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Clare County Council
Planning Department
New Road
Ennis
County Clare

22 December 2022

Re: Draft amendment to County Clare development plan 2023-2029

Dear Sir/Madam,

On behalf of our clients Michael Lynch builders Ltd, Building Contractors, we wish to respond to the proposed amendments to the draft development plan which are at present available for public inspection and comment, and particularly in regard to those sections of land at Toberteascáin, referred to as **MU6-B** in the plan and on which we have made previous submissions under **reference number S2-111**.

We have certain concerns with sections of the draft wording in the proposed amendment.

In particular, we refer to the following sentences:

"There is a history of groundwater-sourced 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, the historical overland flow path could re-emerge and cause inundation to the site."

And

"This assessment should also include the findings of a detailed groundwater and hydrogeological study, which will include groundwater levels when the River Fergus is at a high level so interactions can be understood."

We believe that sentences such as these are not appropriate for inclusion as development plan policy as they are much too specific and may tend to inadvertently tie the hands of a decision-maker on lodgement of a planning application.

They are difficult to assess and do not contain a quantitative methodology of establishing compliance. Such wording would not find support in the *Development Plans- Guidelines For Planning Authorities* issued by the department of the environment in June of this year.

Item 5.1 of these guidelines refers to section 10 of the Planning Act as amended stating the purpose of development plans:

“A development plan shall set out an overall strategy for the proper planning and sustainable development of the area of the development plan and shall consist of a written statement and a plan or plans indicating the development objectives for the area in question.”

Item 5.3 of the guidelines stresses the importance of setting specific, measurable objectives.

We would also point out that the report from Mssrs JBA consulting on this matter does not support the wording which it is now proposed to insert into the development plan.

I also refer you to the comments contained in the attached message sent by email from Mr Tony Cawley of Hydro-Environmental Ltd. to Michael Lynch Ltd. which points out that it is not correct to state that there is a recent history of groundwater flooding on the site. It also states that linking the site to the St Flannan’s culvert as a historical groundwater flow path is untrue.

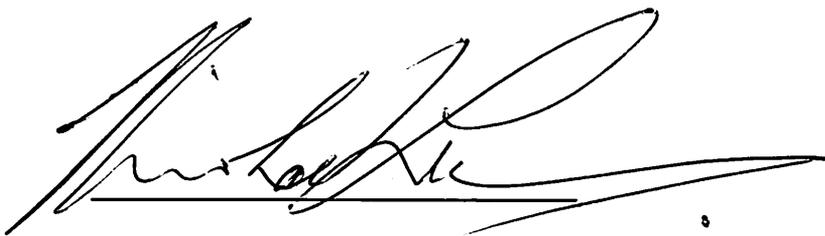
It is of course clear that a planning authority is, in the course of its assessment of any planning application, entitled to seek such information as it deems to be necessary to enable it to make a decision, and the types of studies mentioned in the suggested amendment wording may be sought by the planning authority during the planning application process stage. This point is further emphasised in Mr Cawley’s message where he points out that the requirement for an FRA

will address all sources of flood risk in detail during the planning application stage.

It is very questionable however whether legislation makes provision for the detailed descriptions outlined above be contained in a development plan.

We therefore respectfully request that the two above highlighted paragraphs be removed from the final draft of the plan.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Michael Leahy', written over a horizontal line. The signature is stylized and cursive.

Michael Leahy,
for Leahy planning Ltd, on behalf of Michael Lynch Ltd.

Encl: Copy email from Hydro-Environmental Ltd

Hannah Bills

Subject: FW: Amendments to Development Plan

From: [REDACTED]
Sent: Wednesday 21 December 2022 12:55
To: 'Seamus Lynch' [REDACTED]
Cc: Michael Leahy [REDACTED]
Subject: RE: Amendments to Development Plan

Hi Seamus

I have reviewed what Michael proposes in terms of omitting the two paragraphs and his arguments are reasonable and correct in respect to the inappropriateness of such commentary in the Development Plan .

The development plan statement is untrue as there is not any recent history of groundwater flooding on the site with the only ponding occurring are a result of pluvial stormwater within the site . The flooding on the site in 2009 was never linked to groundwater and was essentially local pluvial storm water and spilling from the Stormwater sewer on Tobertaistean road

The linking it to the St Flannan's culvert as a historical groundwater flow path for St. Flannan's Stream is untrue and any flowpath from St. Flannan's takes a precarious path through housing estates and building up behind walls and eventually eastward down to tobertaistean road.

The inclusion of the first paragraph puts groundwater flooding of the site as a statement of fact when in reality there is no scientific proof whatsoever. The development plan identified that the site is potentially a defended site and has identified that a FRA is required to examine all sources of flooding and the application of sequential and justification testing at the planning application stage. Therefore there is no justification for the unproven site specific commentary regarding historical groundwater flooding and re-emergence of the groundwater flow path should the St. Flannan's Culvert become blocked in the development plan text . The requirement for an FRA to accompany any proposed planning application will address all sources of flood risk in detail as is set out in the Flood Risk Management Planning guidelines (2009), requirement for a site specific FRA in the appendices volume.

The second paragraph is also too specific at the development plan stage for the site and such hydrogeological studies will be carried out in any case during the planning application process either in the FRA and in the AA studies as has been the case with other developments on the lands..

Regards
Tony Cawley



Anthony Cawley
[REDACTED]

Hydro Environmental Ltd
4 Caiseal Riada Clarinbridge
www.hydroe.ie

From: Seamus Lynch [REDACTED]
Sent: Wednesday 21 December 2022 11:17