



An
Bord
Pleanála

Inspector's Report

ABP-316029-23

Development

Construction of: (1) Foodstore; (2) Building B: 2 retail units and 14 residential units; (3) Building C: café, plant room, communal area and 6 residential units; (4) signage and (5) all associated ancillary works. A Natura Impact Statement was submitted with this application.

Location

Junction of the Clare Road (R458) and Toberteascain Road, Ennis, Co. Clare

Planning Authority

Clare County Council

Planning Authority Reg. Ref.

2233

Applicant(s)

Lidl Ireland GmbH

Type of Application

Permission

Planning Authority Decision

Grant Permission

Type of Appeal

First and Third Party

Appellant(s)

RGDATA – Local Shop – Local Communities
Lidl Ireland GmbH

Observer(s)

None

Date of Site Inspection

25 November 2024

Inspector

Claire McVeigh

1.0 Site Location and Description

- 1.1. The subject site, stated as 1.502 ha in area, is located in the County town of Ennis at the junction of Limerick/Clare Road (R458) and Toberteascain Road (L4636) (spelling Tobarteascain in the Clare County Development Plan 2023-2029). The subject site is approximately 1 km from the town centre and located to the west of the railway and the River Fergus.
- 1.2. St. Flannan's College, a protected structure, is located on the opposite side of the four-armed roundabout junction northwest of the subject site. Directly east from St. Flannan's College and north of the subject site is a commercial block, three storey over basement building with Mansard style roof, with some retail units at ground floor including a clothing shop and off-licence (as stated in the planner's report referred to as The Mall and also Clare Road Business Centre). There is a large area of surface car parking surrounding the commercial block with vehicular access via the Toberteascain Road. A number of housing estates are in the vicinity of the site, including Honeywell, Dún Ni Ri and Abbey Court.
- 1.3. The existing site comprises a two storey and single storey office block with ancillary structures (former Michael Lynch – Building Contractors' building) which wraps around the corner of Limerick/Clare Road and Toberteascain Road. There are also three single storey detached dwelling houses located to the south of the former commercial building fronting onto Limerick/Clare Road (R458).
- 1.4. The remaining portion of the subject site comprises scrub area to the rear of the vacant houses and undeveloped greenfield lands to the south and east of the built form on site. The applicant's state that a multidisciplinary walk over survey identified the presence of Japanese Knotweed on site within and adjacent to the site boundary.
- 1.5. For clarity the wider Masterplan lands as shown on submitted drawing no. 202A are not within the ownership of the applicant and do not form part of the subject application site.

2.0 Proposed Development

- 2.1. The proposed development (as submitted on the 20 January 2022) comprises the:

- Demolition of existing structures on site including three residential units, office block and ancillary buildings (Gross Floor Area of demolition: 1,817sq.m).
- Construction of 3 no. buildings (Gross floor area 4665.2 sq.m):
 - Building A The provision of a 2,214 sq. m single storey discount foodstore including off licence use as well as roof mounted plant and solar panels (Net retail area: 1,200 sq.m).
 - Building B: 3 no. storey building comprising 2 no. retail units at ground floor (Retail Unit 1 - 167.5 sq.m, Retail Unit 2 - 246 sq.m), plant and boiler rooms, residents and retail bin store, and apartment entrance lobby. 14 no. apartments over first and second floor comprising 6 no. 1 bed apartments 6 no 2 bed apartments and 2 no. 3 bed apartments.
 - Building C: 3 no. storey building comprising 168.9 sq.m cafe and external seating area (including associated changing, WC and office), plant room, 65.5 sq.m residents' communal area at ground floor as well as residents entrance lobby. 6 no. apartments over first and second floor comprising 2 no. 1 bed apartments and 4 no. 2 bed apartments.
 - External communal amenity space is provided in the form of a shared garden with seating and gathering places adjacent to the communal indoor space location on ground floor of building C and is stated to be open for all residents (294.5 sq.m excluding external bins and bikes storage within an internal communal amenity space of 103.5sq.m).
- Provision of public realm area, pedestrian and vehicular access, residents' communal open space, landscaping and boundary treatments, street furniture, ESB substation (playground, 142 no car parking space including 6 no. disabled bays and 6 no. family bays, 89 no. cycle spaces, bin stores and all other site development works and services ancillary to the proposed development.

2.2. I note submitted Masterplan (Drawing Number 202A) which includes indicative development on extended lands of 4.005ha in total with an additional retail unit, 2 no. bulky retail units of 800 sq. m each and a DIY store with garden centre with a large area of surface car parking.

2.3. In response to the planning authority's request for further information (Received 9 September 2022) and clarification of further information (Received 14 December 2022) as revised the proposals include:

- Retail unit no. 1 reduced in floor area to 127.5 sq.m
- Retail unit no. 2 increased in floor area to 255 sq.m
- Café floor area reduced to 155 sq. m
- Revision to proposed building B and C including the increase in height (from 11450mm to 12750mm) of building B to create a prominent corner. Brick elevation option and alternative stone cladded option to one elevation in Building B & C provided.
- ESB Room and Switch Room relocated southwards from the Tobartescain Road adjacent to proposed surface car parking.
- Provision of a 2m wide cycle lane at the junction of the Limerick/Care Road and the Tobartescain Road for a distance of approximately 125m.
- Provision of two uncontrolled pedestrian crossings on the Tobartescain Road of either side of the proposed vehicular access into the subject site.

2.4. The following documents accompany the application:

- Retail Impact Assessment (RIA)
- Natura Impact Statement (NIS) and revised Natura Impact Statement
- Ecological Impact Assessment (EcIA)
- Engineering Design Report
- Traffic and Transportation Assessment (TTA) and revised TTA
- Flood Risk Assessment (FRA)
- Lighting Impact Assessment Report
- Solar Shading and Glint and Glare Analysis and revised Glint and Glare Assessment Report.
- Daylight and Sunlight Assessment and revised Daylight and Sunlight Assessment

- Architectural Description and Apartment Quality Assessment and assessment as revised.
- Preliminary Construction and Environmental Management Plan
- Hydrological and Hydrological Impact Assessment

3.0 Planning Authority Decision

3.1. Decision

On the 15 February 2023 the planning authority granted permission subject to 27 conditions.

Bespoke conditions include the following in summary:

Condition no. 2 Phasing of development

Condition no. 4 Regulation of Commercial Institutional Investment in Housing

Condition no. 5 Design details to be agreed and works undertaken to create a right hand turning lane from Tobarteascáin Road into the site, a cycle lane from St. Flannan's roundabout to the vehicular entrance to the proposed development and signage and ramped crossing.

Condition no. 6 Revised site layout plan for additional family friendly parking spaces and age friendly parking spaces, retaining the 6 no. accessible parking spaces. Details of playground equipment and fencing proposals.

Condition no. 8 NIS and EclA construction methods and environmental mitigation measures.

Condition no. 11 archaeological monitoring of ground works.

Condition no. 12 surface water discharged to the surface water drainage system as amended by further information and clarification of further information.

Condition no. 18 2 no. parking spaces to serve the proposed residential units shall be provided with Electrical Vehicle Charge Points.

Condition no. 21 Details of each future occupier of the commercial units within Building B and Building C to be agreed in writing with the planning authority prior to

occupation of the unit and no change of use shall take place without consent from the planning authority. The commercial units shall not be used as a standalone takeaway/fast food outlet. Signage, extractor fans or other such paraphernalia shall be subject of a separate application for planning permission.

Condition no. 23 No residential units shall be used for commercial overnight guest accommodation without a separate application.

Condition no. 25 Special Development Contribution of €325,000 towards the modification and realignment of the roundabout on the R458 to provide for raised pedestrian crossings, segregated cycle lanes and junction improvements.

Condition no. 26 Special Development Contribution of €51,000 towards the provision of a footpath to the east of the proposed entrance for a distance of 80 metres and additional traffic calming measures on the L4636 Toberteascain Road to the east of the site.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Further Information sought in respect of a revised Retail Impact Assessment (RIA) to include the cumulative impact of the proposed development and development planning register reference 21/756, on appeal to ABP, to address concerns in relation to the proposed residential element on the commercial zoning, visual impact of the proposal along the northern elevation and totem signage, traffic and access, impact on groundwater, plans in respect to the demolition proposed, location of fire hydrants and location of the trolley bay.
- Clarification of further information sought with respect to concerns relating to the design and massing of the development, particularly along the northern elevation, and taking into account section 2.9.3 Volume 3 (a) of the development plan which places a significant emphasis on the development of a landmark building of a scale, height, material and finish appropriate to its location on the entrance to the town.
- Calculation of contributions, special contributions and bond.

- Screening for Appropriate Assessment concluded that the development would be likely to have a significant effect on the European sites. An Appropriate Assessment was carried out and determined that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of Lower River Shannon SAC, River Shannon and River Fergus Estuaries SPA and Newhall and Edenvale Complex SAC or any other European site in view of the sites' conservation objectives.
- Screens out the need for an EIA having regard to the size of the site as sub-threshold (Class 10 b(iv)).

3.2.2. Other Technical Reports

- *Chief Fire Officer*

No objection to the proposed development provided it complies with the Building Regulations 1997 and latest amendments. Fire Safety certificate and a Disability Access Certificate is required for this development.

Following receipt of further information notes the changes made to Building B with recommendations for ventilation, access to the refuse store and exit from communal ground floor area.

- *Taking in Charge Estates*

Roads: Consideration be given to providing disabled parking spaces on the public roads and vehicle charging points around the proposed development as well as within.

Footpaths: All footpaths should be a minimum of 2m wide to adequately cater for public lighting columns, micros and mini pillars, Irish water infrastructure, broadband/telecommunications, TV etc. Dished footpaths and kerbs to be provided and tactile paving.

Water Services: All freshwater and foul water proposals and infrastructure to be agreed in advance with Irish Water.

Storm Water: Petrol interceptors should be provided on all storm water discharge locations, the details and specifications of which shall be submitted and agreed with the planning authority in advance.

Public Lights: Details of public lighting around the public roads to be agreed.

Construction Traffic: Wheel washing facilities located directly inside main exit of the construction site. Confirmation should also be sought that all public roads in the vicinity of the site entrance/exit will be kept clean at all times. Any road base material used for construction/access road shall be of clean broken stone and assurance sought that all such areas be kept clean and re stoned as required. Access route to be clearly identified.

A bond should be provided.

Details of naming to be agreed in advance with the planning authority.

Ensure adequate car parking for both commercial and residential.

Development does not fall within Clare County Council's Taking in Charge Policy. No Taking in Charge Conditions apply.

- *Road Design*

Further information in respect of a Mobility Management Plan should be sought as part of further information to take into consideration the areas use by students and a revised layout should be submitted to take account of any recommendations in the mobility plan; the Road Safety Audit recommends that the minor road on the proposed junction on the L-4500 should be reduced to a single lane to minimise the crossing distance for pedestrians, this is not evident on the layout submitted; turning circle is required for any road that terminates in a cul-de-sac over 20m long this is not evident in the road serving the residential parking and revised design to mitigate other users parking in the residents parking area.

Report following receipt of clarification of further information:

A special contribution of €51,000 for construction of footpath east of the entrance to the existing footpath on Tobartescain Road., a distance of 80m approximately and the provision of additional traffic calming works on the Tobartescain Road.

A special contribution should be sought for the installation of traffic lights at and a realignment of the roundabout to accommodate same of €325,000.

RDO acknowledge the inclusion of the Cycle Lane from the roundabout to the Entrance of the proposed development, RDO recommend setting back the boundary of the development to cater for the future provision of an additional cycle lane or a shared surface.

Roads Design recommends that a noise assessment report be prepared and appropriate mitigation measures in relation to the residential accommodation and the noise generated from the new roundabout with raised pedestrian crossings.

Shortfall in parent and child spaces. The drawing should also identify age friendly parking allocation.

The applicant should illustrate how they will prevent students from St. Flannan's college parking in the car park.

The crossing point to the front of this development should be reduced in width by the removal of the left turn lane, reducing the entrance to two lanes.

Improvements should be made to the crossing points within the Lidl customer carpark. In the southwest section a pedestrian crossing leads into a grass area and there are no crossing points leading to the single line of parking spaces south of the car park.

Drainage, footpath design and road finish conditions.

Parking numbers should be calculated as per the Clare County Development Plan 2017-2023 and should separate the main retail as office, retail warehousing and retail.

The Road Safety Audit recommends that pedestrian desire lines and activity should be identified, and provision made where necessary to cater for pedestrians at these points. Further information should be sought.

Footpaths to be a minimum of 2m wide with an absolute minimum of 1.5m where pedestrian movements are low. The footpath to the front of the site should be dedicated to the council upon completion.

Construction waste management plan to be prepared and agreed with the local authority before the commencement of construction activities.

Landscaping and planting is not to interfere with any sighting distances required at junctions.

3.3. Prescribed Bodies

Development Applications Unit (DAU)

Archaeology: Recommend that archaeological monitoring be required as a condition due to the scale of the proposed development.

Irish Aviation Authority

No observation on this application from the Safety Regulation Division Aerodromes.

Irish Water

No Objection. New manhole to be constructed to accommodate the connection to public sewer. Ensure all watermain details comply with Irish Water specifications.

3.4. Third Party Observations

There were three third party observations from Paul & Ray Ryan c/o Ryan's Centre, RGDATA Local Shops and Local Communities and Martin Brennan

In summary the issues raised include:

- Concerns raised in respect to the content of the Retail Impact Assessment.
- Negative impact of the proposed development at this out-of-town location on the vitality and viability of Ennis Town Centre and detrimental to the smaller retail premises that exist along Limerick Road contravening the policies of the Mid-West Retail Strategy and the Mid West Regional Planning Guidelines 2010-2020 and the strategic aim of the current Clare Development Plan,
- Would constitute an unsustainable form of development which would be principally dependent on private car and cause traffic congestion.
- Potential for cumulative adverse retail impact. An unreliable extent of retail catchment is presented.

- Excessive net floor space and disproportionate gross floor space for proposed anchor retail unit.
- Design of the proposal at this strategic corner site is considered sub-standard and it fails to provide adequate active street frontage on Tobarteascain Road.
- Car parking (123 spaces proposed) appears excessive.
- History of flooding in the area. Flood risk assessment does not comprehensively demonstrate that the subject site is protected from flooding.
- No Noise Impact Assessment was submitted in respect to the busy Limerick Road and residential units proposed. In addition, potential adverse impact on future residential amenities of the proposed apartments by the proposed café.
- Proposed civic space and playground is limited and would not represent optimal civic amenity.
- Concerns about impact of increased traffic and impact of new entrance on access from existing residential property opposite the proposed entrance to the car parking area.
- The subject site has been used as a landfill over the course of many years. Concerns that there may be potential pollution of soil and water table.
- Impact of the development on the biodiversity of the site, including impact on the lesser horseshoe bat.

4.0 Planning History

Planning Register Reference 18/265 ABP-302966-18: Planning permission refused for demolition of existing structures on site including three residential units, office block and ancillary buildings. The construction of a neighbourhood centre as part of a first phase of development of lands at the Clare Road to include; a licensed, discount foodstore incorporating an off-licence area; two number associated retail units and two office units within a three-storey building; childcare unit/retail unit; public playground; and public realm; new vehicular access to Tobarteascain Road; car parking and cycle parking; all boundary treatment; ancillary mechanical plant: trolley bay structure; ancillary signage including two number double sided illuminated

totem signs and other signage associated with the development; ESB substation building; and all necessary site development works and services including all drainage and related underground works at Clare Road (R458) and Tobartescain Road, Ennis, County Clare as amended by the revised public notices received by the planning authority on the 21st day of September 2018.

This decision was based on one reason for refusal:

Having regard to –

- (a) The scale of the proposed development and context with regard to intended future development of further retail units, a primary care centre and ancillary office accommodation within the wider masterplan area,
- (b) The pattern of development in the area, the distance from the town centre of Ennis and the location of the subject site on a major link road between the town centre and N85 ring road and M18 motorway, and
- (c) The existing quantum of retail and commercial development within Ennis and the level of vacancy currently prevailing therein, it is considered that, notwithstanding the zoning of the site for use as a neighbourhood centre, the proposed development would create a counter attraction to the existing town centre services, which would seriously impact on the vitality and vibrancy of the town centre and would constitute an unsustainable form of development that would be principally dependent on private car based transport.

The proposed development would, therefore, contravene the policies of the Mid-West Retail Strategy and the Mid-West Regional Planning Guidelines 2010-2022 and the strategic aim of the current Clare County Development Plan, which seeks to consolidate town centres and co-ordinate transport and land use planning thereby reducing the need to travel. Furthermore, having regard to the Retail Planning Guidelines for Planning Authorities, issued by the Department of the Environment, Community and Local Government in April 2012, which seeks to protect the vitality and viability of town centres as the primary focus for retailing development, the Board is not satisfied that a location closer to the town centre of Ennis is not available for the scale of retailing development proposed. The proposed development would, therefore, be contrary to these Ministerial Guidelines, to the

overall provisions of the Development Plan and to the proper planning and sustainable development of the area.

