



An
Bord
Pleanála

Inspector's Report ABP-309721-21

Development	Extension to existing Mahon Falls car park & additional lay-bys.
Location	Townland of Comeragh Mountains, Co. Waterford.
Local Authority	Waterford City & 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	National Parks & Wildlife Service Geological Survey of Ireland An Taisce
Observer(s)	Waterford Greens Mountaineering Ireland Comeragh Mountaineering Club (Denis Cullen)

Cllr. Liam Brazil

Kevin Higgins

Declan McGrath

Jack Bergin

William & Bridget Drohan

Ian McHardy

Andrew Cox

Ian Lumley

Michael Monahan

Maoliosa Ni Chleirigh

Date of Site Inspection

26th June 2021

Inspector

Karla Mc Bride

1.0 Introduction

- 1.1. This application relates to a local authority project at Mahon Falls in the Comeragh Mountains, County Waterford. Waterford City and County Council propose to resurface and extend the existing car park at Mahon Falls, and to provide additional laybys and modify existing laybys along the L3047 loop road to allow for safe passing. The N section of the road and the existing car park are located within the Comeragh Mountains SAC which is designated for several habitats and species (incl. Wet & Dry Heaths & Blanket Bog). 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 Site and Location

- 2.1. Mahon Falls is located within the Comeragh Mountains SAC and pNHA to the N of Dungarvan in County Waterford. The surrounding upland area is characterised by heathland vegetation with rocky outcrops, Mahon Falls waterfall is located to the N of the site, and Mahon River flows parallel to the E site boundary and local road. The site comprises the existing Mahon Falls car park and several laybys along the local loop road. The smaller Weir car park is located to the SE of the car park with access off the loop road. The surrounding lands are used for sheep grazing, and Mahon Falls is an attractive visitor destination for day trippers, hill walkers and cyclists. There is an existing walking trail from the car park to the waterfall.

- 2.2. Access to the existing Mahon Falls and the smaller Weir car parks is via the c.5km long L3047 loop road off two points along the L3019. The narrow two-way loop road is lined by a series of small laybys along the approaches to the Mahon Falls car park which allow for cars travelling in opposite direction to pass each other. There is a small forestry plantation located along the lower slopes in the SE section and several houses and farm buildings along both sections of the loop road to the W of its two junctions with the L3019.
- 2.3. The Mahon River ultimately discharges into the Irish sea at Bunmahon c.20km to the SE in the vicinity of the Copper Coast Holiday Park and the Mid-Waterford Coast SPA and the Ballyvoyle Head to Tramore pNHA. There are several other designated European sites in the wider area (incl. the Lower River Suir SAC & River Blackwater SAC to the N & W) and the lands may be important for mobile species from other further afield European sites (incl. Dungarvan Harbour SPA to the S).
- 2.4. Photographs & maps in Appendix 1 describe the site & surroundings in more detail.

3.0 Proposed Development

3.1 Proposed works

The Council proposes to resurface and extend the existing car park at Mahon Falls, and to provide additional laybys and modify existing laybys along the L3047 loop road to allow for safe passing.

The works would comprise the following:

- The existing rectangular shaped **car park** would be extended to the S & W.
- The existing car park contains c.39 x spaces, and an additional 46 x spaces would be provided (c.85 in total).
- The car park footprint was amended by FI with the total spaces reduced to 75.
- A total of 15 x **lay-bys** would be provided (incl. 5 x new & 5 x modified).
- Ancillary works include cycle parking & a recreational area.
- Associated site works include site levelling, new drainage, environmentally friendly surfaces & earth embankments.

3.2. **Accompanying documents**

The ***planning application*** was accompanied by the following documents:

- Cover letter.
- Planning Report (incl. project description & rationalization, planning policy context, construction work details, flood risk, hydrological & landscape assessments, and consultee list).
- Detailed drawings & photographs.
- AA Screening & NIS reports.
- Landowner letter of consent.
- List of Prescribed Bodies & Copies of Public Notices.

The ***further information*** response was accompanied by the following documents:

- Cover letter
- Revised drawings
- Traffic Survey report
- Heritage Officer's report
- Surface material details
- Response to Observers concerns

4.0 **Planning History**

4.1. Several planning cases in the vicinity which are mainly related to small scale residential, agricultural and energy infrastructure. The following cases are of note.

