An Bord Pleanála

Inspector's Report ABP-300761-18

Development	New Waste Water Treatment Plant in including works to connect to existing incoming and outfall pipework, Decommissioning and demolition of existing Waste Water Treatment works (WWTW) and provision of a new Pumping Station including Storm water overflow to the River Nore. Decommissioning and demolition of existing Pumping Station. Rising main crossing under the River Nore.
Location	Inistioge, Co. Kilkenny
Planning Authority	Kilkenny County Council
Planning Authority Reg. Ref.	17/234
Applicant(s)	Irish Water
Type of Application	Permission
Planning Authority Decision	Grant permission subject to conditions
Type of Appeal	First Party
Appellant(s)	Irish Water

Observer(s)	none
Date of Site Inspection	17th May, 2018
Inspector	Stephen Kay

1.0 Site Location and Description

1.1. The site of the proposed development is located in the village of Inistioge located approximately 25 km to the south east of Kilkenny City on the R700 connecting Thomastown and New Ross. New Ross is located approximately 12km to the south east of the site.

1.2. The site of the proposed development extends across both sides of the River Nore in this location and incorporates a section of the river to the south of the bridge where a new pipeline crossing is proposed. On the western side of the river, which is the Inistioge village side, the site comprises lands currently located within a triangular shaped compound currently occupied by the Council and containing a foul drainage pumping station. The site boundary extends to the south east of this existing compound to the bank of the River Nore in a location approximately 10 metres to the south of the bridge.

1.3. On the eastern side of the river, the site extends from the river bank to the R700 regional road to New Ross that runs to the south of the bridge and then in a southerly direction for a distance of approximately 110 metres along the western side of this road. The final part of the site on this side of the river comprises a roughly triangular shaped parcel of land that is located approximately 170 metres to the south of the bridge. This site is bounded by the R700 to the north and by a local road to the west and currently accommodates the existing waste water treatment system for the village stem. The site is sloped such that it falls significantly from the north east in the direction of the local road.

1.4. The existing drainage system serving the village comprises a largely combined system with a pumping station sited in the compound on the western side of the river. Effluent is pumped from this site via a rising main attached to the bridge to a septic tank treatment system on the eastern side of the river. The system is operating above capacity both in the pumping station, where there are overflow discharges to the River Nore, and also at the treatment plant where there is also an overflow. The recorded BOD at the existing wwtp is stated in the application

documentation to be 162mg/l and so significantly exceeds the 25 mg/l maximum specified in the Urban Waste Water Treatment Regulations.

1.5. The overall stated area of the site is 0.63 ha comprising 0.29 ha. for the waste water treatment plant site, 0.032 ha. for the pumping station and control site on the western side of the river Nore and a total of 0.31 ha. for the rising main and storm water outfall.

2.0 **Proposed Development**

2.1. The proposed development comprises the following elements:

1. Provision of new pumping station in the townland of Inistioge in the existing site occupied by the Council and housing the current pumping station. This new pumping station will consist of

   (a) Alterations to the existing site entrance including new boundary wall to an increased height,

   (b) The construction of a new pumping station, sump and valve chamber located on the eastern side of the existing

   (c) New control panel housed in weatherproof enclosure to be located at the far western side of the site,

   (d) Construction of storm water overflow to the River Nore to be located approximately 25 metres to the south of the bridge and to include an upgrade of the existing bankside outfall, (the existing outfall is to be the subject of assessment and reuse if feasible, otherwise a new outfall is proposed to be constructed).

   (e) Decommissioning of the existing pumping station and control building located within the existing Council / Irish Water compound.

   (f) All ancillary works including boundary walling, fencing, lighting, landscaping and site access road.

2. Provision of new waste water treatment plant in the townland of Kilross, Inistioge on the eastern side of the River Nore to comprise the following:

   (a) New entrance to the site from the local road to the south,

   (b) Construction of new control building having a floor area of c. 64 sq. metres.

   (c) Treatment process and settlement tanks including connections to existing inflow and outfall pipework.

   (d) Storm water storage tank and associated pipework,

   (e) Decommissioning of existing waste water treatment plant.

   (f) All ancillary works including fencing, lighting and landscaping.

3. The construction of a new rising main crossing under the River Nore with these works to be undertaken using trenchless techniques.

4. Sewer rehabilitation works within the village to be undertaken using trenchless techniques and the construction of a new gravity sewer pipeline in the village centre to replace existing (length c.51 metres).

A detailed description of the proposed development is contained at section 3 of the Planning Report submitted with the application.

3.0 Planning Authority Decision

3.1. Request for Further Information

Prior to issuing a Notification of Decision, the Planning Authority requested further information on the following issues:

(1) Undertake an archaeological and underwater impact assessment to include an assessment of the locations where groundworks and pipelines are proposed, the impact of the proposed development on the town walls and a visual amenity impact assessment.

