



An
Bord
Pleanála

Inspector's Report

ABP-309266-21

Development	To construct a wheelchair accessible ramp access with entrance gate and associated works to access proposed pontoon facility. (An NIS included.)
Location	Main Quay, Cheekpoint, County Waterford.
Planning Authority	Waterford City and County Council
Planning Authority Reg. Ref.	20217
Applicant(s)	Cheekpoint Boat Owners Ass.
Type of Application	Permission
Planning Authority Decision	Grant with conditions
Type of Appeal	Third Party
Appellant(s)	1. Sean Doherty 2. Pat Moran
Observer(s)	None
Date of Site Inspection	25 th of March 2021
Inspector	Caryn Coogan

1.0 Site Location and Description

- 1.1 The site is located in Cheekpoint Harbour which is located within the Lower Suir Estuary on the southern bank of the River Suir in Co. Waterford. Cheekpoint is a coastal village, located east of Waterford City, at the confluence of the River Barrow and the River Suir. The village commands scenic views of Waterford Harbour. On the opposite side of the river along the north banks there is the Great island Power station in Co. Wexford.
- 1.2 The built heritage of the Harbour, consists of elements of the late 18th Century harbour such as the small stone pier and low quay walls, a row of 18th Century renovated single storey fisherman's cottages, Daisybank House (1765) and the Mount (1750). The harbour/ pier is L-shaped.
- 1.3 Cheekpoint Harbour is prone to silting. In 1995 a series of groynes were built 200metres out in the river to divert the Cheekpoint Bar, which was a mudbank impeding large vessels traveling up the river, which resulted in Cheekpoint silting up and now Waterford Port has to regularly dredge the river in the vicinity of Cheekpoint to ensure access to the quay.
- 1.4 Vehicular/ pedestrian access to the site is via the existing quay at Cheekpoint is from the Main Street in the village. It is overlooked by a number of houses and a public house in the village.
- 1.5 There were boats and fishing equipment been stored on the quay during my inspection, particularly close to the proposed access to the gangway/ pontoon. There was no activity during the time of my inspection.
- 1.6 The pontoon will be located north of the quay and not very visible from the village due to the corresponding dimensions with the head of the quay. The proposed disabled access is off the western wall of the quay. There is an existing set of steps at the location.

2.0 Proposed Development

2.1. The proposed development is described in the public notices accompanying the planning application as :

To construct a wheelchair accessible ramp with entrance gate and associated works at access a pontoon facility at Main Quay, Cheekpoint.

2.2 The submitted drawings indicate the access to the side of the existing quay, with a 2m wide carriageway to the floating pontoon area and gangway, 63metres in length, to the front of the Quay (north) on the River Suir. There will be steel security gate which will be locked when the platform is not in use.

2.3 The proposed pontoon will not be fastened to the quay/ pier at Cheekpoint. It will be connected to land by a cantilever platform installed on a round pile immediately adjacent to the northwest end of the existing Cheekpoint Pier within Cheekpoint Harbour. The gangway will be fastened onto the cantilever platform and then be connected to the pontoon system. The pontoon will be feasible and accessible to disabled/ wheelchair users.

3.0 Planning Authority Decision

3.1. Decision

Waterford City and County Council granted the proposed development by Manager's Order on 07/01/2021 subject to 12 No. conditions.

Condition No. 2 stated the planning permission was predicted upon the developers obtaining a Foreshore Licence.

Condition No. 3 the mitigation measures in the NIS are to be fully implemented.

Conditions 8 and 9 relates to waste management.

3.2. Planning Authority Reports

3.2.1. Planning Reports

A report from the Executive Planner dated 6th of January 2021 includes the following:

- The pontoon system (63mlong x2.4m) is not fastened to the existing pier, it will be supported by 5 steel round piles and the gangway is 21m x 1.5m. The pontoons is acceptable in design.
- It is not envisaged there will be any changes to the dredging regime.
- Additional information was requested regarding the dredging area, ownership, ongoing maintenance, siltation, impact on the pier, carparking, and to address third party concerns.
- The pontoon is for small boats local users.
- 25No. carparking spaces south of the pier was agreed with the planning authority
- The walkway has been clearly marked on submitted drawings of along the existing pier.

