



An  
Bord  
Pleanála

## Inspector's Report ABP 306704-20

---

<b>Development</b>	Ecological re-animation of an area of c.1km of the River Ara including a gravelled walkway and a new pedestrian bridge.
<b>Location</b>	Collegeland and Knockanrawley. Tipperary. Co. Tipperary
<b>Local Authority</b>	Tipperary Co. Council.
<b>Type of Application</b>	Application for approval made under Section 177(AE) of the Planning and Development Act, 2000
<b>Prescribed Bodies</b>	Department of Culture, Heritage and the Gaeltacht.
<b>Date of Site Inspection</b>	May 8 <sup>th</sup> , 2020.
<b>Inspector</b>	Breda Gannon.

## **Contents**

1.0 Introduction.....	3
2.0 Proposed Development .....	3
3.0 Site and Location .....	5
4.0 Planning History.....	6
5.0 Consultation.....	6
6.0 Further Information .....	7
7.0 Legislative and Policy Context.....	7
8.0 The Natura Impact Statement.....	10
9.0 Assessment.....	10
10.0 Recommendation .....	19

## 1.0 Introduction

- 1.1. Tipperary County Council is seeking approval from An Bord Pleanála to undertake the ecological re-animation of approximately 1km of the Ara River, enhancement and stabilisation works to its main channel and the creation of a variety of associated habitat features including a gravelled walkway and new pedestrian bridge. The site is within the catchment of the Lower River Suir SAC. 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.

## 2.0 Proposed Development

- 2.1. The development proposes the ecological reanimation of approximately 1km of the Ara River, which includes enhancement and stabilisation works along its main channel and the creation of a variety of associated habitat features. The purpose of the development is to enhance the environmental conditions of the site and optimise its location for amenity and education. The development would include:
  - A gravelled walkway, circa 1km in length, located parallel with the existing river channel and connecting it to the existing path near Glenview;
  - An off-stream wetland and boardwalk through the wetland;
  - In-stream rubble mats and deflectors and river observation point, providing visitors with visual access to aquatic habitats;

- Landscaping with appropriate vegetation, children's play area, community event areas, which will further enhance the biodiversity, recreational, social and aesthetic value of the development area;
  - A new clear span pedestrian bridge to provide enhanced access with security fencing provided along the school boundary.
- 2.2. The path would commence at the new footbridge which would be installed to provide separate access to the site. The bridge would be a concrete or steel bridge anchored to the embankment of the river, with no instream works or structures required. The bridge would be primarily for pedestrian access with occasional vehicle access for site maintenance. The path would be surfaced using gravel or crushed stone and have a width of 3m.
- 2.3. Approximately 80m from the entrance there is an existing driving school track which extends 200m along the river. This would be maintained with the final section at the lower turning circle moved away from the river to facilitate the installation of a new boundary fence from the site. The fence would be a 2.4m high green box mesh fence, with native species hedge planting.
- 2.4. The initial 200m of the river walkway would include the path, fencing and tree planting only. From here the site opens out as the existing driving track moves slightly to the west. In-stream rubble mats and river deflectors would be positioned so as to create riffles in the watercourse. The c 1km stretch of the river would have its channel edges enhanced and stabilised. This will occur on the west (school side) of the site only. The existing channel would be maintained with any enhancement occurring directly alongside.
- 2.5. Towards the centre of the site the area opens out to a proposed play, meeting and events area and this would be developed with a focus on natural materials. Opposite the play area and within the river, in stream cameras or viewing options (electronic cameras, periscopes or viewing lenses) would be installed to provide the public with real time viewing of aquatic life within the river. Safe access would be provided for viewing into the river together with signage and information plaques.
- 2.6. This would be followed by a wetland area crossed by a boardwalk. The wetland area with varying water depth and diverse plant life would be created off-stream in an area that at times has standing water. Water would be supplied through groundwater

and overland flow. The wetland would be designed and developed to allow for water levels to rise and fall naturally taking account of rainfall in the area. Edge planting would be provided within a safety ledge to provide security for public use.