(2) That the proposed removal of the street frontage wall on the Inistioge side of the site is located within an ACA and should be reconsidered. The removal of a section of random rubble walling in this area is also not considered appropriate. Also, the development facilitates the removal of the redundant rising main attached to the bridge and a method statement for the removal of the pipe and making good of the bridge structure is required.

(3) That the planning authority have concerns regarding the visual impact of aspects of the proposed waste water treatment plant in particular the proposed 2.4 metre fencing. A landscaping plan to mitigate the potential visual impact is required.

In response to the request for further information the applicant submitted the following information:

- A cultural heritage assessment was submitted which includes an assessment of archaeology and a visual impact study. Views from the south of the proposed pumping station site are included in the submission. The assessment states that the impact on views of the town walls will not be significantly impacted as the wall is obscured by later buildings within the pumping station site.
- Archaeological impact assessment submitted including an underwater archaeological assessment.
- Stated that works to the protected bridge structure relating to the removal of the existing rising main do not form part of the current application and would be undertaken in future in accordance with a section 57 declaration.
- Revised proposals submitted for the entrance to the waste water treatment plant site that incorporate the retention of the random rubble walling.
- A landscaping plan for the waste water treatment plant site has been submitted that includes for planting in front of the fencing such that it would reduce the visual impact.

3.2. **Decision**

The Planning Authority issued a Notification of Decision to Grant Permission subject to 15 no. conditions, the most notable of which are considered to be as follows:

- Condition No.3 states that the permission authorises the construction and operation of the water infrastructure proposed. It specifically states that it does not place restrictions on the volume or quality of effluent which would discharge from such infrastructure.
- Condition No.5 requires the preparation and submission of a detailed construction and environmental management plan.
- Condition No.7 sets operational noise limits for the development.
- Condition No.9 requires the submission of a construction management plan which outlines protective measure for the NIAH building, the street frontage wall and the town wall and the maximum height of the fencing not to exceed that of the town wall. Condition 9(c) requires the applicant to remove the rising main on Inistioge Bridge and that method statement to cover these works would be submitted prior to the commencement of works.
- Condition No.10 relates to requirements for archaeological monitoring of the development.
- Condition No.11 relates to mitigations and controls on emissions during the construction activity that would protect the environment and avoid impacts on the River Nore.

3.3. **Planning Authority Reports**

3.3.1. Planning Reports

The initial planners report identifies concerns with regard to the treatment of the pumping station site and particularly the potential impact on the town wall and the visual impact of the fencing and roadside treatment proposed. Concerns also

expressed with regard to the visual impact of the proposed development on the waste water treatment plant site and the archaeological impact of the development. Further information is recommended. Following submission of further information second planning officer report considers that the proposed development is considered acceptable and a recommendation to grant permission consistent with the notification of decision to grant permission issued is recommended.

3.3.2. Other Technical Reports

Environment Section – No objection subject to conditions.

Roads – No objection.

Conservation Officer – Recommends further information.

3.4. **Prescribed Bodies**

Development Applications Unit – Wildlife; No objection. Archaeology – further information required. Second submission relating to archaeology subsequent to submission of further information does not raise objections subject to conditions.

Inland Fisheries – No objection subject to conditions.

3.5. **Third Party Observations**

None.

4.0 **Planning History**

There is a recent planning applications of relevance as follows:

Kilkenny County Council Ref. 15/306; An Bord Pleanala Ref. PL10.245770 – Permission granted by the Planning Authority and decision upheld following a first party appeal against conditions for the upgrading of the Inistioge water supply scheme watermain from Grennan to reservoir Ballygub, Inistioge at Grennan

Thomastown. The line of this watermain upgrade involves a crossing of the River Nore to the south of the existing bridge and includes a 17km pipeline from the townlands of Grennan, Thomastown to Ballygub Inistioge. In Inistioge, this project includes a new water treatment reservoir at Kilmacshane and new booster pumps at Kilcross, Inistioge.

5.0 **Policy Context**

5.1. **Development Plan**

The site is located within the village of Inistioge, County Kilkenny.

The settlement boundary for the village is set out in Figure 3.6 of the *Kilkenny County Development Plan, 2014-2020* and shows that the site of the proposed pumping station and control room building are within the identified boundary. The balance of the site, comprising all but a small section of the pipeline route (with the exception of a small area close to the western bank of the River Nore) and the site of the proposed wwtp are located outside of the settlement boundary.

The site is located such that the existing pumping station compound and the area of river bank to the immediate south of the bridge, through which it is proposed to run new drainage connections, are located within the boundary of the ACA for Inistioge. There are a number of policies relating to all ACAs that are contained in section 8.3.6 of the plan as well as specific policies relating to Inistioge contained at 8.3.6.3. Copies of these sections are attached with this report.