3.2.2. **Other Technical Reports**

Roads: parking spaces required.

3.3. **Prescribed Bodies**

No issues raised.

3.4. **Third Party Observations**

There were a number of third party objections to the proposed development on the following grounds:-

- Dredging
- High Court Order
- There will be no full access to the front of the pier due to the pontoon blocking it.
- There was a swing basin provided for under the High Court Order for 60-70ft trawlers

- Plough dredging is unsustainable
- Parking plan- without public parking and toilets would only exacerbate the problem that exists in the carpark in Cheekpoint.
- Conflict of interest between boat club and Waterford Port company.
- Wheelchairs should not be on the quay it's dangerous

4.0 Planning History

There is no relevant planning history.

5.0 Policy Context

5.1. Development Plan

Waterford County Development Plan 2011-2017 (as amended and varied)

In the current plan the zoning relating to the site is for **Harbour Related Activities**–
To provide Harbour related uses and promote the economic and recreational use of the area.

The River at this pointed is a designated **Scenic Route**.

Cheekpoint is a Conservation Area (Streetscape of Distinctive Character)

Policy ECD 25 – To develop the marine leisure sector of the county in a coherent and sustainable manner, including the development of marinas, water sport based activities, improvement to quays and slipways and enhanced interpretation and safety that do not cause landscape or environmental degradation and avoid adverse effects on the designated sites in the area.

Policy INF 13 – To improve access to, and support the sustainable development of all piers and harbours within the county for both commercial and recreational purposes.

Note: Relevant Extracts form the Plan are appended to this report.

5.2. Natural Heritage Designations

There are 7No. Natura 2000 Designated sites within 15Km of the site:

Site Name	Site Code	Distance (Km)	Direction from site
Lower River Suir SAC	002137	0.5km	West
River Barrow and River Nore SAC	002162		
Bannow Bay SAC	000697	11km	SE
Tramore Duns and Backstrand SAC	000671	12.5km	S/SW
Hook Head SAC	000764	14.6km	S/SE
Bannow Bay SPA	004033	11.6km	SE
Tramore Backstrand SPA	004027	12.5km	S/SW

5.3. EIA Screening

The proposed development consisting of the construction of a floating pontoon for the berthing of boats is not a class of development included under Schedule 5 of the *Planning and Development Regulations 2001*, as amended. Thus, no EIA or Screening for EIA is required.

6.0 The Appeal

6.1. Grounds of Appeal

There are two third party appellants and their appeals are summarised as follows.

6.1.1 ***Sean Doherty, Harbour Constable, Fisherman, Cheekpoint***

- The location of the proposed carpark on the village green, and another location where a number of ash trees were felled recently to provide access for the development.
- For the Port of Waterford certain professionals were retained, as the pontoon is in the exact same location as described in a High Court order agreed by Malone' O Regan engineers. The proposed development will break and Order of the High Court in Ireland if granted.

- No consideration has been given to the fisherman using the quay. Because the proposed pontoon is a leisure facility the local fishermen cannot use it. Cheekpoint boat club membership includes 40 members with the vast majority of them from outside of the community, and not aware of the real reason why Waterford Port company has supported them with logistics and funds, as they are trying to get of the huge costs involved dredging Cheekpoint several times a year to maintain access to the channel as agreed in the high court order.
- The Marine Institute found Cheekpoint unsuitable for a pontoon without major dredging works.
- Cheekpoint quay is a working quay, with nets, pots and heavy equipment often been worked on, and definitely not an environment suitable for disabled people.
- From the Quay level to the pontoon level on spring tides will be a decline of 15 metres, and a wheelchair could lose control and crash into the water.
- There is no reference to a wheelchair safe pontoon, safety rail toilets or lifting equipment, and supervision is a worry as the committee are in full time employment.
- The pontoon could lead to a loss of fishing boats, the placement of a gangway and pontoon will remove his ability to operate from the home port and breach a high court order.
- Cheekpoint Quay is a protected building that is presently in poor repair its appearance from the river will be obstructed by modern plastic boats.
- Passage East and Cheekpoint quays are public property, and placing pontoons on them removes public access and rights.

