



An
Bord
Pleanála

Inspector's Report ABP-302644-18

Development

Demolition and removal of 6 partially constructed houses and the construction of 11 dwellings consisting of 6 three-bed two-storey units, 4 two-bed two-storey units and 1 two-bed single storey unit and all associated works.

Location

Mulkear View, Tullow, Newport, Co. Tipperary

Local Authority

Tipperary County Council

Type of Application

Application for approval made under Section 177(AE) of the Planning and Development Act 2000 (Local Authority development requiring Appropriate Assessment)

Prescribed bodies

- (1) Irish Water
- (2) Department of Culture, Gaeltacht and Heritage

Observer(s)

- (1) Adrian Daly

- (2) Aoife O'Dothery
- (3) E & S Hannan
- (4) Fiona Bonfield
- (5) Joe Hogan
- (6) Michael O'Dothery

Date of Site Inspection

22nd November 2018

Inspector

Colin McBride

1.0 Introduction

- 1.1 Tipperary County Council is seeking approval from An Bord Pleanála to undertake demolition and removal of 6 partially constructed houses and the construction of 11 dwellings consisting of 6 three bed two-storey units, 4 two bed two-storey units and a two bed single-storey unit and all associated site works at Mulkear View, Tullow, Newport, Co. Tipperary. The site partially encroaches onto the Lower River Shannon SAC, Site Code 002165. There are 10 other designated European sites SACs within 15km of the proposed works (see further analysis below). A Natura Impact Statement (NIS) and application under Section 177AE was lodged by the Local Authority on the basis of the proposed development's likely significant effect on a European site.
- 1.2 Section 177AE of the Planning and Development act 2000 (as amended) requires that where an appropriate assessment is required in respect of development by a local authority the authority shall prepare an NIS and the development shall not be carried out unless the Board has approved the development with or without modifications. Furthermore, Section 177V of the Planning and Development Act 2000 (as amended) requires that the appropriate assessment shall include a determination by the Board as to whether or not the proposed development would adversely affect the integrity of a European site and the appropriate assessment shall be carried out by the Board before consent is given for the proposed development.
- 1.3 The proposed development was submitted to An Bord Pleanála on the 20th day of September, 2018.

2.0 Proposed Development

- 2.1 The description of the proposed development, as advertised is as follows...

Demolition and removal of 6 partially constructed dwellings, the construction of 11 dwellings consisting of 6 three bed two-storey units, 4 two bed two-storey units and a two bed single-storey unit and all associated site works.

2.2 The application included the following accompanying documents:

Description of the proposed works

Planning drawings

Natura Impact Statement

3.0 Site Location and Description

3.1 The appeal site, which has a stated area of 0.5 hecatres, is located in Newport, Co. Tipperary. The appeal site is located to the west of Mulkear View, which is small housing development of two-storey semi-detached dwellings. The appeal site is defined by the Newport River which runs to the west and north of the site. The site itself is located at the end of the existing residential cul-de-sac and has the remains of 6 partially constructed dwellings that appear to have been in-situ for a considerable period of time. Levels on the site fall moving east to west. The Newport River is part of the Lower River Shannon SAC, Site Code 002165. To the south of the site is an overgrown area, which is subject to a current application for the development of a town park under (ABP-302960-18).

4.0 Planning History

4.1 No record of planning history of exiting partially constructed dwellings.

4.2 ABP-302960-18: Application for proposed town park incorporating children's play area, play equipment, zip wire, outdoor gym equipment, pump track, multi-use games area, recreational walkways, seating, signage, interpretive panels, landscaping and car parking.

5.0 Legislative and Policy Context

5.1 The EU Habitats Directive (92/43/EEC)

This Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) and 6(4) require an appropriate assessment of the likely significant effects of a proposed development on its own and in combination with other plans and projects which may have an effect on a European Site (SAC or SPA).

5.2 European Communities (Birds and Natural Habitats) Regulations, 2011

These regulations consolidate the European Communities (Natural Habitats) Regulations 1997 to 2005 and the European Communities (Birds and Natural Habitats)(Control of Recreational Activities) Regulations 2010, as well as addressing transposition failures identified in CJEU judgements.