- 2.7. The proposed trackway would then continue and connect with the existing path which travels under the railway bridge into Glenview towards the playing pitches and GAA grounds. The connection with the existing path would provide an overall 2 km of continuous walkway between the new river walk and the town loop.
- 2.8. The works would take 3-4 months to complete and take place between June-September. Works along the river channel would take 2-3 weeks. The machinery used would be primarily tracked excavators with dumpers used to move material from one part of the site to the other. Construction vehicles would have designated access and exit points and temporary fencing, gates and signage would be erected and maintained for the period of the works. A traffic management plan would be prepared.
- 2.9. Accompanying documents:
  - Project overview.
  - Screening Report for Appropriate Assessment.
  - Natura Impact Statement.
  - Site Specific Flood Risk Assessment.
  - Archaeological Impact Assessment.

### **3.0 Site and Location**

- 3.1. The site runs along the River Ara on Abbey Street in Tipperary town. It extends from close to the entrance to Abbey School to the railway line to the south east at Glenview. The river, which flows in a north-west to south-east direction, is bounded to the south by the playing fields associated with the school and by agricultural land. A driving track runs parallel to a section of the river. The ground is flat to gently undulating, rising towards the school site.
- 3.2. The northern bank of the river is flanked by an area of open space with open views to the south. Further to the east, the rear of properties and their associated

walls/fences prevent access and visibility of the river. This section of the river is less managed and more overgrown with vegetation.

## 4.0 Planning History

4.1. No details of any relevant planning applications in the vicinity of the site have been forwarded by the planning authority.

## 5.0 Consultation

5.1. The application was circulated to the following bodies:

- Department of Communications, Climate Action and Environment
- Department of Culture, Heritage and the Gaeltacht
- Department of Housing, Planning and Local Government
- Department of Transport, Tourism & Sport
- An Chomhairle Ealaíon
- Fáilte Ireland
- An Taisce
- Inland Fisheries Ireland
- Waterways Ireland
- Transport Infrastructure Ireland
- The Heritage Council
- Irish Rail
- Irish Water

5.1.1. Responses were received from the Department of Culture, Heritage and the Gaeltacht (National Monuments Service) and Transport Infrastructure Ireland, which are summarised as follows:

5.2. **Department of Culture Heritage and the Gaeltacht** – in their submission of March 30<sup>th</sup>, 2020 requires that an Underwater Archaeological Impact Assessment (UAIA)

be carried out of all areas of the river-bank or river bed where planned (rubble matting) or potential impacts (e.g. by plant or machinery at ingress/egress points) will or may occur. It sets out the format the UAIA should take and that the result of the assessment should be submitted as further information.

5.3. **Transport Infrastructure Ireland** in their response of March 2<sup>nd</sup>, 2020 stated that they had no specific observations to make on the application.

## 6.0 Further Information

6.1. Further information was sought by the Board on June 5<sup>th</sup>, 2020 on the following matters:

- more detailed information on the nature of the works proposed,
- an ecological assessment of the entire development,
- revised NIS,
- an underwater archaeological impact assessment, and
- a detailed landscaping plan for the site.

6.2. A response to the further information request was submitted on August 25<sup>th</sup>, 2020.

## 7.0 Legislative and Policy Context

7.1. **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).

7.2. **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. The Regulations in particular require in Reg 42(21) that where an appropriate assessment has already been carried out by a 'first' public authority for the same project (under a separate code of legislation) then

a 'second' public authority considering that project for appropriate assessment under its own code of legislation is required to take account of the appropriate assessment of the first authority.

7.3. **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.

The only European sites located in proximity to the subject site is the Lower River Suir SAC (Site code: 002137)

7.4. **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.

## 7.5. Tipperary Town & Environs Development Plan 2013-2019

- 7.5.1. The plan will remain the statutory plan for Tipperary town until a review and preparation of a local area plan takes place.

**Section 3.4 (Public Realm)** states that it is an ongoing objective of the Council to improve the pedestrian environment. The pedestrian routes to be provided and/or upgraded are identified on Map 5 and includes an amenity walk along the River Ara.

**Policy AH 5:** It is the policy of the Council to engage with the relevant stakeholders to complete the River Ara Walk.

