south-west Co. Limerick, with the new road extending in a roughly south-easterly direction from Foynes Port to National Primary Road N21 at Rathkeale and onwards, to the north-east, to the village of Patrickswell, via a new by-pass at Adare. The planned carriageway would traverse a series of rural areas, including the townland of Clonshire Adare, in which our Client's dwelling and land are located (these are discussed below and overleaf).



**Aerial Image 1: Our Client's home is situated between Adare and Rathkeale, Co. Limerick**

Our Client's property comprises a regularly-shaped tract which covers an approximate area of 5.3 hectares and which is located c. 3.88km (c.2.41 miles) to the south-west of Adare, in Co. Limerick. This particular site fronts onto a minor rural route which comprises Local Road L-8025 (at a point approximately 1.5 kilometres from its junction with National Secondary Road N21 at Coolballyshane) and which, being relatively narrow and generally unable to accommodate two cars travelling in opposite directions, is of a type which would historically have been called a third-class county road.

The vicinity of the applicant's landholding, which is shown below and which abuts Clonshire Castle (National Monument L1020-159), comprises relatively level topography which undulates gradually throughout this overall area, (but we highlight a small rise in the terrain which is situated to its north).



**Map 1: Our Client's landholding at Clonshire, Adare, Co. Limerick**

A flood report which accompanied our Client's application under reg. 14/1039 stated, *inter alia*, that:

*'The proposed site is located beside Clonshire Castle, Croagh and adjacent to the Clonshire River and Garraunboy Stream. The northern boundary of the site is defined by a county road, the east and west by adjoining open grassland while the southern boundary is formed by the Garraunboy Stream. The site ground levels range between 14.9mOD and 18.7mOD. (Note: all levels in this report are to Malin Head Datum)...'*



**Aerial Image 2: Our Client's home is located in a predominantly agricultural area, which also accommodates one-off dwellings.**

The general area in which our Client's home and land is located comprises a wide expanse of open agricultural land (grassland) interspersed with occasional one-off houses of varying styles and ages.



**Photograph 1:** The vicinity of Clonshire, Adare largely accommodates open farmland, which contains a small rise to the north of our Client's property.

### 3. Select Planning History

#### (i) Motorway Scheme

Limerick County Council, under ref. no. PL13.ED2048, sought a direction from An Bord Pleanála on whether it was necessary to 'prepare an environmental impact statement in respect of a proposed road development comprising N21 Adare Bypass, County Limerick'<sup>1</sup>. The Board Order stated as follows:

*'Direct the road authority to prepare an environmental impact statement in respect of the above proposed road development based on the reasons and considerations below'.*

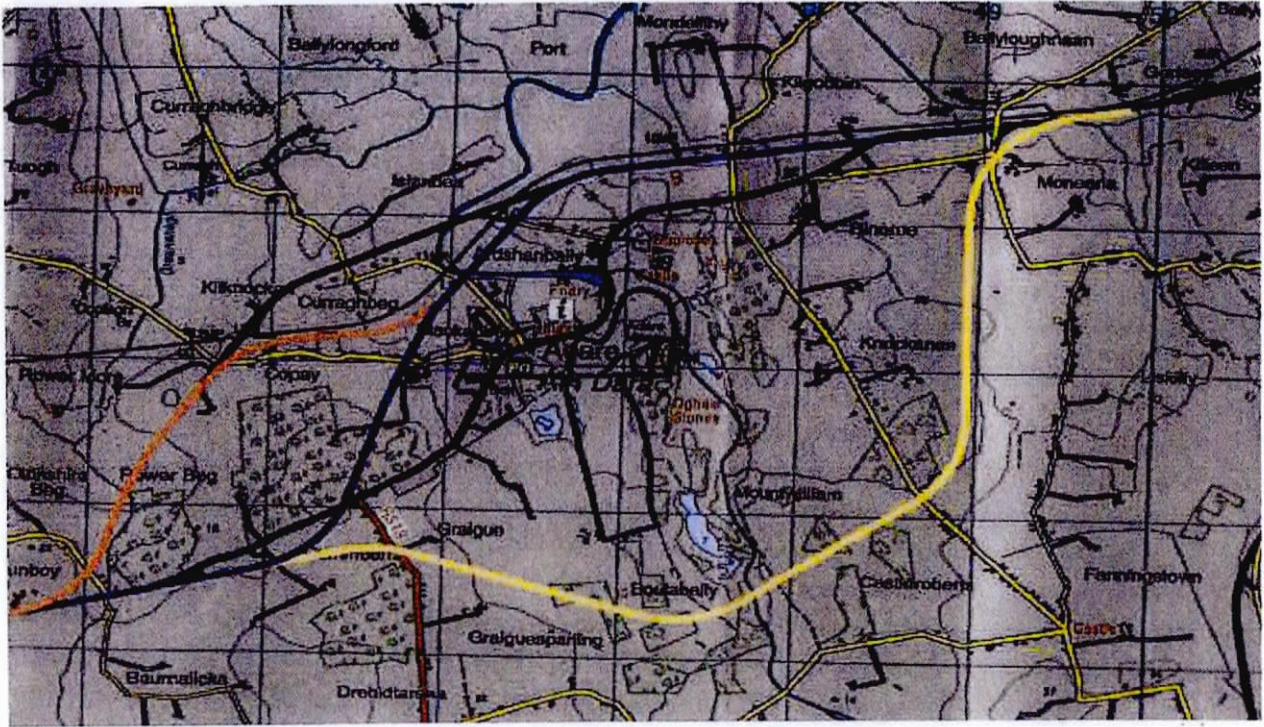
The 'Reasons and Considerations' section of this document is reproduced as follows:

*'Having considered all submissions and observations made to it and the report and recommendation of the person appointed by the Board to make a report and recommendation on the matter and having regard to the nature, scale and length of the proposed road development (including the length of the bridge over the Maigue River), to the high environmental sensitivity of the landscape and geographical area in the vicinity of Adare, to the criteria for determining whether or not development would be likely to have significant effects on the environment as set out in Schedule 3 of the European Communities (Environment Impact Assessment) Regulations 1989 to 1999, it is considered that the proposed road development would be likely to have significant effects on the environment'.*

This proposal initially envisaged eleven route options which were assessed against engineering and environmental criteria and this number was reduced to four alternatives, following this analysis. These options, which are illustrated overleaf, all involved by-passing National Primary Road N21.

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<sup>1</sup> This is the description which was used on the Order which was issued by An Bord Pleanála.