Planning register reference 11/21002 PL58.240148: Planning permission refused for an urban development on a site of 5.22ha which will consist of (1) demolition of all structures on site including five residential units, office block and all ancillary buildings, (2) provision of a public plaza facing onto the Limerick Road including both soft and hard landscaping, (3) a retail development including a foodstore of 7,834sqms gross incorporating customer restaurant and café, off-licence sales area, dot.com area, storage, service yard. This part of the development also includes a separate ancillary two-storey retail and office block of 1,194sqms gross, (4) A standalone two-storey office block of 657sqms gross, (5) 3 kiosk units with a total gross area of 216sqms connected by a covered walkway in the car park area. The development will include 610 parking spaces, provision for cycle parking trolley bays and vehicular access to and from the Tobarteascáin Road. The proposed development includes an ESB substation and switch rooms, sprinkler tank, attenuation tank, combined heat and power unit, recycling centre and ATM. Signage areas for the development have a total area of 278sqms. 2 no. totem signs are also included in the development. The proposed development includes all associated site development works, landscaping and boundary treatments.

The decision was refused for three reasons:

1. Having regard to the nature and scale of the proposed development including the quantum of retail floor space, particularly the scale of the non-bulky comparison element and the office floor space, and the quantum of car parking, it is considered that the proposed development, by reason of its location outside and remote from the town centre of Ennis or any designated District Centre, its high level of accessibility by car as the main mode of transport, and the lack of any connectivity with the retail core area, would fail to provide for synergy with the established shopping centres and would adversely affect the vitality and viability of the existing town centre, notwithstanding the proposal to provide a shuttle bus service with the town centre. Furthermore, having regard to the requirement, as set out in the “Retail Planning Guidelines for Planning Authorities” issued by the Department of the Environment, Community and Local Government in April,

2012, to apply the Sequential Approach in a realistic and flexible manner, the Board is not satisfied, on the basis of the information submitted, that following the sequential test, no alternative site in the town centre or edge of town centre was considered suitable, available and viable. The proposed development would, therefore, be contrary to the said “Retail Planning Guidelines for Planning Authorities”, the Retail Strategy for Ennis, as set out in the Retail Strategy for the Mid-West and in the Ennis and Environs Development Plan 2008-2014 (as varied), to Development Plan Policies RT6 and RT7, as set out in the Development Plan, and to the proper planning and sustainable development of the area.

2. The proposed development would be premature pending the upgrading of the Clareabbey Wastewater Treatment Plant and associated sewer network to serve the development and to facilitate the orderly development of the town and by reference to the existing deficiency in the provision of wastewater treatment facilities serving the area.
3. The proposed development is located on a site which is designated as Flood Zone A and B, high to moderate flood risk, in the current Ennis and Environs Development Plan 2008-2014 (as varied), in relation to which it is the policy of the planning authority, as set out under Policy W11, that no development will be permitted on lands designated as ‘Flood Risk Area’ and as set out under Policy W12, that development proposals must demonstrate that appropriate mitigation measures can be put in place. The Board considers that the proposed development would be premature pending the implementation of the proposed Ennis South Flood Relief Scheme.

Other relevant planning history not on subject lands:

Planning Register Reference 21/756 ABP311569-21: Planning permission granted on appeal (30 November 2022) at Westpoint, Kilrush Road, Clonroadbeg, Ennis, Co. Clare for change of use from retail warehouse to discount foodstore.

Planning Register Reference 19/586 ABP305572-19: Planning permission granted on appeal (21 January 2020) for minor revisions to the existing mixed-use development, removal of internal wall partition between retail unit 1 and Off-licence unit 2 at Heather Hill, Limerick Road, Ennis, Co. Clare.

5.0 Policy Context

5.1. Clare County Development Plan 2023-2029 (came into effect 20th April 2023)

5.1.1. Volume 1 Written Statement

The subject lands are zoned **Mixed Use**:

The use of land for 'mixed use' developments shall include the use of land for a range of uses, making provision, where appropriate, for primary and secondary uses e.g. commercial/retail development as the primary use with residential development as a secondary use. Secondary uses will be considered by the local authority having regard to the particular character of the given area. On lands that have been zoned 'mixed-use' in or near town or village centres, a diverse range of day and evening uses is encouraged and an over-concentration of any one use will not normally be permitted.

The Retail Strategy for the Limerick-Shannon Metropolitan Area and County Clare (Retail Strategy)

Section 7.3.1 Ennis

Ennis is identified as a key town and the triangle of Limerick-Shannon-Ennis is recognised as the economic engine of the Mid-West...The focus for Ennis is to reinvigorate the retail sector in the town and facilitate further retail growth whilst also retaining the historic character of the town centre.

Development Plan Objective: Neighbourhood Centres in Ennis CDP7.4 It is an objective of Clare County Council To support the development of Neighbourhood Centres in identified areas to provide a mix of uses and services suited to the scale of the local neighbourhood.

Development Plan Objective: Noise Pollution CDP 11.40 It is an objective of Clare County Council:

- a) To promote the proactive management of noise where it is likely to have significant adverse impacts on health and the environment; and

- b) To ensure that all proposals for development with regard to transportation infrastructure shall comply with the provisions of the Clare Noise Action Plan (2018) and any subsequent plans.

5.1.2. **Volume 3a Ennis Municipal District Settlement Plans**

Section 1.7.4 Edge of Centre and Out of Centre Retail Development

...Whilst it is not the purpose of the planning system to prevent competition or trade diversion, having regard to the plan-led approach to neighbourhood shopping set out below it is not envisaged that edge-of centre or out of centre convenience retail development will be required or permitted during the lifetime of this plan.

1.7.5 Neighbourhood Centres

Neighbourhood centres generally serve smaller more localised communities, where many of the inhabitants are able to access their daily needs within easy reach of their homes, preferably within walking distance. The concept of neighbourhood centres in Ennis is fundamental to anchoring communities and meeting daily convenience shopping needs

Sites identified for new neighbourhood centres include:

MU6A Clare Road

This site is zoned Mixed Use and would be appropriate for a Neighbourhood Centre which should ensure a mix of commercial uses which are appropriate in scale and nature to the area and which do not impact on the vitality and viability of Ennis town centre. A high quality public playground and park area, catering for a variety of age groups, shall be provided and maintained by the developer as part of any neighbourhood centre scheme.

Section 2.9 Clonroad More Neighbourhood - Within the Clonroadmore neighbourhood the site is zoned for mixed use.

Site MU6A Tobarteascáin

The subject site is located at a prominent location at the junction of the Limerick Road R458 and Tobarteascáin Road. It is considered that the site has the potential to accommodate a number of potential uses to serve the existing population in the Clonroadmore area and the town of Ennis itself. Any development proposals must

provide for a landmark building of a scale, height, materials and finish appropriate to its landmark location on the entrance to the town. Development proposals shall incorporate a high quality of design which respects the set back/existing building line as established along the Limerick Road and include for associated public realm improvements. A single access to the overall site shall be provided. For this site, the local authority considers that the following uses in particular would be appropriate:

- The provision of high quality office accommodation and the development of the site as a strategic employment location.
- The provision of a four or five star hotel with associated conference facilities and leisure centre.
- A Neighbourhood Centre which should ensure a mix of commercial uses which are appropriate in scale and nature to the area and which do not impact on the vitality and viability of Ennis town centre.

A high quality public playground and park area, catering for a variety of age groups, shall be provided and maintained by the developer as part of any neighbourhood centre scheme. The inclusion of some element of residential uses, including apartments, as an integral part of the design of any scheme on this site in order to generate evening activity and security of the site, will also be considered. The development of the site shall be subject to a detailed masterplan to facilitate the phased development of appropriately defined land uses for the entire site. These uses shall be informed by the Strategic Flood Risk Assessment undertaken as part of the plan process. The Masterplan shall also be informed by a site specific flood risk assessment carried out in accordance with the 'The Planning System and Flood Risk Management – Guidelines for Planning Authorities' (DEHLG/OPW 2009).

Site MU6B Tobarteascáin

The site is zoned Mixed Use and is appropriate for a mix of commercial uses including bulky goods retailing which are appropriate in scale and nature to the area and which do not impact on the vitality and viability of Ennis town centre. It is an objective of Clare County Council:

- To retain the vitality and viability of the adjacent MU6A site identified for a neighbourhood centre and local shops in the area. In terms of retailing, only bulky goods retailing will be considered within site MU6B.
- To encourage the appropriate mix of bulky retail uses suitable to the scale of the locality.
- To require that future proposals shall be accompanied by a site specific flood risk assessment.
- To require that development proposals for the site shall include for the upgrade of the Tobarteascáin Road and roundabout to facilitate any proposed development.
- To ensure that a physical buffer is provided between the subject site and adjoining residential areas to minimise disturbance.
- Future proposals shall provide pedestrian connectivity to adjoining lands.

Future development on sites MU6A and MU6B must have regard to the findings of the Strategic Flood Risk Assessment in Volume 10c of this plan. The Ennis South Flood Relief Scheme (ESFRS) is now complete and while the ESFRS was not designed specifically to provide protection to these lands they do benefit from an overall reduction in flood risk to the area and removal of overland flow paths due to the scheme's flood defences. There is a history of flooding on the site and the ESFRS incorporates groundwater management consisting of engineered culverts. However residual risks associated with exceedance events remain. In the event that the culvert system reaches capacity, appropriate flood management systems will need to be developed for the site and these should be presented as part of the planning applications. Any flood risk assessment submitted with any application should take into account any sources of potential flooding including groundwater and pluvial sources. Any proposals for new development within the site boundary, or redevelopment along the Western Road frontage, would need to include a site specific flood risk assessment which would specifically review residual risk to the site, including the development of overflow routes should the scheme capacity be exceeded. Given the Karst limestone nature of the subject site and environs a detailed hydrological study from a competent consultant which will examine the

interaction between flood levels of the River Fergus and the site will be required to be carried out as part of any planning application. The site layout and finished floor levels will be informed by the residual risk assessment. A site-specific flood risk assessment shall demonstrate the primary means of mitigating flood risk through increasing ground/floor levels and maintaining flow paths. An overflow pipe from the site to the Fergus floodplain and back drains may also be required.

Section 1.1.3 Settlement Strategy CCDP Volume 3 Settlement Plan Objective

Objective V3(a)7 It is an objective of Clare County Council:

- (a) To retain the vitality and viability of existing neighbourhood centres and local shops, ensuring their sustainable development;
- b) To work to ensure that all residential areas have easy access to, and are adequately serviced by, local/neighbourhood facilities and services;
- (c) To encourage the provision of new neighbourhood centres, in the areas identified, to provide a mix of uses and services suited to the scale of the local neighbourhood. Such developments will be the subject of a retail impact assessment to ensure that there will be no resultant negative impacts on the vitality and viability of the town centre; and
- (d) To ensure that a physical buffer is provided between new neighbourhood centres and adjoining residential areas to avoid disturbance and promote compatibility.

1.7.6 Retail Parks

In Ennis, existing facilities have grown organically in dispersed locations, both in the town centre and out-of-centre areas. Accordingly, this plan identifies a requirement to consolidate the existing floorspaces of bulky goods retail warehousing throughout the settlement area to counteract the leakage to larger multinational stores in Limerick. The strategy for bulky goods retail provision is for higher quality out of centre bulky comparison goods floorspace in two designated sites, which can easily be accessed by vehicular traffic, and attract a leading bulky goods anchor. Outside of these two designated areas, construction or changes of use to retail warehousing will be carefully considered by the planning authority.

5.1.3. Volume 7 Clare Retail Strategy

The town centre has two core retail areas. 13 no. opportunity sites were identified in Ennis for potential retail redevelopment. Table 7.2 provides a brief site appraisal for each opportunity site. Occupying, adapting and/or redeveloping vacant and derelict premises within the core area is the preferred and optimal solution for accommodating future retail development in Ennis.

Figure 6-4 Commercial Planning Applications in Ennis.

Objective CCC14: The Council shall require that applications for new supermarkets on Neighbourhood Centre sites shall be accompanied by a Retail Impact Assessment.

Objective CCC15: Proposals for new supermarket developments in Neighbourhood centre sites should support the sustainable upgrade of neighbourhood centres and facilities and demonstrate that they facilitate improved access to public transport and/or cycling and walking for their catchment in accordance with the Retail Policy Guidelines.

5.2. Retail Planning - Guidelines for Planning Authorities, 2012

Key Messages (Excerpt)...five key policy objectives must guide planning authorities in addressing retail development issues in their development planning and development management functions, namely:

- Ensuring that retail development is plan-led;
- Promoting city/town centre vitality through a sequential approach to development;
- Securing competitiveness in the retail sector by actively enabling good quality development proposals to come forward in suitable locations;
- Facilitating a shift towards increased access to retailing by public transport, cycling and walking in accordance with the Smarter Travel strategy; and
- Delivering quality urban design outcomes.

2.2.6 Local Shopping Shopping at the most local level is provided by a mixture of neighbourhood shops in suburban areas and village stores/post-offices in rural areas.

4.11.6 Local Retail Units Local retail units such as corner shops or shops located in local or neighbourhood centres serving local residential districts perform an important function in urban areas. Where a planning authority can substantiate the local importance of such units in defined local centres, they should safeguard them in development plans, through appropriate land-use zoning. Development management decisions should support the provision of such units, particularly where they encompass both food-stores and important non-food outlets such as retail pharmacies, and have significant social and economic functions in improving access to local facilities especially for the elderly and persons with mobility impairments, families with small children, and those without access to private transport

Annex 1 Glossary of Terms:

Supermarket Single level, self-service store selling mainly food, with a net retail floorspace of less than 2,500 M2 .

Local Centre or Neighbourhood Centre Comprise a small group of shops, typically comprising newsagent, small supermarket/ general grocery store, sub-post office and other small shops of a local nature serving a small, localised catchment population.

Centre For the purposes of these guidelines, a centre refers to a city or town centre and can also, refer to the centre of a district or neighbourhood centre which has been identified in the settlement hierarchy of a development plan

5.3. The Planning System and Flood Risk Management, 2009

Justification Test

Section 3.7 Notwithstanding the need for future development to avoid areas at risk of flooding, it is recognised that the existing urban structure of the country contains many well-established cities and urban centres, which will continue to be at risk of flooding.

Key Messages

Flooding and Development Management Planning authorities should apply the sequential approach in aiming to avoid development in areas at risk of flooding, through the development management process.

Planning applications will, where appropriate, need to be accompanied by a detailed flood risk assessment to be considered by planning authorities in determining applications.

Development within flood risk areas, that would be defined as inappropriate as set out in chapter 3, but which are considered to be necessary to meet the objectives of proper planning and sustainable development, will be subject to the Justification Test.

Most flood risk issues should be raised within strategic assessments undertaken by local authorities at the plan-making stage. Therefore, as more plans are reviewed and zoning reconsidered, there should be less need for development management processes to require detailed flood risk assessment

5.4. Section 28 Guidelines for Planning Authorities - Design Standards for New Apartments (July 2023).

Car parking:

2) Intermediate Urban Locations 4.23 In suburban/urban locations served by public transport or close to town centres or employment areas and particularly for housing schemes with more than 45 dwellings per hectare net (18 per acre), planning authorities must consider a reduced overall car parking standard and apply an appropriate maximum car parking standard.

3) Peripheral and/or Less Accessible Urban Locations 4.24 As a benchmark guideline for apartments in relatively peripheral or less accessible urban locations, one car parking space per unit, together with an element of visitor parking, such as one space for every 3-4 apartments, should generally be required.

Communal Amenity Space:

4.11 Communal amenity space may be provided as a garden within the courtyard of a perimeter block or adjoining a linear apartment block. Designers must ensure that the heights and orientation of adjoining blocks permit adequate levels of sunlight to reach communal amenity space throughout the year.

5.5. Natural Heritage Designations

The Lower River Shannon Special Area of Conservation (SAC) (Site Code 002165) is located within 700m east of the site. Other designated sites in the vicinity include Newhall and Edenvale Complex SAC Site Code 002091 and the Proposed Natural Heritage Area (NHA) Fergus Estuary and Inner Shannon, North Shore (Site Code 002048), River Shannon and Fergus Special Protection Area Site Code 004077 within approximately 2.2km from the site.

6.0 EIA Preliminary Examination

See completed Appendix 2: Form 2. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. An EIA screening determination or an EIA, therefore, is not required.

7.0 The Appeal

7.1. Grounds of Appeal

First party appeal relating to conditions attached to grant of permission:

- Condition no. 4 relating to the restriction of sale as per the recommended conditions contained in the Regulation of Commercial Institutional Investment in Housing Guidelines for Planning Authorities (May 2021) is not applicable to the proposed apartment development.
- Condition no. 25 requires the payment of a Special Development Contribution €325,000. Two issues are raised:
 - The special development contribution includes two items of work including the raised pedestrian footpaths and cycle lanes which are included in the planning application and included within the red line boundary of the site.
 - A portion of the special development contribution is to provide for upgrades to the junction between the Tobarteascáin Road, Clare Road, College View and the R458, to modify the realign the roundabout on the

R458. These junction upgrades have been established by Tobin Consulting Engineers to be unrelated to the proposed development, reference to Traffic and Transport Assessment (TTA).

It is stated that the planning authority has not accounted for the TTA and have, without sufficient justification, included the works to the roundabout within the special development contribution. Reference made to previous decision to grant permission by the local authority on the same site where a similar condition to a grant of permission was attached and appealed planning register reference 18/265 ABP 302966-18. It is contended that the special development contribution is not warranted during this phase of the development, and it is considered to be excessive. Requests that the contests conditions are amended or omitted.