## 7.6. South Tipperary Development Plan, 2009 (as varied)

- 7.6.1. It is recognised in the plan that the riparian zone is integral to the quality of surface water and needs to be considered as an integral part of the watercourse. It states that the management and protection of water bodies and riparian zones is important, not just from an ecological perspective, but also to preserve the amenity value and to enhance recreational opportunities along these water bodies.

**Policy LH8: Inland Waters and Riparian Zones:** It is the policy of the Council to protect the ecological status and quality of watercourses. In order to maintain the natural function of existing ecosystems associated with water courses and their riparian zones and to encourage sustainable public access to watercourses, the Council will require an undisturbed edge of buffer zone to be maintained, where appropriate between new developments and riparian zones of water bodies.

## 8.0 Planning Authority Submission

- 8.1. Tipperary County Council's application for the proposed development was accompanied by a Natural Impact Statement (revised in response to further information). It concludes that the proposed development would not result in significant adverse effects on the integrity of the designated sites and their qualifying interests.

## 9.0 Assessment

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

- 9.1. I consider that the proposed development is acceptable in principle. It will create a 1km walkway along the River Ara, connecting into an existing walkway at Glenview creating a loop around the town. It is therefore consistent with the provisions of the Tipperary Town & Environs Development Plan, which seeks to improve pedestrian access within the town, in an area that has been identified as suitable for an amenity walkway.
- 9.2. The proposal will open up this section of the River Ara, improving its overall environmental condition which together with the formation of a variety of new habitats will have positive outcomes for biodiversity. It will also provide public access to the watercourse, providing enhanced amenity and recreational opportunities. The proposal is therefore wholly consistent with the South Tipperary Development Plan.

### **The likely effects on the environment**

- 9.3. There is no provision under Section 177AE of the Planning and Development Act, 2000 (as amended) to require Environmental Impact Assessment or to carry out a formal EIA Screening Determination for a Local Authority Project, which was submitted to the Board under this section of the Act.
- 9.4. Having regard to the nature and scale of the proposed development, I consider that the main environmental effects to be assessed, other than those covered under the Appropriate Assessment are as follows:
- Archaeological heritage

- Flooding

### Archaeological heritage

- 9.5. The application is supported by an Archaeological Impact Assessment which provides details of archaeological sites in the vicinity. There are 2 no. monuments to the west of the proposed development which are associated with the former Augustinian Abbey site (now a school). Part of the site lies within the Zone of Archaeological Potential for the town outlined on Map 9 of the town plan. Policy AH 3 of the plan seeks to protect features of archaeological interest and to protect in-situ where practical all monuments included in the RMP and sites, features and objects of archaeological interest generally.
- 9.6. The proposal would involve the movement of soil within the site to install the pathway and associated playgrounds, amenity areas, landscaping etc. The site is identified in early editions OS maps as an area liable to flooding. It is therefore considered highly unlikely that the area would have been settled on in earlier times and the risk of impacts on previously unknown archaeological material is therefore considered unlikely.
- 9.7. In response to a request for further information an underwater archaeological was undertaken under licence from the National Monuments Service. It included a wade and metal detection survey over the 1km stretch of the river that would be impacted by the proposed development. No archaeological features or finds were discovered. There will be no excavations in the river-bed and its existing course will not be altered as a result of the proposed development. The main works in the channel will involve removal of man-made debris and the installation of deflectors on the river-bed, which will be created using on site subsoil material. The deflectors will be built from the embankment side out towards the river. The southern embankment will also be cleaned and enhanced, and the works which will include a clear span bridge, viewing deck, fence posts etc will not impact on the river channel.
- 9.8. Archaeological monitoring of all groundworks is proposed which I consider is adequate to protect any potential subsurface archaeological materials that may exist on the site.