5.3 National nature conservation designations

The Department of Culture, Heritage and the Gaeltacht and the National Parks and Wildlife Service are responsible for the designation of conservation sites throughout the country. The three main types of designation are Natural Heritage Areas (NHA), Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) and the latter two form part of the European Natura 2000 Network.

European sites located in proximity to the subject site include:

- The Lower River Shannon SAC, Site Code 002165, part of the site is located within the designated site.

5.4 Planning and Development Acts 2000 (as amended)

Part XAB of the Planning and Development Acts 2000-2017 sets out the requirements for the appropriate assessment of developments which could have an effect on a European site or its conservation objectives.

- 177(AE) sets out the requirements for the appropriate assessment of developments carried out by or on behalf of local authorities.
- Section 177(AE) (1) requires a local authority to prepare, or cause to be prepared, a Natura impact statement in respect of the proposed development.
- Section 177(AE) (2) states that a proposed development in respect of which an appropriate assessment is required shall not be carried out unless the Board has approved it with or without modifications.
- Section 177(AE) (3) states that where a Natura impact assessment has been prepared pursuant to subsection (1), the local authority shall apply to the Board for approval and the provisions of Part XAB shall apply to the carrying out of the appropriate assessment.
- Section 177(V) (3) states that a competent authority shall give consent for a proposed development only after having determined that the proposed development shall not adversely affect the integrity of a European site.
- Section 177AE (6) (a) states that before making a decision in respect of a proposed development the Board shall consider the NIS, any submissions or observations received and any other information relating to:
 - The likely effects on the environment.
 - The likely consequences for the proper planning and sustainable development of the area.
 - The likely significant effects on a European Site.

5.5 EU (Environmental Impact Assessment and Habitats) (2) Regulations 2011

Article 6 of the EU (Environmental Impact Assessment and Habitats) (2) Regulations 2011 de-exempts Part 8 requirements for local authority development where there is an appropriate assessment requirement.

5.6 Development Plan

The relevant Development Plan is the North Tipperary County Development Plan 2009-2015.

Under the settlement strategy Newport is defined as a Service Centre. Service Centres are robust settlements that have a capacity to accommodate new residential growth, employment and enterprise and other appropriate uses. The service centres are being targeted for growth at an appropriate scale to service their local hinterlands and to consolidate housing, local employment, public transport and a range of services. These towns and villages perform important roles as retail and service providers in their local economy and are targeted for continued growth. A dedicated Local Area Plan is in place for the Service Centre of Newport; the Newport Local Area Plan 2010.

Newport Local Area Plan 2010

Under the Newport Local Area Plan the site is zoned Existing Residential with a stated objective 'to preserve and enhance existing residential amenity'.

6.0 Natura Impact Statement

6.1 Tipperary County Council's application for the proposed development was accompanied by an Appropriate Assessment Screening and Natura Impact Statement (NIS) which scientifically examined the proposed development and the European sites. The NIS identified and characterised the possible implications of the proposed development on the European sites, in view of the site's conservation objectives, and provided information to enable the Board to carry out an appropriate assessment of the proposed works.

The AA Screening exercise examined the potential impacts on eleven European Sites, which are located within 15km (Slievefelim to Silvermines Mountains SPA (Site Code 004165) listed twice due to differing qualifying interest on different parts of the designated site) of the proposed development....

Lower River Shannon SAC (Site Code 002165), site is located partially within the designated site.

Slievefelim to Silvermines Mountains SPA (Site Code 004165), 1.88km from the site.

Clare Glens SAC (Site Code 000930), 2.32km from the site.

Glenstal Wood SAC (Site Code 001432), 4.82km from the site.

Keeper Hill SAC (Site Code 001197), 8.88km from the site.

Slievefelim to Silvermines Mountains SPA (Site Code 004165, 10.88km from the site.

Slieve Bernagh Bog SAC (Site Code 002312), 10.87km from the site.

Lough Derg (Shannon) SPA (Site Code 004058), 12.48km from the site.

Glenomra Wood SAC (Site Code 001013), 12.48km from the site.

Silvermines Mountains SAC Site Code (000939), 14.08km from the site.

Bolingbrook Hill SAC (Site Code 002124), 14.94km from the site.

The conservation objectives of each site is outlined and potential effects. In the case of all designated sites apart from the Lower River Shannon SAC of which part of the site is located within, it is concluded that there no pathway for significant effects or potential in-combination effects for the other 10 designated Natura 2000 site within 15km of the site.