**Map 2: The four principal route options in application reg. no. PL13.ED2048**

The County Council subsequently sought approval under section 51 of the Roads Act, 1993 as amended, in accordance with documentation, including an environmental impact statement, lodged with the Board on the 3 March, 2010 for the following development proposal (ref. no. PL13.HA0028):

*'N21 Adare Bypass, consisting of 8.5 kilometres of dual carriageway and associated side roads which will link the N21 National Primary Route to the M20/N20 National Primary Route through the townlands of Garraunboy, Boherbraddagh, Baurnalicka, Finniterstown, Granard, Dunnaman, Beabus, Derryvinnane, Castleroberts, Caherass, Fanningstown and Garranroe, County Limerick'.*

The Board refused to approve this proposal for a single reason, which is reproduced as follows:

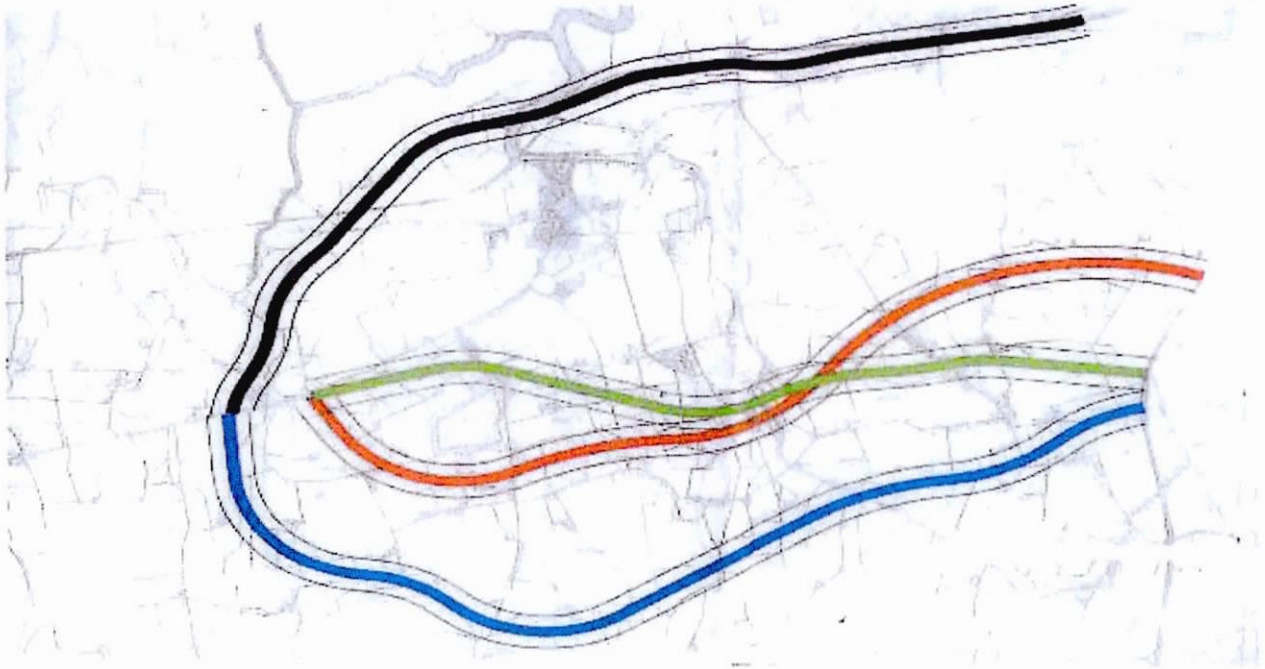
*'The proposed N21 Southern Bypass Route for Adare was selected following the finalisation of the route of the proposed M20 Cork-Limerick Motorway. The proposed N21 was designed to intersect with the proposed M20 to the east of Adare. Having regard to the decision to withdraw the proposed M20 application from the planning process together with uncertainty as to when, or if, any new application in respect of this development may be submitted, the Board considers that the proposed N21 development would, if permitted and constructed, constitute isolated infrastructure, would not represent a coherent approach to the provision of major roads infrastructure and, furthermore, would not have the potential to fulfil the functions envisaged for the Scheme. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area'.*

This development proposal had also envisaged four main road corridors and these are shown overleaf.

The Board, under ref. PL13.KA0016, also declined to approve an application by the Council pursuant to s.76 of, and the Third Schedule to the Housing Act, 1966 as extended by s.10 of the Local Government (No. 2) Act, 1960 (as substituted by s.86 of the Housing Act, 1966) and the Planning and Development Acts 2000 to 2010, for confirmation of a compulsory purchase order dated the 26th day of February, 2010 authorising compulsory acquisition of lands (entitled '*Limerick County Council (N21 Adare Bypass) Compulsory Purchase Order 2010*'). Its reason for refusal is reproduced below:



*'Having regard to the stated purpose of the acquisition as set out in the compulsory purchase order, the acquisition by the local authority of the land referred to in the compulsory purchase order is not necessary due to the Board's decision to refuse to approve the N21 Adare Bypass proposed road development, file reference number 13.HA0028'.*



**Map 3: The four principal route options in application reg. no. PL13.HA0028**

**(ii) Client Home**

Outline consent was initially issued under reg. 05/413 for the following proposal on our Client's land:

*'...development of land in accordance with the documents submitted namely:- construction of dwelling, septic tank / private sewage treatment system, percolation area, entrance and associated works at Clonshire, Adare...'*

Permission was subsequently granted under reg. 09/1556 for the following development on this site:

*'...for a fully serviced dwelling house and all associated site works at Clonshire More Croagh...'*

Attention is drawn to the fact that condition no. 12 of this parent permission had stipulated that:

*'The finished floor level shall be 15.65 metres in relation to the existing ground levels indicated on site layout plan received on the 15<sup>th</sup> June 2010'.*

This permission was later varied under reg. ref. 14/1039 when consent was issued for the following:

*'...for change of house type with its relocation on the site from that already granted in permission 09/1556, including all associated site works above and below ground at Clonshire More, Croagh Co. Limerick'.*