## Flooding

- 9.9. A site-specific flood risk assessment was submitted with the application. It follows the guidance set out in *'The Planning System and Flood Risk Management - Guidelines for Planning Authorities'* (DoEHLG, 2009). Fluvial flooding associated with an extreme fluvial event in the river is identified as the primary potential flood risk to the proposed development.
- 9.10. The specific flood risk to and from the proposed development is assessed in the report. Data for the scoping assessment was collated from recognised sources (PTRA, OPW Flood Maps, GSI mapping, Suir CFRAM study etc) and this indicated that the area is at risk from flooding. However, this information was not considered sufficient to complete an appropriate flood risk assessment and to assess the impact of the proposed development on the predicted flooding regime.
- 9.11. A hydraulic model (described in detail in the report) was developed to estimate flood water levels at specific locations along the channel (Fig 15). The predicted 1 in 100 year (1% AEP) and 1 in 1000 year (0.1% AEP) flood extents are illustrated in Fig 22 and Fig 23 of the report. The potential impact of the proposed works on flood levels and extents were also assessed for the 1 in 100 year (1% AEP) and the 1 in 1000 (0.1% AEP). The fluvial flood extents pre and post development for both scenarios are shown on Drawing No.IE1845-002-B and IE1845-003-B in Appendix A of the report.
- 9.12. The hydraulic model results predict that there will be a minor impact on the existing flooding regime, as a result of the proposed development and that the predicted increase in the flood extents would be negligible. The overall conclusion is that the flood risk to/from the development would be low and would not be expected to result in an adverse impact on the hydrological regime of the area, or, to increase flood risk elsewhere.
- 9.13. Based on the flood risk assessment the proposed development site falls within Flood Zone A and Flood Zone B, where Water-compatible Development such as amenity open space, outdoor sports and recreation area is considered appropriate. The proposed development is, therefore, considered acceptable in this location.

### **The likely significant effects on a European site:**

- 9.14. The areas addressed in this section are as follows:

- Compliance with Articles 6(3) of the EU Habitats Directive
- Screening the need for Appropriate Assessment
- The Natura Impact Statement
- Appropriate Assessment

### **Compliance with Articles 6(3) of the EU Habitats Directive: T**

- 9.15. 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.
- 9.16. The proposed development is not directly connected to or necessary to the management of any European site and is therefore subject to the provisions of Article 6(3).

### **Screening the need for Appropriate Assessment**

- 9.17. The proposal is not located within or adjacent to any European site. However, the River Ara is a tributary of the River Aherlow, which is part of the Lower River Suir SAC. The development site is hydrologically linked to the SAC and it is concluded in the AA screening report that in the absence of mitigation there is potential for significant effects on the SAC, in view of the conservation objectives for the site. Stage 1 of the screening process concludes that this is the only Natura 2000 site which could potentially be impacted by the proposed development as no other source-pathway-receptor linkages have been established.
- 9.18. Based on my examination of the NIS and supporting information, the NPWS website, aerial and satellite imagery, the nature and scale of the development and likely effects, separation distance and functional relationship between the proposed works and the European site, its conservation objectives and taken in conjunction with my assessment of the subject site and the surrounding area, I would conclude that a

Stage 2 Appropriate Assessment is required for the Lower River Suir SAC as the possibility for significant effects cannot be ruled out.

**The Natura Impact Statement:**

- 9.19. The application was accompanied by an NIS (revised in response to further information request) which described the proposed development, the project site and the surrounding area.
- 9.20. The report concluded that, subject to the implementation of best practice and the recommended mitigation measures, the proposed development would not individually or in combination with other plans or projects adversely affect the integrity of the European site.
- 9.21. I am satisfied that the information is sufficient to allow for appropriate assessment of the proposed development (see further analysis below).

**Appropriate Assessment of implications of the proposed development**

- 9.22. The following is an objective scientific assessment of the implications of the project on relevant conservation objectives of the European sites using the best scientific knowledge in the field (NIS). All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are examined and assessed.
- 9.23. The submitted information has been reviewed by Dr Maeve Flynn, Senior Ecologist, An Bord Pleanála, to support the Appropriate Assessment process, which is attached under separate cover (ABP-306704A-20)

**Relevant European Sites**

- 9.24. Details of the Lower River Suir SAC, which is the only site brought forward for Appropriate Assessment together with its Qualifying Interests and the distance from the development site are set out below.