Given the proximity of the site to the Lower Shannon SAC and the potential for direct effects it is noted that mitigation measures are required to reduce or minimise effects on a European Site. It was therefore concluded that in accordance with Article 6(3) of the Habitats Directive that a Stage 2 Appropriate Assessment is required.

7.0 Consultation

7.1 In accordance with the provisions of Section 177AE(4)(b), a number of prescribed bodies were notified of the proposal and copies of the application and the accompanying Natura Impact Statement were circulated to the following bodies:

- Irish Water
- Department of Culture, Heritage and the Gaeltacht

7.2 Responses were received from the following prescribed bodies:

No responses

7.3 Public Submissions

7.3.1 Following the initial publishing of the public notice for the proposed works, 6 public submissions were made to the Board. The details of third parties who made submissions are provided in Appendix 1 to this report.

Submission were received from the following...

Adrian Daly, 76 Mulkear View, Newport, Co. Tipperary

Aoife O'Dothery, 88 Mulkear View, Newport, Co. Tipperary

E & S Hannan, 75 Mulkear View, Newport, Co. Tipperary

Fiona Bonfiled, 87 Mulkear View, Newport, Co. Tipperary

Joe Hogan, 78 Mulkear View, Newport, Co. Tipperary

Michael O'Dothery, 89 Mulkear View, Newport, Co. Tipperary

7.3.2 The issues raised by third parties are summarised as follows:

- There is a lack green space in the proposed development.
- The design of the dwellings doe not tie in with the existing houses.
- Traffic calming is necessary.

- There should be a separate construction road to ensure construction traffic is not on the existing service road.
- The proposal is for a significant number of Council Houses that will turn Mulkear View into a Council Estate and impact the value of private homes at this location. The number of dwellings should be reduced.

8.0 Assessment

8.1 Under the provisions of Section 177AE of the Planning & Development Act, 2000 as amended, the Board is required to consider the proposed development in terms of the following:

(a) The likely consequences for the proper planning and sustainable development of the area

(b) The likely effects on the environment and

(c) The likely significant effects of the proposed development on any European sites.

8.2 The likely consequences for the proper planning and sustainable development of the area:

8.2.1 The proposal seeks to construct 11 dwelling on a site previously approved for residential development that was partially completed. The dwellings link into an existing housing development (Mulkear View) and existing infrastructure including service road and drainage infrastructure. The overall design and scale of the 11 dwellings would not be out of keeping with existing dwellings in Mulkear View. The design, scale, layout and orientation of these dwellings have adequate regard to the amenities of existing properties. I would also note that the dwellings proposed are well served in regards to private open space and parking.

8.2.2 The submission note concerns that the 11 dwellings will be Council properties and that such would have a negative impact on the value of existing dwellings in Mulkear View. I would disagree with this point of view and note that proposal seeks to provide

an active and sustainable use of an underused residential site that is currently derelict and has a negative impact in its current form. The active use of the site would be a positive factor.

8.2.3 The submission raise concerns regarding the lack of public open space provided in the existing housing development and the proposed development. In this regard there is no formal public open space provided as part of the proposed development, however the landholding is part of a wider landholding located to the west and south that is subject to a current proposal under ref no. ABP-302960 for a town park that will provide a significant level of amenity space in close proximity.

8.2.4 The submission mentions the need for traffic calming. This is something that could be incorporated by way of condition if deemed necessary. I would consider that traffic calming is not needed, as the proposal is a small residential development that links into an existing residential development and any additional traffic will be similar in nature to that generated by Mulkear View. One of the submission requests that a separate construction entrance be provided to separate construction traffic from existing traffic into Mulkear View. I would note that appropriate construction management and the temporary nature of such would be satisfactory and that no special arrangements are necessary for construction access.

8.3 The likely effects on the environment

8.3.1 Having regard to the nature of the development, it is considered that the most significant potential for environmental impacts arising relate to impacts on water quality of the Newport River and the flora and fauna supported by the river. The Board will note that the Newport River is part of the Lower River Shannon SAC (Site Code 002156) and that part of the site is located within the boundary of designated site. Matters relating to appropriate assessment are discussed further in Section 8.4 of this report.