One third party appeal was received from RGDATA Local Shops Local Communities.

The grounds of appeal can be summarised as follows:

Impact on the vitality and viability of Ennis town centre -

- Concerns with the significant threat to the vitality and viability of the town centre by the development of such a large-scale retail development at this 'out-of-town' location on the periphery of Ennis. The proposed development would act as a counter location to the town centre.
- Significant retail development has been refused on this site in the past ABP 302966-18. The subject application appears to be a repeat application and has failed to overcome the previous concerns of the Board.
- The Retail Impact Statement (RIS) of the 2017-2023 CDP did include a reference to the need to provide an anchor store with net sales no greater than 1,200 sq.m. The forthcoming CDP does not include reference to an anchor store for this neighbourhood centre. See Volume 3a Ennis Municipal District of the forthcoming 2023-2029 CDP. Section 2.9.2 site identified as MU6A. The new CDP has moved away from dedicating a large anchor convenience store at this location.

- The application should be primarily assessed under the provisions of the Retail Planning Guidelines (RPGs). A large-scale convenience retail unit at this location continues to be contrary to the provisions of the RPGs and the overall provisions of the development plan, in particular the forthcoming 2023-2029 CDP.
- Concerned about the significant gross floor space proposed of 2,214 sq. metres. The ancillary and storage areas for the proposed supermarket appear to be exaggerated. The proposed approach could facilitate an expanded supermarket in the future. The proposed development greatly exceeds the retail needs for a small local catchment population and a neighbourhood centre.
- Concerns with respect to the planned provision of a retail park at this neighbourhood centre, as indicated on the masterplan Drawing no. 202A, with a series of buildings to accommodate retail warehouses/bulky retail units. The RPGs (Section 4.11.2) state in general there should be a presumption against further development of out-of-town retail parks.
- The southern suburbs of Ennis have been blighted by vacancy arising from former retail warehouse units.
- Notes that the Board granted permission for a large convenience store/supermarket c. 870m west of the subject site, within a vacant unit, and a convenience store/supermarket is opening within the amalgamated retail units granted by the Board ABP 305572-19 c. 620 m to the south of the subject site. Highlights the new emerging growth of suburban supermarkets, consider that there is no justification for an additional large scale convenience store/supermarket at this out-of-town location. The cumulative effect of significant new convenience retail developments at multiple neighbourhood centre locations, poses a real threat to the future vitality and viability of the town centre.
- Does not agree with the stated retail catchment of 10-15 walking distance given the location of the subject site adjacent to major roads infrastructure and along one of the main arterial routes at the periphery

of the town. The lack of consideration of a driving range catchment underlines the findings of the RIS and the basis of the application.

- The Planning Statement which accompanied the previous application on site admitted that the proposed development would cater for a 15–20-minute drive time catchment. The applicant’s proposal for 123 surface level car parking spaces undermines the local ‘400m walking radius’ catchment as presented. The 123 proposed car parking spaces should be omitted and the valuable service land set aside for other appropriate development that would not threaten the viability or viability of the town centre.
- The application fails to consider the cumulative retail impact of the proposed development in combination with the convenience store granted under ABP 311569-21 at the Cahircallamore Neighbourhood centre site (Former Curley Furniture Site) of the amalgamated retail units granted under ABP 305572-19.
- The RIS conclusions appear ambitious given that the western section of the proposed retail catchment largely overlaps with the permitted catchment of the store namely at Cahircallamore to the west and overlap with Heather Hill retail development to the south. Neither were considered in the RIS. The planning authority requested as further information that the RIA should be revised to include the cumulative impact of the Cahircallamore neighbourhood centre, this was not undertaken by the applicant as the subject site is identified as a neighbourhood centre in the development plan.
- The most recent Geoview Commercial Vacancy Rates Report (Q4, 2022) reveal that vacancy rates in Ennis Town Centre has worsened, now 18.1%, since the previously refused convenience store on site (17% Ennis Town Centre Health Check Report 2018). Given the vacancy rate in Ennis town centre has deteriorated further, this repeat application should be refused.

- The applicant has failed to carry out a comprehensive sequential test to justify this out of centre site. Reference to Opportunity Site OP1 'Former Ennis National School and adjoining lands'.
- Material Contravention - Of the opinion that the proposed development at this peripheral out of centre location would materially contravene CCDP Volume 3 settlement plan objective V3(a)5 of the forthcoming 2023-2029 CDP. The proposed development would be contrary to the strategic aims of Ennis Town Centre as set out in section 1.6.1 Volume 3 which sets out 'to support and strengthen the town centre and provide for the future expansion of the town centre by bringing forward anchor developments at key sites'.
- Flood Risk - It is unclear if all residual flood risks have been resolved as part of the application.
- Urban Design - The proposed elevation onto the Toberteascain would result in a substandard urban design response and streetscape intervention at this location.
- Noise Impact Assessment – In the absence of a comprehensive noise impact assessment the application should be refused in order to protect the residential amenity of future residents of apartments directly adjacent to the busy Limerick Road.
- Nature of the food offering in proposed café not clarified and there is potential to result in additional adverse impact on future residential amenities of the proposed apartments.
- Civic space – the proposed size of the civic space is limited and the area to the front of Building B adjacent to the busy Limerick Road and roundabout would be of limited amenity value.

7.2. Applicant Response

- The application site is not an 'out of centre' location, it is a designated retail centre in and of itself. Neighbourhood centres are included as Tier 4 of the County Retail Strategy.

- The proposed Lidl store, with a net retail floor area of 1, 200sq.m or 48% of the relevant threshold as defined in Table 1. Types of Supermarkets in the RPGs, is a 'small supermarket' as per the definition of neighbourhood centres set out in the RPGs 2012.
- Analysis of discount retailers located in neighbourhood centres provided in Cork and Limerick as evidence of precedent. ABP Precedents provided in table in Dublin and Clare.
- The zoning in the draft Clare County Development Plan 2023-2029 still provides for the delivery of a neighbourhood centre. The requirements for a neighbourhood centre as set out in the RPGs is to facilitate inter alia the provision of a small supermarket.
- With respect to the Masterplan proposals it is stated that the remainder of the lands are held in a separate land ownership and in this regard the uses proposed in the Masterplan area are entirely indicative proposed on the basis that they would accord with the zoning objective of the masterplan site and that they would not represent lands use type either on its own or cumulatively that would act as a counter attraction to Ennis Town Centre. It is stated that there is no guarantee that the masterplan uses will ever be progressed and, in all likelihood based on the emerging MU6 zoning objective a new proposal will be progressed on these lands in the future.
- The applicant is not proposing an 'out of centre' retail park.
- Emphasises the primary retail function of Ennis Town Centre is as the higher order comparison retail destination for County Clare as well as being a hub for services, hospitality and tourism. Disagrees that the neighbourhood centre will compete with this offer and draw car-based travellers off the N58/M18 specifically for the purpose of shopping at the neighbourhood centre.
- The applicant would not have a difficulty should the Board consider that a moderately reduced car parking provision is more appropriate to service the site and condition any grant of permission accordingly.
- The applicant has no difficulty with a condition in relation to the future use of the 2 no. proposed retail units similar to condition no. 21 of the Clare County Council notification of grant of permission.

- Provides a high level assessment of the entire catchment of the southern environs of the town of Ennis in the context of existing and permitted convenience retail floor space provision by combining the retail catchment of the Kilrush Road Neighbourhood Centre (1000m) and the subject site catchment (400m). The assessment undertaken in Table 4 of the response to the third-party appeal establishes that even in a scenario where the permitted Neighbourhood Centre on the Kilrush Road and the proposed development are operational there will be a shortfall of 911 sq. m of convenience retail floor space required to serve the catchment.
- The proposed development will meet a site-specific zoning objective for the delivery of a new neighbourhood centre on the application site as well as assist in addressing, in part the substantial deficiency in convenience retail floorspace serving the southern suburbs of Ennis.
- Contend that the proposed development accords with the provisions of the Flood Risk Management Planning Guidelines (Nov 2009) and the provision of the Clare County Development Plan 2017-2023 and the Clare County Development Plan 2023-2029 as they relate to flood risk.
- The construction specification and methodology of the proposed residential units will ensure that those units are suitably insulated so as to prevent any noise impacts that would have a detrimental impact on residential amenity.
- The strategic design response taken to the development as a whole was to attempt to break up the mass and bulk of the buildings and create attractive public realm areas and pedestrian linkages between the buildings to create a high-quality development that is inviting particularly for pedestrians.
Subsequent revisions in response to further information request by the planning authority included providing an angled roof profile to the Lidl store to present a more uniform design approach with the other proposed buildings and increased glazing and linkages to proposed public spaces created.
- The proposed development represents a high-quality design intervention at this location that accords with the zoning objective for the application site.

7.3. Planning Authority Response

- In response to the first party appeal against condition no. 4 is of the view that the definition of a 'house' as provided for in the Planning and Development Act applies and as such request that condition no. 4 is upheld.
- The Special Contribution, subject to the first party appeal, is primarily concerned with active travel arrangements and it is considered that such works are essential in order to facilitate the sustainable development and operation of the proposed development.
- The principle of a neighbourhood centres at this location is acceptable.
- The planning authority carefully considered the location of the site and its context with the protected structure (St. Flannan's College) close to the site and considers the design proposals to be a high-quality contemporary design that will enhance the suburban character of the area and have a positive impact on the public realm.
- Noting the site-specific zoning objective COM 9 (a) the development has the potential to form a focal point for the wider Clonroadmore Neighbourhood and provide a range of services to the local population within 10 minutes walking distance.
- Acknowledges An Bord Pleanála permitted change of use from retail warehouse to discount foodstore in November 2022 at neighbourhood of Cahercalla Road. Notwithstanding, the allocated quantum of floor space on the Clare/Limerick Road by way of provision of a neighbourhood centre has been identified as a quantity of between 1000-1200 sq.m net convenience floor space.
- Section 1.7.2 (Vol 3(a) identified Clare/Limerick Road as having additional capacity for convenience retail, the planning authority considers that the proposed development would not unduly affect the vitality and viability of Ennis Town Centre.
- Additional observations were received relating to a summary of costs submitted in respect of Condition no. 25.

7.4. Observations

- None.

8.0 Assessment

8.1. 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:

- Retail Impact
- Urban Design and Residential Amenity
- Flood Risk
- First Party Appeal against conditions
- Material Contravention (See section 9.0)

8.2. *Retail Impact*

8.2.1. As noted in section 5.0 of my report Clare County Development Plan 2023-2029 is the development plan now in effect. In the current development plan Ennis is identified as the most important retail and commercial centre within the County (Volume 7 Clare Retail Strategy) with wide ranging retail (Convenience and Comparison) within the town centre with a 18% retail vacancy (I note that caution is advised in respect to the observed figure of vacancy given the Covid restricted trading conditions at the time of the survey). The appellant states that they are of the opinion that the proposed development would materially contravene CCDP Volume 3 Settlement Plan Objective V3(a) 5 of the forthcoming 2023-2029 in which it is an objective "...a) *To protect and enhance the vitality and mix of Ennis town centre land-use activities and b) To improve the suitability of the Ennis town centre retail accommodation for modern retailers, whilst preserving the town's attractive historic character*". (I note for the Board that the development plan as adopted retains

Settlement Plan Objective V3(a) 5). I shall address the issue of material contravention separately in section 9.0 below.

8.2.2. The subject site sits outside the core retail area and is located in a designated neighbourhood centre within the Clonroadmore Neighbourhood (7 Clonroadmore Neighbourhood section 2.9 Volume 3a Ennis Municipal District). The concept of neighbourhood centres in Ennis is stated as being fundamental to anchoring communities and meeting daily convenience shopping needs. The subject site is within the designated mixed-use lands identified as MU6A Tobartescain in which the local authority considers could act as a strategic employment location, or a hotel with conference facilities and leisure centre or a neighbourhood centre with a mix of commercial uses appropriate to the scale and nature of the area and residential uses can be integral to the design of the scheme. As such I consider that the proposed development as a neighbourhood centre with residential uses accords with the mixed-use land use zoning and site-specific objective of MU6A. I am of the opinion, therefore, that the key consideration as raised by the appellants is whether the commercial uses are appropriate to the scale and nature of the area and whether such uses would have an impact on the vitality and viability of Ennis town centre. I note that planning permission was refused for a similar proposal on the subject site (ABP 302966-18/ Planning Register Reference:18/265) please see section 4.0 of my report for detailed reason for refusal. The creation of a counter attraction to the existing town centre services, which would seriously impact on the vitality and vibrancy of the town centre, was central to the reason for refusal and that the proposed development would be premature pending the implementation of the Ennis South Flood Relief Scheme (Please see section 8.4 with respect to flood risk).

8.2.3. I am of the view that the configuration of the masterplan for the overall lands of which the subject application forms part is a material consideration in terms of the proper planning and sustainable development, noting the requirement for same under MU6A of the development plan. I highlight to the Board that MU6A requires a detailed masterplan to facilitate the phased development of appropriately defined land uses for the entire site and informed by a site-specific flood risk assessment, see section 8.4 in respect to assessment of flooding issues. In this regard, the subject application does include a Masterplan (drawing no. 202A). The applicant states that the uses proposed in the masterplan, beyond the scope of the planning

application, are notional and they do not form a definitive development proposal. The retail uses indicated on the Masterplan lands are 'bulky retail' a hardware store and garden centre.

8.2.4. As previously noted the development plan has changed in the intervening period between the decision by the planning authority and the consideration of this subject appeal. In this regard I note that the lands identified in the submitted Masterplan all sit within the site specific MU6A lands, and the adjoining land parcel is designated as MU6B to the east of the subject site, as such bulky retail (as shown indicatively in the Masterplan) would not accord with the MU6A objective. I highlight that only bulky retail will be considered appropriate in the lands designated as MU6B immediately to the east of the subject appeal and indicative masterplan. I am of the opinion that the proposed 'bulky retail' uses on this prominent location adjacent to the main Limerick Road (R458) as per the indicative Masterplan does not meet with the site-specific objective and in addition would not, by nature of their form and scale, contribute positively to the development of a landmark location at the MU6A lands. I do acknowledge that the subject application and masterplan was submitted to the planning authority prior to the adoption of the Clare County Development Plan 2023-2029. Furthermore, I acknowledge that the lands are stated to be in separate ownership to that of the application site.

8.2.5. Notwithstanding the issues raised with respect to the masterplan I am of the view that the site layout as proposed provides opportunity for connectivity with the adjoining lands MU6A and MU6B lands in separate ownership and, as such, I shall continue to assess the subject application with respect to retail impact as proposed in the subject application. Again, I highlight that the current development plan differs to the previous development plan in that it does not include a specified size of acceptable retail as had been the case in section 2.9.3 of the Clare County Development Plan 2017-2023 (as varied), where an anchor store with net retail floor area of no greater than 1,200 sq. metres was considered appropriate. The current development plan states that the commercial uses shall be appropriate in scale and nature to the area, and which do not impact on the vitality and viability of Ennis town centre. In this regard, I am of the view that the submitted Retail Impact Assessment (RIA), as received by the planning authority on the 20 January 2022, and further information response, received by the planning authority on 9 September 2022,

relies on the designation of the lands as a neighbourhood centre and the designation of Clare/Limerick Road neighbourhood centres as a preferred site for convenience retail provision of between 1000-1200 sq.m (Table 1 Volume 3a Ennis Municipal District) and does not engage fully with the cumulative impact of the entirety of the development proposal in the context of other neighbourhood centres and its subsequent in combination impact on the vitality and viability of Ennis town centre.

- 8.2.6. The submitted RIA defines the catchment area of the proposed development, using a Hybrid Catchment Model (Both the Gravity Model and The Theoretical Estimation Model), as a 400m radius surrounding the site based on the assumption that as a neighbourhood centre the proposed development will serve the population of the neighbourhoods in the immediate vicinity. I would concur with the appellants view that this is not a realistic catchment given the nature of the store as a large convenience good store will generate bulk convenience shopping trips by car (4.11.1 of the Retail Planning Guidelines).
- 8.2.7. The Clare Retail Strategy, as contained in Volume 7 of the development plan, sets out the retail floorspace potential (cumulative) in Table 6.23 for convenience goods as 2,604 sq.m (2026) and 3,897 sq.m (2029). I note that Figure 6.4 *Commercial Planning Applications in Ennis* includes in its calculations the proposed retail floor space of planning register reference 18/265 (ABP 302966-18) and, I am of the opinion, therefore, that a proportion of the proposed retail floorspace of the subject application, which is almost identical to that previously refused under ABP 302966-18, is accounted for in the pipeline supply calculations, acknowledging a stated 50% assumed delivery rate of extant permissions.
- 8.2.8. I acknowledge the appellant's concerns regarding the cumulative effect of new convenience retail developments at multiple neighbourhood centre locations of this scale may pose a threat to the future vitality and viability of the town centre. The Retail Strategy also acknowledges that a number of the permitted schemes if delivered would have an impact on the identified requirements and in some cases would increase the identified residual surplus of floorspace such that no further floorspace is necessary, in others it would reduce requirements accordingly (Section 6.15 Volume 7 Clare Retail Strategy). Since the drafting of the retail strategy, I note and as highlighted by the appellant, that permission has been granted for an additional 1000 sq.m net (November 2022) in Westpoint, Kilrush Road, Clonroadbeg,

Ennis approximately 1km southwest from the subject site (ABP PL03.311569-21/Planning register reference 21/756).