5.2. **Natural Heritage Designations**

The site is located such that it is located adjoining and partially within two European sites, these being the River Barrow and River Nore SAC and the River Nore SPA. The boundary of the River Nore SPA is essentially confined to the river channel however the SAC site extends beyond the river to include lands located immediately to the south and east of the existing pumping station compound as well as lands to

the east of and bounding the river in the vicinity of the bridge and the proposed river crossing.

6.0 The Appeal

6.1. Grounds of Appeal

The following is a summary of the main issues raised in the first party grounds of appeal against Condition 9(C) attached to the Notification of Decision issued.

- That the existing drainage network in the village is a combined system with a pumping station and a septic tank treatment system on the eastern side of the river. There is a need to upgrade the system as there are currently three combined sewer overflows that discharge to the River Nore.
- That the proposed upgrade will allow for storm water storage and the decommissioning of the existing overflow in the village.
- That the existing rising main that is attached to Inistioge Bridge is functional and will form part of the drainage system post development.
- That condition 9(c) attached to the decision issued by the Council required the removal of a main that was not part of the scheme applied for and which was outside of the boundary of the application.
- As works were not proposed to the protected structure there was no reference to this in the public notices as required by the Planning and Development Regulations, 2001 (as amended).
- That the existing rising main attached to the bridge remains functional and an integral part of the planned sewerage system upgrade.
- Should it be determined I the future that the existing rising main is not fit for purpose or is not operationally required then its removal will be undertaken in accordance with the relevant provisions of the Planning and Development Act and Regulations.
- Requested that Condition 9(c) be removed.

6.2. **Planning Authority Response**

The following is a summary of the issues raised in the response received from the Planning Authority:

- Submission sets out the history and architectural significance of the bridge structure which is a protected structure.
- That drawing No. 8019-2053 clearly identifies the existing rising main attached to the southern side of the bridge with the annotation '*indicative route of existing rising main to be abandoned*'.
- That the continued presence of the cast main on the stone bridge is causing damage to the stone structure and as it is not required it is preferable that it would be removed.

7.0 **Assessment**

7.1. The appeal submitted relates to a condition and no third party submissions have been received. It is therefore proposed to undertake an assessment of the principal issues of relevance to the case and to subsequently specifically address the issues raised in the conditional appeal. The following is are the main issues of relevance in the determination of this appeal:

- Principle of development
- Design, Visual Impact and Impact on Archaeology
- Rationale for development and design calculations
- Appropriate Assessment
- Other Issues
- Condition No.9(c)

7.2. **Principle of Development**

7.2.1. The site is located such that it is partially within the settlement boundary of Inistioge as set out in the Kilkenny County Development Plan. The lands which are included within the application site boundary are not zoned for any particular purpose in the Plan. It is noted that in the case of the existing Council / Irish water compound located on the western side of the river that this currently accommodates waste water infrastructure. The site of the proposed waste water treatment plant is also the location of existing infrastructure.

7.2.2. Outside of the identified settlement boundary there is no specific zoning. I note that paragraph 12.12.1 of the Plan provides that public service installations are a Permissible Use on lands that are zoned agricultural. Given the existing use of the lands on both sides of the river in connection with the existing village waste water treatment system and the absence of any specific contravention of a zoning objective it is considered that the proposed development is acceptable in principle.

7.2.3. I also note that section 9.1.5 of the Development Plan sets out the priorities for investment in the area of service infrastructure. Inistioge is identified in a list of waste water treatment plants that are to be prioritised for investment.

7.3. **Rationale for Development and Design Calculations**

7.3.1. The stated rationale for the proposed development is based on the existing sub standard system which is in operation. This system incorporates a combined sewerage system that does not provide for adequate capacity for the storage of surface waters with the result that there are discharges into the River Nore via three storm water overflows. The existing discharges to the River Nore are such that the system does not comply with the requirements of the Urban wastewater Treatment Directive (91/271/EEC). In addition to the issues with the collection system, the existing treatment plant comprises a septic tank providing primary treatment only that is stated by the applicant not to be capable of accommodating the loadings arising.

7.3.2. I note that Condition No.3 attached to the Notification of Decision issued by the Planning Authority states that there is no limit on the volume or quality of effluent that would discharge from the permitted waste water infrastructure and that all such discharges shall be in accordance with a waste water discharge licence or a

certificate of authorisation as may be required from the EPA. The application documentation states that an application for a waste water discharge licence is in the process of being made to the EPA however at the time of writing this report no such application is recorded on the EPA website. The completed wwtp will not be able to operate without licence from the EPA and any such licence will set the relevant environmental parameters under which the plant must operate including BOD, COD and TSS discharges.