8.3.2 The proposal is on zoned lands and on a site on which a similar development has been previously approved. The proposed development is small in scale and compatible with existing land uses at this location. The proposal also links into

existing infrastructure in terms of drainage, traffic and access. I would consider that the proposal would have a limited environmental impact and that the appeal site is not of high ecological value.

8.4 The likely significant effects of the proposed development on any European sites:

8.4.1 The areas addressed in this section are as follows:

- Compliance with Article 6(3) of the EU Habitats Directive
- The Natura Impact Statement
- Appropriate Assessment

8.4.2 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.

8.4.3 The Natura Impact Statement

The application was accompanied by an NIS which described the proposed development, the project site and the surrounding area. The NIS contained a Stage 1 Screening Assessment which concluded a Stage 2 Appropriate Assessment was required on the basis that it was not possible to exclude the possibility of significant impacts on the Lower River Shannon SAC arising, in absence of mitigation. The NIS outlined the methodology used for assessing potential impacts on habitats and species within the European Site which has the potential to be affected by the proposed development.

8.4.4. The report concluded that, subject to the implementation of the recommended mitigation measures, detailed in the report, the integrity of the European Site will not be adversely affected. Having reviewed the NIS and the supporting documentation, I am satisfied that it provides adequate information in respect of the baseline conditions, clearly identifies the potential impacts, and uses best scientific information and knowledge. Details of mitigation measures are provided and they are summarised in the NIS with respect to site-specific Conservation Objectives of the Lower River Shannon SAC (002165). I am satisfied that the information is sufficient to allow for appropriate assessment of the proposed development.

8.5 Appropriate Assessment:

8.5.1 Appropriate Assessment (AA) considers whether the plan or project in combination with other projects and plans will adversely affect the integrity of a European site in view of the site's conservation objectives and includes consideration of any mitigation measures necessary to avoid, reduce or offset negative effects. This determination must be carried out before a decision is made or consent given for the proposed development alone or in combination with other plans and projects would not adversely affect the integrity of a European site in view of the site's conservation objectives.

8.5.2 Guidance on appropriate assessment is set out in the European Commission's Assessment of plans and projects significantly affecting Natura 200 sites: Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC (European Commission 2002) and in the Department of the Environments' Appropriate Assessment of Plans and Projects Ireland, Guidance for Planning Authorities (December 2009, revised February 2010).

8.5.3 I consider that development as proposed, comprising of demolition of partially constructed dwellings and construction of 11 no. dwellings and associated site

works, is not directly connected of necessary to the management of a European Site. The following assessment sets out to:

- Identify European Sites which could be potentially affected using the Source Pathway Receptor Model.
- Identify Conservation Objectives for these sites.
- Examine Predicted Impacts on sites and assess whether these impacts would likely to be significant.
- Assess likely significant impacts against the conservation objectives. Assess whether these impacts would likely to be significant.
- Consider cumulative and in-combination effects.
- Consider Mitigation.
- Appropriate Assessment Conclusion.

8.5.4 The NIS submitted in support of the proposed development, examined the potential impacts on 11 European Sites (Slievefelim to Silvermines Mountains SPA (Site Code 004165) listed twice due to differing qualifying interest on different parts of the designated site) within 15km of the subject site. The European Sites considered for Stage 1 screening include:

Lower River Shannon SAC (Site Code 002165), site is located partially within the designated site.

Slievefelim to Silvermines Mountains SPA (Site Code 004165), 1.88km from the site.

Clare Glen SAC (Site Code 000930), 2.32km from the site.

Glenstal Wood SAC (Site Code 001432), 4.82km from the site.

Keeper Hill SAC (Site Code 001197), 8.88km from the site.

Slievefelim to Silvermines Mountains SPA (Site Code 004165), 10.08km from the site.

Slieve Bernagh Bog SAC (Site Code 002312), 10.87km from the site.

Lough Derg (Shannon) SPA (Site Code 004058), 12.48km from the site.

Glenomra Wood SAC (Site Code 001013), 12.48km from the site.

Silvermines Mountains West SAC Site Code (002258), 14.08km from the site.
Bolingbrook Hill SAC (Site Code 002124), 14.94km from the site.