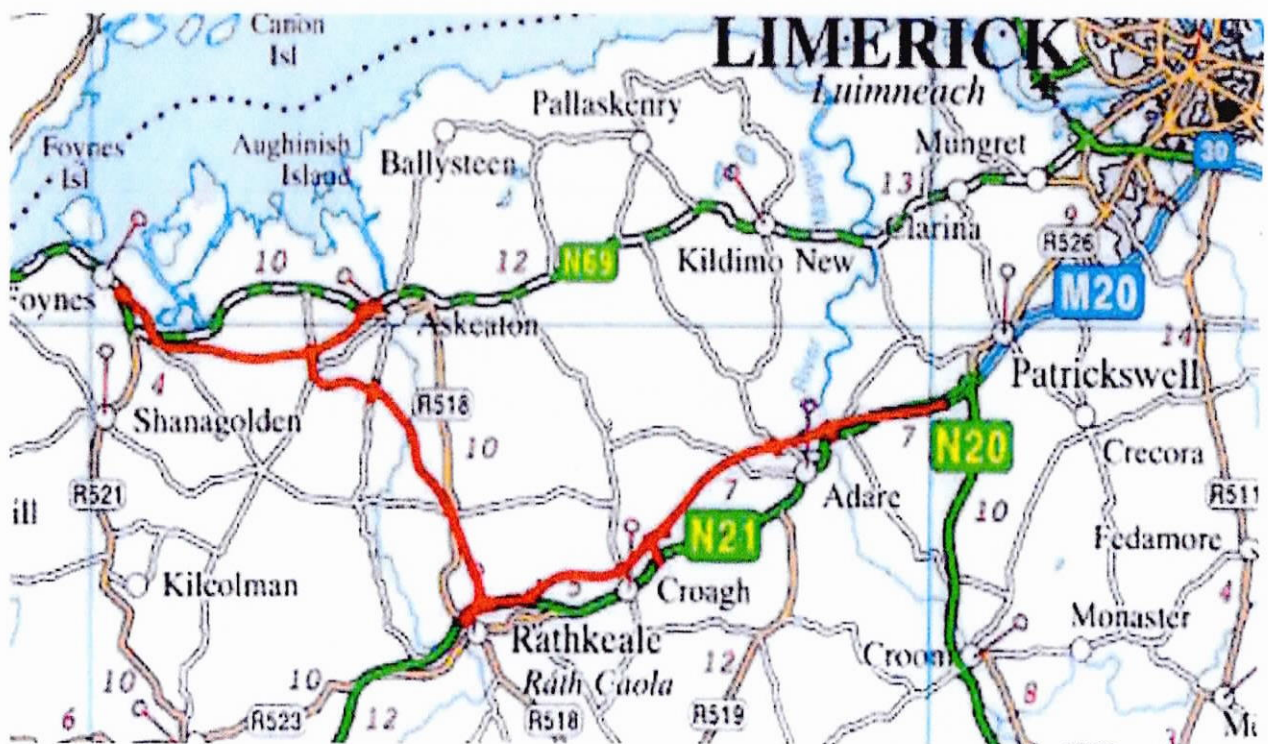
**4. The Proposed Development**

Limerick City and County Council proposes to construct a new road between the port of Foynes and the national motorway network near Limerick City. This proposed route will link Foynes to the N21 at Rathkeale and from there, the carriageway will replace that section of the existing N21 route between Rathkeale and Attyflin (Patrickswell) and will include a bypass of Adare Village. The proposed road development is referred to as the *'Foynes to Limerick Road (including Adare Bypass)'*.



**Photograph 2: Clonshire Castle comprises National Monument L1020-159**

The application submission acknowledges that *'the proposed road development is located in central County Limerick in a predominantly rural area located close to a number of communities, including from west to east: Foynes, Askeaton, Rathkeale, Croagh, Adare and Patrickswell'*. It states that the total length of the route will be approx. 35km (comprising 15.6km of Type 2 Dual Carriageway from Foynes to Rathkeale, 1.9km of single carriageway link road from Ballyclogh towards Askeaton, 17.5km of dual carriageway M21 Motorway from Rathkeale to Attyflin, of which 14km is new build development (and the remainder of which is improvement to the existing N21 to motorway standard).



**Map 4: The planned link between Foynes Port and Patrickswell, Co. Limerick**

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Map 5:

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The primary need for the proposed development stems from the European policy to provide TEN-T (Trans-European Transport Network – Transport) Core Network standard road infrastructure for access to the Shannon-Foynes Tier 1 Port at Foynes, Co. Limerick, and TEN-T Comprehensive Network standard road infrastructure on the Limerick to Kerry route, in accordance with the EU TEN-T Regulations. The relevant national policy objectives, as per the Council's submission, comprise:

1. To support the Tier 1 status of Shannon-Foynes Port and to provide efficient and effective transport links to the national road network at Limerick; and
2. To improve the route between Limerick and towns in the south-western region through the bypassing of Adare

The Planning Authority suggests that the existing national road network in the study area does not facilitate the achievement of the above objectives for two reasons, which are reproduced as follows:

1. The existing N69 road linking Limerick City to Shannon-Foynes Port has a poor alignment, restricted width and very high number of minor junctions and frontage accesses, such that it does not comply with the TEN-T Core Network requirements; and
2. The existing N21 road is subject to severe congestion in Adare, and has a restricted speed limit at the by-pass at Croagh, with the result that this route does not meet TEN-T Comprehensive Network requirements, nor the above-stated objectives at national, regional and local levels.

The Council suggests that the proposed road development has been planned and designed through a staged process, in accordance with the Transport Infrastructure Ireland (TII) Project Appraisal and Project Management Guidelines. A number of alternatives were considered, ranging from a 'Base Case (Do-Nothing & Do-Minimum)' option to a 'Do Something' alternative. Section 3.4 of the submitted EIAR (Non-technical Summary) which is entitled 'Route Selection', reads as follows<sup>2</sup>:

*'During the Route Selection Process, seven alternative route corridors were identified in the study area, with cognisance given to the key constraints. Following additional environmental assessments, these options were further refined (Plate 3.1). Of these, a preferred route corridor (Option 3 in Plate 3.1) was selected using a multi-criteria assessment. Further iterations then refined the route corridor with progressively greater precision and detail, until the most suitable route was identified for the proposed road development. The Route Selection Report was published in June 2016 and made available for public viewing on the project website'*

## 5. Planning Policy

### (i) National Route Planning

The South West Region *National Secondary Roads Needs Study Network Options Report*<sup>3</sup> states that the national road network comprises approximately 5,450 km of roadway throughout Ireland, which represents some 6 per cent of the entire public<sup>3</sup> road network (carrying 46 per cent of the country's traffic volumes). These routes provide important strategic links between various towns and cities. The Report states that '*road infrastructure investment has focussed primarily on the National Primary Roads. In contrast to this, little capital expenditure or other work has been devoted to upgrading or renewing the National Secondary Road (NSR) network*' and states that as a result, '*The National Roads Authority (NRA) is currently implementing a planning framework programme for the National Primary Roads, including the completion of the Major Inter-Urban Routes (MIUs)*'. It also indicates:

<sup>2</sup> Note: this document also indicated that Public consultation events were held between July 2014 ('Constraints Study Public Consultation Event') through March 2015 ('Route Selection Process Public Consultation Event') to December 2015 ('Preferred Route Corridor Public Display Event').

<sup>3</sup> National Roads Authority, 2011



In terms of domestic legislation, the European Union (Roads Act 1993) (Environmental Impact Assessment) (Amendment) Regulations, 2019 (Statutory Instrument No. 279/2019) provides that:

*'The Principal Act is amended by the substitution of the following section for section 50(2)(iv):  
(iv) a description of the reasonable alternatives studied by the road authority or the Authority, as the case may be, which are relevant to the proposed road development and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the proposed road development on the environment'.*

*Guidelines on the Information to be Contained in Environmental Impact Statements*<sup>6</sup> confirms that:

*'Alternatives are sometimes examined during consultation to ensure that the options that are of interest to all parties are evaluated, particularly topics such as site/route suitability.*

*Methods, data and evaluations need to be constantly scrutinised to ensure that they contribute to the prevention of adverse environmental effects by anticipation and avoidance.*

*Anticipation of Impacts is an important technique during screening, scoping and the considerations of alternatives. It involves forming a preliminary opinion, in the absence of complete data, about the approximate magnitude and character of the likely impacts. Experience and expertise are most useful for such anticipation of impacts...*