Reg. Ref. 031098: permission granted in 2003 to construct a hydro-power scheme on the Mahon River near Mahon Bridge for the supply of electricity to the network. The scheme comprised a water intake structure, buried pipeline, footbridge & buried turbine building, abstracted water would be returned to the river. EIS submitted.

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. 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.
- 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.
- 5.4. European sites located within the Zone of Influence of the subject site include:
- Comeragh Mountains SAC (Site code: 001952)
 - Nier Valley Woodlands SAC (Site code: 000668)
 - Lower River Suir SAC (Site code: 002137)
 - River Blackwater SAC (Site code: 002170)
 - Glendine Woods SAC (Site code: 002324)
 - Dungarvan Harbour SPA (Site code: 004032)
 - Mid Waterford Coast SPA (Site code: 004193)

5.5. **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.

5.6. National and Regional Planning policy

National Planning Framework, 2018-2040

This Plan sets out a high-level strategic plan for shaping future growth and development to 2040. It seeks to develop a region-focused strategy to manage growth and environmentally-focused planning at a local level. It contains several National Strategic Outcomes (NSOs) which include seeking to achieve empowered rural economies and communities, enhanced amenity and heritage, and a transition to a low-carbon and climate resilient society.

National Development Plan, 2018-2027

This Plan underpins the National Planning Framework 2018-2040. It contains several priorities which include investment in regional growth potential and enhancing the tourism potential of the region.

Climate Action Plan, 2021

This plan seeks to tackle climate breakdown and achieve net zero greenhouse gas emissions by 2050. It identifies several risks as a result of climate change including rising sea-levels, extreme weather, further pressure on water resources and food production systems, and increased chance and scale of river and coastal flooding.

Southern Regional Economic & Spatial Strategy 2019 - 2031

The RSES supports the delivery of the programme for change set out in the National Planning Framework and the National Development Plan. It sets out a strategic vision and policy objectives for climate change, sustainable development, renewable energy, urban and rural areas, the economy, the environment, connectivity, amenities and utilities. Several policy objectives seek to promote tourism and recreation, protect water quality, enhance biodiversity, and ensure the protection of sensitive sites and habitats.

5.7. Local Planning policy

Waterford City and County Development Plan

The proposed development would be located on rural/agricultural lands that are covered by the Waterford County Development Plan 2011 to 2017 (as extended in 2014 following the amalgamation of Waterford City & County Councils).

Zoning: Site & environs are zoned for Agriculture & car parks are permissible.

Natural Heritage: The site and environs are also located within the Comeragh Mountains SAC and proposed NHA.

Landscape: The site is located within an area rated as Visually Vulnerable in the Scenic Landscape Evaluation.

Policy 6.1(a) seeks to ensure that development does not impinge significantly on the character, integrity or uniformity of the area when viewed from the surroundings. The lands to the E and W are rated as Sensitive.

Policy ENV 3: seeks to develop the Comeragh Mountains as a national amenity and to promote the heritage & recreational features of the area for all users while conserving its natural habitats, species, archaeology & landscape, and as a sustainable area for the local community.

Policies NH3, NH6 & NH7: seek to protect & enhance biodiversity, landscape & environment; conserve SACs & SPAs & assess potential impacts on such sites.

River Mahon Walking Trail, 2018

The development of an all-weather recreational walking trail (c.750m) on the south side of Mahon River between Crough Wood and Mahon Bridge was proposed.

6.0 Consultations

The Council notified the following Prescribed Bodies:

- Dept. of Agriculture, Food & Marine
- Dept of Housing, Local Government & Heritage
- Dept. of Environment, Climate & Communications
- Dept. Media, Tourism, Arts, Culture, Sports & the Gaeltacht
- National Parks & Wildlife Service
- Inland Fisheries Ireland

- Heritage Council
- An Taisce
- Failte Ireland

A total of 16 x submissions have been received to date from Prescribed Bodies, interest groups and members of the public.

6.1. **Prescribed Bodies:**

- National Parks & Wildlife Service (DAU)
- Geological Survey of Ireland
- An Taisce

Their concerns relate to:

NPWS:

- Accept NIS conclusion that habitats within the footprint are not SAC QIs.
- Accept that the car park and laybys will assist traffic management, however it will lead to larger visitor numbers & footfall which may affect nearby QI habitats (Wet & Dry Heath), and damage biodiversity.
- No proposals to prevent parking at other locations.
- Assessment of in-combination impacts required.
- Query planning status and success of Mahon River Rehab project.
- Note other possible unauthorised works in vicinity.