- 8.5.5 The submitted NIS concluded, having regard to information and submissions available, nature, size and location of the proposed development and its likely direct, indirect and cumulative effects, the source pathway receptor principle and sensitivities of the ecological receptors, only one European Site was considered relevant to include for the purposes of screening for Stage 2 Appropriate Assessment on the basis of likely significant effects, that being the Lower River Shannon SAC, Site Code 002165.
- 8.5.6 Based on my examination of the NIS report and supporting information, the NWPS website, aerial and satellite imagery, the scale of the proposed development and likely effects, separation distance and functional relationship between the proposed works and the European site, their conservation objectives and taken in conjunction with my assessment of the subject site and the surrounding area, I would concur with the conclusion of the applicants NIS, that a Stage 2 Appropriate Assessment is required for only one of the eleven European Sites referred to above, that being the Lower River Shannon SAC, Site Code 002165.
- 8.5.7 The remaining 10 sites can be screened out from further assessment because of the scale of the proposed works, the nature of the Conservation Objectives, Qualifying and Special Qualifying Interests, the separation distances and the lack of substantive hydrological and ecological pathways between the proposed works and the European Sites. It is therefore reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the proposed development individually or in combination with other plans or projects would not be likely to have a significant effect on remaining 10 European Sites within 15km of the subject site. In view of these sites conservation objectives a Stage 2 Appropriate Assessment is not required for these sites.
- 8.5.8 Relevant European Site: The Lower River Shannon SAC, Site Code 002165:

The Lower River Shannon SAC, Site Code 002165. The qualifying interests of designated site are as follows...

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]

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 albae*) [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]

Conservation Objectives

To restore the favourable conservation condition of Freshwater Pearl Mussel in the Lower River Shannon SAC.

To maintain the favourable conservation condition of Brook and River Lamprey in the Lower River Shannon SAC, which is defined by the following list of attributes and targets.

To restore the favourable condition of Salmon in the Lower River Shannon SAC.

To maintain the favourable conservation condition of Sandbanks, Estuaries, Mudflats, Large shallow inlets and bays, Reefs, Perennial vegetation of stony banks and Vegetated sea cliffs in the Lower River Shannon SAC.

To restore the favourable conservation condition of Coastal Lagoons in the Lower River Shannon SAC.

To maintain the favourable conservation condition of *Sailcornia* and other annuals colonizing mud and sand in the Lower River Shannon SAC.

To restore the favourable conservation condition of Atlantic salt meadows (*Glaucopuccinellietalia maritmae*) in the Lower River Shannon SAC.

To maintain the favourable conservation condition of Bottlenose Dolphin in the Lower River Shannon SAC.

To restore the favourable conservation condition of Otter in the Lower River Shannon SAC.

To restore the favourable conservation condition of Mediterranean salt meadows (*Juncetalia maritima*) in the Lower River Shannon SAC.

To maintain the favourable conservation condition of Water courses of plain montane levels with *Rununculion fluitantis* and *Calitricho-Batrachion* vegetation in the Lower River Shannon SAC.

To maintain the favourable conservation condition of *Molinia* meadows on calcareous, peaty or clayey-silt laden soils (*Molinion caeruleae*) in the Lower River Shannon SAC.

To restore the favourable conservation condition of Alluvial forests with *Alnus glutinosa* and *Fraxinis excelsior*(*Alno-Padion*, *Alnion incanae*, *Salicion albae*) in the Lower River Shannon SAC.

Potential direct and indirect effects:

The submitted NIS predicts the following potential effects arising from the proposed development.

- Loss/reduction of habitat area.
- Disturbance of key species (increased public access and construction phase)
- Habitat or species fragmentation.
- Reduction in species density.
- Changes in key indicators of conservation values such as decrease in water quality/quantity (inadequate wastewater treatment, run-off or pollutants during construction and operation).

Reduction of habitat area:

There will be no direct land take or any protected habitats or habitats necessary for the designated species. The small area where the site overlaps the SAC is disused lands of low ecological value. The riparian zone and associated vegetation will remain intact.

Fragmentation:

There will be no fragmentation of available habitat as the site is of low ecological value and the riparian zone treeline and associated vegetation will be maintained.

Disturbance of key species:

Most of the qualifying interest are aquatic species or coastal habitats which do not occur on the site. The other qualifying interests are alluvial forests which are not present on the site or adjoining the site, There will be no disturbance of key species due to implementation of the project.