*Avoidance of Impacts is principally achieved by two means; firstly, the consideration of alternatives...and secondly the review of designs...in light of environmental constraints. When successfully practised, Impact Avoidance can often lead to an EIS which predicts 'no significant adverse effects. To avoid misinterpretation of this statement it is very important for the EIS to provide transparent, objective and replicable evidence of the evaluation and decision making processes which led to the adoption or selection of the final project configuration. Such evidence should clearly highlight the considerations of environmental effects that influenced the evaluation of alternatives. It also shows how the design incorporates mitigation measures, including impact avoidance, reduction or amelioration. Such measures can help to explain how significant adverse effects were avoided.*

*The consideration of alternative routes, sites, alignments, layouts, processes, designs or strategies, is the single most effective means of avoiding environmental impacts. The acceptability and credibility of EIA findings can be significantly affected by the extent to which this issue is addressed...'*

Similar views are expressed in *Environmental Impact Assessment of National Road Schemes – A Practical Guide*<sup>7</sup>, which recognises that the Environmental Impact Assessment Directive and the Roads Act require that the EIS contains an outline of the alternatives considered by the road authority and an indication of the main reasons for the chosen option, considering the environmental effects.

#### **(b) County Development Plan**

It is our opinion that the statutory policy of the Council, insofar as the provision of an improved transport link between Foynes Port and Limerick City is concerned, envisages the development of the existing National Primary Road N69 and does not envisage the provision of a new carriageway from Foynes to Adare, via our Client's home which is adjacent to Clonshire Bridge. We draw considerable support for this view from Objective IN O22 of the *Limerick County Development Plan 2010* which is reproduced on page no. 14 above. Moreover, to the extent that this statutory document also envisages linkages between the N69 and N21, the route map which forms part of this *Plan* proposes that these corridors would link the settlements of Askeaton and Rathkeale and the centres of Foynes and Newcastle West (both of which comprise nominated '*Strategic Regional Roads*' by the Council), and does not anticipate a connection between Foynes and Adare, in the manner which is now planned.

<sup>6</sup> Environmental Protection Agency, March 2002

<sup>7</sup> National Roads Authority (now Transport Infrastructure Ireland), 2008

Moreover, it is our opinion that works for the improvement of National Primary Road N69 would be less damaging on the environment than the large-scale development project which is now proposed and it is somewhat axiomatic that the provision of an extra lane in each direction and a pair of flanking hard shoulders on this existing route would be less costly than the proposal which is now proposed.

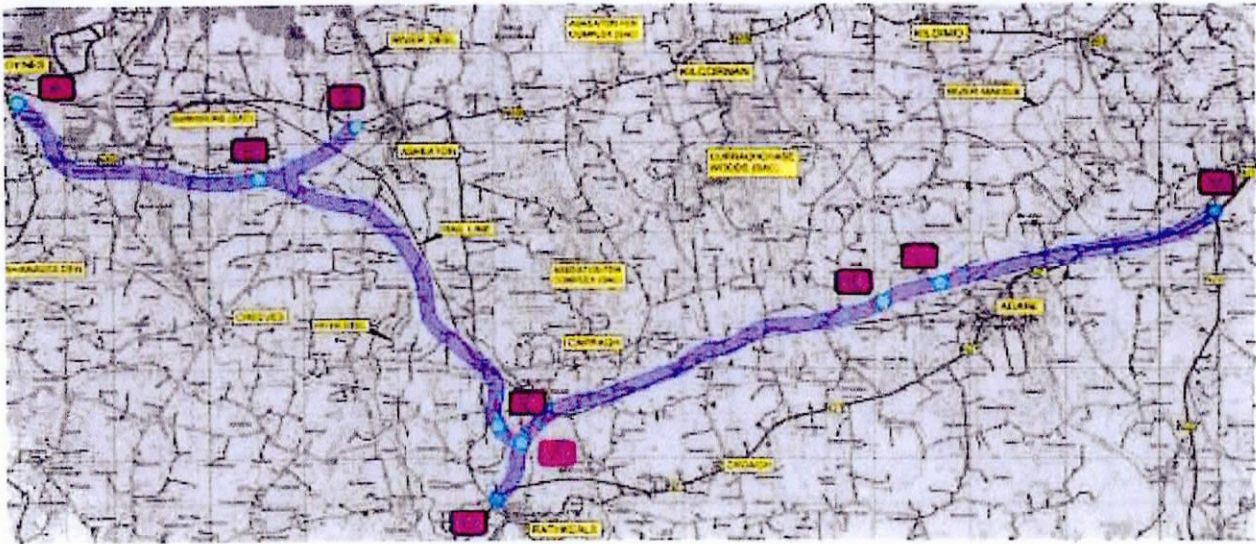


**Photographs 3(a) & 3(b):** Less work would be needed to convert the existing N69 carriageway (above) into a form which has a 'High Quality Score' (as shown below – this image is taken from (p.27 of South West Region National Secondary Roads Needs Study) than the present project.





In our view, Route Option Two, as identified on p. 6/14 of the Route Selection Report (2016) offers a reasonable alternative, in the event of the Board concluding that the existing N29 corridor should not be used as a springboard for any replaced / improved road between Foynes Port and Limerick City.



**Map 8:** The alignment of Route Option 2, from Foynes Port to Limerick City (via Adare).

The narrative provided at p. 6/17 of this earlier route assessment, in relation to the particular section of this proposal which runs closest to our Client's dwelling and property, is reproduced as follows:

*'The length of the route between Nodes F and K is approximately 8.5 kilometres. From Node F, the route travels in a north easterly direction meeting a couple of local roads as it approaches the Foynes – Limerick rail line. The route crosses to the north of the rail line and travels parallel to it until Node K. The route meets a number of local roads, including the L6022, L1203, L6023, L8027, L8029, L1421, L8032, L8024 and L1422 as well as crossing over the Clonshire River at two locations. Node K is located to the west of the Greananagh River in the townland of Tuogh.'*