GSI: note the presence of geological heritage features in the area but no impacts anticipated and recommend accessing GSI datasets.

An Taisce:

- Adverse and unsustainable traffic & tourism impacts on SAC and scenic landscape will be exacerbated.
- Compliance with Habitats Directive and Development Plan polices required.

6.2. **Public Submissions:**

- Waterford Greens
- Mountaineering Ireland
- Comeragh Mountaineering Club (Denis Cullen)
- Cllr. Liam Brazil
- Kevin Higgins
- Declan McGrath
- Jack Bergin
- William & Bridget Drohan
- Ian McHardy
- Andrew Cox
- Ian Lumley
- Michael Monahan
- Maoliosa Ni Chleirigh

Their collective concerns relate to:

- Compliance with Articles 6.3 & 6.4 of the Habitats Directive, and assessment of cumulative impacts is required. Conflict with National Biodiversity Plan.
- Adverse traffic & tourism impacts on SAC and its QI habitats & species, scenic landscape & soil stability & erosion.
- Unauthorised development in the area (hydro-dam & walking trails).
- No consideration of alternatives, no substantive rationale for project, no traffic survey data submitted for visitor numbers & no Heritage Report.
- Loop road is unsuitable for current volumes of 2-way traffic, the un-controlled driving circuit is already incompatible, unsafe & dangerous.
- Current arrangements inhibit access by rescue vehicles and car park should include a landing pad for rescue helicopters.

- Adverse impacts will be exacerbated by traffic volumes associated with additional car parking spaces.
- Revised plan required to reduce car borne traffic, promote cycling access from the Greenway & provide for car parking and shuttle buses at alternative locations outside the SAC and highly sensitive landscape.
- Existing car park is an eyesore & should be permanently closed, proposed car park (and cycle park) is urban in design & scale.
- Laybys will be used for uncontrolled & unmanaged car parking, and query their use as passing places or mini-car parks.
- Note conflicts in the NIS in respect of the project rationale (to address current or future car parking demand), and no consideration of additional footfall & traffic impacts on the wider SAC.
- Inadequate/inappropriate provision of amenity facilities, suggest the use of environmentally friendly surfaces (i.e. GeoGrid) and signage.
- Overall Management Plan for the Comeragh Mountains is required, as Mahon Falls is not an isolated tourist attraction, and consultation with stakeholders and the local community should be undertaken.
- Support the project.

6.3. Further Information request

Having regard to the foregoing, the location of the project within the Comeragh Mountain SAC and pNHA, the current Development Plan policies which seek to conserve, protect and enhance sensitive landscapes, European sites and biodiversity, and based on my examination of the site and environs, including the local road network, the following Further Information was requested in order to complete the assessment of the potential impacts of the proposed development on the receiving environment and European site.

- a. Provide a revised layout and design details for the L3047 loop road to and from Mahon Falls car park which incorporates a one-way system for visitors the area, to and from the L3019, and which omits the additional new laybys and modifications to existing laybys. Consideration should also be giving to removing the existing laybys and replanting the spaces thus created with native heathland species.
- b. Provide details of environmentally friendly surface materials for the car parking spaces (ex. EcoGrid or similar).
- c. Provide proposals to prevent cars parking along the side of the L3047 loop road to and from Mahon Falls.
- d. Clarify whether the purpose of the development is to accommodate existing volumes of visitor traffic to Mahon Falls or future traffic volumes, and if the latter please provide details of any traffic surveys that were carried and/or analysis undertaken to substantiate the scale of the project.
- e. In the event that the purpose of the development is to accommodate additional traffic volumes and thus additional visitors to Mahon Falls and environs, the resultant potential impacts on the Comeragh Mountains SAC and its Qualifying Interest Habitats and Conservation Objectives should be addressed accordingly in the NIS.
- f. Provide a copy of any report/s prepared by the Councils' Heritage Officer in respect of the proposed development.
- g. Provide a response to the remaining concerns raised by the Observers in their written submissions which are not covered above.