7.3.3. Appendix 2 of the Planning Report submitted with the application sets out the calculations undertaken regarding the assimilative capacity of the receiving waters for the treatment plant. Calculations are presented for both 10 and 30 year design horizons and on the basis of actual background concentration and notionally clean river conditions. In both design horizons, the emissions from the plant are indicated to meet the emission limit values for BOD, total phosphate and orthophosphate and to be below the maximum allowable concentrations for each parameter. This is the case using both the actual background concentration levels of the parameters as recorded in water sampling or using a notionally clean river approach.

7.3.4. I note that the assimilative capacity figures presented in Table 5 of Appendix 2 of the Planning Report are based on the 95th percentile river Nore flow and that the maximum allowable concentrations presented in Table 5 are based on the 95 percentile standards indicating good status as per the EC Environmental Objectives (Surface Waters) Regulations 2009.

7.3.5. On the basis of the information presented I consider that the proposed discharges from the wwtp can be accommodated without the maximum allowable concentrations in the River Nore that would ensure good status being exceeded in this 'sensitive area' and that the requirements of the EC Environmental Objectives (Surface Waters) Regulations 2009 can therefore be met. I note the fact that the assessment undertaken and that submitted by the first party relates to the three times dry weather flow (SDWF) which appears to me to take account of a potential future expansion of the wwtp from 650 pe to 800 pe and also to the fact that Condition No.3 attached to the Notification of Decision to Grant Permission issued by the Planning Authority does not place any limitation on the volume of effluent that can be accommodated by the permitted infrastructure. This approach is in my opinion

appropriate as any further expansion of plant infrastructure will likely require a further grant of permission and the plant will remain subject of licencing by the EPA.

7.4. Design, Visual Impact and Impact on Archaeology

7.4.1. The scale of the works proposed in both the pumping station compound and at the waste water treatment plant were of concern to the Planning Authority who requested further information. In the case of the pumping station, the site is located within the ACA for Inistioge and is also located such that it contains a shed structure that is included on the NIAH. The site also adjoins sections of the former town walls. The initial proposals for the pumping station site provided for significant alterations to the roadside frontage of the site which is within the ACA with an increase in height to 7.7 metres proposed. Revised proposals submitted as part of the further information request indicates that the existing boundary and entrance in this area is proposed to be retained.

7.4.2. With regard to the impact of the development on the NIAH listed building or on the town wall, the proposed development will not have any direct impact on the town wall. The further information response submitted to the planning authority demonstrates how there is a very limited extent of the original wall that remains in view and that the proposed development will not therefore impact negatively on the structure. A cultural heritage assessment was submitted which includes a visual impact study with views from the south of the proposed pumping station site. The assessment states that the impact on views of the town walls will not be significantly impacted as the wall is obscured by later buildings within the pumping station site. On the basis of the information presented I would agree with this assessment. It is notable that the walls to the eastern end of the compound in the vicinity of the existing and proposed new pumping stations are largely modern block walls and that the remaining town wall will not be directly impacted by the proposed development. No works to the warehouse structure are proposed as part of the development and the existing setting of this building will not in my opinion be significantly impacted by the proposed development.

7.4.3. The visual impact of the waste water treatment site was raised by the planning authority as an issue of concern and it was requested that a landscaping plan of this

site would be prepared. The contours of the site are such that there is a significant fall from north to south across the site that makes the site visually prominent in views from the south. The proposed development would also require the removal of a significant extent of the existing vegetation which screens and covers the site increasing the visual prominence of new development. The proposed planting plan is indicated in Drg. LMP01 received by the Planning Authority on 22 November, 2017. The plan proposes the planting of the southern site boundary to screen the proposed 2.4 metre high security fencing in this area. Existing trees and planting along the northern and eastern boundaries and the south east corner of the site are proposed for retention. Revised proposals for the entrance to the waste water treatment plant site that incorporate the retention of the random rubble walling have also been submitted and are considered to be acceptable. Overall, the landscaping proposals for the waste water treatment plant site are in my opinion acceptable and such as to mitigate the most significant visual impact of the waste water treatment plant structure.

7.4.4. An archaeological impact assessment including an underwater assessment was submitted in response to a request for further information by the Planning Authority. This assessment proposes a number of mitigation measures contained in the submitted Cultural Heritage Assessment prepared by Moore Group comprising archaeological testing and monitoring. The report by ADCO similarly recommends that archaeological monitoring is undertaken during riverbed and riverbank disturbance and that such monitoring would be undertaken by a licenced archaeologist experienced in riverine archaeology. These mitigation measures are considered appropriate and it is noted that the conclusions relating to archaeology were accepted by the Development Application Unit of the Department in their submission to the Planning Authority dated 15 December, 2017. Condition No.10 attached to the Notification of Decision to Grant Permission issued by the Planning Authority relate to archaeological monitoring, are considered appropriate to address the archaeology issues arising in the development and are recommended to remain in the event of a grant of permission.