- 8.2.9. The applicant in their response to the third party appeal has provided an additional high level assessment of the catchment of the southern environs of the town of Ennis in the context of existing and permitted convenience retail floor space provision. In combining the retail catchment of the Kilrush Road Neighbourhood Centre (1000m) and the subject site catchment (400m) this further assessment does address the appellants concerns relating to the application of a realistic retail catchment in the RIA. The assessment undertaken outlines that even in a scenario where the permitted Neighbourhood Centre on the Kilrush Road and the proposed development are operational there will be a shortfall of 911 sq. m of convenience retail floor space required to serve the catchment.
- 8.2.10. In conclusion, taking into account the additional assessment of the retail catchment of the southern environs of the town of Ennis in the context of existing and permitted convenience retail floor space provision provided by the applicant and acknowledging that a proportion of the retail floor space proposed has already been accounted for as pipeline supply in the retail strategy contained in the current development plan I am of the view that the proposed development accords with the mixed use zoning objective (MU6A). I am of the opinion that it has been sufficiently demonstrated in the current application that there remains sufficient capacity to accommodate the cumulative retail space as proposed within the subject application under the retail strategy. I consider that the that the scale and nature of the proposed commercial uses are appropriate to the area, will create a synergy with the existing commercial block to the north of the site, would accord with the policy and objectives of the development plan and would not impact on the vitality and viability of Ennis town centre.
- 8.2.11. Looking to the wider intended function of the neighbourhood centre I do have concerns in respect to the proposals for a relatively small playground and the proposed development contribution to the planned public realm function of the neighbourhood centre. The development plan requires the provision of a high-quality public playground and park area. I shall address these issues in conjunction with a consideration of the Masterplan under section 8.3 of my report.

8.3. *Urban Design and Residential Amenity*

Urban Design

- 8.3.1. The subject site is located at a prominent corner on the major link road between the town centre and the N85 ring road and M18 Motorway. The development plan seeks a high quality of design which respects the setback existing building line along the Limerick Road and to include for public realm improvements. The development plan (MU6A) highlights that the provision of a playground and park is integral to the development of the neighbourhood centre at this location.
- 8.3.2. The design and layout of the proposed scheme was modified following further information and clarification of further information requests by the planning authority. For clarity the revised drawings received on the 14 December 2022 and design approach document are relevant. A more angular roof profile proposed to Building A 'Lidl Store' to reflect the roof treatment of proposed Building B and C, Building C elevations altered to create a public space with seating area adjacent to the proposed café and accentuate the entrance to the café and the northeastern corner of Building B amended.
- 8.3.3. I am of the view that the proposed urban design response with respect to the architectural building form, scale and proposed material use is acceptable in its context and would concur with the statement in the '*Architectural Description & Apartment Quality Assessment*' report (dated June 2022) that creating new street edges, using the same architectural language within the scheme and appropriate scale of development would produce a 'gateway' sense of place. I am of the view that the elevational design option 1 with a brick finish to all elevations should be conditioned in the event that the Board is minded to grant permission to ensure that the simplicity of the schemes architectural language is maintained. A strong public realm and landscape approach is proposed to the frontage of building B and C which would enhance the setting of the proposed buildings. I would concur with the appellants comments that the proposed southeast elevation may result in an unanimated frontage at this approach to the building, but accepting that this elevation forms the rear of the building to the street I consider that on balance this is an acceptable design response given the proposed animation of the new street between proposed building B and the proposed store.

- 8.3.4. I am of the opinion, however, that the proposed urban design strategy has not sufficiently responded to the development plan objective to create a playground and public park in conjunction with a neighbourhood centre at this location. I acknowledge that an area identified as public plaza is proposed between buildings B and C with an area of seating of approximately 50 sq.m and I consider in the context of the subject site and the overall Masterplan lands that such a space is limited in respect to its contribution to the placemaking and creating a civic space in the area. The small size (approximately 100 sq.m) and position of the playground between proposed building C and the proposed residents only car park would, in my view, give rise to conflicts in the use of this amenity space for children's play and that of the adjoining communal open space proposed for shared use by the residents of buildings B and C. I consider that the proposed provision of public open spaces including a playground does not accord with the development plan zoning objective (MU6A) which seeks a high-quality public playground and park area catering for a variety of age groups. Integral to this issue is the proposed provision of a shared communal open space (for occupants of Building B and Building C) adjoining proposed Building C. Given the strong urban design strategy to break up the blocks and create pedestrian permeability I am of the view that a shared communal space is, on balance, acceptable subject to a revised configuration and position to strongly demarcate the private residential communal space from the public and provide clear connection to the associated residential car parking area.
- 8.3.5. In respect to the wider scheme car parking proposals I am of the opinion that the issue raised with respect to the provision of the public playground and park area could be addressed by way of an appropriate condition having regard to the proposed layout of the car parking spaces. I note that a total of 140 car parking spaces (19 no. assigned to the residential apartments and 121 no. car parking spaces within the surface car parking area to the rear of the proposed Lidl store including 6 no. family friendly parking spaces and 6 no. accessible car parking spaces) are proposed. The development plan notes where reference is made to floor area, this refers to gross floor area unless otherwise stated. I note that Clare County's Road Design Office in their report advise that the parking requirements should be calculated separating the main retail area into office, retail warehousing and retail. The planner's report taking into account the extensive level of internal

storage and circulation spaces within the development the onsite calculations are based on net floor areas rather than gross and have applied the lower end of the required parking spaces due to its central location within the neighbourhood centre. Whilst I would consider that the approach of the planning authority does not appear to be unreasonable the current development plan does not appear to facilitate such an approach.

- 8.3.6. The subject site is located within the Clonroadmore Neighbourhood and sits outside of the Town Centre Area boundary (Volume 3a - Map Ennis & Environs). The development plan does not include a parking rate for neighbourhood centres as per Table A3 (Bicycle and Vehicle Parking Standards) Development Management Standards. In the absence of a neighbourhood centres specific category, I consider that the required spaces for the proposed development fall under the 'Other Areas' category. Furthermore, acknowledging the provisions of the current development plan I consider that the gross floor area of the proposed retail uses is applicable when calculating the parking rate, whereas a net floor area rate is applicable to the proposed café use in accordance with Table A3.
- 8.3.7. Applying the current development plan standards I note the following car parking and bicycle spaces requirements in Table 8.1.

Table 8.1: Bicycle parking and cycle parking requirements applying rates as per Table A3 Appendix 1 Clare County Development Plan 2023-2029.

[illegible]

Retail unit no. 2 (Local Shop)	255 (Gross floor area)	3 spaces per 100m2	1 space per 5 employees / 24 spaces per 100m2	8 car parking spaces 61 bicycle spaces based on floor area.	As above
Café	155 sq.m (Estimated net @ 110sq.m excluding the WCs/prep/office area)	12.5 spaces per 100m2 (net)	1 space per 8 Employees/ 5 spaces per 100m2	14 car parking spaces 6 no. bicycle parking spaces.	As above
Apartments	20	1 space for 1 & 2 bed units, 1 space ≥3 bed	1 space per apartment	20 no. car parking spaces and 20 no. bicycle parking spaces.	19 no. car parking spaces.
Visitor parking		1 visitor space per 3 residential units		7 car parking spaces	None dedicated.
Total				Total 2 no. lorry	None.

				parking spaces.	
				Total commercial 210 car parking spaces.	Total commercial 121 car parking spaces
				Total residential 20 car parking spaces.	Total residential 19 car parking spaces.
				Total no. 171 bicycle parking spaces* please refer to commentary in 8.3.13.	89 bicycle parking spaces.

8.3.14. The development plan bicycle parking requirements for local retail as set out in Table A3 use a rate of 24 spaces per 100 sq.m, this is a significant number of bicycle parking spaces for a relatively small retail unit. Looking to the other applicable bicycle parking rates contained in Table A3 I would be of the view that there may be a typographical error with respect to the requirement to provide 24 spaces per 100 sq.m in the case of a local retail unit. There is a significant shortfall in bicycle parking spaces when comparing the require 171 spaces with the 89 bicycle parking spaces

proposed. Separate to the proposed number of bicycle parking spaces I consider that the proposed bicycle parking spaces are not all secure and covered, in the event that the Board is minded to grant permission this issue could be addressed by condition.

8.3.15. The development plan requires a total of 230 car parking spaces, including for the provision for visitor parking spaces, and the proposed development has a shortfall of 100 no. spaces when applying the development plan parking rate set out in Table A3. As noted earlier in my assessment there is no specific standard for car parking applicable to neighbourhood centres in the development plan. I am of the view when looking to the neighbourhood-based approach to future development contained in the development plan and the intended purpose of these sustainable neighbourhoods a reduction in car parking provision as applied in the planning authority's assessment would be an acceptable approach taking into account the submitted Workplace Travel Plan. I highlight for the Board that the car parking spaces as currently proposed would materially contravene the development plan (Table A3), this issue is addressed further in section 9.0 Material Contravention of my report.

8.3.16. On balance, I am of the opinion that the surface car parking proposed dominates the majority of the rear portion of the site and, as noted in 8.3.4 of my report, results in a poor design outcome for the proposed public playground and civic space. I consider that the issues raised with respect to the location and size of the playground and the need to provide an enlarged civic space/public plaza/park area (including for nature-based drainage solutions to manage surface water) could be addressed by way of condition revising the proposed car parking spaces layout if the Board were minded to grant permission. I would recommend that any such condition should incorporate revised proposals for additional bicycle parking spaces to address the noted shortfall in spaces, to provide adequate precipitation protection cover and security for the proposed bicycle parking areas, as per condition no. 6 of the planning authority's notification of grant of permission.

Residential amenity

- 8.3.17. The appellants have raised the issue of impact of traffic noise on the residential amenity of future residents and that the proposed café uses at ground floor may also lead to an adverse impact on future residents' amenity.
- 8.3.18. Firstly, in respect to the appellants concerns with respect to the nature of food offering and opening hours of the proposed café and its likely impact on residential amenity I consider that these matters can be addressed by condition in the event the Board is minded to grant permission.
- 8.3.19. In respect to the issue of traffic noise I note that Ennis has been selected as a Priority Important Area (PIA) in the Noise Action Plan (NAP) 2024-2028 with actions to be identified to reduce noise from major roads that pass through it. The R458 Clare Road/Limerick Road running along the western boundary of the site is identified as a major road with > 3 million vehicle passages/year (Figure 5.1 County Clare Noise Action Plan 2024-2028). I note that a noise impact assessment has not been submitted with the application to enable the identification and evaluation of measures designed to reduce the effects of noise exposure from this major road in respect to both the residential properties and in the design of public spaces. Acknowledging the previous residential use of the dwellings proposed to be demolished on the site and the applicant's response to the appeal that the construction specification of the proposed residential units will ensure that these units are suitably insulated, so as to prevent any noise impacts that would have a detrimental impact on residential amenity, I consider that this issue can be addressed by condition in the event that the Board is minded to grant permission.
- 8.3.20. Please also see issue of residential amenity and proposed shared communal open space as already assessed in 8.3.4 of my report.

8.4. Flood Risk

- 8.4.1. The zoning of the lands to MU6 was passed in the Strategic Flood Risk Assessment (SFRA) undertaken in respect to the current development plan, noting that any proposals for new development within the site boundary or redevelopment along the western road frontage would need to include a site-specific flood risk assessment which would specifically review residual risk to the site including the development of overflow routes.

- 8.4.2. The Site-Specific Flood Risk Assessment (SSFRA) describes the site as being within the Edenvale (St. Flannan's) Stream Catchment and historical 25inch OSI mapping of this area shows the middle low-lying section of the 'Lynch' lands (Subject site and wider masterplan lands) liable to flooding. It also identified groundwater spring activities to the south (Abbeycourt Estate) of these flood prone lands and a culvert and drain connection under the Tobartescain Road to lands to the north where possibly a Swallow-hole or Estavelle feature existed. It is stated that this drainage feature is no longer evident with substantial changes through urban development taking place there.
- 8.4.3. A Hydrological and Hydrological Impact Assessment was submitted following further information request, and it confirms that following site investigations two large infill features were found, the larger of these features is located within the site beneath the proposed car parking area and the second is located within the historical drainage channel just to the northeast of the proposed site. The proposed building footprint areas avoid the areas of low density/resistivity and the two potential karst infill depressional features located in the south and east of the site. I note for the Board that the indicative Masterplan submitted indicates a proposed DIY store on the location of the second of the potential karst infill depressional features. The mapped ground conditions are stated not to require any specific mitigation measures in respect to karst. It is however noted that the Hydrological and Hydrological Impact Assessment report recommends as prudent that foundations are designed with the capacity of spanning voids that may be encountered during construction and that a sealed drainage system be provided to avoid localised storm drainage discharging to ground which could potentially reactivate dormant karst features.
- 8.4.4. The SSFRA provides an account of flooding history detailing flood events in 2015 and in 2009. Significant flooding occurred in 2009 on approximately a 2.8ha portion of the 'Michael Lynch' site (subject lands and wider masterplan lands) at Tobartescain. In 2015 the subject site was stated as being generally free from flooding but the adjacent lower lying lands in the southern central section were observed to flood to circa 4.65m OD. Following the flooding of 2009 Clare County Council and the OPW developed and completed a Flood Relief Scheme for the Ennis South Area in 2021. I would agree with the appellant that the subject lands are not '*flood defended lands*'. The development plan's SFRA clearly states that the

Ennis South Flood Relief Scheme was not designed specifically to provide protection to the site. I highlight to the Board that it is stated in the SFRA that the site benefits from the Ennis South Flood Relief Scheme in terms of an overall reduction in flood risk to the area and removal of overland flow paths. The SSFRA outlines the benefits of the flood relief scheme to the subject site (section 3.4.3) in respect to preventing the Edenvale Stream from overflowing into St. Flannan's college grounds during flood events and, therefore, alleviating flooding downstream of the swallow hole.

- 8.4.5. The SSFRA states that Flood Risk Zoning for the site is developed excluding the Flood Relief Scheme and shows the access road and carparking to be in flood zone A, the front retail building in Flood Zone C and the food store located through flood zones A, B and C. I highlight to the Board that the SSFRA in this section (4.3) has not been updated from the previous application (ABP 302966-18/planning register reference 18/265) and in error refers to a creche and a flood store (which I understand should read food store).
- 8.4.6. An engineered storm drainage system has been designed for the site including attenuation storage in the form of storm cell system located under the car park area on the site. It is stated that in the event of the public storm pipe being surcharged for a prolonged period of term c. 6 to 12 hrs some ponding within the car park area may occur. It is stated that the car park would be considered water tolerant development under the flood risk management planning guidelines and as is considered acceptable on an infrequent basis. There will be no residual flood risk to the proposed commercial and residential units on the application site from pluvial/storm drainage flooding sources with the proposed ground level allowing the site to drain away from the proposed finished floor levels.

Table 8.2 Flood Risk Justification Test *(taking into account the Clare County Development Plan SFRA, the submitted SSFRA and Hydrological and Hydrological Impact Assessment and the planning authority's technical assessment)*

1. Zoning/designation of lands	A Strategic Flood Risk Assessment (SFRA) of the development plan includes a passed justification test for sites within Flood Zone A and/or B including MU6 Toberteascain (Mixed Use zoning).
2. Appropriate flood risk assessment	
(i) Increase flood risk elsewhere	The development will not impact on flood risk elsewhere, having regard to proposed best practice surface water management measures.
(ii) Measures to minimise flood risk	The proposed minimum finish floor levels for the foodstore development of 6.5m OD accounts for the 100yr climate change design condition and suitable freeboard allowance. Buildings block B and C have finished floor levels of 7.25 and 7.45 providing freeboards of 1.25 and 1.45m above the undefended maximum flood level of 6m OD. The car parking area has been located in the low-lying section of the site which can allow for flood storage should the flood culvert and the St. Flannan's Sloggary capacity become surpassed.
(iii) Management of residual risks	The development plan SFRA notes that residual risks associated with the Ennis South Flood Relief Scheme (FRS) are

	relatively low, although in the event of overflow from the culverted system, appropriate flood management systems will need to be developed for the site, and these should be presented as part of the planning applications. As noted in 8.4.6 of my report an engineered storm drainage system has been designed for the site and residual flood risk has been appropriately addressed in same.
(iv) Achievement of wider planning objectives	Ennis is an NPF Key Town, the mixed-use zoning allows a mix of water compatible, less and highly vulnerable uses within the context of the neighbourhood location and in close proximity to Ennis town centre. The western/central portion of the site was previously developed, and the remainder is underutilised having regard to its central location in the neighbourhood and the town. There are no other suitable lands in the vicinity to serve as a centre to the neighbourhood and Clonroadmore.

8.4.8. I am of the view that the SSFRA appropriately reviews the residual risk to the site. Taking into account that the development plan's SFRA confirms that residual risks are relatively low and having regard to the planning authority's technical assessment and conclusions in respect to flood risk I consider that details with respect to surface water management can be addressed by way of appropriate condition. In my view the application has sufficiently addressed the previous reason for refusal with regard to the risk of flooding on the site.