6.1.2 *Pat Moran, The Mount, Cheekpoint*

- **Appendix 6 -Parking Plan** The first mention of Parking at Sites A and B was on the 19th of November 2020, the proposal did not appear anywhere before that date. It was not known in the community and the community are unhappy about it. Up to 19/11/2020 and 03/12/2020 carparking was referred to in the application as the Bottle Bank – a few spaces around the village. At no point

was there mention of removal of the village green as the main parking for the pontoon and quay. How much green space will go, realistically the removal of part of the green for six short terms spaces will not be enough and will lead to another add on. Has the ownership of the carpark sites A and B been established.

- **High Court Order No. 1995- 4840P** How come there has been no legal opinion put on file to date by the parties involved – Boat owners, Port of Waterford, or the council. The very obvious changes that will occur include restrictions, loss and the ability of vessels around 10metres to large trawlers leaving the head of the Quay, as the turning area cannot be accessed from the head of the Quay without going around the pontoon depending on the time of the tide, number of boats and the size of the pontoon.
- Certain legal questions are now raised regarding the legality of the proposed changes in the context of the High Court ruling. What are the legal rights of the people who took the case, when the council has reneged on their responsibilities to the community and to the fishermen. The legal right of the planning authority to grant permission for the development changing the High Court order is questionable.
- The NIS does not cover the plough dredging needed to keep the channel open into Cheekpoint and its combined effect with the plough dredging outside keeping the channel to the Port on the wider estuary. Waterford estuary is at a disastrous situation with species decline and shellfish mortalities , habitat destruction and pollution. Potentially plough dredging could be seen as part of the problem. There is a growing opinion that plough dredging should be stopped. It is hard to comprehend how Stage 3 of the NIS was arrived at given the known disastrous problems in the estuary.

6.2. Applicant Response

The applicant has responded to the appeals.

- A full and transparent process for planning was undertake throughout 2020. The Chairman of the Cheekpoint Boat Owners is an employee of Waterford Port. However this is not relevant to the appeal.

- Toilets are not part of the application.. A waste management plan was submitted as part of the application.
- The provision of carparking spaces in the village is a matter for Waterford Co. co. Cheekpoint Boat Owner Association provided a series of parking options as requested.
- The applicant is not aware of any tree felling in the vicinity of the pontoon.
- The pontoon is located in an area maintained by Waterford Port. Twenty six years ago in 1995, 53 plaintiffs lodged a case against the then Waterford Harbour Commissioners on the grounds that the building of groynes in the river west of the pontoons location caused siltation which reduced access to and from Cheekpoint Harbour. The case was settled and compensation was paid to the plaintiff's, and the Port agreed to keep the approach channel to the harbour dredged. The applicant has gone to great lengths and expense to demonstrate that the proposed pontoon does not impede the terms of the agreement, and the Port of Waterford has confirmed continuous dredging of the area. No element of the agreement reached in the High court will be undermined, of the 53 plaintiffs that took the case 25 years ago, only one is objecting to the current proposal.
- The proposed pontoon is open and available to leisure and fishing vessel owners.
- Cheekpoint Boat Owners Association are either local or have family living in the village of Cheekpoint. There is widespread support for the project across the community.
- Predictions of future environmental laws and speculation about future dredging are unsupported statements.
- Cheekpoint is not a listed Fisheries Harbour and does not support a fishing fleet. No record of fish landings exist, and no trawlers work from this location. There are two registered fishing boats who use the harbour to tie their boats up during the winter, both fishermen have given a letter of support to the pontoon.