European site (SAC/SPA)	Qualifying Interests	Distance
Lower River Suir SAC (Site Code: 002137)	[1330] Atlantic salt meadows [1410] Mediterranean salt meadows	13km

European site (SAC/SPA)	Qualifying Interests	Distance
	<p>[3260] Water courses of plain to montane levels with Ranunculus fluitans and Callitriche-Batrachion vegetation</p> <p>[6430] Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels</p> <p>[91A0] Old sessile oak woods with Ilex and Blechnum in the British Isles</p> <p>[91E0] Alluvial forests with Alnus glutinosa and Fraxinus excelsior</p> <p>[91J0] Taxus baccata wood of the British Isles</p> <p>[1029] Freshwater Pearl Mussel</p> <p>[1092] White-clawed Crayfish</p> <p>[1095] Sea Lamprey</p> <p>[1096] Brook Lamprey</p> <p>[1099] River Lamprey</p> <p>[1103] Twait Shad</p> <p>[1106] Salmon</p> <p>[1355] Otter</p>	

### Lower River Suir SAC.

9.25. The Lower River Suir SAC consists of the freshwater stretches of the River Suir immediately south of Thurles, the tidal stretches as far as the confluence with the Barrow/Nore immediately east of Cheekpoint in Co Waterford and many tributaries including the Aherlow in Co Tipperary. The Ara River is hydrologically connected to the Lower River Suir via the Aherlow River, circa 13km downstream.

9.26. Site specific conservation objectives have been published for the site with the overall objective being to maintain or restore the favourable conservation condition of the Annex 1 habitat(s) and/or Annex 11 species for which the site is selected.

**Potential adverse effects during construction on qualifying habitats and species of the SAC**

9.27. The works will include the construction of a clear span bridge over the river adjacent to the existing access to the school. There will be no instream works associated with the bridge construction. The works within the river channel will be limited to removal of rubbish and the installation of rock and earthen formed deflectors on the river bed, using on-site material. The southern river embankment will be cleared of excessive accumulated vegetation (not all vegetation) encroaching into the river including aquatic grasses at the edge of the river. The pathway, wetland feature, associated board walk and children's play area will be constructed independent of the river. Landscaping which will include native planting will also be carried out in accordance with the landscaping plan submitted.

9.28. The works associated with the proposed development will be confined to the 1 km stretch of the Ara River and there will be no direct effect on any qualifying habitat/species of the SAC. The only pathway for indirect impacts arises from hydrological connectivity between the development site and the SAC. There is potential for temporary impacts on water dependent qualifying habitats and species during construction arising from water quality deterioration and /or sedimentation.

9.29. A habitat survey was conducted in response to the further information request. It describes the morphology of the river channel and the vegetation present, which is noted to be dominated by nutrient dependent species. There is no habitat resembling the qualifying interests of the SAC identified within the development site. The majority of the habitats for which the SAC is selected are terrestrial/coastal located a significant distance from the site with no potential to be significantly impacted by the development. The NIS identifies *Floating River Vegetation* as a habitat that could potentially be impacted. This habitat was not identified as present in the field surveys and would be intolerant of poor water quality.

9.30. The water course was not surveyed to determine what species are present. Reliance is placed on 2017 EPA biological water quality data (Appendix 1 of revised NIS)



which indicates that the biological water quality of the River Ara was unsatisfactory at all sites assessed. The closest station to the site (downstream at the railway bridge) had a Q2-3 indicating moderate pollution and an unsatisfactory condition. The river is described as highly eutrophic and unlikely to support fish that are dependent on good water quality.

- 9.31. While the development site is not located within the SAC, it is acknowledged in the NIS that the site has the potential to support migratory species including Atlantic Salmon River and Brook Lamprey, White-clawed Crayfish and Otter. I note that Freshwater Pearl Mussel is confined to the Clodiagh catchment which is located a significant distance downstream and Twaite Chad is more closely associated with estuaries and transitional waters. There is also potential for Otter to be impacted as this species is widespread in freshwater habitats and may be present.
- 9.32. The NIS refers to sampling by Inland Fisheries Ireland (IFI) in 2014 which notes that Atlantic Salmon was recorded in the River Ara, as was White-clawed crayfish. Lamprey species or otter were not recorded. I note that in the period between 2014-2017 there has been a further deterioration in water quality downstream of the site (EPA Q rating), and as noted by Dr Flynn is unlikely to have improved in terms of species present.