6.4. Further Information response

General response:

- Project seeks to provide more parking spaces & passing bays to reduce traffic congestion & improve safety, and to reduce impacts on sensitive habitats.
- ***Traffic survey*** results indicate that existing car park capacity is exceeded during the peak summer months and on bank holidays (up to c.75 at times).
- Suggested one-way system would have an adverse impact on residents, farmers & businesses, and is unlikely to receive a positive response.
- Committed to delivering an integrated management strategy.

- Can include pervious grass block environmentally friendly surface materials.
- Alternative car park design provides for reduced footprint and spaces (c.75).
- Car park is ideally located & used as a safe access point to Mahon Falls Trail.
- Lay-bys are not additional parking spaces but passing bays to allow cars to pass each other in motion & safely.
- NIS concluded that “the car park extensions have been designed not to increase access but is aimed at improving road safety for current activity levels & ensure that further damage is reduced.”
- **Heritage Officer** notes that: - NPWS accept that the habitats within the project footprint are not SAC QI habitats; visitor numbers are not driven by the availability of car parking but the amenity offering (Mahon Falls), the expansion of the Greenway & provision of visitor facilities at Mahon Bridge; NIS refers to consideration of in-combination effects on heath & bog habitats with the River Mahon Walkway Rehabilitation Project, which is also a WWCC projects, neither project will be carried out in isolation, and both projects comply with and enable emerging policy in the Draft Development Plan.

Response to Observers (not addressed above):

- Project responds to current parking demand that has increased in recent years & a shuttle bus to cater for future demand.
- Potential public transport solutions (and park & ride) are being considered as part of an integrated management approach to the Comeragh Mountains.
- Car parking at Mahon Bridge will address parking demand at that location, and the car park has been granted permission under Part 8.
- No change to access points along the L3047.
- Project seeks to reduce congestion & eliminate parking on roadside habitats.
- NIS prepared in accordance with Article 6, no adverse impacts on QI habitats or species, no SCI bird species present or listed for the SAC, and works will be overseen by an Ecological Clerk of Works.
- ECJ 258/11 related to Annex 1 Priority habitats, whereas the habitats affected by the project are not designated Annex 1 Priority habitats.

- Draft Dev. Plan includes Geological Site in the Comeraghs & WWCC will use the GSI on-line resources to identify vulnerable areas and inform the CEMP.
- Accept that project is within a visually vulnerable area, footprint reduced by FI, the S boundary will comprise an earth berm planted with indigenous vegetation, and pervious grass blocks will be used for the car park surface.
- Recognise need to encourage & facilitate sustainable tourism practices & developments, this will be reflected in the Draft Dev. Plan & Comeragh Mountains Integrated Management Plan.
- Projects acknowledges growing popularity of recreational cycling.
- No adverse impact on “sense of wilderness” as project will cater for current demand and visitor numbers, and casual trading will not be permitted.
- Discussions took place with Mountain Rescue in relation to car park design and helicopter landing requirements.
- Don’t always provide litter bins but encourage visitors to “Leave No Trace”
- Will strengthen signage & messaging with regard to dogs (wildlife & livestock).
- No recorded demand for WC facilities but willing to assess feasibility of provision by local businesses and at Mahon Bridge.
- Provision of pay parking would not be cost effective or manageable.
- Project was raised with local representatives prior to the Covid pandemic.
- Acknowledge opposition to and support for the project.

7.0 Assessment

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

The proposed car park upgrade and lay-by works would comply with national, regional and local policy in respect of climate change, residential amenity, cultural and natural heritage, and the environment. The site and environs are zoned for Agriculture in the current Development Plan, and car parks are permissible with this zoning objective. Waterford City and County Council states that the works are justified as they would provide more parking spaces and passing bays for car borne visitors to Mahon Falls which would in turn reduce traffic congestion, improve safety for all road users, and to reduce impacts on sensitive upland habitats which are currently affected by roadside parking. The Council states that the purpose of the works is to accommodate current levels of traffic as described in the Traffic Survey Report, and not provide for additional traffic numbers. The submissions received from Prescribed Bodies are summarised in section 6.0 above and the main concerns raised by NPWS, GSI and An Taisce relate to potential adverse effects on European sites, habitats and biodiversity, sensitive landscapes, and traffic generation. The submissions received members of the public raised a similar range of issues.