7.5. **Other Issues**

7.5.1. The existing access to the pumping station compound is proposed to be retained post development and there will not be any changes to the existing sightlines. The access is located within the urban area on a cul de sac and within the 50 km/hr speed limit and the available sight lines meet DMURS standards. Similarly, in the case of the proposed wwtp site, the relocated site entrance is located within the 50km/hr speed limit zone and on a very lightly trafficked road. Given the scale of the plant frequent visitors will comprise a single staff member and desludging and deliveries of materials / chemicals is stated to be monthly. Traffic generated by the development will not therefore be significant.

7.5.2. A flood risk assessment has been submitted with the application and this is attached to the submitted Planning Report. The assessment notes that the nature of the proposed development is such that it is vulnerable infrastructure that should only be located within flood zone C. The location of the new wwtp is such that the 1 in a 1000 year flood zone only encroaches onto the very southern edge of the site. The site of the pumping station is however located entirely within the 1 in 1000 year zone. The design of the proposed pumping station has been undertaken such as to account for this with raised structures and the enclosure of the control equipment. The location and size of the control and pumping structures are such that they will have an imperceptible impact on the available flood plain area.

7.6. **Appropriate Assessment**

Screening Assessment

The only European sites located within 15km of the site of the proposed development where there is a potential pathway between the development site and the European site are as follows:

- The River Barrow and River Nore SAC (site code 002162)
- River Nore SPA (site code 004233)

The following is an outline of the conservation objectives, potential likely significant effects of the project and evaluation of the effects arising and potential for likely significant effects on these identified European sites.

7.6.1. River Nore SPA (site code 004233)

7.6.1.1 The conservation objective for the River Nore SPA site relates to a single species, the Kingfisher and states that the objective is to maintain or restore to favourable conservation condition of the bird species listed as Special Conservation interests for this SPA. The site supports a nationally important population of Kingfisher and the site synopsis states that a survey in 2010 recorded 22 pair of Kingfisher within the SPA. The conservation objectives for the site are generic and there is no specific information available regarding the specific locations where Kingfisher have been recently observed within the site.

7.6.1.2 The proposed river crossing element of the development will have a potential direct impact on the River Nore SPA site. The proposed pipeline crossing of the river is however to be in the form of directional grilling and no river bed disturbance will occur. Similarly, the proposed development will involve the use of the existing storm water outfall to the river or potentially the construction of a new outfall in the event that the existing does not meet project requirements and specifications. In the event of a new outfall there would be potential direct impacts to the river in the form of disturbance and the release of sediment and other contaminants from the construction process. Potential indirect effects on the SPA arise from the wwtp and pumping station construction activity that would be located outside of but in relatively close proximity to the SPA site boundary. The laying of the pipeline and the works for the construction of the rising main would also involve works that would be located in close proximity to the SAC. The operational phase impacts of the proposed development would result in the release of discharges to the River Nore within a tidal part of the river resulting in discharges moving up and downstream from the discharge point. Based on the predicted discharges and the assimilative capacity calculations it is not predicted that there would be significant impacts on water quality arising during the operational phase and in contrast it is likely that water quality will

be significantly improved with the proposed development in place. Discharges from the wwtp to the European site would also be the subject of licence by the EPA.

7.6.1.3 The main in combination effect would arise with the construction of the water supply project and it is noted that the river crossing works are proposed to coincide with the river crossing required under the permitted water supply project. Both projects are proposed to use trenchless river crossing techniques with directional drilling identified as the most likely method. The in combination impacts are not therefore likely to be more significant in terms of impact on the SPA site although the duration of any impact may be increased.

7.6.1.4 The Kingfisher is identified as the only qualifying interest for the SPA site and the submitted screening assessment undertaken by the first party notes that Kingfisher have been sited in the general Inistioge area in the past. The nature of the embankment in the vicinity of the proposed works area is not however suitable for nesting and any disturbance arising from construction activity is not considered likely to have a significant adverse effect on the conservation objective of the River Nore SPA site.

7.6.2. ***River Barrow and River Nore SAC (site code 002162)***

7.6.2.1 The following are the qualifying interests for the River Barrow and River Nore SAC site.

- Estuaries
- Mudflats and sandflats not covered by seawater at low tide
- Reefs
- Salicornia and other annuals colonising mud and sand
- Atlantic salt meadows (Glauco-Puccinellietalia maritimae)
- Mediterranean salt meadows (Juncetalia maritimi)
- Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation
- European dry heaths

- Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels
- Petrifying springs with tufa formation (Cratoneurion)
- Old sessile oak woods with Ilex and Blechnum in the British Isles
- Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae)
- Vertigo moulinsiana (Desmoulin's Whorl Snail)
- Margaritifera margaritifera (Freshwater Pearl Mussel)
- Austropotamobius pallipes (White-clawed Crayfish)
- Petromyzon marinus (Sea Lamprey)
- Lampetra planeri (Brook Lamprey)
- Lampetra fluviatilis (River Lamprey)
- Alosa fallax fallax (Twaite Shad)
- Salmo salar (Salmon)
- Lutra lutra (Otter)
- Trichomanes speciosum (Killarney Fern)
- Margaritifera durrovensis (Nore Pearl Mussel)

The conservation objectives are the maintenance and / or restoration to favourable conservation status of the relevant species and habitats having regard to the attributes and targets set out in the site specific conservation objectives dated July 2011, a copy of which is attached with this report.