8.5. *First Party appeal against conditions*

8.5.1. In respect to Condition no. 4, I concur with the applicant in that it appears the planning authority have attached condition no. 4 with respect to the regulation of commercial institutional investment in housing in error. The Regulation of Commercial Institutional Investment in Housing Section 28 Guidelines for Planning authorities are not applicable to apartment units, they relate to:

a) A house, defined as not including a building designed for use or used as two or more dwellings or a flat, an apartment or other dwelling within such a building,

and,

b) A duplex unit, defined as a dwelling within a building designed for use as two individual dwellings and/or on one shared plot, with separate entrances.

The purpose of the guidelines are to ensure that own-door housing units and duplex units in lower density housing developments are not bulk purchased for market rental purposes by commercial institutional investors.

8.5.2. Having regard to the Regulation of Commercial Institutional Investment in Housing (2023) I am of the opinion that the planning authority's Condition no. 4 requiring an occupancy agreement for the proposed apartments is not warranted. I consider that in the event the Board is minded to grant permission I recommend that condition no. 4 is removed.

8.5.3. The second condition the applicant is appealing is Condition no. 25. Condition 25 is a special development contribution condition for €325,000. The specified works are as stated in the condition:

- The modification and realignment of the roundabout on the R458 to provide for raised pedestrian crossings, segregated cycling lanes and junction improvements necessary for the proposed development which are necessary to facilitate the development of the site and the overall area.

The applicant in their appeal state that the special contribution includes two items of work which are set out as part of the proposed development, namely pedestrian footpaths and cycle lanes.

In response to the appeal the planning authority have provided a cost estimate detailing the separate elements of the €325,000 special development contribution as copied in Table 8.3:

Table 8.3: Cost Estimate dated 9 November 2022 (Clare County Council)

Footpath works	34,248.00	
Traffic Islands	14,206.00	
Raised Pedestrian Crossings	18,600.00	
Roundabout	30,923.00	
Line marking and Signage	9,750.00	
Road Resurfacing	65,000.00	
Electrical and Drainage Work	56,875.00	
Sub-total	229,602.00	
Preliminaries	30,461.20	
Total w/Preliminaries	260,063.20	
Overhead and Profit say 10%	26,006.32	
Total Budget Estimate	286,069.52	Exc. VAT
VAT @ 13.5%	38, 619.39	
	324,688.91	Incl. VAT

I highlight to the Board a number of issues with respect to the wording of Condition no. 25. Firstly, it is not clear in respect to the provision of segregated cycle lanes. The applicant in their appeal has interpreted Condition no. 25 in respect to the reference to segregated cycle lanes and raised pedestrian crossings that are works as proposed within the subject application (red line). I am of the view that there is a lack of clarity in the scope of Condition no. 25 and whether it is limited to the

modification and realignment works at the roundabout, rather than including the footpath and cycle lane along Tobartescain Road (L-4636) which do I note form part of the planning application. Secondly, the submitted cost estimate (as copied in Table 8.3 of my report) does not detail segregated cycle lanes as a cost element. Furthermore, I highlight to the Board that the report received from the Ennis MD Office incorporated into the planner's report (2) following receipt of further information includes the proportioning of costs, for ease of reference I have copied below:

"The cost of provision and alterations to the existing roundabout are in Appendix A. The recommendation of the Ennis MD Office is that the alteration to the exiting roundabout is required to provide safe pedestrian and cyclist crossing of the R458 and L4636 adjacent and as a result of the development. The Lidl development should bear 50% of the cost of this work by means of a defined contribution and the remaining development in the masterplan should bear 25% of the cost split between proposed overall development and general public amenity to be agreed by SE Transportation."

I note for the Board that Appendix A is not available on the file. The reason for the contribution towards the provision of active travel works at the roundabout, is stated at RDS5 of the Ennis MD Office report as copied into the planner's report (2) is that *"the immediate change not required except for proposed development and Lidl development will be the bigger attractor"*.

From the information available to me on file I do not see the application of the above proportionality to the costs specified in Condition No.25. Notwithstanding, this issue I shall continue to assess whether the condition meets the essential requirements to justify the imposition of a special development contribution.

- 8.5.4. Section 48(2) (c) of the Planning and Development Act 2000, as amended sets out the special requirements that justify the imposition of special contribution conditions as follows:

"A planning authority may, in addition to the terms of the scheme, require the payment of a special contribution in respect of a particular development where specific exceptional costs not covered by a scheme are incurred by any local

authority in respect of public infrastructure and facilities which benefit the proposed development”.

8.5.5. Accordingly, three essential requirements or characterises are necessary to justify the imposition of a ‘special contribution’ condition. Under s48(2)(c) the payment must be required:

- a) In respect of a development,
- b) Specific exceptional costs must be incurred as a result of or in order to facilitate it, and
- c) Such costs cannot be covered by a Development Contribution Scheme made under Section 48 or 49 of the Act.

8.5.6. Under the first test (a) I am of the opinion that the payment is levied in respect of a “development” and meets with this test.

8.5.7. Secondly having regard to the test under (b) I note the development plan in respect of site specific objective MU6B, lands immediately adjoining the subject site to the east, has identified that any proposed development of these MU6B lands require the upgrade of the Tobartescain Road and roundabout, as follows:

“To require that development proposals for the site shall include for the upgrade of the Tobartescáin Road and roundabout to facilitate any proposed development”.

8.5.8. I would be of the opinion, therefore, that the costs for the proposed works to modify and realign the roundabout on the R458 to provide for raised crossings, segregated cycling lanes and junction improvements are not specific costs incurred in respect of the development proposals for a neighbourhood centre on lands zoned MU6A. The development plan set out that such works are necessary to facilitate proposed development on lands zoned MU6B. I am of the view that a clear distinction is made between the infrastructural requirements of developing the MU6B zoned lands and that Volume 3a of the Clare County Development Plan does not specify works to the Tobartescain Road and roundabout to facilitate development on the MU6A lands.

8.5.9. I acknowledge the pedestrian and cyclist infrastructure and wider public realm improvements to be provided by the developer on and surrounding the subject site as part of the subject application. Taking into account the current development plan

policy, I am of the opinion that the condition does not pass the test of costs incurred 'as a result of or in order to facilitate the development'.

8.5.10. Thirdly whether such costs are already covered by a Development Contribution Scheme I refer to Development Contribution Scheme 2017-2023 (under Section 48, Planning & Development Act, 2000 as amended). I note that the Development Contribution Scheme (Appendix 1) includes for the following listed capital projects (excerpt):

- **Traffic Management** Traffic Management Kilkee; Traffic Calming in housing estates (countywide)
- **Footpaths** Extensions to and remediation of existing footpath infrastructure
- **General Improvement Schemes** Streetscape improvement works and pedestrian linkages in the 4 Municipal Districts
- **Cycle Paths & Smart Travel Initiatives** Development of on and off-road cycling facilities: Ennis to Ennistymon; Active Travel agenda in urban and village centres; National Cycle Network.

8.5.11. Whether the specified works in condition 25 can be deemed to fall within the category for which a special contribution might be sought, I consider that the modification and realignment of the roundabout including for raised pedestrian crossings, segregated cycle lanes does not relate to specific exceptional costs that are not suitable for incorporation into an adopted development contribution scheme. As regards the issue of benefit, the works envisaged would be of general benefit to many.

8.5.12. I consider therefore that these works should not come within the scope of special contributions as set out in Section 48(2)(c) of the Planning and Development Act, 2000 as amended and should be incorporated within a development contribution scheme prepared and adopted in accordance with the procedures set out in Section 48 of the Act, since such works would be likely to benefit the wider community of the area and are not specific to the proposed development. In the event the Board is minded to grant permission I recommend that the Special Development Contribution Condition no. 25 is removed.

8.5.13. The applicant has not appealed condition no. 26 relating to special contribution of €51,000 for the provision of a footpath and additional traffic calming works on the L4636 Toberteascain Road to the east of the site. With regard to my assessment above I consider that the extension to the footpath east of the subject site would fall under the capital works already incorporated into the adopted development contribution scheme and do not meet with the characteristics of ‘specific exceptional costs’. As such, I am of the opinion that the amount of this contribution should be reduced to include for additional traffic calming measures only, given that such traffic calming on the local road network is not included for in the adopted development contribution scheme and such works are deemed necessary to facilitate the development of the site. In the event the Board is minded to grant permission this issue can be addressed by amending condition no. 26 to the amount of €19,000, as per the Area Engineers report of 11/11/2022, to exclude the footpath extension costs.

9.0 Material Contravention

9.1. The third-party appellant alleges that the proposed development at this peripheral out of centre location would materially contravene CCDP Volume 3 settlement plan Objective V3(a)5 of the forthcoming 2023-2029 CDP which sets out:

“a) To protect and enhance the vitality and mix of Ennis Town Centre land-use activities and b) To improve the suitability of Ennis Town Centre retail accommodation for modern retailers, while preserving the town’s attractive historic character.”

9.2. I note for the Board that the adopted Clare County Development Plan 2023-2029 development plan has retained the same wording of Objective V3(a)5 (a and b) as per the draft.

9.3. One of the five key policy objectives set out in the Retail Planning Guidelines (RPGs) to guide planning authorities in addressing retail development issues in their development planning and development management functions is ensuring that retail development is plan-led. I am of the opinion that the proposed development of a neighbourhood centre at the subject site is plan-led. The previous Clare County Development Plan 2017-2023 identified the location as a ‘neighbourhood centre’ and

current development plan makes provision for a neighbourhood centre at these MU6A zoned lands. The retail impact of same on the vitality and mix of Ennis Town Centre has been subject to assessment in Volume 7 Clare Retail Strategy, please refer to section 8.2 of my assessment on retail impact. As such, I do not agree that the subject site falls within the category of a peripheral out-of-centre location. I am of the opinion that the proposed development accords generally with CCDP Volume 3 Settlement Plan Objective (Objective V3(a)5) and specifically with Objective V3(a)5 (d) To provide for neighbourhood facilities to serve existing neighbourhoods and those planned for growth.

- 9.4. In conclusion, I do not consider that the Board is restrained in respect to this issue by section 37(2) of the Planning and Development Act, as amended, in this case where the term “materially contravene” is used inappropriately by the third-party appellant.
- 9.5. I highlight for the Board, as assessed in 8.3 of my report, I consider that the shortfall in proposed number of car parking spaces and bicycle parking spaces materially contravenes the parking standards as contained in section A1.6.3 and Table A3 of Appendix 1 of the Clare County Development Plan 2023-2029 and in the event that the Board is minded to grant permission the provisions of Section 37 (2)(a) would be applicable. Refer to 8.3.15 of my report for the assessment of the level of car parking provision.

10.0 Appropriate Assessment

- 10.1. The proposed neighbourhood centre has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended. Please see Appendix 3 of this report.
- 10.2. Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on the Lower River Shannon SAC, Newhall and Edenvale Complex SAC and the River Shannon and River Fergus Estuaries SPA. Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of those sites in light of their conservation objectives.
- 10.3. Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects would not

adversely affect the integrity of the European site Nos [002165], [002091] and [004077], or any other European site, in view of the site's Conservation Objectives. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects.

10.4. This conclusion is based on:

- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures and ecological monitoring in relation to the Conservation Objectives of the Lower River Shannon SAC, Newhall and Edenvale Complex SAC and the River Shannon and River Fergus Estuaries SPA.
- Detailed assessment of in combination effects with other plans and projects including historical projects, current proposals and future plans.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of Lower River Shannon SAC, Newhall and Edenvale Complex SAC and the River Shannon and River Fergus Estuaries SPA.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of Lower River Shannon SAC, Newhall and Edenvale Complex SAC and the River Shannon and River Fergus Estuaries SPA.

11.0 Recommendation

I recommend that planning permission be granted for the following reasons and considerations set out below:

12.0 Reasons and Considerations

Having regard to the policies and objectives of the Clare County Development Plan 2023-2029, the mixed-use land use zoning and the (MU6A Tobartascain) principal development objective for the site which seeks to provide for a landmark building appropriate to its landmark location on the entrance to the town and provide for a neighbourhood centre with a mix of uses it is considered that the proposal for a

neighbourhood centre including new public realm, pedestrian linkages and cycleway provision meets the applicable development objective and complies with the zoning for the site. Furthermore, having regard to the wider provisions of the Clare County Development Plan 2023-2029, including Volume 7 Clare Retail Strategy which identifies the retail floorspace potential for convenience goods for the plan period, to the Retail Planning Guidelines for Planning Authorities (2012), and to the site characteristics which comprises vacant buildings that is fully serviced and located in an accessible location for the local population, to the pattern of development of existing and permitted development and the submissions on file, it is considered that, subject to compliance with the conditions set out below the proposed development would not unduly affect the viability and vitality of Ennis Town centre, would not seriously injure the residential amenities of future occupants in the scheme, or of property in the vicinity, and would be acceptable in terms of flood risk, traffic safety and convenience. The proposed development 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, as amended by the further plans and particulars received by the planning authority on the 9th day of September 2022 and 14th day of December 2022, 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.

Reason: In the interest of clarity.

2. The mitigation measures contained in the submitted updated Natura Impact Statement received on the 9th September 2022, shall be implemented.

Reason: To protect the integrity of European Sites.

3. The proposed development shall be amended as follows:

- a) The proposed car parking layout shall be revised with the proposed playground repositioned into a more centrally located position within an enlarged civic space/park area and the proposed shared communal open space serving Buildings B and Buildings C shall be reconfigured and extended to the north.
- b) 20% of the car parking spaces assigned to the neighbourhood centre uses shall be equipped with an EV charging point. 20 no. spaces shall be assigned to the proposed 20 no. apartments within a minimum of 4 no. spaces equipped with an EV charging point and the remainder of the parking spaces constructed so as to be capable of accommodating future charging points.
- c) Additional secure and covered bicycle parking spaces to be provided at accessible locations.
- d) Internal roads and footpaths close to adjoining lands shall be revised to ensure that future connectivity can be facilitated.
- e) Revised landscaping proposals incorporating nature-based solutions for surface water storage and full details of the proposed playground equipment and boundary details taking into account items a-d above.

Revised drawings, showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of visual and residential amenity.

4. Prior to commencement of development full design details shall be submitted to the planning authority for their written agreement in relation to:

- (i) A right-hand turning lane from the Tobartascain Road into the proposed vehicular entrance of the site.
- (ii) A cycle lane from the Clare Road/Tobartascain roundabout along the southern side of Tobartascain Road to the proposed vehicular entrance.

- (iii) VMS signage and ramped crossing of the proposed pedestrian crossing on the Tobartascain Road.

The agreed and approved works along with all required associated works to the exiting/proposed roadways, footpaths, cycle lanes shall be constructed by the developer at their own expense.

Reason: In the interest of traffic safety and orderly development and to define the scope of the permission.

- 5. (a) All entrance doors in the external envelope of the proposed residential blocks (Buildings B & C) shall be tightly fitting and self-closing.
- (b) All windows and roof lights shall be double-glazed and tightly fitting.
- (c) Noise attenuators shall be fitted to any openings required for ventilation or air conditioning purposes.

Details indicating the proposed methods of compliance with the above requirements and/or alternative noise mitigation measures to the above (a-c) shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To protect the residential amenity of future residents.

- 6. (a) The internal road network serving the proposed development [including turning bays, junctions, parking areas, footpaths, and kerbs and access road to the delivery/service area shall comply with the detailed construction standards of the planning authority for such works and design standards outlined in Design Manual for Urban Roads and Streets (DMURS).
- (b) Footpaths shall be dished at road junctions in accordance with the requirements of the planning authority. Details of all locations and materials to be used shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of amenity and of traffic and pedestrian safety.

- 7. Prior to the commencement of development, the applicant shall submit details in relation to the location and provision of road drainage gullies for the L4636

(Tobartascain Road) along the new footpath line to the planning authority for their written agreement. These works shall be undertaken by the applicant to the satisfaction of the planning authority prior to the occupation of development.

Reason: In the interest of flood prevention.

8. Prior to commencement of works, the developer shall submit to, and agree in writing with the planning authority, a final Construction Environmental Management Plan (CEMP), which shall be adhered to during construction. This plan shall provide details of intended construction practice for the development, including hours of working, noise and dust management measures and off-site disposal of construction/demolition waste.

Reason: In the interest of public safety and amenity.

9. 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.

Reason: In the interest of public health and to ensure adequate water/wastewater facilities.

10. The development in its entirety shall be constructed in one single phase. In this regard, the retail unit as permitted in Building A shall not be occupied unless and until the entire development (including Building B and C, all required works on the public road, playground, hard and soft landscaping and boundary treatments) have been constructed and completed to the written satisfaction of the planning authority.

Reason: In the interest of clarity and orderly development having regard to the 'Mixed Use MU6A' zoning of the site.

11. Litter in the vicinity of the premises shall be controlled in accordance with a scheme of litter control which shall be submitted to, and agreed in writing with,

the planning authority prior to commencement of development. This scheme shall include the provision of litter bins and refuse storage facilities.

Reason: In the interest of public health and visual amenity.

12. (a) A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

(b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

13. The 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.

Reason: To prevent flooding and in the interests of sustainable drainage.

14. (a) All foul sewage and soiled water shall be discharged to the public foul sewer.

(b) Only clean, uncontaminated storm water shall be discharged to the surface water drainage system.

Reason: In the interest of public health.