Changes of Indicators or Conservation Value:

Water is the key indicator of conservation value and will be mitigated through the Contractors Environmental Compliance agreement which must be completed by all contractors. This entails Environmental Compliance Measures in relation all relevant environmental consideration and factors. The project is small in scale and is consistent with the land use at this location. The potential effects identified are related to the construction phase. The effects of such are low and mitigation measures are required to ensure such effects are avoided. Mitigation measures are identified in the NIS.

Potential in-combination effects:

In terms of considering the potential significance of cumulative effects arising from the proposed development there is a current proposal for a town park on an adjoining site to the south under ABP-302960-18 that is a current application. I am satisfied that the proposed development in combination with other plans and projects would not adversely affect the integrity of the European Site, Lower River Shannon SAC, Site Code 002165, or any other European site, in view of site's Conservation Objectives.

Mitigation measures:

In terms of mitigation, Chapter 6 of the NIS provides details.

It is noted that all contractors engaged to work on the project must sign and agree to the terms set out in the Contractors Environmental Compliance document which

gives full detail of the design features, best practice approaches and guidelines to be followed in regards to flora, fauna, noise, soil, water fuel and chemical handling, dust, waste, site lighting, environmental contracts and environmental audits.

The area within the redline boundary which is within the SAC is to be bordered by a protective berm (minimum 1m in height) comprising of inert soil. This will be constructed before the construction of any infrastructure within the SAC.

In relation to surface water run-off the contractor will ensure that water containing silt will be treated on site (silt traps on existing site drainage system) to ensure effective silt removal. Excavations will remain open for as little time as possible before placement of fill/cover to minimise risk of water ingress.

Weather conditions will be taken into account when planning construction activities to minimise risk of run-off from the site and an appropriate distance of topsoil piles from surface water drains will be maintained.

All personnel shall be suitably trained in the implementation of procedures in the event of an accidental spillage from bunded areas.

A person will be appointed by the contractor and be responsible for environmental audits.

Appropriate Assessment Conclusions:

I consider that it is reasonable to conclude on the basis of the information on the file, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment that the proposed development, individually or in combination with other plans and projects would not adversely affect the integrity of the European Site, Lower River Shannon SAC, Site Code 002165, or any other European site, in view of site's Conservation Objectives.

A Construction Environmental Management Plan, which incorporates all mitigation measures indicated in the Natura Impact Statement should be agreed between the Council and the relevant statutory authorities prior to the commencement of development.

9.0 Recommendation

On the basis of the above assessment, I recommend that the Board **approve** the proposed works for the reasons and considerations below and subject to conditions requiring compliance with the submitted details and with the mitigation measures as set out in the NIS.

10.0 Reasons and Considerations

In coming to its decision, the Board had regard to the following:

- (a) the EU Habitats Directive (92/43/EEC),
- (b) the European Union (Birds and Natural Habitats) Regulations 2011-2015,
- (c) 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,
- (d) the conservation interests and conservation objectives of the Lower River Shannon Special Area of Conservation (site code 002165),
- (e) the policies and objectives of the South Tipperary County Development Plan 2009,
- (f) the information submitted in relation to the potential impacts on habitats, flora and fauna, including the Natura impact statement,
- (g) the submissions and observations received in relation to the likely effects on the environment, and on the likely significant effects of the proposed development on a European Site, and
- (h) the report and recommendation of the person appointed by the Board to make a report and recommendation on the matter.

Appropriate Assessment:

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the Lower River Shannon Special Area of Conservation (site code: 002165) is the only European Site in respect of which the proposed development has the potential to have a significant effect.

The Board 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 Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed development for the affected European Site, namely the Lower River Shannon Special Area of Conservation (site code: 002165), in view of the site's conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment.

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

In overall conclusion, the Board 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 Site, in view of the site's conservation objectives.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except where otherwise may be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. Prior to the commencement of development, the local authority shall agree with the relevant statutory agencies a Construction Environmental Management Plan, incorporating all mitigation measures indicated in the Natura Impact Statement. The mitigation measures identified in the Natura Impact Statement shall be implemented in full by the local Authority.

Reason: In order to minimise the impact of construction activities on species and habitats of conservation interest in the interest of proper planning and sustainable development of the area.

3. Site development and building works shall be carried out only between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

4. 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.

Colin McBride
Planning Inspector

28th February 2019