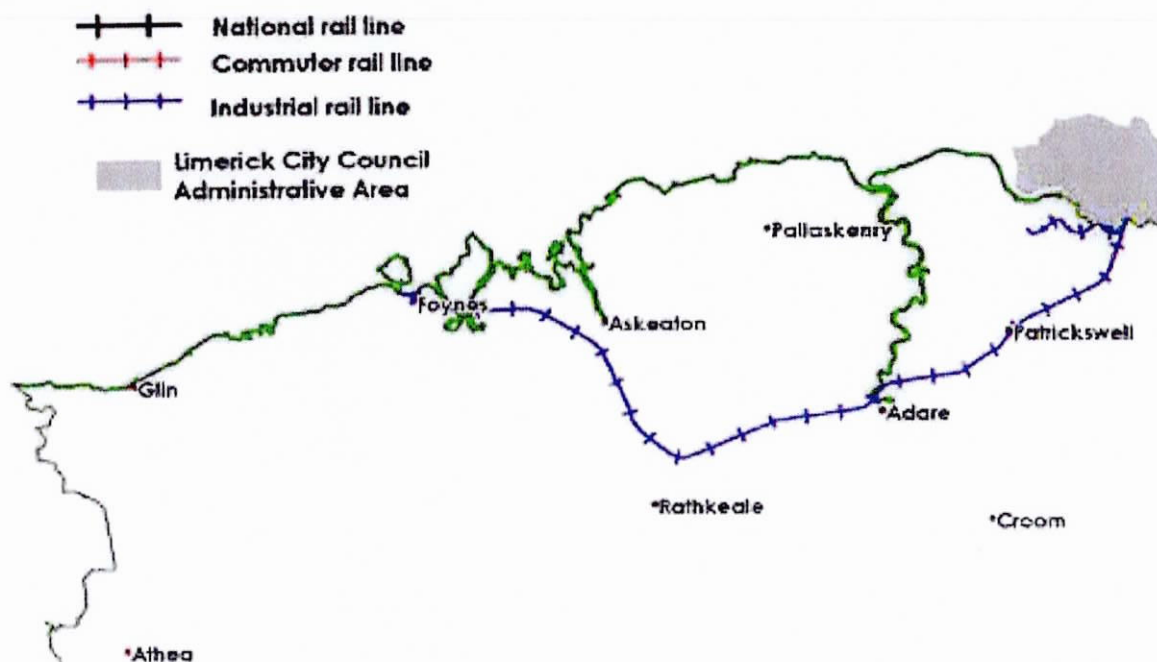
As shown below, this alternative is largely aligned with the route of the railway line and is adjacent to land which accommodates flat terrain and which is already used for heavy transportation purposes.



**Aerial Image 3:** Route Option 2 is largely aligned with an existing railing connection

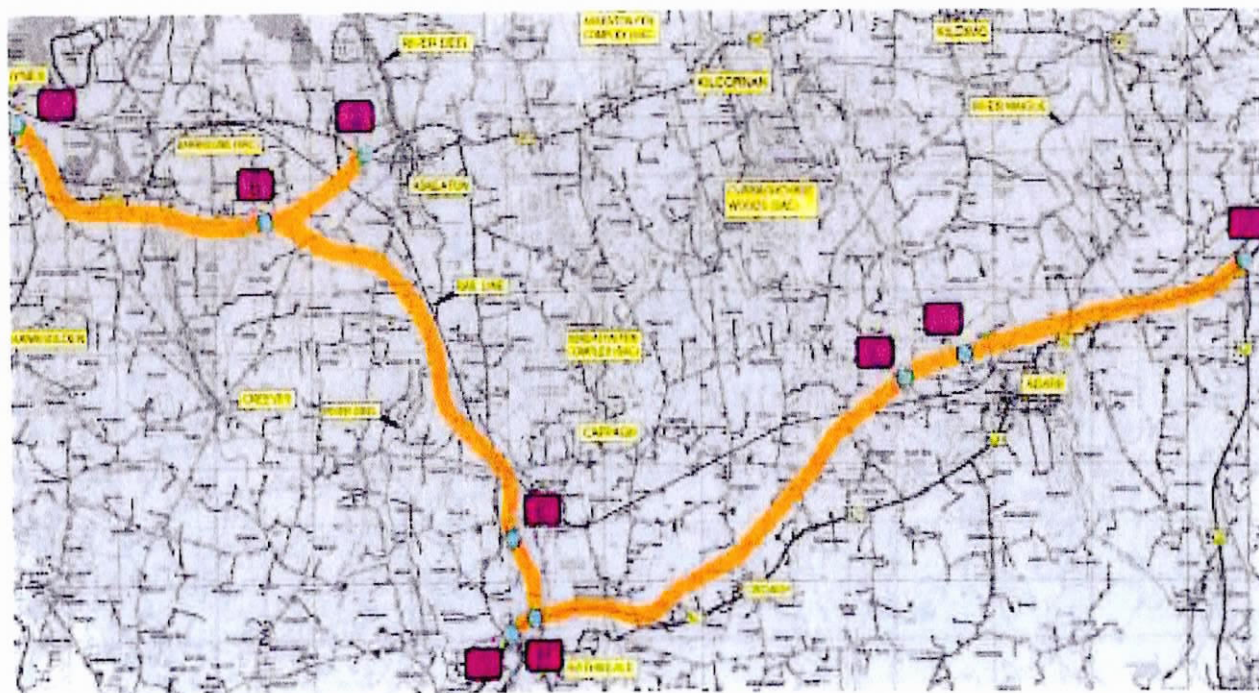


Indeed, this train connection between Foynes and Limerick is already classified as an 'Industrial Rail Line' in the County Development Plan and, in our view, the continued use of other land in this area for such purposes is logical and wholly accords with the proper planning and development of this area.

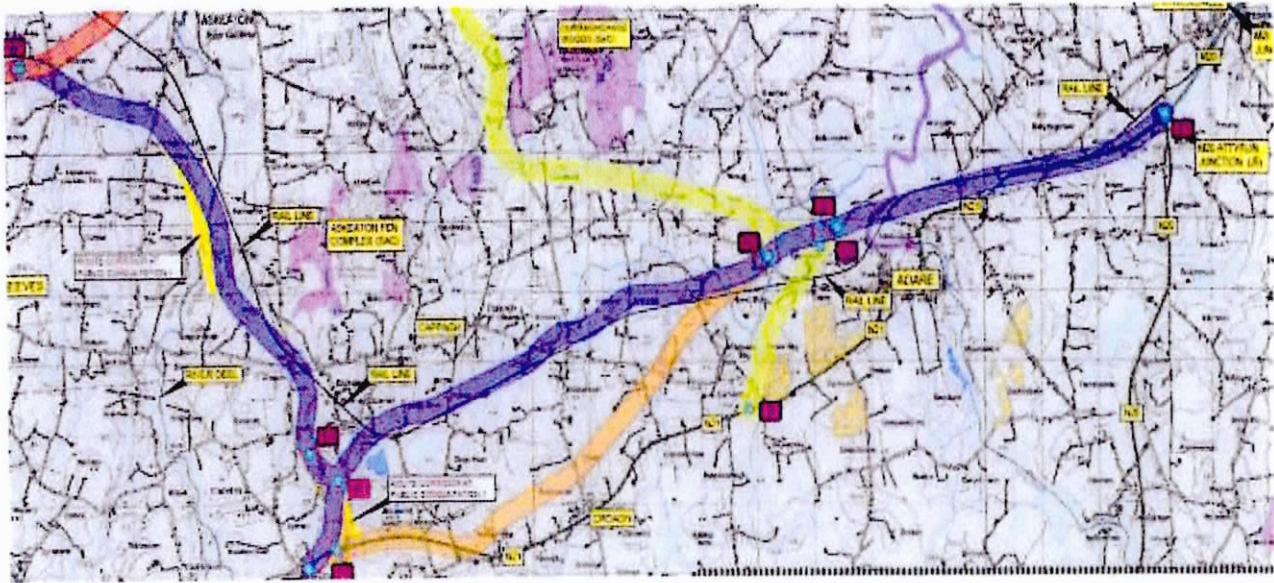


**Map 9:** The train link between Foynes and Limerick is classified as an Industrial Rail Line in Map 8.1 ('Existing Rail Lines') of the County Development Plan 2010.