- The planned pontoon will provide safe access for wheelchair users during times strictly determined by water height levels. Waterford City and County Byelaws prohibit the storage of nets, fishing equipment on the Quay.
- Cheekpoint Harbour is a drying harbour and is only accessible at high water, (master Mariner's Report on access to and from Cheekpoint).
- It is not to serve a private leisure club but open to all. The berths will be offered to anyone who wants to use the facility. The pontoon is not a commercial facility, it is a facility for the community to provide safe access to the river.
- Cheekpoint Harbour is not a protected structure.
- The antisocial behaviour claims are unsubstantiated and speculative.
- The pontoon will not impede public access to the quay at Cheekpoint.
- The term, High Court Order is misleading as the case was settled in court and the plaintiffs accepted payment in full. In addition to payments it was agreed that Waterford Part would keep the access channel to and from Cheekpoint clear.
- The planned 63 metre pontoon will have a very low environmental impact on the area as confirmed by the NIS.

6.3. Planning Authority Response

There was no further comment raised by the planning authority to the content to the appeals.

7.0 Assessment

7.1 The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- (1) Zoning & Development Plan Policy

- (2) Impacts on the existing Harbour
- (3) Other Matters
- (4) Appropriate Assessment

7.2 Zoning & Development Plan Policy

Volume 2 – The Map Booklet of the Waterford County Development Plan 2011-2017 (as extended) indicates that the Quay in Cheekpoint village is zoned for Harbour Related Uses. The zoning objective in Chapter 10 of Volume 1 of the development plan states the zoning is *‘To provide for Harbour Related Uses and the economic and recreational development of the area’*.

The ‘Zoning Matrix’ included in Chapter 10 of the Plan does not specify pontoons, however community facilities are Open for Consider under the Harbour Zoning.

In Chapter 6 of the Waterford County development Plan under section 6.15 it states the Council will encourage and promote integrated clusters of water based tourism with associated land based activities on appropriately zoned land which would serve to attract local, national and international visitors. The use of the water based pontoon off an existing quay, is an appropriate use for the harbour related zoning. Furthermore the modest proposal is in line with **Policy ECD 25** – *To develop the marine leisure sector of the county in a coherent and sustainable manner, including the development of marinas, water sport based activities, improvement to quays and slipways and enhanced interpretation and safety that do not cause landscape or environmental degradation and avoid adverse effects on the designated sites in the area.*

The applicant is the Cheekpoint Boat Owners Association who according to the appeal file are local or have family living in Cheekpoint. The proposed pontoon will be open to leisure and fishing vessels, which in my opinion, is a small community based project as opposed to a commercial venture. The underlying principle of the proposal, is to provide safe access to the river for the community of Cheekpoint, which is in line with another policy statement of the current development plan, **Policy INF 13** – *To improve access to, and support the*

sustainable development of all piers and harbours within the county for both commercial and recreational purposes.

The site has been identified in the Development Plan as being suitable for water-based recreational facilities and public amenities because of its 'Harbour Related Uses' zoning. It is considered that the proposed development by reason of its private use (non-commercial) would comply with the objectives of the Development Plan and the zoning for the site.

The intention of the proposed development is to satisfy the need for affordable, berthing facilities on the river with capacity to accommodate up to 6-15 no. boats, depending on the boat size. The pontoon will be owned and operated by the Cheekpoint Boat Owners Association, providing a facility for local boat owners with the provision of visiting yachts and some regular users such as the Port of Waterford Pilot boat. On this basis, it is submitted that the proposed development is compatible with the zoning objectives for the site.

Cheekpoint is located in a designated scenic area with views from the river to be preserved. As a pontoon is a common facility along a river bank and it is at water level, providing berths alongside a long established pier, the proposed use is appropriate to the location and setting, and it will not detract from the overall visual amenities of the area.