7.6.2.2 The proposed river crossing element of the development will have a potential direct impact on the River Barrow and River Nore SAC site. The pipeline from the proposed new pumping station will cross the SAC site to the south of the pumping station location and cross the river channel as well as lands on the eastern bank all of which are located within the SAC. The proposed pipeline crossing of the river is however to be in the form of directional grilling and no river bed disturbance will

occur. Similarly, the proposed development will involve the use of the existing storm water outfall to the river or potentially the construction of a new outfall in the event that the existing does not meet project requirements and specifications. In the event of a new outfall there would be potential direct impacts to the river in the form of disturbance and the release of sediment and other contaminants from the construction process. Potential indirect effects on the SAC arise from the wwtp and pumping station construction activity that would be located outside of but in relatively close proximity to the SPA site boundary. Construction activity has the potential for the release of sediments and spillages of construction related material such as fuels, concrete and other contaminants which would have an adverse effect on the River Nore and hence on the River Barrow and River Nore SAC site. The operational phase impacts of the proposed development would result in the release of discharges to the River Nore within a tidal part of the river resulting in discharges moving up and downstream from the discharge point. Based on the predicted discharges and the assimilative capacity calculations it is not predicted that there would be significant impacts on water quality arising during the operational phase and in contrast it is likely that water quality will be significantly improved with the proposed development in place. Discharges from the wwtp to the European site would also be the subject of licence by the EPA.

7.6.2.3 The main in combination effect would arise with the construction of the water supply project and it is noted that the river crossing works are proposed to coincide with the river crossing required under the permitted water supply project. Both projects are proposed to use trenchless river crossing techniques with directional drilling identified as the most likely method. The in combination impacts are not therefore likely to be more significant in terms of impact on the SAC site although the duration of any impact may be increased.

7.6.2.4 The qualifying interests of the River Barrow and River Nore SAC site include a significant number of habitats that do not occur at or in close proximity to the development site. The main potential impacts are considered to arise as a result of the potential in channel works that may be required to develop a new outfall to the River Nore. These in channel works have significant potential for the release of sediments and contaminants. Of the species identified as qualifying interests of the site, Lamprey, otter and salmon are recorded as being present in the vicinity of the

proposed development site. Both species are susceptible to the impacts of sediment and contamination on their survival. Other species identified as qualifying interests of the site are not identified as being present in the vicinity of the site or are located such that there is no pathway between the proposed works site and the relevant species. Such qualifying interests include crayfish, Nore Pearl Mussel, Twaite Shad and Desmoulins Whorl Snail. Works proposed to be undertaken further from the river channel including the pumping station and wwtp construction activities are proposed to be the subject of standard construction phase control measures that would significantly reduce the potential for the release of contaminants and polluting material. The nature of these mitigation measures is set out in the application documentation submitted and includes silt fences and other on site construction practices to limit the release of sediment and other contaminants. Works outside of the site boundary also have potential impacts in terms of noise and disturbance arising from an increase in traffic and human activity. Works outside of the European site also have the potential to mobilise invasive species which have been recorded in the general vicinity of the site.

9.6.2.5 Having regard to the fact that the proposed development would potentially involve in channel works as well as construction activity in close proximity to the identified river channel and the potential for these works to result in siltation and the release of contaminants as well as the potential to spread invasive species that are recorded as being present in the vicinity of the works site, it considered that the proposed development is likely to have significant effects on the River Barrow and River Nore SAC site in light of the conservation objectives of the site. It is therefore proposed to proceed to Stage 2 Appropriate Assessment of the potential effect of the proposed development on the integrity of the River Barrow and River Nore SAC site.

Stage 2 Appropriate Assessment

7.6.3. This appropriate assessment assesses the potential impacts of the proposed development connected with the upgrading of the Inistioge waste water treatment plant on the integrity of the River Barrow and River Nore SAC site (site code 00162). The following sections set out the qualifying interests for the site which are considered to be potentially affected by the proposed development and the potential

direct and indirect effects of the project alone and in combination with other plans and projects. The assessment then identifies appropriate mitigation measures and evaluates the potential effect of the project on the conservation objectives of the River barrow and River Nore site taking account of the mitigation. A determination is then made as to the potential impact of the project on the integrity of the River barrow and River Nore SAC site.