15. Proposals for an apartment name, apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all street signs, and apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical

or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.

16. 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.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.

17. The management and maintenance of the proposed development, following completion, shall be the responsibility of a legally constituted management company, which shall be established by the developer. A management scheme, providing adequate measures for the future maintenance of the development; including the external fabric of the buildings, internal common areas (residential and commercial), open spaces, landscaping, roads, paths, parking areas, public lighting, waste storage facilities and sanitary services,

shall be submitted to and agreed in writing with the planning authority, before any of the residential or commercial units are made available for occupation.

Reason: To provide for the future maintenance of this development in the interest of residential amenity and orderly development.

18. Site development and building works shall be carried out between the hours of [0700 to 1800] Mondays to Fridays inclusive, between [0800 to 1400] on Saturdays and not at all on Sundays and public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written agreement has been received from the planning authority.

Reason: To safeguard the amenity of property in the vicinity.

19. The developer shall engage a suitably qualified (licensed eligible) archaeologist to monitor (licensed under the National Monuments Acts) all site clearance works, topsoil stripping, groundworks, dredging and/or the implementation of agreed preservation in-situ measures associated with the development following consultation with the Local Authority Archaeologist or the National Monument Service (NMS)]. Prior to the commencement of such works the archaeologist shall consult with and forward to the Local Authority archaeologist or the NMS as appropriate a method statement for written agreement. The use of appropriate tools and/or machinery to ensure the preservation and recording of any surviving archaeological remains shall be necessary. Should archaeological remains be identified during the course of archaeological monitoring, all works shall cease in the area of archaeological interest pending a decision of the planning authority, in consultation with the National Monuments Service, regarding appropriate mitigation [preservation in-situ/excavation]. The developer shall facilitate the archaeologist in recording any remains identified. Any further archaeological mitigation requirements specified by the planning authority, following consultation with the National Monuments Service, shall be complied with by the developer. Following the completion of all archaeological work on site and any necessary post-excavation specialist analysis, the planning authority and the National Monuments Service shall be furnished with a final archaeological report

describing the results of the monitoring and any subsequent required archaeological investigative work/excavation required. All resulting and associated archaeological costs shall be borne by the developer.

Reason: To ensure the continued preservation [either in situ or by record] of places, caves, sites, features or other objects of archaeological interest.

20. The external wall finishes of the structure shall be in accordance with the plans and particulars submitted with the application, unless otherwise agreed in writing with the planning authority. For clarity Building B and C shall be finished as detailed in elevational treatment option 1 brick finish to all elevations.

Reason: In the interest of visual amenity.

21. No external security shutters shall be erected on any of the commercial premises, unless authorised by a further grant of planning permission. Details of all internal shutters, which shall be of an open lattice design and shall not contain any form of advertising, shall be submitted for the written agreement of the planning authority prior to the commencement of development, and all internal shutters shall conform to that written agreement.

Reason: In the interest of visual amenity.

22. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and [residential] amenity.

23. No advertisement or advertisement structure (other than those shown on the drawings submitted with the application) shall be erected or displayed on the building (or within the curtilage of the site) in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

24. Prior to the opening/occupation of the development, a Mobility Management Plan (MMP), taking into account the recommendations contained within the Workplace Travel Plan Statement of the Traffic and Transportation Assessment (TTA), shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling and walking by residents/occupants/staff employed in the development. The mobility strategy shall be prepared and implemented by the management company for all units within the neighbourhood centre.

Reason: In the interest of encouraging the use of sustainable modes of transport.

25. Opening hours of the proposed food store shall be restricted to between 0800 hours to 2200 hours Monday to Sunday. Delivery shall not take place before 0700 hours Monday to Saturday or before 0800 hours on Sundays or public holidays. Delivery shall not take place after 2200 hours on any day.

Reason: In the interest of residential amenity.

26. The proposed 2 no. retail units and café unit shall not be used as a takeaway/fast food outlet.

Reason: In the interest of residential amenities, orderly development and visual amenities.

27. Notwithstanding the provisions of Article 10(4) of the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, no room in the proposed apartments (s) shall be used for the purpose of providing overnight paying guest accommodation without a prior grant of planning permission.

Reason: In order to prevent overdevelopment of the site in the interest of residential amenity and traffic safety and convenience.

28. 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.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

29. The developer shall pay a financial contribution of €19,000 (Nineteen thousand euro) to the planning authority as a special contribution under Section 48(2)(c) of the Planning and Development Act 2000, as amended, in respect of additional traffic calming works on the L4636 Toberteascain Road to the east of the subject site, which benefits the proposed development. The contribution shall be paid prior to commencement of development or in such phased payments as may be agreed prior to the commencement of the development and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the terms of payment of this financial contribution shall be agreed in writing between the planning authority and the developer.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority in respect of public services, which are not covered in the

Development Contribution Scheme or the Supplementary Development Contribution Scheme and which will benefit the proposed development.

30. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Claire McVeigh

Planning Inspector

23 December 2024

Appendix 1 - Form 1

EIA Pre-Screening

An Bord Pleanála	316029-23		
Case Reference			
Proposed Development Summary	Demolition of existing buildings 1, 817sq.m. Construction of: (1) Foodstore; (2) Building B: 2 retail units and 14 residential units; (3) Building C: café, plant room, communal area and 6 residential units; (4) signage and (5) all associated ancillary works. A Natura Impact Statement was submitted with this application.		
Development Address	Junction of the Clare Road (R458) and Toberteascain Road, Ennis, Co. Clare.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	√
		No	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	√	Part 2 Class 10 (b) (i) Construction of more than 500 dwelling units. Part 2 Class 10 (b) (iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.	Proceed to Q3.
No			

3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			
No	√		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	√	The proposed development comprises a total of 20 no. apartments (dwelling units) which is significantly below the 500 dwelling unit threshold (Class 10 (b) (i)). The subject site is stated as 1.502ha which is below the 10 hectare threshold (Class 10 (b) (iv)) of urban development.	Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?		
No	√	As per. Q 4. Preliminary examination required (Form 2)
Yes		

Inspector: _____ **Date:** _____

Appendix 2 - Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference Number	316029-23
Proposed Development Summary	Construction of: (1) Foodstore; (2) Building B: 2 retail units and 14 residential units; (3) Building C: café, plant room, communal area and 6 residential units; (4) signage and (5) all associated ancillary works. A Natura Impact Statement was submitted with this application.
Development Address	Junction of the Clare Road (R458) and Toberteascain Road, Ennis, Co. Clare.
The Board 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. This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
Characteristics of proposed development (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).	The proposed development comprises the redevelopment of a site located on zoned lands with Ennis. The works proposed include the demolition of the existing three residential units, office block and ancillary buildings (Gross floor area 1,817 sq. m) and the construction of 20 no. apartments (1,416) and commercial buildings

	2,796.4 sq. m) with a total of 4, 923 sq.m gross floor space proposed on the subject site of 1.502ha. The preliminary construction and environmental management plan outlines the anticipated hazardous waste arising and notes that some are anticipated due to the age and construction of the building present. It makes clear that all asbestos containing materials must be identified prior to the demolition works proceeding. A site-specific species management plan for Japanese knotweed no other invasive species were recorded. The knotweed contaminated material is proposed to be disposed of at a designated waste facility under licence from NPWS. Noting the methodology proposed to deal with same I am of the view that there will be no significant waste, emissions or pollutants likely.
Location of development (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,	St. Flannan's college to the northwest of the subject site is a protected structure. The subject site is significantly removed from the protected structure and its attendant grounds, in addition the scale of the proposed development is such that would not detract visually from the setting of the protected structure.

densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	There are no ecologically sensitive locations in the vicinity of the site. The Appropriate Assessment Screening Report prepared by MKO Planning and Environmental Consultants identified likely significant effects on the following European Sites: Lower River Shannon SAC (0021650, Newhall Edenvale Complex SAC (002091) and the River Shannon and River Fergus Estuaries SPA (004077). A Natura Impact Statement and Revised NIS have been submitted to assess the likely impacts and proposed best practice preventative measures to avoid effects. This is considered in Appendix 3 and Appendix 4 of my report. Noting the threshold that would trigger an AA is different to that of EIA I am of the opinion that the proposed development is not likely to have the potential to significantly effect on other significant environmental sensitives in the area.
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent,	The proposed development comprises a mixed use development of residential and commercial uses and amenity open space. The size of the development is

nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	not exceptional in the wider context of the existing built-up environment. There is no real likelihood of cumulative effects with other existing and/or permitted projects.	
Conclusion		
Likelihood of Significant Effects		
There is no real likelihood of significant effects on the environment.	There is no real likelihood of significant effects on the environment in terms of the nature, size and location of the proposed development and having specific regard to the criteria set out in Schedule 7 of the P&D Regs 2001 (as amended). EIA is not required.	No

Inspector: _____ Date: _____

DP/ADP: _____ Date: _____

(only where Schedule 7A information or EIAR required)

Appendix 3: Appropriate Assessment

1.0 Appropriate Assessment

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

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

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

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

The proposed development is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).

Screening the need for Appropriate Assessment

I have considered the proposed neighbourhood centre development in light of the requirements of S177U of the Planning and Development Act 2000 as amended. A screening report and updated screening report contained in the revised NIS has been prepared by MKO Planning and Environmental Consultants on behalf of the applicant. The updated screening report has taken into the account the findings from the Hydrological and Hydrogeological Impact Assessment prepared by Hydro Environmental Ltd, in response to further information request by the planning authority, and the objective information presented in that report informs this screening determination.

The subject site is located within 700m of the Lower River Shannon Special Area of Conservation (SAC) (Site Code 002165). Other designated sites in the vicinity include Newhall and Edenvale Complex SAC (Site Code 002091) and the River Shannon and Fergus Special Protection Area (SPA) (Site Code 004077) both are within approximately 2.2km from the site.

In summary the proposed development comprises the demolition of existing structures on site including three residential units, office block and ancillary buildings and the construction of: (1) Foodstore; (2) Building B: 2 retail units and 14 residential units; (3) Building C: café, plant room, communal area and 6 residential units; (4) signage and (5) all associated ancillary works.

European Sites

Three no. of European sites are located within a potential zone of influence of the proposed development. These are as listed in Table1.1:

Table 1.1:

European Site	Qualifying Interests	Distance	Connections
Lower River Shannon SAC [002165]	Sandbanks which are slightly covered by sea water all the time [1110] Estuaries [1130] Mudflats and sandflats not covered by seawater at low tide [1140] Coastal lagoons [1150]	700m	Indirect – The hydrological pathway from the site to the SAC is via the local surface drainage system and via infiltration and groundwater flow via the karst bedrock aquifer.

	Large shallow inlets and bays [1160] Reefs [1170] Perennial vegetation of stony banks [1220] Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (Glauco-Puccinellietalia maritima) [1330] Mediterranean salt meadows (Juncetalia maritimi) [1410] Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation [3260] Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) [6410] Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion alba) [91E0] Margaritifera margaritifera (Freshwater Pearl Mussel) [1029] Petromyzon marinus (Sea Lamprey) [1095] Lampetra planeri (Brook Lamprey) [1096] Lampetra fluviatilis (River Lamprey) [1099] Salmo salar (Salmon) [1106] Tursiops truncatus (Common Bottlenose Dolphin) [1349] Lutra lutra (Otter) [1355]			
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Newhall Edenvale Complex SAC [002091]	Caves not open to the public [8310] Rhinolophus hipposideros (Lesser Horseshoe Bat) [1303]	2.2km	The proposed development is within the 2.5km foraging limit for the SAC population of lesser horseshoe bat.	
River Shannon and River Fergus Estuaries SPA [004077]	Cormorant (Phalacrocorax carbo) [A017] Whooper Swan (Cygnus cygnus) [A038] Light-bellied Brent Goose (Branta bernicla hrota) [A046] Shelduck (Tadorna tadorna) [A048] Wigeon (Anas penelope) [A050] Teal (Anas crecca) [A052] Pintail (Anas acuta) [A054] Shoveler (Anas clypeata) [A056] Scaup (Aythya marila) [A062] Ringed Plover (Charadrius hiaticula) [A137] Golden Plover (Pluvialis apricaria) [A140] Grey Plover (Pluvialis squatarola) [A141] Lapwing (Vanellus vanellus) [A142] Knot (Calidris canutus) [A143] Dunlin (Calidris alpina) [A149] Black-tailed Godwit (Limosa limosa) [A156] Bar-tailed Godwit (Limosa lapponica) [A157]	2.2km	Indirect - The hydrological pathway from the site to the SAC is via the local surface drainage system and via infiltration and groundwater flow via the karst bedrock aquifer.	

	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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I note that the applicant included a greater number of European sites in their initial screening consideration; sites within 15km of the development site. I have only included those sites with any possible ecological connection or pathway in this screening determination.

Ecological surveys undertaken by the applicant at appropriate season and frequency, using best practice survey methods have identified that the Fergus River, which is part of the Lower River Shannon SAC runs approximately 700 east of the proposed development and the Clareabbey stream located 600m to the southeast of the subject site flows into the River Fergus/the SAC. The stormwater collection network and groundwater are identified as possible pathways. Deterioration in water quality, through potential silt laden run-off and other pollutants during the construction and/or operational phases, may result in adverse impacts on aquatic or groundwater influenced QI habitats within the Lower River Shannon SAC and the River Shannon and River Fergus Estuaries SPA.

The potential impact for the QI Species *Rhinolophus hipposideros* (Lesser Horseshow Bat [1303] of the Newhall and Edenvale Complex SAC requires consideration given the proposed development is within the 2.5km foraging limit for the SAC.

Likely impacts of the project alone or in combination with other plans and projects

The proposed development will not result in any direct effects on the three identified European sites within the potential zone of influence.

The Hydrological and Hydrogeological Impact Assessment report states that the St. Flannan's Sloggary Hole (Swallow hole) and the downstream Toberteascain

Springs are of relevance to the applicant site. Due to the hydrological features of the site, within a highly karstified Limestone Aquifer, the impacts generated by the construction and operation of the development require consideration.

Japanese Knotweed was identified on site during a multidisciplinary walkover survey by the applicant's appointed consultants and a dedicated invasive species survey was carried out on the 17 September 2021. No other invasives were recorded.

The AA screening report states that the site does not provide any habitat suitable for breeding and wintering birds that are SCI species of the SPA. Disturbance to SCI species can be ruled out due to the distance between the development and the River Shannon and River Fergus Estuaries SPA.

The applicant has applied the source-pathway-receptor model in determining possible impacts and effects of the proposed neighbourhood centre development.

Sources of impact include:

- Silt laden run-off and other pollutants during the construction and /or operational phases via the storm water network.
- Potential for pollution of groundwater during the construction and operational phases of the proposed works via percolation of polluting materials through the bedrock underlying the site.
- Potential spread of invasive species associated with ground disturbance activities during the construction phase.
- The proposed development is at the 2.5km foraging limit for the SAC population of lesser horseshoe bat.

Likely significant effects on the European site(s) in view of the conservation objectives

Based on the information provided in the screening report(s), site visit, review of the conservation objectives and supporting documents, I consider that in the absence of mitigation measures beyond best practice construction methods, the proposed development has the potential to result in the following impacts:

- Disturbance to species, reduction in species population and density
- Changes in ecological functions or features necessary for qualifying interests e.g. decreased water quality and effects on freshwater species
- Interference with key interactions that define the structure and function of the site e.g., spread of invasive species.

I concur with the applicant's findings that such impacts could be significant in terms of the stated conservation objectives of the Lower River Shannon SAC, Newhall

and Edenvale Complex SAC and the River Shannon and River Fergus Estuaries SPA when considered on their own in relation to pollution related pressures and disturbance on qualifying interest habitats/species.

In the absence of mitigation, the proposed development has the potential to result in negative impacts on the Lower River Shannon SAC, Newhall and Edenvale Complex SAC and the River Shannon and River Fergus Estuaries SPA.

Overall 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 MKO Planning and Environmental Consultants I conclude that the proposed development could result in significant effects on the Lower River Shannon SAC, Newhall and Edenvale Complex SAC and the River Shannon and River Fergus Estuaries SPA.

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

No mitigation measures were taken into consideration in coming to this determination.

1.5. The Natura Impact Statement (NIS)

The application included a NIS prepared by MKO Planning and Environmental Consultants, received by the planning authority on the 20 January 2022, and subsequent updated NIS (uNIS), received by the planning authority on 9 September 2022, which examines and assesses potential adverse effects of the proposed development on the following European Sites:

- Lower River Shannon SAC
- Newhall and Edenvale Complex SAC
- River Shannon and River Fergus Estuaries SPA

Ecological surveys undertaken to inform the submitted NIS and uNIS include:

- Ecological multidisciplinary walkover survey 29 January and 7 September 2021 as part of the habitat survey and mapping of the Ecological Impact Assessment (EclA).

- Bat Survey including habitat suitability assessment, roost survey, emergence survey (Evening 7 September 2021), dusk activity survey (carried out following the emergence survey) and static detector survey (deployed 7 September 2021).
- Japanese Knotweed Survey (17 September 2021).
- Desk Study including a review of online web-mappers National Parks and Wildlife Service (NPWS), National Biodiversity Data centre (NBDC), Environmental Protection Agency (EPA); review of the site-specific conservation objectives (SSCOs) for European Sites identified with the AA Screening report and review of the NPWS Article 17 metadata and GIS database.