7.3 Impacts on Existing Harbour

It has been submitted by third parties that the granting of planning permission for the development currently being proposed will impact negatively on the working quay and result in a loss of fishing boats. The pontoon should not impede access to the Quay as a safe walkway will be provided to the pontoon separate from the Quay along the western wall of the pier. Cheekpoint Harbour is a drying harbour and is therefore only accessible at high water level, this is particularly true of wheelchair accessibility to the pontoon, which will not occur at low tide level, due to the steepness of the ramp.

The site layout indicates there will be a painted line along the existing Quay designating a pedestrian access to the pontoon. The full extent of the proposed development is as follows:

- Driving 5 steel round piles complete with SL70 navigational lights through the riverbed to bedrock. The piles will be used to support the pontoon system.
- There will be one steel round pile driven through the river bed to bedrock to support the cantilever platform directly adjacent to Cheekpoint Pier.
- The installation of 63metre long x 2.4m wide pontoon system, and clamping the pontoon to the support piles
- The installation of a 21metres x 1.5m wide gangway installed as a bridge from the cantilever platform to the pontoon
- A concrete wheelchair ramp at the entrance to the gangway
- A security gate at the gangway

According to the appeal file, there are two registered fishing vessels in Cheekpoint, and both owners support the pontoon. Letters of support from the fisherman have been submitted indicating the pier is inaccessible at times due to the siltation and tides, and the proposed pontoon safe access to the pier to pick up or drop off personnel or equipment. Cheekpoint does not support a fishing fleet, and no trawlers work from this location. It is submitted on appeal by the applicant that, the maintenance dredging comprises approach channel and the basin area in front of the quay wall. The method used is plough dredging to reduce natural sedimentation at Cheekpoint Harbour. The installation of the pontoon will not hinder the dredging activities because it is to be constructed on piles and not anchor blocks or chains that could cause an obstruction to the dredging activities.

The appellants claim the proposed development will have implications for the continued dredging and access to the harbour. The written evidence on file demonstrates that the dredging is carried out, and will continue to be, by Port of Waterford who is supportive of the pontoon proposal. The Port has agreed to keep the turning area/ swing basin adjacent to the pier dredged to enable a third party fisherman (who is supportive of the proposal) to turn his vessel.

The 0.5metres piles should not influence the degree of future sedimentation at Cheekpoint Harbour. The pontoon will rest on the surface of the water and will not impede tidal flow, which is very low in the general area.

The findings of the Master Mariner report dated 10th of November 2020 are noted, and it concluded the 63metre pontoon would not have an adverse effect on either access or turning ability of vessels using Cheekpoint Harbour or access to the pier and steps.

I did note during my inspection the storage of items on the Quay, which would inhibit access to the ramp to the pontoon. However it is stated on the appeal file, Waterford City and County Council have Byelaws to prevent the storage of nets, fishing equipment, etc on the quay.

7.4 Other Matters

High Court Case

The appellants have stated a High Court Case is relevant and prohibits the development of the pontoon onto the river at Cheekpoint. In 1995, twenty six years ago, there were 53 plaintiffs lodged a case against Waterford Harbour Commissioners against the building of groynes in the river west of the location of the proposed pontoon because the groynes resulted in siltation that greatly reduced access to the pier. According to the appeal file, the plaintiffs were paid compensation and the Port agreed to dredge the channel into Cheekpoint Harbour. The Port of Waterford has agreed to continue to dredge the access into the Harbour. A settlement was reached in the High Court case, and there is no legal evidence submitted on appeal to indicate how the proposed pontoon would contravene the High Court Order from 25 years ago. In my opinion, this matter is civil issue and beyond the remit of the Board.