7.6.4. The qualifying interests of the River Barrow and River Nore SAC site (site code 002162) which, arising from the screening assessment set out above, the conservation objectives of which are considered to potentially affected by the proposed development are as follows:

- Alluvial forests *
- Sea Lamprey
- Brook Lamprey,
- River Lamprey,
- Salmon,
- Otter

(* Indicates priority habitat / species.)

7.6.5. The boundary of the SAC site extends outside of the river corridor and includes lands that are located to the south of the existing council yard which contains the existing and proposed pumping stations as well as a section of lands located on the eastern side of the river outside of the river channel. The proposed pipelines across the River Nore will cross these areas as well as the river channel itself. The proposed development will therefore have a direct impact on these areas however it is noted that there are no qualifying interests located in those parts of the SAC site outside of the river channel. The potential impact on these areas is therefore similar to the potential impacts arising from the works outside the SAC site being indirect impacts arising from disturbance and the potential release of pollutants.

7.6.6. Within the river channel, there is potential that following detailed survey of the existing pumping station outfall to the River Nore that this outfall will not be suitable for connection to the new pumping station and that a new outfall will therefore

require to be constructed. Such a development would result in direct impacts on the aquatic environment and on the SAC. The survey information available for the conditions in the vicinity of the outfall indicate that there is not suitable habitat for spawning by adult salmon or lamprey. The material in this location is however of a type that is suitable for juvenile lamprey. Mitigation measures for the avoidance of loss of habitat and the avoidance of mortality in lamprey are proposed in the Stage 2 appropriate assessment submitted.

7.6.7. During the operational phase of the development the impacts will arise as a result of changes in water quality from the revised discharges to the River Nore. It is noted that the existing discharge pipe and location are proposed to be reused. It is also noted that on the basis of the submitted information the discharges to the river will be such to comply with good status water quality and that the quality of the waters should be significantly improved from the current condition. In the absence of a deterioration in water quality and the achievement of Good Ecological Status within the relevant section of the River Nore up and down stream of the proposed development there are therefore no adverse effects on the qualifying interests of the SAC predicted to arise.

7.6.8. Indirect effects on the river and the SAC could potentially arise due to the impact of the proposed works outside of the river channel on water quality. Such impacts would potentially arise from surface water run off from construction areas leading to diffuse discharges of pollutants. The construction activities proposed could also result in the potential spread of invasive species located in the vicinity of the works area. Such a spread of invasive species would potentially adversely affect alluvial woodland habitat located downstream of the development site as well as having potential impacts on bank stability leading to impacts arising from a deterioration in water quality and sedimentation. Sedimentation would particularly impact on otter, salmon and lamprey species.

7.6.9. Significant mitigation measures are proposed to avoid and reduce the potential indirect impacts of the proposed development on water quality and hence on qualifying interests of the SAC. These mitigation measures include the undertaking of a pre construction ecological survey covering the potential zone of influence of the construction activity and such that any new nests or otter holts could be identified. A range of construction phase mitigation measures are proposed. To protect the

aquatic environment it is proposed that a number of detailed plans would be prepared. Specifically it is proposed to prepare a construction Environmental Management Plan, a Surface Water Management Plan, Erosion and Sediment Control Plan and Invasive Species Management Plan. Works are proposed to conform with established standard construction guidance including the IFI Guidelines for the protection of fisheries during Construction Works in and Adjacent to waters and Guidelines for the Crossing of Watercourses during the Construction of National Road Schemes (NRA, 2008). The work area will be kept to a minimum and no instream works will be undertaken without the approval of IFI. No direct or indirect discharges to surface waters will be allowed during the construction phase. Run off from construction areas are proposed to be intercepted by the use of ponds and filters including silt fencing and mats. If required run off will be collected and tinkered off site. Measures for the use of concrete and for the control of dust are proposed as well as the on site storage of fuels, lubricants and fluids. The directional drilling under the River Nore will be undertaken to the requirements of IFI and adhere to IFI 2016 guidance. Clearance of trees and vegetation shall be undertaken outside of the breeding season and measures for the cleaning of equipment and certification of materials imported on site will be undertaken to mitigate against the spread of invasive species. Surface water monitoring during the construction phase shall be undertaken. Personnel to be retained on site during the construction phase shall include an ecological clerk of works.

7.6.10. At the operational phase of the project there will be monitoring of the discharges from the wwtp and it will be a requirement that the standards set in the licence issued by the EPA shall be complied with. In the event of exceedances of the permitted emissions the operator will be required to undertake immediate action to prevent further pollution.

7.6.11. The range of mitigation measures proposed to cover the construction practice, adherence to recognised standards and on site storage and control of materials is comprehensive and is such that it is considered that water quality during the construction phase would be protected. Having regard to the nature and scope of these mitigation measures proposed and to their effect on ensuring that there would not be significant effects on the qualifying interests of the River Barrow and River Nore SAC site (site code 002162), it is considered that the proposed development

would not have an adverse effect on the integrity of the European site in the light of its conservation objectives.