The applicant's NIS and as augmented by the uNIS was prepared in line with current best practice guidance and provides an assessment of the potential for adverse effects on the identified European Sites and prescribed mitigation to "robustly block any identified pathways for impact". Residual effects are considered taking into account the proposed mitigation. The potential in combination effects of the proposed project on European Sites, when considered in combination with other plans and projects was considered.

The applicants uNIS concluded that: -

"This rNIS has provided an assessment of all potential direct or indirect pathways for adverse effects on the QI habitats and species of Lower River Shannon SAC [002165] and Newhall and Edenvale Complex SAC [002091] and the SCIs of River Shannon and River Fergus Estuaries SPA [004077].

Where the potential for any adverse effect on any European Site has been identified, the pathway by which any such effect may occur has been robustly blocked through the use of avoidance, appropriate design and mitigation measures as set out within this report and its appendices. The measures ensure that the construction and operation of the proposed development does not adversely affect the integrity of European sites.

Therefore, it can be objectively concluded that the proposed development, individually or in combination with other plans or projects, will not adversely affect the integrity of any European Site".

Having reviewed the documents, submissions and consultations with the NPWS etc, I am satisfied that the information allows for a complete assessment of any adverse effects of the development, on the conservation objectives of the following European sites alone, or in combination with other plans and projects:

- Lower River Shannon SAC
- Newhall and Edenvale Complex SAC
- River Shannon and River Fergus Estuaries SPA

I note a typographic error in referring to the Lower River Shannon SAC in section 6.4 of the NIS and the uNIS instead of the River Shannon and River Fergus Estuaries SPA to which the information contained under relates.

1.6. Appropriate Assessment of implications of the proposed development

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

Guidance adhered to in my assessment includes:

- DoEHLG (2009). Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities. Department of the Environment, Heritage and Local Government, National Parks and Wildlife Service.
- European Commission (2002) Assessment of plans and projects significantly affecting Natura 2000 sites. Methodological guidance on the provisions of Article 6(3) and 6(4) of the Habitats Directive 92/43/EC.
- Official Journal of the European Union (2019/C 33/01) Managing Natura 2000 sites. The provisions of Article 6 of the Habitats Directive 92/43/EEC.

1.7. European Sites

The following sites are subject to Appropriate Assessment:

- Lower River Shannon SAC
- Newhall and Edenvale Complex SAC
- River Shannon and River Fergus Estuaries SPA

A description of the sites and their Conservation and Qualifying Interests/Special Conservation Interests, including any relevant attributes and targets for these sites, are set out in the NIS and summarised in tables 1.1-1.4 of this report as part of my assessment. I have also examined the Natura 2000 data forms as relevant and the Conservation Objectives supporting documents for these sites available through the NPWS website (www.npws.ie).

Aspects of the proposed development. The main aspects of the proposed development that could adversely affect the conservation objectives of European sites include:

- Impacts to water quality and wetland habitats through construction related pollution events and /or operational impacts (surface water/ foul water management, invasive species).
- Disturbance of QI Species.

Examination and assessment of the aspects of the project that could result in potential adverse effects with regard to the conservation objectives for each qualifying interest that could be affected including targets and attributes is tabulated in AA Summary Matrix Tables 1.2-1.4 at the end of this appendix. A summary of the integrity test is included in each table.

Integrity test

Lower River Shannon SAC

Following the appropriate assessment and the consideration of mitigation measures, I am able to ascertain with confidence that the project would not adversely affect the integrity of Lower River Shannon SAC in view of the Conservation Objectives of this site.

This conclusion has been based on a complete assessment of all implications of the project alone and in combination with plans and projects.

Newhall and Edenvale Complex SAC

Following the appropriate assessment and the consideration of mitigation measures, I am able to ascertain with confidence that the project would not adversely affect the

integrity of Newhall and Edenvale Complex SAC in view of the Conservation Objectives of this site.

This conclusion has been based on a complete assessment of all implications of the project alone and in combination with plans and projects.

River Shannon and River Fergus Estuaries SPA

Following the appropriate assessment and the consideration of mitigation measures, I am able to ascertain with confidence that the project would not adversely affect the integrity of River Shannon and River Fergus SPA in view of the Conservation Objectives of this site.

This conclusion has been based on a complete assessment of all implications of the project alone and in combination with plans and projects.

1.8. Appropriate Assessment Conclusion

The proposed neighbourhood centre has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended.

Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on the Lower River Shannon SAC, Newhall and Edenvale Complex SAC and the River Shannon and River Fergus Estuaries SPA. Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of those sites in light of their conservation objectives.

Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European site Nos [002165], [002091] and [004077], or any other European site, in view of the site's Conservation Objectives. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects.

This conclusion is based on:

- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures and ecological monitoring in relation to the

Conservation Objectives of the Lower River Shannon SAC, Newhall and Edenvale Complex SAC and the River Shannon and River Fergus Estuaries SPA.

- Detailed assessment of in combination effects with other plans and projects including historical projects, current proposals and future plans.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of Lower River Shannon SAC, Newhall and Edenvale Complex SAC and the River Shannon and River Fergus Estuaries SPA.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of Lower River Shannon SAC, Newhall and Edenvale Complex SAC and the River Shannon and River Fergus Estuaries SPA.

Lower River Shannon Special Area of Conservation (SAC) [002165]						
Summary of key issues that could give rise to adverse effects: Water quality and water dependent habitats						
Qualifying Interest feature	Conservation Objectives	Targets and attributes	Summary of Appropriate Assessment			Can adverse effects on integrity be excluded?
			Potential Adverse effects	Mitigation Measures	In combination effects	
Sandbanks which are slightly covered by sea water all the time [1110]	To maintain (M) the favourable conservation condition of Sandbanks which are slightly covered by sea water all the time in the Lower River Shannon SAC.	Habitat distribution - The distribution of sandbanks is stable, subject to natural processes. Habitat area Hectares The permanent habitat area is stable or increasing, subject to natural processes. Community Distribution: Conserve the following community type in a natural condition: Subtidal sand to mixed sediment with Nephtys spp. community complex.	Indirect pathways that would allow deterioration of water quality and impact on water dependent habitats.	<i>Construction Phase Control Measures</i> including site set up, demolition phase dust suppression and cleaning of public approach roads, pollution control, measures to avoid the release of cement-based material during construction, measures to avoid effects associated with the disposal of wastewater, waste management, disturbance limitation measures, environmental monitoring, biosecurity.	The proposed development will not result in any residual adverse effects on any of the European Sites, their integrity or their conservation objectives when considered on its own. There is, therefore, no potential for the proposed development to contribute to any cumulative adverse effects on any European Site when considered in-combination with other plans and projects.	Yes

				<i>Operational Phase control measures include limits to the surface water the discharge to the sewer to the equivalent greenfield rate, a Class 1 bypass interceptor installed upstream of the connection to the existing public surface water sewer. (as detailed in Section 5.4.1 of the uNIS)</i>		
Estuaries [1130]	To maintain (M) the favourable conservation condition of Estuaries in the Lower River Shannon SAC.	Habitat area: The permanent habitat area is stable or increasing, subject to natural processes. Community distribution: Conserve the following community types in a natural condition: Intertidal sand to mixed sediment with polychaetes, molluscs and crustaceans community complex; Estuarine subtidal muddy sand to mixed sediment with gammarids community complex; Subtidal sand to mixed	Indirect pathways that would allow deterioration of water quality and impact on water dependent habitats.	Construction Phase and Operational Phase Control Measures (as detailed in Section 5.4.1 of the uNIS)	The proposed development will not result in any residual adverse effects on any of the European Sites, their integrity or their conservation objectives when considered on its own. There is, therefore, no potential for the proposed development to contribute to any cumulative adverse effects on any European Site	Yes

		sediment with Nucula nucleus community complex; Subtidal sand to mixed sediment with Nephtys spp. community complex; Fucoid-dominated intertidal reef community complex; Faunal turf-dominated subtidal reef community; and Anemone-dominated subtidal reef community.			when considered in-combination with other plans and projects.	
Mudflats and sandflats not covered by seawater at low tide [1140]	To maintain (M) the favourable conservation condition of Mudflats and sandflats not covered by seawater at low tide in the Lower River Shannon SAC.	Habitat area: The permanent habitat area is stable or increasing, subject to natural processes. Community distribution: Conserve the following community types in a natural condition: Intertidal sand with Scolelepis squamata and Pontocrates spp. community; and Intertidal sand to mixed sediment with polychaetes, molluscs and crustaceans community complex.	Indirect pathways that would allow deterioration of water quality and impact on water dependent habitats.	Construction Phase and Operational Phase Control Measures (as detailed in Section 5.4.1 of the uNIS)	The proposed development will not result in any residual adverse effects on any of the European Sites, their integrity or their conservation objectives when considered on its own. There is, therefore, no potential for the proposed development to contribute to any cumulative adverse effects on any European Site when considered in-combination with other plans and projects.	Yes
Coastal lagoons [1150]	To restore (R) the favourable conservation condition of Coastal lagoons in	Habitat area Hectares Area stable or increasing, subject to natural processes.	Indirect pathways that would allow deterioration of water quality and	Construction Phase and Operational Phase Control Measures (as	The proposed development will not result in any residual adverse effects on any of	Yes

	the Lower River Shannon SAC.	Favourable reference area 33.4ha- Shannon Airport Lagoon 24.2ha; Cloonconeen Pool 3.9ha; Scattery Lagoon 2.8ha; Quayfield and Poulaweala Loughs 2.5ha. Habitat distribution: No decline, subject to natural Processes. Salinity regime: Median annual salinity and temporal variation within natural ranges. Hydrological Regime: Annual water level fluctuations and minima within natural ranges. Barrier: connectivity between lagoon and sea: Appropriate hydrological connections between lagoons and sea, including where necessary, appropriate management. Water quality: chlorophyll a: Annual median chlorophyll a	impact on water dependent habitats.	detailed in Section 5.4.1 of the uNIS)	the European Sites, their integrity or their conservation objectives when considered on its own. There is, therefore, no potential for the proposed development to contribute to any cumulative adverse effects on any European Site when considered in-combination with other plans and projects.	
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		within natural ranges and less than 5µg/L. Water quality: Molybdate Reactive Phosphorus (MRP): Annual median MRP within natural ranges and less than 0.1mg/L. Water quality: Dissolved Inorganic Nitrogen (DIN): Annual median DIN within natural ranges and less than 0.15mg/L. Depth of macrophyte colonisation: Macrophyte colonisation to maximum depth of lagoons. Typical plant Species: Maintain number and extent of listed lagoonal specialists, subject to natural variation. Typical animal Species: Maintain listed lagoon specialists, subject to natural variation. Negative indicator				
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		Species: Negative indicator species absent or under control.				
Large shallow inlets and bays [1160]	To maintain (M) the favourable conservation condition of Large shallow inlets and bays in the Lower River Shannon SAC.	Habitat area: The permanent habitat area is stable or increasing, subject to natural processes. Community Distribution: Conserve the following community types in a natural condition: Intertidal sand with <i>Scolecopsis squamata</i> and <i>Pontocrates</i> spp. community; Intertidal sand to mixed sediment with polychaetes, molluscs and crustaceans community complex; Subtidal sand to mixed sediment with <i>Nucula nucleus</i> community complex; Subtidal sand to mixed sediment with <i>Nephtys</i> spp. community complex; Furoid-dominated intertidal reef community complex; Mixed subtidal reef community complex; Faunal turf-dominated subtidal reef community; Anemone-dominated subtidal reef community; and <i>Laminaria</i>-dominated community complex.	Indirect pathways that would allow deterioration of water quality and impact on water dependent habitats.	Construction Phase and Operational Phase Control Measures (as detailed in Section 5.4.1 of the uNIS)	The proposed development will not result in any residual adverse effects on any of the European Sites, their integrity or their conservation objectives when considered on its own. There is, therefore, no potential for the proposed development to contribute to any cumulative adverse effects on any European Site when considered in-combination with other plans and projects.	Yes

Reefs [1170]	To maintain (M) the favourable conservation condition of Reefs in the Lower River Shannon SAC.	Habitat distribution: The distribution of Reefs is stable, subject to natural processes. Habitat area: The permanent habitat area is stable, subject to natural processes. Community Distribution: Conserve the following reef community types in a natural condition: Fucoid-dominated intertidal reef community complex; Mixed subtidal reef community complex; Faunal turf-dominated subtidal reef community; Anemone-dominated subtidal reef community; and Laminaria-dominated community complex.	Indirect pathways that would allow deterioration of water quality and impact on water dependent habitats.	Construction Phase and Operational Phase Control Measures (as detailed in Section 5.4.1 of the uNIS)	The proposed development will not result in any residual adverse effects on any of the European Sites, their integrity or their conservation objectives when considered on its own. There is, therefore, no potential for the proposed development to contribute to any cumulative adverse effects on any European Site when considered in-combination with other plans and projects.	Yes
Perennial vegetation of stony banks [1220]	To maintain (M) the favourable conservation condition of Perennial vegetation of stony banks in the Lower River Shannon SAC	Habitat area: Area stable or increasing, subject to natural processes, including erosion and succession. Habitat distribution: No decline, or change in habitat distribution, subject to natural processes. Physical structure: functionality and sediment supply: Maintain the natural circulation of				

		sediment and organic matter, without any physical obstructions. Vegetation structure: zonation: Maintain the range of coastal habitats including transitional zones, subject to natural processes including erosion and succession. Vegetation composition: typical species and sub-communities: Maintain the typical vegetated shingle flora including the range of sub-communities within the different zones. Vegetation composition: negative indicator species: Negative indicator species (including non-natives) to represent less than 5% cover.				
Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]	To maintain (M) the favourable conservation condition of Vegetated sea cliffs in the Lower River Shannon SAC.	N/A	No potential pathway for effect on the terrestrial habitat for which the SAC is designated.	N/A	N/A	N/A
Salicornia and other annuals colonising mud and sand [1310]	To maintain (M) the favourable conservation condition	Habitat area: Area stable or increasing,	Indirect pathways that would allow	Construction Phase and Operational	The proposed development will not result in any	Yes

	of Salicornia and other annuals colonizing mud and sand in the Lower River Shannon SAC.	subject to natural processes, including erosion and succession. For sub-sites mapped: Carrigafoyle -0.005ha; Inishdea, Owenshere - 0.003ha; Knock - 0.029ha; Querin - 0.185ha; Rinevilla Bay - 0.001ha. Habitat distribution: No decline, or change in habitat distribution, subject to natural processes. Physical structure: sediment supply: Maintain natural circulation of sediments and organic matter, without any physical obstructions. Physical structure: creeks and pans: Maintain/restore creek and pan structure, subject to natural processes, including erosion and succession. Physical structure: flooding regime: Maintain natural tidal regime. Vegetation structure: zonation: Maintain the range of coastal habitats including transitional	deterioration of water quality and impact on water dependent habitats. Invasive species.	Phase Control Measures (as detailed in Section 5.4.1 of the uNIS) Biosecurity measures will be in place.	residual adverse effects on any of the European Sites, their integrity or their conservation objectives when considered on its own. There is, therefore, no potential for the proposed development to contribute to any cumulative adverse effects on any European Site when considered in-combination with other plans and projects.	
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		zones, subject to natural processes including erosion and succession. Vegetation structure: vegetation height: Maintain structural variation within sward. Vegetation structure: vegetation cover: Maintain more than 90% of area outside creeks vegetated. Vegetation composition: typical species and sub-communities: Maintain the presence of species-poor communities with typical species listed in Saltmarsh Monitoring Project (McCorry and Ryle, 2009). Vegetation structure: negative indicator species- Spartina anglica: No significant expansion of common cordgrass (Spartina anglica), with an annual spread of less than 1%.				
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Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330]	To restore (R) the favourable conservation condition of Atlantic salt meadows (Glauco-Puccinellietalia maritimae) in the Lower River Shannon SAC.	Habitat area: Area stable or increasing, subject to natural processes, including erosion and succession. For sub-sites mapped: Carrigafoyle-6.774ha; Barrigone, Aughinish-10.288ha; Beagh 0.517ha; Bunratty-26.939ha; Shepperton, Fergus Estuary-37.925ha; Inishdea, Owenshere-18.127ha; Killadysert, Inishcorker- 2.604ha; Knock- 0.576ha; Querin-3.726ha; Rinevilla Bay-11.883ha. Habitat distribution: No decline or change in habitat distribution, subject to natural processes. Physical structure: sediment supply: Maintain natural circulation of sediments and organic matter, without any physical obstruction. Physical structure: creeks and pans: Maintain creek and pan structure, subject to natural processes, including erosion and succession.	Indirect pathways that would allow deterioration of water quality and impact on water dependent habitats. Invasive species.	Construction Phase and Operational Phase Control Measures (as detailed in Section 5.4.1 of the uNIS). Biosecurity measures will be in place.	The proposed development will not result in any residual adverse effects on any of the European Sites, their integrity or their conservation objectives when considered on its own. There is, therefore, no potential for the proposed development to contribute to any cumulative adverse effects on any European Site when considered in-combination with other plans and projects.	Yes
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		Physical structure: flooding regime: Maintain natural tidal regime. Vegetation structure: zonation: Maintain the range of coastal habitats including transitional zones, subject to natural processes including erosion and succession. Vegetation structure: vegetation height: Maintain structural variation within sward. Vegetation structure: vegetation cover: Maintain more than 90% of the saltmarsh area vegetated. Vegetation composition: typical species and sub-communities: Maintain range of sub-communities with typical species listed in Saltmarsh Monitoring Project (McCorry and Ryle, 2009). Vegetation structure: negative indicator species-				
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		Spartina anglica: No significant expansion of common cordgrass (Spartina anglica), with an annual spread of less than 1%.				
Mediterranean salt meadows (Juncetalia maritimi) [1410]	To restore (R) the favourable conservation condition of Mediterranean salt meadows (Juncetalia maritimi) in the Lower River Shannon SAC,	Habitat area: Area increasing, subject to natural processes, including erosion and succession. For sub-sites mapped: Carrigafoyle- 4.193ha; Barrigone, Aughinish- 2.407ha; Bunratty- 0.865ha; Inishdea, Owenshere- 11.609ha; Killadysert, Inishcorker- 0.705ha; Knock- 0.143ha, Querin- 0.008ha; Rinevilla Bay- 2.449ha. Habitat distribution: No decline, or change in habitat distribution, subject to natural processes. Physical structure: sediment supply: Maintain natural circulation of sediments and organic matter, without any physical obstruction. Physical structure: creeks and pans: Maintain/restore creek and pan structure, subject to natural processes,	Indirect pathways that would allow deterioration of water quality and impact on water dependent habitats. Invasive Species.	Construction Phase and Operational Phase Control Measures (as detailed in Section 5.4.1 of the uNIS). Biosecurity measures will be in place.	The proposed development will not result in any residual adverse effects on any of the European Sites, their integrity or their conservation objectives when considered on its own. There is, therefore, no potential for the proposed development to contribute to any cumulative adverse effects on any European Site when considered in-combination with other plans and projects.	Yes

