



An  
Coimisiún  
Pleanála

## Commission Order ABP-320967-24

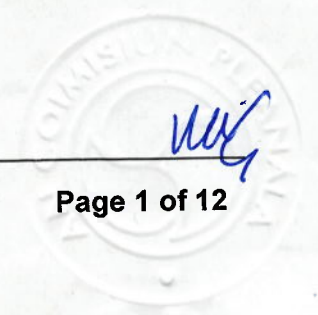
**Planning and Development Acts, 2000, as amended**

**Planning Authority: Clare County Council**

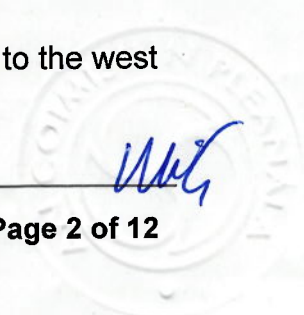
**Application** by Clare County Council for approval under section 175 of the Planning and Development Act 2000, as amended, in accordance with plans and particulars, including an Environmental Impact Assessment Report and Natura Impact Statement, lodged with An Coimisiún Pleanála on the 2<sup>nd</sup> day of October, 2024.

**Proposed Development:** The proposed development of fluvial flood defence assets comprising of the following:

- A new embankment to the south of the Kilkee Bay Hotel.
- A diversion of the open channel to the south of the Kilkee Bay Hotel into the centre of the floodplain and the installation of a new headwall and inlet culvert under the new embankment.
- The increase in height of the existing boundary wall at the Dún an Óir Estate.
- A new embankment at the Sandpark Mobile Home and Caravan Park.
- The replacement of the existing debris screen at Kilkee Waterworld.
- The construction of two inlet manholes on an existing culvert at Meadow View Court.
- Upgrades to the existing Atlantic Stream culvert system at Moore Bay, including the installation of non-return valves.



- A new embankment to the west of Cunningham's Holiday Park and the installation of a new headwall and inlet culvert under the new embankment.
- A new reinforced concrete u-channel along the existing Well Stream alignment to the north of Cunningham's Holiday Park.
- The replacement of the existing Well Stream culvert at Crescent Place.
- The resurfacing and regrading of the Well Road, the junction of Well Road with Marine Parade and the junction of Geraldine Place with Marine Parade.
- New surface water pump stations at Well Road and Carrigaholt Road and associated infrastructure.
- New surface water drainage infrastructure at Well Road, Crescent Place, Victoria Park and Carrigaholt Road.
- New sluice gates at various locations along the Well Stream and Victoria Stream flood defences.
- The reconstruction of the Victoria Court boundary wall along the Victoria Stream.
- Repairs and replacement of the Victoria Stream left bank wall at Crescent Place.
- A new embankment to the west of Carrigaholt Road.
- A new flood defence wall along the left bank of the existing Victoria Stream alignment from Victoria Park to Crescent Place.
- A diversion of the Victoria Stream to the centre of the floodplain to the west of Carrigaholt Road.
- The reconstruction of the Victoria Crescent boundary wall along the Victoria Stream.
- A new embankment to the north of Victoria Crescent.
- A new embankment to the southwest of Cunningham's Holiday Park.
- A diversion of the Western Tributary to the centre of the floodplain to the north of the Cluain na Mara estate and a new outlet culvert under the new embankment.
- The regrading of lands to the north of the Cluain na Mara estate and to the west of Cunningham's Holiday Park.





- The proposed works include for road reconstruction, road regrading, drainage works, tree felling, tree planting, landscaping and all associated ancillary works.

All located in the townlands of Kilkee, County Clare.

## **Decision**

**APPROVE** the above proposed development based on the reasons and considerations under and subject to the conditions set out below.

## **Reasons and Considerations**

In performing its functions in relation to the making of its decision, the Commission had regard to:

- (a) Section 15(1) of the Climate Action and Low Carbon Development Act 2015, as amended by Section 17 of the Climate Action and Low Carbon Development (Amendment) Act 2021, and the requirement to, in so far as practicable, perform its functions in a manner consistent with Climate Action Plan 2024 and Climate Action Plan 2025 and the national long term climate action strategy, national adaptation framework and approved sectoral adaptation plans set out in those Plans and in furtherance of the objective of mitigating greenhouse gas emissions and adapting to the effects of climate change in the State,
- (b) Directive 2000/60/EC, the Water Framework Directive and the requirement to exercise its functions in a manner which is consistent with the provisions of the Directive and which achieves or promotes compliance with the requirements of the Directive,

- (c) the relevant provisions of EU Directive 2011/92/EU as amended by Directive 2014/52/EU (Environmental Impact Assessment Directive) on the assessment of the effects of certain public and private projects on the environment,
- (d) the European Union Habitats Directive (92/43/EEC),
- (e) the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the likely significant effects of the proposed development on a European Site,
- (f) the conservation objectives, qualifying interests, and special conservation interests for the Kilkee Reefs Special Area of Conservation (Site Code: 002264),
- (g) the policies and objectives of the Clare County Development Plan 2023-2029,
- (h) the nature and extent of the proposed works as set out in the application for approval,
- (i) the information submitted in relation to the potential impacts on habitats, flora and fauna, including the Natura Impact Statement,
- (j) the submissions received in relation to the proposed development, and,
- (k) the report and recommendation of the person appointed by the Commission to make a report and recommendation on the matter.