A variation of this particular alternative is presented as Option Three, which follows the above 'blue' route from a point just outside Patrickswell until it passes the village of Adare, after which, it ceases to use the railway as an alignment barometer. This third option is shown in orange ink below (with the degree of similarity to and diversion from the blue route being illustrated in Map no. 11 overleaf).



**Map 10:** Route Option 3 (shown in orange) is partially aligned with Route Option 2



**Map 11:** Route Option 3 (in orange) departs from the path of Route Option 2 (in blue) at a point to the south-west of Adare Village, so as to diverge towards Rathkeale.

Part of this divergent carriageway traverses the vicinity of our Client's home, with this stretch of road (indicated as 'H to K' on p. 6/19 of this earlier 'Route Selection Report' (2016)) being described as:

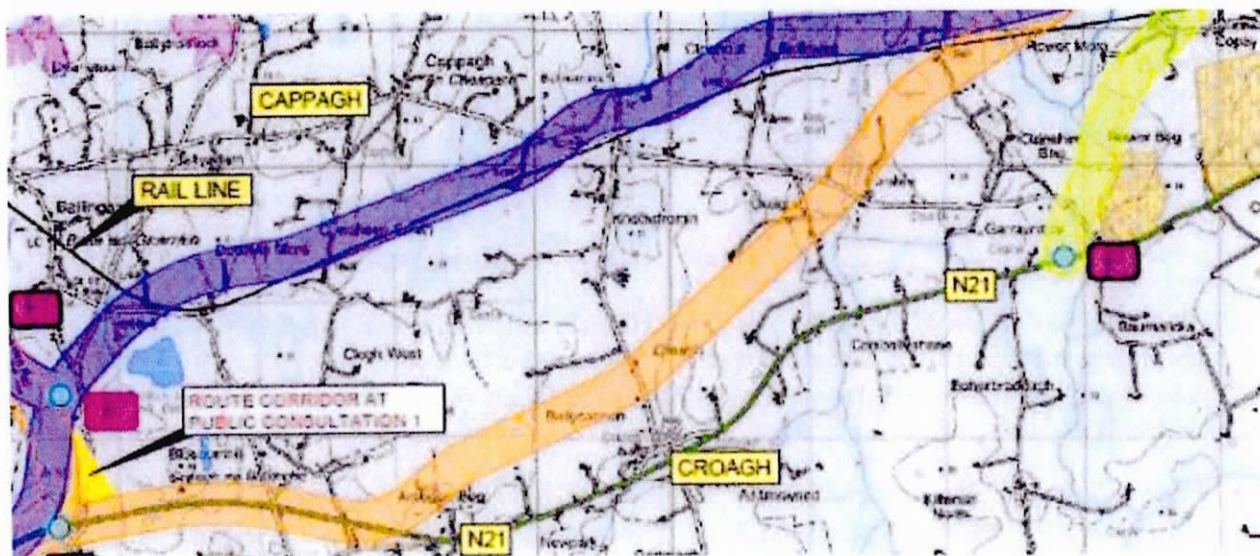
*'The length of the route between Nodes H and K extends from north of Rathkeale through to a location north west of Adare over a distance of approximately 8.7 kilometres. From Node H this section of route runs along the existing N21 Rathkeale Bypass corridor before diverging to head in a north easterly direction west of the N21/R523 Regional Road junction. The Route passes to the north of Croagh village before crossing the Clonshire River and the townlands of Clonshire More, Gortnagrour and Clonshire Beg. The route then crosses the Foynes - Limerick rail line in the townlands of Clonshire Beg and Rower More and extends to Node K located to the west of the Greananagh River'.*

A key question for the Board, when considering the Council's analyses of alternatives comprises whether the difference between Route Option 2 and Route Option 3 is sufficient to justify the view that this latter course is to be preferred over the former. It is our opinion that the analysis on which the Planning Authority has relied is incomplete and is, in this regard, somewhat misleading to the degree that it suggests that the orange route is instantly preferable to the blue route, which is not so.

For example, we have noted how the narrative at p 6/17 of this earlier analysis explains how the Clonshire section of Route Option 2 encounters a number of local roads and we now observe how the narrative provided in relation to Route Option 3 in this same document does not make any reference to this fact. This is a particularly poignant omission given the alignment of these respective routes and the fact that both carriageway options intersect with the same north-south local roads. The omission of this trait gives the mistaken impression that the orange route is to be instantly preferred over the blue option, but this is plainly not so. We reproduce an enlarged version of Map 11 above on the following page, in order that the Board can draw certain parallels between these route options.

Moreover, we respectfully invite An Bord Pleanála to observe how Route Option 2 is actually ranked higher than Route Option 3 for a number of criteria including air quality (see Table 6.3 of this initial assessment), for landscape / visual impact (refer Table 6.4 therein), for its effect on non-agricultural property (see Table 6.6) and soils, geology and waste assessment (Table 6.19 of this earlier report). In other areas, these two alternatives were rated similarly, such as in Table 6.20 of this initial study, ('Economic Benefit') where both of these routes were classed 'Slightly Positive' and again in Table 6.22 (which is headed 'Transport Reliability'), where these options were categorised as 'Preferred'.

Table 6.1 of this original route assessment from the year 2016 pre-dates the erection of a number of dwellings in the vicinity of Route Option 2, including our Client's home and we question, on this basis, whether the opinion reached in Table 6.1 thereof, which is entitled '*Summary Assessment for Each Route Corridor Option*' can be relied on for the purpose of the Board's analysis of this proposal. Indeed, although Route Option 2 and Route Option 3 have both received a '*Moderately Negative*' rating in this assessment, Table 6.1 awards the orange alternative with a '*Preferred*' rating over the '*Intermediate*' classification which is given to the blue route and the scientific or technical basis for such a distinction and for the weight which was placed on Route Option C is not immediately apparent.



**Map 12: The same set of minor local roads intersect with the blue and orange route options**

Although Route Option 3 attracts a preferred ranking over Route Option 2 in acoustic terms, due to the overall noise footprint of these alternative corridors, this view does not accord with local circumstances. Whereas the Option 2 is closely aligned with the train track and thus occupies an area which is relatively remote and which is sparsely developed, Option 3 is located within the more residential area of Clonshire, which is adjacent to the northern edge of Croagh village, which itself accommodates a school and a nursing home, before joining the Rathkeale by-pass. We thus respectfully ask An Bord Pleanála to approach this route selection exercise with considerable caution.