### **Mitigation measures during construction**

- 9.33. Standard type mitigation measures are proposed to address the potential adverse effects of construction and to prevent sediment and other pollutants from entering the watercourse. The measures are set out in the NIS (and updated document) and include:
- A Construction Management Plan describing in detail how the mitigation measures will be implemented on the ground will be agreed with the IFI prior to commencement of the development.
  - An Ecological Clerk of Works (ECoW) will be appointed to monitor the construction works.
  - There will be no direct access to the river by machinery, unless necessary. Works will be conducted from machinery working from the embankment.

- The works will be conducted during the summer months to minimise any potential disturbance to species.
- Best practice methodologies will be employed to prevent silt from entering the watercourse, including silt curtains/silt traps as appropriate. No in-stream features or barriers to trap sediment will be placed in the watercourse which would limit flow and allow sediment to accumulate.
- All contaminated water from the works will be discharged via silt traps/settlement ponds
- Standard measures will be employed to prevent fuels and other hazardous materials from entering the watercourse. All fuels, oils etc shall be stored in a bunded area.
- Normal best practice will be employed regarding the storage of top soil, stockpiling of materials etc.

9.34. Having regard to the nature of the works which are relatively minor, limited in scale and of short duration, I accept the significant levels of pollutants or siltation are unlikely to be generated. I consider that the mitigation measures proposed, which involve standard best practice and environmental controls, are sufficient to address the potential effects of the development and to ensure that the proposed development would not adversely affect the integrity of the Lower River Suir SAC (Site code: 002137), in view of the site's conservation objectives.

**Potential adverse effects during operation on qualifying habitats and species of the SAC**

9.35. Once the works are complete it is not envisaged that there will be significant effects on any of the qualifying habitats or species for which the SAC is selected. The project is designed to enhance the overall environmental condition of the river which together with the deflectors/rubble mats designed to introduce diverse flow characteristics and a greater range of habitats for instream fauna will have a positive impact on biodiversity in this stretch of the river.

**Potential In-combination and cumulative effects**

9.36. The NIS does not refer to the potential for in-combination effects with other plans or projects. There is a brief reference in the AA Screening Report to the improvements

to water quality required in the Suir catchment under the WFD. It is also stated that there are no other projects which could act in combination with the proposed development to give rise to significant effects.

- 9.37. The southern side of the site is bounded by open lands associated with the Abbey School and I note (online planning search) that with the exception of those associated with the school, there have been no other applications for planning permission on this side of the site. On the town side planning permissions largely relate to applications for houses/extensions on the Bransha Road and retail developments closer to the town, which would be connected to public infrastructure.
- 9.38. I note that the Tipperary Town & Environs Development Plan was itself subject to strategic environmental assessment which concluded that while the development strategy will have an impact on the environment, no significant adverse impacts are predicted.

### **Conclusion on Appropriate Assessment**

- 9.39. Having regard to the nature of the proposed development and the mitigation measures proposed, the information presented with the application, the further information submitted including the Natura Impact Statement which I consider is adequate to carry out an assessment of the implications of the proposed development on the integrity of European sites, I consider it reasonable to conclude that the proposed development, individually or in combination with other plans and projects would not adversely affect the integrity of the Lower River Suir SAC (Site code: 002137) or any other European site, in view of the site's Conservation Objectives. There is no reasonable doubt to the absence of such effects.

## **10.0 Recommendation**

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

### **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 objectives, qualifying interests and special conservation interests for the Lower River Suir SAC (site code:002137)
- (e) the policies and objectives of the Tipperary Town and Environs Development Plan, 2013-2019,
- (f) the nature and extent of the proposed works as set out in the application for approval,
- (g) the information submitted in relation to the potential impacts on habitats, flora and fauna, including the Natura Impact Statement,
- (h) the submissions and observations received in relation to the proposed development,
- (i) the Inspectorate's Ecologist's assessment, and
- (j) 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 and adopted the screening assessment and conclusion carried out in the Inspector's report that the Lower River Suir SAC (site code: 002137) is the only European Sites 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 Suir (site code: 002137), 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 Sites.