#### **Appropriate Assessment Stage 1:**

The Commission agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report that the Kilkee Reefs Special Area of Conservation (Site Code: 002264) is the only European Site in respect of which the proposed development has the potential to have a significant effect.

#### **Appropriate Assessment Stage 2:**

The Commission considered the Natura Impact Statement and associated documentation submitted with the application for approval, the mitigation measures contained therein, the submissions and observations on file, and the Inspectors



assessment. The Commission completed an appropriate assessment of the implications of the proposed development for the affected European Sites, namely the Kilkee Reefs Special Area of Conservation (Site Code: 002264), in view of the Site's conservation objectives. The Commission considered that the information before it was adequate to allow the carrying out of an appropriate assessment. In completing the appropriate assessment, the Commission considered, in particular, the following:

- i. the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- ii. the mitigation measures which are included as part of the current proposal, and,
- iii. the conservation objectives for the European Site.

In completing the appropriate assessment, the Commission accepted and adopted the appropriate assessment carried out in the Inspector's report, in respect of the potential effects of the proposed development on the integrity of the aforementioned European Site, having regard to the Site's conservation objectives.

In overall conclusion, the Commission was satisfied that the proposed development, by itself, or in combination with other plans or projects, would not adversely affect the integrity of the European Sites, in view of the Site's conservation objectives, and there is no reasonable scientific doubt remaining as to the absence of such effects.

#### **Environmental Impact Assessment:**

The Commission completed an environmental impact assessment of the proposed development, taking into account:

- (a) the nature, scale and extent of the proposed development,
- (b) the Environmental Impact Assessment Report and associated documentation submitted in support of the application,
- (c) the submissions from the prescribed bodies made during the course of the application, and,
- (d) the Inspector's report.

The Commission considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, adequately considers alternatives to the proposed development and identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

The Commission agreed with the examination set out in the Inspector's report, of the information contained in the Environmental Impact Assessment Report and associated documentation submitted by the applicant and submissions made during the course of the application.

**Reasoned Conclusion on Significant Effects:**

The Commission considered, and agreed with the Inspectors reasoned conclusions, that the main significant direct and indirect effects of the proposed development on the environment are as follows:

**Population and Human Health:** The potential for significant adverse impacts on human health during the construction and operational phases can be avoided, managed, and mitigated by the measures that form part of the proposed development, the proposed mitigation measures and through suitable conditions. In addition, positive impacts on population and human health will include health and social/wellbeing benefits associated with the reduction of flood hazard in the area and the potential to facilitate future growth in the town.

**Biodiversity:** The proposed development will result in minor short-term loss of vegetation during the works. However, the proposed development will involve the creation of more natural, highly vegetated watercourses with the potential for greater biodiversity in the long run. Overall, it is considered that potential impacts on biodiversity will be mitigated by the application of best practice construction methodologies and the application of the proposed mitigation measures, such that no significant adverse effects arise.



**Land, Soil, Water, Air and Climate:** In terms of water, there is potential for localised deterioration in water quality during the works, which will directly impact upon the water channels. However, the implementation of mitigation measures and compliance with suitable conditions will ensure that the potential impacts on the ground and surface water environment do not occur during the construction and operational phase of the proposed development and the residual impact will be imperceptible. The long-term impacts, in particular by way of improvements in vegetation, will lead to a higher quality of water. Therefore, no significant adverse direct, indirect, or cumulative effects on the water environment, water quality or Water Framework Directive objectives will arise as a consequence of the proposed development.

In terms of Impacts on air quality, it has been demonstrated that the risk of dust impacts on human health during the construction phase has been identified as ranging from negligible to low and no significant, adverse direct, indirect, or cumulative effects will arise as a consequence of the proposed development. Noting the scale and duration of the construction phase, the predicted traffic movements during the operational phase and the mitigation measures proposed, the effect of the proposed development on national greenhouse gas emissions will be insignificant in terms of Ireland's obligations under the Kyoto Protocol. Mitigation measures set out in the design will minimise emissions, which will be short term in impact, with no significant operational impacts. Therefore, the proposed development will have no significant impact on climate.