Roads & Traffic:

According to the planning application documentation there are 8No. spaces available at the bottle bank area on approach to Cheekpoint. There is a green area close to the pier used by boat owners during the summer months. The parking associated with Cheekpoint village is a matter for Waterford City and County Council, the applicant does not own or control any lands associated with parking to

serve the development. The applicant suggested, in a further information response, a number of areas in close proximity to the pier where parking could occur.

Financial Contribution:

The planning authority imposed a financial contribution of €7308 for surface water, recreation and amenity, community facilities and transport. There was no parking levy imposed.

Biodiversity

There is an overlap with the Appropriate Assessment below and I recommend that the relevant sections be read in tandem.

An Ecological Impact Assessment report accompanied the Natural Impact Statement. The Assessment noted the site is located within a built up village alongside an existing harbour facility. In view of the fact the proposed works will not result in any significant change in activities at the site, there will be no impact on the flora and fauna in the area. T

The Ecological Impact Assessment did not identify any signs of otter but there is a likelihood that the species may use the locality for foraging in view of the suitable habitat available upstream. Mitigation measures proposed in the NIS are the same as the Ecological report.

7.5 Appropriate Assessment

The application is accompanied by a Natura Impact Statement which includes AA-Screening. The NIS was submitted by the applicant on the 11th of September 2020 by way of additional information.

Stage 1 - Screening

Project Characteristics

The proposed development is as described in section 2 and, in summary, is a small residential development of 16 no. detached and semi-detached dwellings.

Designated Sites

Having regard to the 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, the following European Sites are considered relevant to include for the purposes of initial screening for the requirement for Stage 2 appropriate assessment on the basis of likely significant effects

Designated Site	Qualifying Interest	Distance
Lower River Suir SAC (site code 002137)	Atlantic salt meadows [1330] Mediterranean salt meadows [1410] Water courses of plain to montane levels [3260] Hydrophilous [6430] Old sessile oak woods [91A0] Alluvial forests [91E0] Taxus baccata woods [91J0] Freshwater Pearl Mussel [1029] White-clawed Crayfish [1092] Sea Lamprey [1095] Brook Lamprey [1096] River Lamprey [1099] Twaité Shad [1103] Salmon [1106] Otter [1355]	500m west

The Conservation Objective for the Lower River Suir Sac is to restore the favourable conservation condition of the habitats and species listed above in the table. The site

is in close proximity to the SAC boundary. Indirect effects arising from impact on water quality during construction and operation phases and disturbance to species during the construction works could arise. Thus, the potential for significant effects on the European Site cannot be excluded at this stage.

Designated Site	Qualifying Interests	Distance
River Barrow and River Nore SAC Site Code: 002162	Estuaries [1130] Mudflats and sandflats [1140] Reefs [1170] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows [1330] Mediterranean salt meadows [1410] Water courses of plain to montane levels v [3260] European dry heaths [4030] Hydrophilous t [6430] Petrifying springs [7220] Old sessile oak woods [91A0] Alluvial forests [91E0] Desmoulin's Whorl Snail [1016]	0km

	Freshwater Pearl Mussel [1029]	
	White-clawed Crayfish [1092]	
	Sea Lamprey [1095]	
	Brook Lamprey [1096]	
	River Lamprey [1099]	
	Twaite Shad [1103]	
	Salmon [1106]	
	Otter [1355]	
	Killarney Fern [1421]	
	Nore Pearl Mussel [1990]	

The Conservation Objective for the River Barrow and River Nore SAC is to restore the favourable conservation condition of the habitats and species listed above in the table. The site is located within the SAC boundary. Indirect effects arising from impact on water quality during construction and operation phases and disturbance to species during the construction works could arise. Thus, the potential for significant effects on the European Site cannot be excluded at this stage.

Stage 1 – Screening Conclusion

Based on my examination of the AA Screening, NIS supporting information, the NPWS website, the scale of the proposed development and likely effects, separation distance and functional relationship between the proposed works and the European sites, their conservation objectives and taken in conjunction with my assessment of the subject site and the surrounding area, I conclude that a Stage 2 Appropriate Assessment is required for both of the European sites referred to above, namely the Lower River Suir SAC (site code 002137) and the River Barrow and River Nore SAC (site code 002162).