In completing the appropriate assessment, the Board 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 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 Sites, in view of the site's conservation objectives.

**Proper Planning and Sustainable Development/Likely 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 adversely impact on the cultural, archaeological and built heritage of the area would not impact negatively on the visual or landscape amenities of the area, and would not interfere with the existing land uses in the area. The proposed development is in accordance with the stated objectives of the Tipperary Town and Environs Development Plan 2013-2019, which seeks to improve the pedestrian environment and the provision of an amenity walk along the River Ara. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and the information contained in the Natura Impact Statement (NIS), as amended by the further details submitted on the 26<sup>th</sup> day of August, 2020, 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. No construction shall take place on the site between October 1<sup>st</sup> and June 30<sup>th</sup> in any year.

**Reason:** In the interest of nature conservation and to ensure the protection of European sites.

3. Prior to the commencement of development, the local authority, or any agent acting on its behalf, shall prepare in consultation with Inland Fisheries Ireland (IFI), a Construction Environmental Management Plan (CEMP), incorporating all mitigation measures indicated in the Natura Impact Statement and demonstration of proposals to best practice and protocols.

The CEMP shall include:

- a. Method statements for each phase of the work including sequencing and timing,
- b. Details of sediment features/barriers required to protect water quality during each phase of the development,
- c. Location of the site materials compound including the area identified for the storage of waste,
- d. Details of point of access/egress from the site,

- e. Containment of all construction related fuel and oil within a specifically constructed bund to ensure that fuel spillages are fully contained.
- f. Details of how it is proposed to manage any excavated material.
- g. Specific proposals as to how the measures outlined in the CEMP will be measured and monitored for effectiveness.

A record of daily check that the works are being undertaken in accordance with the Construction and Environmental Management Plan shall be maintained on file as part of the public record.

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

- 4. The location of deflectors/rubble mats in the river channel shall be agreed with Inland Fisheries Ireland prior to construction.

**Reason:** In the interests of protecting the environment.

- 5. A suitably qualified ecologist shall be retained by the local authority to oversee the site set up and construction of the proposed development and the implementation of mitigation measures to protect water quality and ecology set out in the NIS. The ecologist shall be present during site construction works. Upon completion of works, an ecological report of the site works shall be prepared by the appointed ecologist to be kept on file as part of the public record.

**Reason:** In the interest of nature conservation and to ensure the protection of water quality and ecology.

- 6. The County Council and any agent acting on its behalf shall ensure that all plant and machinery used during the works should be thoroughly cleaned and washed before delivery to the site to prevent the spread of hazardous invasive species and pathogens.

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

7. Prior to commencement of development, details of measures to protect fisheries and water quality of river systems shall be outlined and placed on file as part of the public record. Full regard shall be had to Inland Fisheries Ireland's published guidelines for construction works near waterways (Guidelines on Protection of Fisheries during construction work in and adjacent to waters, 2016). A programme of water quality monitoring shall be prepared in consultation with the contractor, and relevant statutory agencies and the programme shall be implemented thereafter. Details of such monitoring shall be maintained on file as part of the public record.

**Reason:** In the interests of the protection of receiving waters, fisheries and aquatic habitat.

8. The County Council and any agent acting on its behalf shall facilitate the preservation, recording, protection or removal of archaeological materials or features that may exist within the site.

In this regard, the County Council shall:

- (a) employ a suitably qualified archaeologist prior to commencement of development who shall assess the site and monitor all site investigations and other excavation works
- (b) provide suitable arrangements acceptable to the Department of Culture, Heritage and the Gaeltacht for the recording and removal of any archaeological materials which is considered appropriate to remove.

**Reason:** In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

- 9 The site shall be landscaped in accordance with the landscaping plan submitted to the Board on 26th day of August, 2020. All plants shall be adequately protected until stabilised.

**Reason:** To enhance the visual amenity of the riverside walk.



*Breda Gannon*

---

Breda Gannon  
Senior Planning Inspector

28th September 2020