Design and layout:

The location and design of the proposed car park upgrade, and new and modified lay-bys are described in sections 2.0 and 3.0 above.

The upland rural site and environs are located within the Comeragh Mountains SAC and pNHA, and within an area rated as Visually Vulnerable in the Development Plan's Scenic Landscape Evaluation, whilst the lands to the E and W are rated as Sensitive. Policy 6.1(a) seeks to ensure that development does not impinge significantly on the character, integrity or uniformity of Visually Vulnerable areas when viewed from the surroundings. Policy ENV 3 seeks to develop the Comeragh Mountains as a national amenity and to promote the heritage and recreational features of the area for all users while conserving its natural habitats, species, archaeology and landscape, and as a sustainable area for the local community.

The existing rectangular shaped car park provides parking for visitors to Mahon Falls waterfall and the surrounding upland area which is used by hikers and hill walkers. The surrounding lands slope down to the S and there is a noticeable change in level between the existing car park and the adjacent lands that it would extend into. The existing car park contains c.39 car parking spaces and the originally proposed extension to the S and W would have provided a total of 85 spaces (incl. 2 x disabled spaces), bicycle parking and a recreational area. However, the Council amended the size and scale of the extension by way of Further Information, by reducing the extent of the incursion into the downward sloping heathland area to the S, and marginally increasing the incursion to the W on lands which are at a similar level. A total of 75 spaces would be provided under the revised design and layout. The boundaries would be defined by an earthen berm planted with indigenous vegetation, and the surface would comprise environmentally friendly grass blocks as per the Further Information response, as opposed to the originally proposed tarmac surface.

A total of 15 x lay-bys would be provided along the N section of the loop road on the approach to the car park to provide for safe passing, and this includes 10 x existing and 5 x new lay-bys, and provides for modifications to 5 existing laybys. The proposed arrangements are considered accepted provide that the surfaces are made from the same or similar environmentally friendly grass blocks used in the car park.

The concerns raised by several of the Observers in relation to the visual impact of the project on the sensitive and vulnerable scenic landscape are noted.

However, having regard to the low-lying and linear nature of the proposed development, which would upgrade and extend an existing long established car park, and to the revised design, layout and use of environmentally friendly surfaces, I am satisfied that the project would not have an adverse impact on the visual amenities of the sensitive upland area. Given that the project would improve the management of visitor traffic and car parking in the area, and having regard to the use of environmentally friendly grass blocks for the surfaces, and to the indigenously planted landscaped berms, the design and layout of the proposed works are considered acceptable in terms of visual amenity. The proposed development would not adversely affect the sensitive and vulnerable scenic landscape or interfere with any views across the site. It would therefore be compatible with Policy 6.1(a) and

Policy ENV3 as summarised above with respect to Visually Vulnerable and Sensitive Landscapes, and the heritage of the Comeragh Mountains.

Residential & visual amenity:

In terms of visual amenity, the upland rural site is characterised by a mix of heathland and blanket bog with rocky outcrops, and the surrounding lands are used for sheep grazing and outdoor recreational amenity. As previously stated, the site and environs are located within the Comeragh Mountains SAC and pNHA, and within an area rated as Visually Vulnerable in the Development Plan, whilst the lands to the E and W are rated as Sensitive. Policy 6.1(a) seeks to ensure the protection of Visually Vulnerable Areas, Policy ENV3 seeks to develop the Comeragh Mountains as a national amenity and to promote its heritage and recreational features, whilst Policies NH3, NH6 and NH7 seek to protect and enhance biodiversity, landscape and the environment, and to conserve European sites.

It is noted that the proposed development, as amended by way of Further Information, does not include any substantial removal of vegetation, the car park would be defined by indigenously planted landscaped berms, and the car park and lay-by surfaces would be made of environmentally friendly grass blocks.

Having regard to the low-lying and linear nature of the proposed development, which would upgrade and extend an existing long established car park and access road lay-bys, and to the revised design, layout and use of environmentally friendly materials, I am satisfied that the project would not have an adverse impact on the visual amenities of the area. Although the localised removal of heathland vegetation in the vicinity of the works would have a minor adverse impact on the visual amenities and rural character of the area in the short term, the proposed works would not give rise to an adverse visual impact on the character of the area in the long term.