**(ii) Rural Amenity**

**(a) Visual Considerations**

We have observed that it is common case between the parties that Route Option 2 has been awarded a higher protection score by the Planning Authority than Route Option 3, in terms of its impact on visual amenity in this area and we submit that the converse logically holds true, viz. that the selected route has great potential to adversely affect this rural environment from a scenic amenity perspective, including the outlook from residential properties in this immediate area, including our Client's home.

It is a clear and an incontrovertible fact that the vicinity of this particular house and landholding comprises relatively level topography which undulates gradually throughout this overall agricultural area and which is thus characterised by open farmland which generally offers expansive views across the countryside. Indeed, this is not an area which is heavily afforested or which accommodates large agricultural buildings and accordingly, the erection of any significant feature in this overall area has the potential to interfere with scenic amenity to a disproportionate degree. Given that visibility in the environs of our Client's home is not unduly limited by such structures, we query the methodology used in the Council's route assessment exercise, which is characterised at s.6.12.3 thereof, as follows:

*'The landscape and visual impact was assessed with regard to the vulnerability of the landscape to change and the location of visual receptors relative to the proposed road development. The landscape and visual impacts associated with the scheme were assessed approximately 500m to either side of the edge of the route corridor option'.*

Indeed, the Planning Authority's own assessment is largely critical as to the visual impact of the preferred carriageway (option 3), with this original study (2016) opining as follows (section 6.12.13):

*'Options 3 and 4 are marginally less favourable than Option 2, primarily because they run through more sensitive landscapes and more densely populated areas. Option 4 runs within 30m west of the Curraghchase Woods (SAC and forest park) and Askeaton Fen Complex (SAC) which add to the scenic quality in this area, and there are more sensitive visual receptors in this area, consistent with the general increase in housing density on the eastern side of the study area, closer to Limerick City. Where Option 3 diverges from Option 2, it runs close to Rathkeale and Croagh and as a result has the potential to affect more sensitive visual receptors in open countryside than Option 2, which runs parallel to the railway line for much of the comparable route'.*

### **(b) Elevated Nature of Proposed Road**

We have already noted that condition 12 of planning permission reg. 09/1556 (for our Client's home) had stipulated that the ground floor of this single dwelling should be at +15.65 metres in relation to the existing ground levels which, having regard to the topographical survey material which had been provided as part of that submission, essentially required the house to be built on existing ground levels.

This stipulation conflicts with the design of the proposed carriageway, as it would traverse the townland of Clonshire and we ask the Board to observe the levels details which are contained on the Roughan O'Donovan – AECOM Alliance Fig. 4.43 (sheet 6 of 12) which forms part of the Environmental Impact Assessment Report which has been lodged with An Bord Pleanála. We reproduce an extra from this drawing overleaf, simply for ease of reference, although we appreciate that the print size therein may not facilitate a close comparison of the planned surface levels details.

This document indicates that, although the new road would be somewhat elevated in the Clonshire area as a matter of generality, it would be 8.94 metres above existing ground level at a point close by the area which is marked thereon as 'River Bridge M21-C3'. It is immediately apparent, as a preliminary point, that the Planning Authority has adopted a different tolerance to the height of development in this area than was the case when it imposed condition 12 of permission reg. 09/1556.

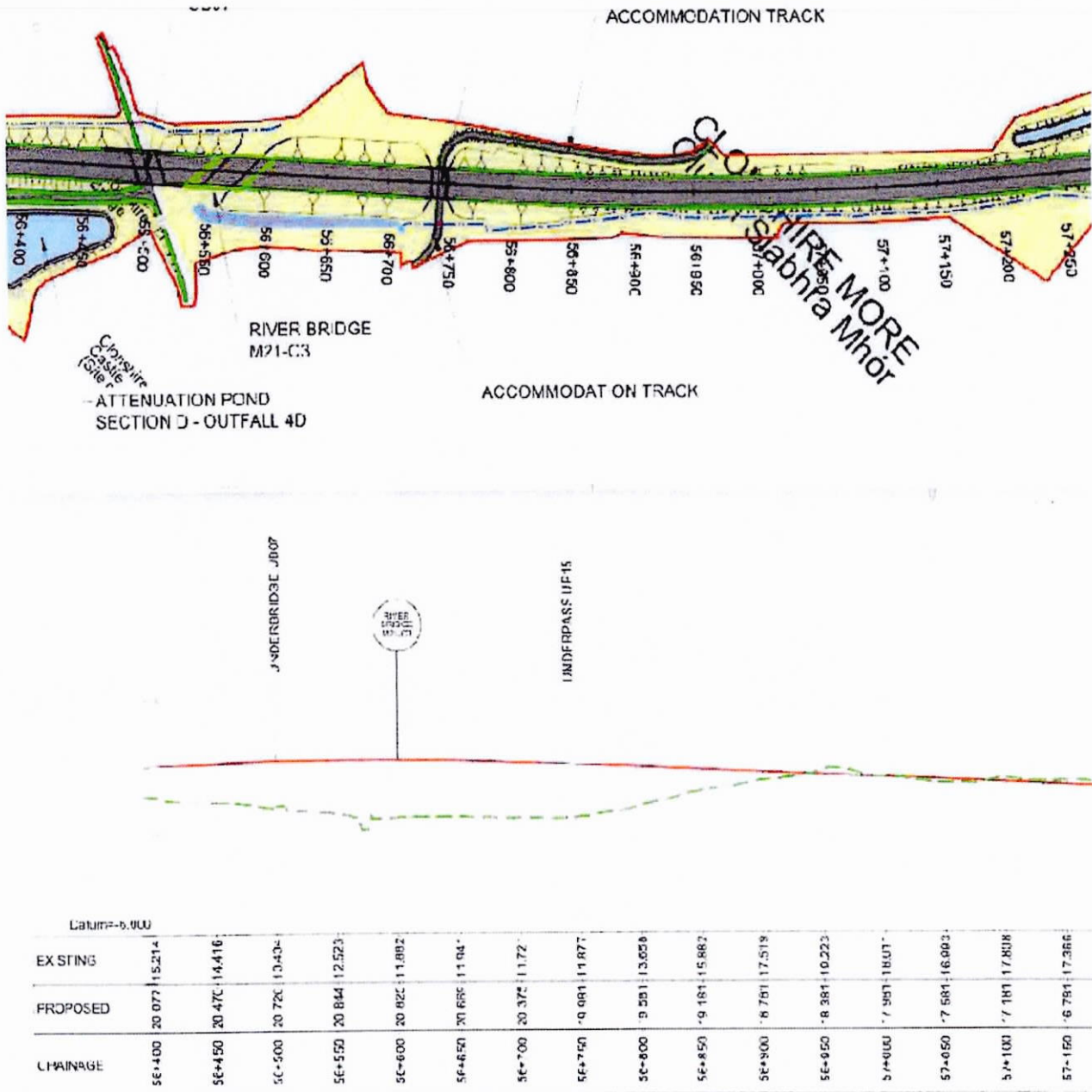
The need for the new carriageway to attain such an elevated level is, most probably, linked to a number of minor ground level features (rural roads) which it must bridge. It is difficult, however, to conclude that the degree to which this new carriageway would be elevated above the surrounding terrain stems from the need to cater for local motorists travelling in underpasses beneath this carriageway, given the level nature of the topography in this general area. This element of the proposal is ill-considered.