It is reasonable to conclude, on the basis of the information on the file and in the NIS, 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 the following European sites:

Bannow Bay SAC
Tramore Duns and Backstrand SAC
Hook Head SAC
Bannow Bay SPA
Tramore Backstrand SPA

It was considered that 5 of the 7 European designated sites within 15km of the site, could be 'screened out' in terms of a requirement for Stage 2 Appropriate Assessment (NIS), because of the distance separating the sites and the absence of any impact pathways, it was considered there would be no direct or indirect effects on Bannow Bay SAC, Tramore Dunes and Backstrand SAC, Hook Head SAC, Bannow Bay SPA and Tramore Backstrand SPA as a result of the proposal.

Stage 2 – Appropriate Assessment

As per the NPWS site synopsis Lower River Suir SAC and the River Nore and River Barrow SAC consists of for the Lower River Suir 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 for the River Barrow and River Nore SAC the site consists of the freshwater stretches of the Barrow and Nore River catchments as far upstream as the Slieve Bloom Mountains, and it also includes the tidal elements and estuary as far downstream as Creadun Head in Waterford.

Both sites are of particular conservation interest for the presence of a number of Annex II animal species, including Freshwater Pearl Mussel (both *Margaritifera margaritifera* and *M. margaritifera* subsp. *durrovensis* occur), White-clawed Crayfish, Salmon, Twaité Shad (*Alosa fallax fallax*), three species of Lampreys - Sea Lamprey,

Brook Lamprey and River Lamprey, and Otter. The Lower River Suir SAC is one of only three known spawning grounds in the country for Twaite Shad.

The sites also supports populations of several other animal species. Those which are listed in the Irish Red Data Book include Daubenton's Bat, Natterer's Bat, Pipistrelle Bat, Pine Marten, Badger, Irish Hare, Smelt and Common Frog. Parts of the site have also been identified as of ornithological importance for a number of Annex I (E.U. Birds Directive) bird species, including Greenland White-fronted Goose (10), Golden Plover (1,490), Whooper Swan (7) and Kingfisher. The Lower River Suir contains excellent examples of a number of Annex I habitats, including the priority habitats alluvial forest and Yew woodland.

Conservation Objectives

Detailed conservation objectives have been prepared for the sites, the overall aim being to maintain or restore the favourable conservation status of the qualifying interests. A copy of the objectives is available on the following link

https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO002137.pdf

https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO002162.pdf

Potential Adverse Effects

The site is c. 500 metres to west of the nearest point of the Lower River Suir SAC, and is located within the River Nore and Barrow SAC.

The NIS considered the following adverse effects with potential to adversely affect the conservation objectives of the Natura 200 sites which were considered:

- Loss of Disturbance to Habitats During Construction and Operation Phase
- Potential Impairment of water quality during construction phase, and
- Potential adverse effects from noise disturbance during construction phase

Loss of Disturbance to Habitats During Construction and Operation Phase

Cheekpoint Harbour consists of largely a manmade and managed environment. The receiving environment is an active harbour which is the subject of regular human activity. The habitats on the area experience ongoing activity and disturbance due to the harbour activity and the maintenance dredging. The works associated with the installation of the pontoon will not result in any adverse effects to the habitats, There are no changes to the current dredging practices.

There are 6No. piles to be installed into the bed of the river, with five of them positioned within a deep water pool in front of the pier, an area that is subjected to regular dredging. Therefore there are no anticipated or adverse effect on the adjacent areas of mudflat habitat and associated designated species.

It can be concluded that no loss or adverse effects on designated habitats will result from the construction works or operation of the proposed pontoon system.