In terms of general residential amenity, there are no houses located in the vicinity of the car park and approach roads. The nearest houses are located downhill to the S along the loop road close to its junctions with the L3019, and the proposed works would not adversely affect the amenity of any nearby dwellings.

Traffic and Movement:

Access to the existing Mahon Falls car park is via the c.5km long L3047 loop road off two points along the L3019 to the SE. The narrow two-way loop road is lined by a series of small laybys along the approaches to the Mahon Falls car park which allow for cars travelling in opposite directions to pass each other. There is a small forestry plantation located along the lower slopes in the SE section and several houses and farm buildings along both sections of the loop road to the NW of its two junctions with the L3019.

The proposed development, as amended by way of Further Information would provide for a total of 75 car parking spaces including c.39 existing spaces. The proposed development would also provide for a total of 15 x laybys including 5 x new and 5 x modified lay-bys along the loop road. Several of the Observers queried whether or not the purpose of the project was to attract more car borne visitors to the area, they raised concerns in relation to traffic generation, hazard and safety as a result of the proposed works, and they suggested alternatives means of access including a shuttle bus service from Mahon Bridge. I also had concerns in relation to the continued use of a 2-way system along the loop road in terms of traffic safety.

The applicant was requested to provide Further information in relation to several items including clarity as to the purpose of the proposed car park extension, traffic survey results to support the need for the extension, and the consideration of a one-way system along the loop road for visitors to Mahon Falls. The details of the FI request and a summary of the applicant's response is contained in sections 6.3 and 6.4 above.

The Council confirmed that the purpose of the project is to provide more parking spaces and passing bays in order to reduce traffic congestion and improve safety for all road users. The Traffic Survey results indicate that existing car park capacity is exceeded during the peak summer months and on bank holidays (up to c.75 at times) and that the extended car park would accommodate current peak parking demand which has increased in recent years, and that it will not serve to attract additional car borne visitors. It confirmed that the new lay-bys are not additional parking spaces but passing bays to allow cars to pass each other in motion and safely. It stated that potential public transport solutions (incl. park & ride) are being

considered as part of an integrated management approach to the Comeragh Mountains, and that the recently approved car park at Mahon Bridge will address local parking demand. The response of the Council to the concerns raised by the observers is acceptable. I am satisfied that the purpose of the works is to accommodate existing traffic volumes and demand for visitor parking at peak times.

In relation to my request for the consideration of a one-way system for visitors along the loop road to improve traffic movement and safety, the Council stated that such a system could have an adverse impact on local residents, farmers and businesses, and that it would be unlikely to receive a positive response. I am not entirely convinced that this would be the case as it is quite common in urban and suburban areas to restrict access to certain roads to local traffic only. However, I acknowledge that it would be preferable for the local community to be consulted in relation to any proposed visitor only one-way system along the loop road. As such, I will not recommend a planning condition to require its implementation, however the Board may wish to consider the matter further in the interests of traffic safety.

Having regard to the nature and scale of the project, which would comprise a modest extension to an existing car park and the provision of a small number of new lay-by / passing areas along the loop road, it is unlikely that the works would give rise to a significant level of traffic generation or have an adverse impact on traffic safety, notwithstanding my reservations about the merits of the continued use of a two-way traffic system along the loop road.

Biodiversity:

The site and environs form part of the Comeragh Mountains which comprises an extensive upland area that has been designated as an SAC for the several (incl. Wet & Dry heath, Blanket bog, Rocky slopes & Scree) and aquatic habitats (incl. Oligotrophic waters & Floating River vegetation), and one species (Slender Green Feather-moss). The Comeragh Mountains are traversed by several streams and the area supports or provides suitable habitat for several species of bird (incl. Peregrine falcon, Hen harrier & Raven) and plant species (incl. St. Patrick's-cabbage, Dwarf willow, mosses, ferns & pondweeds). The River Mahon, which extends SE from

Mahon Falls, flows c.600m to the E of the car park site parallel to the E section of the loop road (c.100m), and this river ultimately discharges to the Mid Waterford Coast SPA c. 20km to the SE of the site. The riparian environs along the Mahon River may also provide a habitat, refuge, foraging area or resting place for a variety of terrestrial and aquatic animal species (incl. birds, fish & aquatic invertebrates), which have been described in the submitted documents.