**Material Assets, Cultural Heritage, and the Landscape:** Potential direct impacts on Protected Structures, Recorded Monuments and unknown features of archaeology may arise during the construction and operational phase of the proposed development. However, these impacts will be mitigated by archaeological monitoring of groundworks and compliance with the various mitigation measures and conditions detailed below. Therefore, no negative residual impacts in the context of archaeology, cultural heritage and architectural heritage are anticipated. The site is not within the visual envelope of protected structures or other sites of heritage interest. There are dry stone revetments along the channel, but none are considered to be of heritage interest. Therefore, the proposed development will have no

significant impact on cultural assets.

The Commission completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures referred to above, including proposed monitoring as appropriate, and subject to compliance with the conditions set out below, the effects on the environment of the proposed development, by itself and in combination with other development in the vicinity, would be acceptable. In doing so, the Commission adopted the report and conclusions set out in the Inspector's report.

**Proper Planning and Sustainable Development/Likely Significant Effects on the Environment:**

It is considered that, subject to compliance with the conditions set out below, the proposed development would not have significant negative effects on the environment or the community in the vicinity, would not give rise to a risk of pollution, would not be detrimental to the visual or landscape amenities of the area, would not seriously injure the amenities of property in the vicinity, would not adversely impact on the cultural, archaeological and built heritage of the area, would not constitute a traffic hazard and would not interfere with the existing land uses in the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.



## Conditions

1. The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where any mitigation measures or any conditions of approval require further details to be prepared by or on behalf of the local authority, these details shall be placed on the file and retained as part of the public record.

**Reason:** In the interest of clarity and the proper planning and sustainable development of the area and to ensure the protection of the environment.

2. Prior to the commencement of development, the local authority, or any agent acting on its behalf, shall prepare in consultation with the relevant statutory agencies, a Construction Environmental Management Plan (CEMP), incorporating all mitigation measures indicated in the Natura Impact Statement and the Environmental Impact Assessment Report submitted with the application and demonstration of proposals to adhere to best practice and protocols. The CEMP shall include:
  - (a) location of the site and material compounds including areas identified for the storage of construction waste,
  - (b) location of areas for construction site offices and staff facilities,
  - (c) intended construction practice for the development, including hours of working and the season of works (to avoid any impacts on the ecology of the area),
  - (d) means to ensure that surface water run-off is controlled in line with a Sediment Control Plan, such that no deleterious levels of silt or other pollutants enter local surface water drains or watercourses,
  - (e) containment of all construction related fuel and oil within specifically constructed bunds to ensure that fuel spillages are fully contained,

- (f) the management of construction traffic and off-site disposal of construction waste,
- (g) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels,
- (h) specific measures as to how the measures outlined in the CEMP will be measured and monitored for effectiveness, and,
- (i) a record of daily checks that the works are being undertaken in accordance with the CEMP shall be maintained on file as part of the public record.

**Reason:** In the interest of protecting the environment, and in the interest of public health.

3. The local authority shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the local authority shall:
- (a) Employ a suitably qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works. The assessment shall address the following issues:
    - i. The nature and location of archaeological material on the site, and,
    - ii. The impact of the proposed development on such archaeological material.
  - (b) Complete a detailed archaeological excavation informed by additional test excavation across the whole phase of works to be completed prior to any construction starting on site. In addition, an updated Archaeological Impact Assessment should be completed.
  - (c) Complete a report, containing the results of the above assessments, regarding any further archaeological requirements (including, if necessary, archaeological excavation). This report shall then be submitted to the



Department of Housing, Local Government and Heritage within any proposals agreed prior to commencement of construction works.

Following this the local authority will provide suitable arrangements acceptable to the Department of Housing, Local Government and Heritage for the recording and removal of any archaeological material which it is considered appropriate to move.

**Reason:** In order to conserve the archaeological heritage of the site and secure the preservation (in situ or by record) and protection of any archaeological remains that may exist within the site.

4. A suitably qualified Ecological Clerk of Works shall be retained by the local authority to oversee pre-commencement surveys, site clearance, demolition of the dwelling, and construction of the proposed development. The ecologist shall have full access to the site as required and shall oversee the implementation of mitigation measures. Upon completion of works, an ecological report of the site works shall be prepared by the appointed Ecological Clerk of Works to be kept on file as part of the public record.

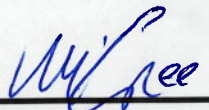
**Reason:** In the interests of biodiversity and the protection of European Sites.

5. The mitigation measures contained in the submitted Natura Impact Statement shall be implemented.

**Reason:** To protect the integrity of European Sites.

6. The mitigation measures submitted in the submitted Environmental Impact Assessment Report shall be implemented.

**Reason:** To protect the environment.



**Liam McGree**  
Planning Commissioner of An Coimisiún  
Pleanála duly authorised to authenticate  
the seal of the Commission.



Dated this 20<sup>th</sup> day of AUGUST 2025