The proposed development would, given the character of the land adjacent thereto, be visible over a wide area and it is impossible to conclude that the selection of a different route option would have had a more serious visual effect. From the perspective of scenic amenity, it remains our opinion that the development of National Primary Road N69 (Map 7 above) or the construction of Option 2 (on Map 8 above) would be instantly preferable to the proposed route alternative, from a visual perspective.

### **(c) Clonshire Castle**

Linked to this point, it is somewhat ironic that one of the most visually prominent sections of this new route would be positioned within the immediate environs of Clonshire Castle and it is difficult to conclude that the protection of this National Monument was foremost within the design-process for this project. It is our opinion that this carriageway would tower over the open countryside which has surrounded this Castle for several hundred years and would be detrimental to the setting of this feature.

The promotion of National Primary Road N69 as the primary link between Foynes Port and Limerick City, or the selection of Route Option 2, would plainly not have had such an adverse effect on this nationally important feature and we question the wisdom of the approach advocated by the Council.



Map 13: Extract from application drawing (Roughan O'Donovan – AECOM Alliance) 4.43 (sheet 6 of 12).

(iii) Noise and disturbance

New road systems, along with invasive activities such as quarrying operations, offer the greatest potential to adversely affect the environment and it is axiomatic that the proposed development would cause a significant degree of noise and disturbance, not only during the construction phase itself but also afterwards, when the carriageway is operational. The extent to which the amenities of our Client's home, along with those of many other dwellings within this overall area, would be affected cannot be overstated, especially given the serene character of this rural location as it exists at present.

In this regard, we note that, whilst the TII documents referred to in the Noise and Vibration section of the EIAR are dated 2004 and 2014 respectively, we note that the maps which identify the proposed route are dated, signed and stamped with the Common Seal on 3 December 2019. There is clearly somewhat of a disconnect between the preparation of the proposal, on one hand and the consideration of the effects of this development, insofar as the dual issues of noise and disturbance are concerned.

Moreover, the referenced documents in the application refer to the WHO publication "*Night Noise Guidelines for Europe*" published in 2009. These guidelines gave recommendations for in-room levels of a metric— measured with the "slow" time constant – at night of 42 dB(A), the metric being denoted  $L_{ASmax}$ . While this Metric is tabulated in the EIA for the construction phase (usually during daytime) there is no assessment of same for the residual noise at night-time at any noise- sensitive receptor and no effort is made to assess the likely in-room level of this metric arising from the residual noise should a bedroom (at night) have a window ajar for fresh air admission. WHO published a detailed series of Guidelines in 2018 entitled *Environmental Noise Guidelines for the European Region*. This document is thoroughly researched document and, insofar as road traffic noise is concerned, it makes a strong recommendation that the  $L_{DEN}$  from road traffic noise be reduced below 53  $L_{DEN}$ . We respectfully invite the Board to consider this requirement when determining the current application.

Moreover, firm guidance has already been provided by the Board in relation to acceptable noise levels from a national road and we note, in this regard, its decision in ref. PL27.248054 which involved the:

*'Retention of works for the renovations and extension of the longstanding building on a site including new roof, for the prospective use of this structure as a family dwelling by the applicant, for the future installation of a sewerage treatment system, and for the retention of the revised entrance, all at Bridge Cottage, Kilmacullagh, Newtownmountkennedy, County Wicklow'.*

The second reason for refusal which was issued on that occasion is reproduced as follows:

*'Having regard to the proximity of the elevated N11 to the site, it is considered that the environmental impact generated by traffic on this national primary road, in terms especially of noise and general disturbance, would militate against the establishment of a satisfactory standard of amenity for future residents of the proposed dwelling. Advice contained within Appendix 1 of the Wicklow County Development Plan 2016 – 2022 indicates that proposed dwellings should be set back at least 100 metres from national roads in order to mitigate against the environmental impact generated by traffic. This set back would not pertain to the proposed dwelling on the site. Therefore, the proposed dwelling for which retention is being sought would contravene this advice and would therefore, be contrary to the proper planning and sustainable development of the area'.*

This second reason for refusal had been prompted by the Report of the Inspector in that case, which had expressed a profound concern at the amenity impact, in terms of noise, in the event of the building in question not being able to meet a sufficient standard, given the proximity of a nearby main road:

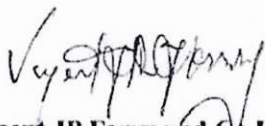
*'Readings recorded for the acoustic assessment of the site indicate that the outdoor 15-minute LAeq is 64 dB(A) and the indoor one is 43 dB(A). Thus, noise attenuation properties of the existing western portion of the building leads to a reduction of 21 decibels. The applicant has identified measures that could be taken to increase this reduction, although it has not been demonstrated that a 30 dB(A) level could be achieved, i.e. the customary level for "good" bedroom acoustic conditions. Likewise, the applicant envisages the provision of a patio area to the south west of the building. i.e. the side furthest from the N11. He anticipates that with the careful positioning of acoustic barriers around this patio a reduction of up to 10 decibels would be achievable and so the customary maximum level of 55 dB(A) for outdoor areas may be obtainable. However, I am concerned that the utility value of any patio may be largely negated by the inordinate presence of acoustic barriers around it. Elsewhere on the site the customary maximum level would be exceeded without any significant remedy being to hand. In the light of the foregoing paragraph, I am unpersuaded by the case for a relaxation in the normal set back distance of 100m presented by the applicant and so I conclude that there appears to be no prospect of the site affording a satisfactory standard of amenity to future residents, due to the environmental impacts generated by traffic on the N11'. (emphasis added).*

We respectfully ask the Board to opine that the residents of Clonshire Co. Limerick require the same degree of acoustic protection as the citizens of Co. Wicklow and to clearly show, in its file papers, how the standard referred to above can be satisfied for our Client's dwelling and other houses nearby.

## 7. Concluding Comment

Although there is clearly a requirement for improvements in transportation generally and in road conditions nationwide, there is also a need for such projects to be undertaken in an environmentally sustainable manner and it is our opinion that, notwithstanding the considerable volume of material which has been provided to An Bord Pleanala by the applicant, the proposal for which permission has now been sought does not accord with the proper planning and sustainable development of this area.

The route selection process, which is itself fundamentally-flawed from a procedural perspective, has identified a development option which would adversely affect the rural area in which the new carriageway is to be positioned and this proposal would, in our view, adversely affect the environment to a considerable degree. Aside from the fact that other carriageway alternatives would appear more logical, including the usage of the route which is advocated as an appropriate link between Foynes Port and Limerick City, the suggested project would adversely affect visual amenity in this area of level terrain, would be detrimental to residential amenity for a number of dwellings, including our Client's home and would destroy the setting of a feature of national importance (Clonshire Castle).



**Vincent JP Farry and Co Ltd**