These documents include an Appropriate Assessment Screening Report and Natural Impact Statement which examined the relationship between the proposed development and several European sites. These reports were informed by desk top studies and field surveys which described the ecological characteristics of the receiving environment, and identified potential impacts on European Sites and biodiversity, and the NIS contains mitigation measures. Several European site QI habitats were recorded within the Zone of influence of the proposed work in the NIS desktop studies and field surveys, but not within the footprint of the proposed works. Issues related to Appropriate Assessment will be addressed in sections 7.3 below.

The various species of mammal (incl. Irish hare & pine martin), amphibians (incl. common frog & lizard) and invertebrates (incl. moths & butterflies) that frequent the site would be disturbed during the construction phase but are likely to return after the works are complete and habituate to the operational car park. A variety of bird species were noted in the desk top study and field surveys of the site and surrounding area however none were recorded nesting at or close to existing car park and loop road. Although Annex 1 bird species (incl. Hen harrier, Peregrine Falcon & Chough) have been recorded within the Comeragh Mountains, these species tend to utilise upland cliffs and the more elevated habitats. There are historical records of the occurrence of Artic charr in the upland corries but there have been no recent sightings and the proposed works are located a considerable distance to the S of these habitats. The surrounding open and exposed upland area may not provide suitable foraging habitat for bats and no evidence of bat activity on the site and environs was detected during the surveys.

The Mahon River to the E of the proposed works provides suitable habitat for several species of **fish** (incl. Salmon) and Freshwater pearl mussel has been recorded c.10km downstream of the SAC site boundary. The watercourse may also provide suitable habitat for several prey species of aquatic invertebrate and macrophytes which form part of the food supply for fish species in the river. The natural site drainage has the potential to convey deleterious construction materials to the Mahon River in the absence of appropriate safeguards which could adversely affect water quality and fisheries (incl. riverbed smothering, clogging fish gills & habitat degradation), along with general noise and disturbance. However, having regard to the small scale of the project, I am satisfied that the NIS mitigation measures would ensure that appropriate protection measures would be put in place during the works to prevent silt entering the watercourse (incl. buffer zones) with no adverse impacts on water quality and aquatic wildlife anticipated.

The proposed works would require the localised removal of **peatland habitats** and constituent species to accommodate the car park extension and the new or modified lay-bys. Although the site and environs are located within the Comeragh Mountains SAC and three of the QI habitats have been recorded in the surrounding area (incl. Wet & Dry heaths & Blanket bog), the various NIS desk top studies and field surveys indicate that these habitats and their constituent species are not well represented at the site and environs. The NPWS and Council Heritage Officer's submissions support that conclusion, and it is proposed to relocate any fragments of constituent species to more suitable locations if found on site during the works. It is also noted that the surrounding peatland habitats and constituent species have been affected by historic agricultural practices (incl. sheep grazing & burning). No significant adverse impacts on biodiversity during the works are anticipated, although there would be some localised disturbance to foraging areas, resting places and refuges.

The proposed works would not require the removal of any **trees, hedgerows or riparian vegetation** with no adverse impacts anticipated.

Although no **Invasive plant species** were not recorded at or in the vicinity of site and environs during the surveys, a biosecurity condition should be attached to ensure that the works (and vehicles) do not introduce invasive species to the area.

It is proposed to appoint an **Ecological Clerk of Works** to oversee the works and the mitigation measures contained in the NIS would protect sensitive species (incl. plants, birds, fish & aquatic invertebrates) and the removal of vegetation during the bird nesting season will be prohibited.

Having regard to all of the above, the predicted impacts on biodiversity would be temporary and short term as most species will return to the area after the works are complete. It is noted that NPWS had no objection in principle to the development.

Cultural heritage:

The project site and its environs are is not covered by any sensitive cultural heritage designations and there are no Recorded Monuments, Protected Structures or NIAH structures in the vicinity. However, the Policy ENV 3 seeks to develop the Comeragh Mountains a national amenity and to promote the heritage and recreational features of the area for all users while conserving its natural habitats, species, archaeology and landscape, and as a sustainable area for the local community, and the proposed works would be compatible with this Policy. The River Mahon to the immediate E of the site at one time powered up to 5 x mills along its course through Mahon Bridge and on to Flahavans Mill at Kilmacthomas, and it is possible that there may be mill related items in the vicinity. The surrounding area may also contain as yet undiscovered artefacts that may be uncovered during the excavation works, and archaeological monitoring should be required. This concern could be addressed by way of a planning condition.