		including erosion and succession. Physical structure: flooding regime: Maintain natural tidal regime. Vegetation structure: zonation: Maintain the range of coastal habitats including transitional zones, subject to natural processes including erosion and succession. Vegetation structure: vegetation height: Maintain structural variation within sward. Vegetation structure: vegetation cover: Maintain more than 90% of area outside creeks vegetated. Vegetation composition: typical species: Maintain range of sub-communities with typical species listed in Saltmarsh Monitoring Project (McCorry and Ryle, 2009). Vegetation structure: negative				
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		indicator species - Spartina anglica: No significant expansion of common cordgrass (Spartina anglica), with an annual spread of less than 1%.				
Water courses of plain to montane levels with the Ranunculus fluitantis and Callitriche-Batrachion vegetation [3260]	To maintain (M) the favourable conservation condition of Water courses of plain to montane levels with the Ranunculus fluitantis and Callitriche-Batrachion vegetation in the Lower River Shannon SAC.	Habitat area: Area stable or increasing, subject to natural processes. Habitat distribution: No decline, subject to natural processes. Hydrological regime: river flow: Maintain appropriate hydrological regimes. Hydrological regime: tidal influence: Maintain natural tidal regime. Hydrological regime: freshwater seepages: Maintain appropriate freshwater seepage regimes. Substratum composition: particle size range: The substratum should be dominated by the particle size ranges, appropriate to the habitat sub-type (frequently sands, gravels and cobbles). Water quality:	Indirect pathways that would allow deterioration of water quality and impact on water dependent habitats.	Construction Phase and Operational Phase Control Measures (as detailed in Section 5.4.1 of the uNIS)	The proposed development will not result in any residual adverse effects on any of the European Sites, their integrity or their conservation objectives when considered on its own. There is, therefore, no potential for the proposed development to contribute to any cumulative adverse effects on any European Site when considered in-combination with other plans and projects.	Yes

		Nutrients: The concentration of nutrients in the water column should be sufficiently low to prevent changes in species composition or habitat condition. Vegetation composition: typical species: Typical species of the relevant habitat sub-type should be present and in good condition. Floodplain connectivity: The area of active floodplain at and upstream of the habitat should be maintained. Riparian habitat: The area of riparian woodland at and upstream of the bryophyte-rich sub-type should be maintained.				
Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) [6410]	To maintain (M) the favourable conservation condition of Molinia meadows on calcareous, peaty or clayey-silt laden soils (Molinion caeruleae) in the Lower River Shannon SAC.	N/A	No potential pathway for effect on the terrestrial habitat for which the SAC is designated.	N/A	N/A	N/A
Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-	To restore (R) the favourable conservation condition of Alluvial forests with	Habitat area: Area stable or increasing, subject to natural processes, at	Indirect pathways that would allow deterioration of	Construction Phase and Operational Phase Control	The proposed development will not result in any residual adverse	Yes

Padion, Alnion incanae, Salicion albae) [91E0]	Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) in the Lower River Shannon SAC.	least c.8.5ha for sites surveyed. Habitat distribution: No decline. Woodland size: Area stable or increasing. Where topographically possible, "large" woods at least 25ha in size and "small" woods at least 3ha in size. Woodland structure: cover and height: Diverse structure with a relatively closed canopy containing mature trees; subcanopy layer with semi- mature trees and shrubs; and well-developed herb layer. Woodland structure: community diversity and extent: Maintain diversity and extent of community type. Woodland structure: natural regeneration: Seedlings, saplings and pole age-classes occur in adequate proportions to ensure survival of woodland canopy. Hydrological regime: flooding depth/height of water table: Appropriate hydrological regime	water quality and impact on water dependent habitats. Invasive Species.	Measures (as detailed in Section 5.4.1 of the uNIS). Biosecurity measures will be in place.	effects on any of the European Sites, their integrity or their conservation objectives when considered on its own. There is, therefore, no potential for the proposed development to contribute to any cumulative adverse effects on any European Site when considered in-combination with other plans and projects.	
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		necessary for maintenance of alluvial vegetation. Woodland structure: dead wood: At least 30m³/ha of fallen timber greater than 10cm diameter; 30 snags/ha; both categories should include stems greater than 40cm diameter (greater than 20cm diameter in the case of alder). Woodland structure: veteran trees: No decline. Woodland structure: indicators of local distinctiveness: No decline. Vegetation composition: native tree cover: No decline. Native tree cover not less than 95%. Vegetation composition: typical species: A variety of typical native species present, depending on woodland type, including alder (<i>Alnus glutinosa</i>), willows (<i>Salix</i> spp) and, locally, oak (<i>Quercus robur</i>) and ash (<i>Fraxinus excelsior</i>). Vegetation composition: negative indicator species: Negative				
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		indicator species, particularly non-native invasive species, absent or under control.				
Margaritifera margaritifera (Freshwater Pearl Mussel) [1029]	To restore (R) the favourable conservation condition of Freshwater Pearl Mussel in the Lower River Shannon SAC.	N/A	No pathway for effect exists as it only occurs in a separate catchment of the SAC (Cloon) (See map 15 of the Conservation Objectives, NPWS 2012).	N/A	N/A	N/A
Petromyzon marinus (Sea Lamprey) [1095]	To restore (R) the favourable conservation condition of Sea Lamprey in the Lower River Shannon SAC.	Distribution: extent of anadromy: Greater than 75% of main stem length of rivers accessible from estuary. Population structure of juveniles: At least three age/size groups present. Juvenile density in fine sediment: Juvenile density at least 1/m². Extent and distribution of spawning habitat: No decline in extent and distribution of spawning beds. Availability of juvenile habitat: More than 50% of sample sites positive.	Indirect pathways that would allow deterioration of water quality and impact on water dependent habitats.	Construction Phase and Operational Phase Control Measures (as detailed in Section 5.4.1 of the uNIS)	The proposed development will not result in any residual adverse effects on any of the European Sites, their integrity or their conservation objectives when considered on its own. There is, therefore, no potential for the proposed development to contribute to any cumulative adverse effects on any European Site when considered in-combination with other plans and projects.	Yes
Lampetra planeri (Brook Lamprey) [1096]	To maintain (M) the favourable conservation condition	Distribution: Access to all water courses down to first order streams.	Indirect pathways that would allow	Construction Phase and Operational	The proposed development will not result in any	Yes

	of Brook Lamprey in the Lower River Shannon SAC.	Population structure of juveniles: At least three age/size groups of brook/river lamprey present. Juvenile density in fine sediment: Mean catchment juvenile density of brook/river lamprey at least 2/m². Extent and distribution of spawning habitat: No decline in extent and distribution of spawning beds. Availability of juvenile habitat: More than 50% of sample sites positive	deterioration of water quality and impact on water dependent habitats.	Phase Control Measures (as detailed in Section 5.4.1 of the uNIS)	residual adverse effects on any of the European Sites, their integrity or their conservation objectives when considered on its own. There is, therefore, no potential for the proposed development to contribute to any cumulative adverse effects on any European Site when considered in-combination with other plans and projects.	
Lampetra fluviatilis (River Lamprey) [1099]	To maintain (M) the favourable conservation condition of River Lamprey in the Lower River Shannon SAC.	Distribution: Access to all water courses down to first order streams. Population structure of juveniles: At least three age/size groups of river/brook lamprey present. Juvenile density in fine sediment: Mean catchment juvenile density of river/brook lamprey at least 2/m².	Indirect pathways that would allow deterioration of water quality and impact on water dependent habitats.	Construction Phase and Operational Phase Control Measures (as detailed in Section 5.4.1 of the uNIS)	The proposed development will not result in any residual adverse effects on any of the European Sites, their integrity or their conservation objectives when considered on its own. There is, therefore, no potential for the proposed development to contribute to any cumulative adverse effects on any	Yes

		Extent and distribution of spawning habitat: No decline in extent and distribution of spawning beds. Availability of juvenile habitat: More than 50% of sample sites positive.			European Site when considered in-combination with other plans and projects.	
Salmo salar (Salmon) [1106]	To restore (R) the favourable conservation condition of Salmon in the Lower River Shannon SAC,	Distribution: extent of anadromy: 100% of river channels down to second order accessible from estuary. Adult spawning fish: Conservation Limit (CL) for each system consistently exceeded. Salmon fry abundance: Maintain or exceed 0+ fry mean catchment-wide abundance threshold value. Currently set at 17 salmon fry/5 min sampling. Out-migrating smolt abundance: No significant decline. Number and distribution of redds: No decline in number and distribution of spawning redds due to anthropogenic causes. Water quality: At least Q4 at all sites sampled by EPA.	Indirect pathways that would allow deterioration of water quality and impact on water dependent habitats.	Construction Phase and Operational Phase Control Measures (as detailed in Section 5.4.1 of the uNIS)	The proposed development will not result in any residual adverse effects on any of the European Sites, their integrity or their conservation objectives when considered on its own. There is, therefore, no potential for the proposed development to contribute to any cumulative adverse effects on any European Site when considered in-combination with other plans and projects.	Yes

Tursiops truncatus (Common Bottlenose Dolphin) [1349]	To maintain (M) the favourable conservation condition of Bottlenose Dolphin in the Lower River Shannon SAC	Access to suitable habitat: Species range within the site should not be restricted by artificial barriers to site use. See map 16 for suitable habitat. Habitat use critical areas: Critical areas, representing habitat used preferentially by bottlenose dolphin, should be maintained in a natural condition. Disturbance: Human activities should occur at levels that do not adversely affect the bottlenose dolphin population at the site	No changes in access to habitat or habitat use. The proposed works are located 0.7km from the SAC. There will be no disturbance. The proposed works are located 0.7km from the SAC.		The proposed development will not result in any residual adverse effects on any of the European Sites, their integrity or their conservation objectives when considered on its own. There is, therefore, no potential for the proposed development to contribute to any cumulative adverse effects on any European Site when considered in-combination with other plans and projects.	Yes
Lutra lutra (Otter) [1355]	To restore (R) the favourable conservation condition of Otter in the Lower River Shannon SAC.	Distribution: No significant decline. Extent of terrestrial habitat: No significant decline. Area mapped and calculated as 596.8ha above high water mark (HWM); 958.9ha along riverbanks/ around ponds. Extent of marine habitat: No significant decline. Area mapped and calculated as 4,461.6ha.	Indirect pathways that would allow deterioration of water quality and impact on water dependent habitats.	Construction Phase and Operational Phase Control Measures (as detailed in Section 5.4.1 of the uNIS)	The proposed development will not result in any residual adverse effects on any of the European Sites, their integrity or their conservation objectives when considered on its own. There is, therefore, no potential for the proposed development to contribute to any	Yes

		Extent of freshwater (river) habitat: No significant decline. Length mapped and calculated as 500.1km. Extent of freshwater (lake/lagoon) habitat: No significant decline. Area mapped and calculated as 125.6ha. Couching sites and holts: No significant decline. Fish biomass available: No significant decline. Barriers to connectivity: No significant increase.			cumulative adverse effects on any European Site when considered in-combination with other plans and projects.	
Overall conclusion: Integrity Test Following the implementation of mitigation, the construction and operation of this proposed development will not adversely affect the integrity of this European site and no reasonable doubt remains as to the absence of such effects.						

Table 1.2: AA Summary Matrix - Lower River Shannon SAC

Newhall and Edenvale Complex Special Area of Conservation (SCA) [002091]						
Summary of key issues that could give rise to adverse effects: Disturbance of QI species						
Qualifying Interest feature	Conservation Objectives	Conservation Objectives Targets and attributes	Summary of Appropriate Assessment			Can adverse effects on integrity be excluded
			Potential Adverse effects	Mitigation Measures	In combination effects	
Rhinolophus hipposideros (Lesser Horseshoe Bat) [1303]	To maintain (M) the favourable conservation condition of Lesser Horseshoe Bat in Newhall and Edenvale Complex SAC	Population per roost: Minimum number of 212 bats for the summer roost (roost id. 44 in NPWS database); minimum number of 298 bats for the winter roost with roost id. 53 and minimum number of 102 bats for the winter roost with roost id. 54. Winter roosts: No decline. Summer roosts; No decline. Auxiliary roosts: No decline. Extent of potential foraging habitat: No significant decline within 2.5km of qualifying roosts. Linear features: No significant loss within 2.5km of qualifying roosts. Light pollution: No significant increase in artificial light intensity adjacent to named roosts	Potential for ex-situ impact on roosting, commuting and foraging habitat for Lesser Horseshoe bat. Increase in artificial light intensity and disturbance of the QI species through impact of availability of potential satellite/auxiliary roosting habitat.	A range of measures outlined in section 5.4.2 of the uNIS with best practice measures prescribed for both construction phase and operational phase.	The proposed development will not result in any residual adverse effects on any of the European Sites, their integrity or their conservation objectives when considered on its own. There is, therefore, no potential for the proposed development to contribute to any cumulative adverse effects on any European Site when considered in-combination with other plans and projects.	Yes

		or along commuting routes within 2.5km of those roosts.				
Caves not open to the public [8310]	Caves not open to the public (8310) is integrally linked to lesser horseshoe bat (Rhinolophus hipposideros) (1303) as part of the habitat for the species; therefore, a separate conservation objective has not been set for the habitat in Newhall and Edenvale Complex SAC. See map 2. See the conservation objectives supporting document for lesser horseshoe bat (NPWS, 2018) for further details		No potential pathway for effect on the terrestrial habitat for which the SAC is designated.	N/A	N/A	N/A
Overall conclusion: Integrity Test Following the implementation of mitigation, the construction and operation of this proposed development will not adversely affect the integrity of this European site and no reasonable doubt remains as to the absence of such effects.						

Table 1.3: AA Summary Matrix - Newhall and Edenvale Complex SAC

River Shannon and River Fergus Estuaries Special Protection Area (SPA) [004077]						
Summary of key issues that could give rise to adverse effects:						
The site of the proposed development does not provide any habitat suitable for breeding and wintering birds that are SCI species of the SPA. Disturbance to SCI species can be ruled out due to distance between the development and this SPA.						
Water quality and water dependent habitats potentially affecting the SCI 'Wetland and Waterbirds'. Potential effects on all SCI species are considered under 'Wetland and Waterbirds' [A999].						
Qualifying Interest feature	Conservation Objectives	Conservation Objectives Targets and attributes	Summary of Appropriate Assessment			Can adverse effects on integrity be excluded
			Potential Adverse effects	Mitigation Measures	In combination effects	
Wetlands and Waterbirds [A999]	To maintain (M) the favourable conservation condition of the wetland habitat in the River Shannon and River Fergus Estuaries SPA as a resource for the regularly occurring migratory waterbirds that utilise it.	Wetland habitat area: The permanent area occupied by the wetland habitat should be stable and not significantly less than the area of 32,261ha, other than that occurring from natural patterns of variation.	Water pollution during the construction and operational stages.	Indirect pathways that would allow impacts to occur were considered in the design of the proposed development and a range of measures outlined in section 5.4.1 of the rNIS are designed to avoid all water pollution during the construction and operational stages.	The proposed development will not result in any residual adverse effects on any of the European Sites, their integrity or their conservation objectives when considered on its own. There is, therefore, no potential for the proposed development to contribute to any cumulative adverse effects on any European Site when considered in-combination with other plans and projects.	Yes
Overall conclusion: Integrity Test Following the implementation of mitigation, the construction and operation of this proposed development will not adversely affect the integrity of this European site and no reasonable doubt remains as to the absence of such effects.						

Table 1.4: AA Summary Matrix - River Shannon and River Fergus Estuaries SPA