Potential Impairment of water quality during construction phase

As the proposed development is located in Cheekpoint Harbour there is concern about potential run off of pollutants from the site reaching the surface water in the estuary which could adversely affect the water quality and further downstream in the River Nore and River Barrow SAC. The NIS recognises that potential pollutants include suspended solids, silt, cementitious materials or hydrocarbon leaks. If the water quality was affected, this could impact on the fish in the river which would indirectly impact on other species.

The procedures to be implemented will include:

- Adequate spill kits
- Contractors trained to use spill kits
- Any spillage of cement materials would be cleaned up immediately
- Any sediments adversely effected by contamination will be excavated and stored in appropriately sealed containers and disposed of off site.

There will be other best practice guidelines followed based on Inland Fisheries Guidelines which are outlined in section 7.2 of the NIS, eg fuelling and lubricating machines will occur off site, concrete will be poured in dry weather conditions, disposal of waste, etc

Provided best practice guidelines are followed and the above procedures during the construction works, there will be no adverse impacts to the Natura 2000 sites.

Potential adverse effects from noise disturbance

Construction noise can adversely affect species such as otters and fish. Underwater noise can travel much further distances than noise generated in the air. The piling will generate noise therefore it is proposed to limit the noisy works to between 08:00-20:00, and it will start softly and ramp it up to allow animals to disperse from the area. Other mitigation measures will be under the supervision of the ECoW. The construction works will be short term and during daylight hours. Otters are more active at dusk and dark. There is a high level of activity and noise already in the harbour/ village. Another point is that the estuary is over 500metres wide at this point within the Natura 2000 site, therefore it is unlikely the piling noise would pose a limitation to migratory species using the river. With the proposed mitigation in place during the construction works no adverse effects will occur.

In-combination Effects

There are numerous activities and projects along the River Suir, River Nore and River Barrow which have the potential to affect the conservation interests of the sites. The proposed development is small in scale and localised in nature in an existing harbour, and along with the mitigation measures contained in the NIS and the Best Practice Guidelines, there will not be any significant in-combination contribution by the project on the River Barrow and River Nore SAC or the Lower River Suir SAC.

Monitoring

The ECoW will be present on site to monitor the works during the piling works.

Conclusion

Having regard to the preventative measures to avoid impact on the SAC and SPA including measures to be put in place during the construction phase in relation to the excavation required to create the pontoon, gangway and ramp, I consider it

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 or projects would not adversely affect the integrity of the Lower River Suir SAC (Site Code) and the River Barrow & River Nore SAC (Site Code), or any other European site, in view of the sites' Conservation Objectives.

8.0 RECOMMENDATION

I recommend that planning permission for the proposed development be GRANTED for the reasons and considerations and subject to the conditions set out below.

9.0 Reasons and Considerations

Having regard to the nature and limited scale of the proposed development, the riverside location of the site, the existing and historic use of the site, the established character and pattern of development in the vicinity of the site and the zoning of the site for 'Harbour Related Uses in the Waterford City and County Development Plan 2011 – 2017 (as extended), it is considered that the proposed would comply with Development Plan policy, would not seriously injure the amenities of adjoining and adjacent property or the land or water based amenities of the surrounding area and would be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

- (1) The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 11th day of September 2020 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning

authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

Reason: In the interest of clarity.

- (2) This grant of planning permission relates to the development of a private floating pontoon boat berthing facility, gangway, ramp access, and ancillary works as described in the submitted public notices and as indicated in the documentation lodged with the planning application and on appeal.

Reason: In the interest of clarity.

- (3) The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

- (4) Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.

Reason: To ensure adequate servicing of the development, and to prevent pollution.

- (5) Details of the materials, colours and textures of all finishes to the proposed floating pontoon berths shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of visual amenity.

- (6) The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

- (7) Construction waste shall be managed in accordance with a construction waste management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006

Reason: In the interest of sustainable waste management.

Caryn Coogan
Planning Inspector

26th of May 2021