7.7. **Condition No.9(c)**

7.7.1. The first party appeal submission relates specifically to Condition No.9(c) attaching to the Notification of Decision to Grant Permission issued by Kilkenny County Council. This condition states as follows:

'The applicant shall remove the rising main on Inistioge Bridge which is a protected structure. The applicant shall submit a method statement carried out by a competent qualified conservation professional for the removal of the ferrous brackets and making good of the masonry to the Planning Authority for review prior to the works'.

7.7.2. The Planning Authority have justified the inclusion of the condition by making reference to Drg. No. 8019-2053 submitted with the application which it is contended indicates that this rising main is to be abandoned. The applicant, Irish Water, contend that this is not the case, that the existing main remains a part of the network that it is proposed to retain and that it was never intended that the main would be removed or decommissioned as part of this application. It is further stated by Irish Water that the removal of the rising main would involve works to a protected structure and that no reference was made to this in the public notices and that such works would be outside of the red line boundary for the application.

7.7.3. From an examination of Drg. No. 8019-2053 titled '*Inistioge Proposed New Rising Main Across the River Nore and Pumping Station Storm Overflow'*, the arrangement for the decommissioning of existing infrastructure is not very clear. At the southern side of the existing bridge there is a reference to '*indicative route of existing rising main to be abandoned*'. I also note that on the eastern side of the river there is also reference on this drawing to an existing rising main to be abandoned, however it is not clear that this is the same main as is currently attached to the bridge.

7.7.4. I have examined the written information submitted with the application and I cannot see any reference in this document to the proposed decommissioning of the rising main attached to the bridge. I note the comments made by the first party with regard

to the fact that the public notices submitted in respect of this project did not make any reference to either the decommissioning of the existing rising main or to the proposed undertaking of works that would impact on a protected structure. I also note and accept what is stated by the first party with regard to the validity of the application in the event that the works proposed involved works to the protected structure.

7.7.5. Drawing No. 8019-2053 indicates that there are two new crossings of the River Nore proposed with one line identified on this drawing as '*proposed spare 125 diameter OD pe 100 rising main across the River Nore'.* Given that this is a spare it would appear likely that there should be sufficient capacity such that the existing main attached to the bridge is not required. The fact remains, however, that Irish Water, who are the operators of the network, state in their appeal submission that the existing rising main is required. Irish Water also stated in their response to the further information request issued by the Planning Authority that it was not proposed to decommission the rising main attached to the bridge. The submission of the council, while it notes some of the apparent anomalies contained on Drg. No. 8019-2053 to the Irish Water position, does not provide any clear evidence that would enable it to be concluded that the existing main would be completely redundant following the proposed development. Specifically, there is no statement to this effect from any member of the councils engineering staff. In addition, I am aware that the removal of the subject rising main attached to the protected structure is not specifically referenced in the public notices submitted and is not clearly stated in any of the written documentation submitted with the application. For these reasons it is recommended that in the event of a grant of permission by the Board that Condition No.9(c) should be omitted from the schedule of conditions.

7.8. **Conclusion**

7.8.1. In conclusion, it is considered that a justification for the proposed development has been established and that it comprises a project which is specifically identified in the *Kilkenny County Development Plan, 2014-2020*. The proposed development is acceptable in terms of its impact on visual amenity and on the ACA for Inistioge and would not in my opinion have any unacceptable impacts in terms of archaeology,

heritage or traffic safety. Following the undertaking of a Stage 2 appropriate assessment, it is considered that the proposed development would not have an adverse affect on the integrity of the River Barrow and River Nore SAC site or any other European site. Having regard to the above, it is considered appropriate that consideration of the case would be restricted to the issues raised in the first party appeal against Condition No.9(c) requiring decommissioning and removal of the existing rising main attached to Inistioge bridge.

7.8.2. For the reasons set out at 7.7 of this report above, while the removal of the main would ideally be preferable and may be feasible in the future, notwithstanding the ambiguity created by the notation of Drawing No. 8019-2053, the first party as operators of the drainage network and the responsible authority for the construction and operation of the drainage system are clear that the retention of the existing rising main is required. I also note the absence of a clear engineering basis from the local authority as to why this is not the case and also the fact that the removal of the existing rising main was not specifically referenced in the public notices for the development or included within the application site. For these reasons it is considered appropriate that the Council be directed that Condition No.9(c) attached to the Notification of Decision to Grant Permission issued by the Planning Authority on 19th December, 2017 should be omitted from the final grant of permission.

8.0 **Recommendation**

8.1. It is recommended that the council be directed as follows:

That Condition No.9(c) attached to the Notification of Decision to Grant Permission issued by the Planning Authority on 19th December, 2017 should be omitted from the final grant of permission.

Stephen Kay
Planning Inspector

25 May 2018