Material assets:

The project site and its environs are located within an upland rural area that is characterised by heathland and blanket bog with rocky outcrops. The surrounding lands are used for sheep grazing whilst the lower slopes to the SE comprise farms and commercial forestry plantations. Having regard to the nature and scale of the project, which would comprise a modest extension to an existing car park and the provision of a small number of new lay-by / passing areas along the loop road, it is unlikely that the works would have an adverse impact on material assets.

Need, effectiveness & alternatives:

I am satisfied that the applicant has provided adequate background information to justify the need for the proposed works which seek to reduce traffic and car parking congestion, improve the safety of all road users, and reduce impacts on sensitive upland habitats which are currently affected by roadside parking. The Council has confirmed that the purpose of the works is to accommodate current levels of traffic as described in the Traffic Survey Report, and not provide for additional traffic numbers. I am satisfied that the proposed works will function effectively, notwithstanding my reservations about the merits of the continued use of a two-way traffic system along the loop road. I am also satisfied, on the basis of my examination of the submitted documents and assessment of the site and surrounding area, that the proposed works constitute an appropriate and proportionate response to the traffic and visitor conditions at Mahon Falls.

Conclusions:

Having regard to the foregoing, I am satisfied that the proposed development is acceptable in principle and that the proposed car park and lay-by works, as amended by way of Further Information, are justified.

7.2. The likely effects on the environment

I note that there is no specific provision under Section 177AE of the Act to require EIA or to carry out a formal EIA Screening Determination for a local authority project submitted under this section of the Act. Nonetheless, the Board, in making its decision, is required to consider the likely effects on the environment in respect of the proposed development.

The project is not of a type included in Schedule 5 Part 1 or Part 2 of the Planning and Development Regulations 2001 (as amended) or in the Road Act 1993 (as amended). Furthermore, it does not meet any of the criteria set out in Schedule 7 of the Regulations for determining whether a sub-threshold development would be likely to have significant effects on the environment, with regard to the characteristics of the works, its location and the characteristics of potential impacts.

The proposed development would be located within an attractive upland rural area that is characterised by heathland, blanket bog and rocky outcrops, and the works would be located within an area that is covered by sensitive ecological (Comeragh Mountains SAC & pNHA) and scenic amenity designations (Vulnerable & Sensitive Landscapes). Having regard to the linear nature and scale of the proposed development, which would comprise a modest extension to an existing car park and the provision of a small number of new lay-by / passing areas along the loop road, and the noted absence of any Qualifying Interest habitats or species for the which the SAC has been designated in the vicinity of the works, and the remaining characteristics of the receiving environment which is not densely developed, I am satisfied that the proposed works would not have any significant adverse effects on population and human health, biodiversity, land, soil or water, air and climate, material assets, cultural heritage or the landscape, and the need for environmental impact assessment can, therefore, be excluded. Notwithstanding this conclusion, the Council should ensure that the NIS ecological mitigation measures are fully implemented and that the works do not take place during the bird nesting season.

7.3. The likely significant effects on a European site:

The areas addressed in this section are as follows:

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

7.4. Compliance with Articles 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.

7.5. The Natura Impact Statement

The application was accompanied by an Appropriate Assessment Screening report and Natural Impact Statement (NIS) which scientifically examined the proposed works and European sites.

The desk top studies and field surveys described the site and surrounding area and noted that the project would be located with a European site (Comeragh Mountains SAC). Details of potential connections between the proposed works and several European sites were examined (incl. Lower River SAC & River Blackwater SAC). The reports assessed the surrounding area for habitats and species of Qualifying Interest for the European sites (incl. Wet & Dry Heath) along with the relationship with the River Mahon to the immediate E which partly lies within the Comeragh Mountains SAC and which has an aquatic connection to the Mid Waterford Coast SPA to the SE. The ecological characteristics of the upland site were described. No European site QI habitats or species were recorded on or in the vicinity of the proposed works in the desk top studies or during the field surveys.

The AA Screening report described the receiving environment, proposed development and rationale for the works. It noted that the project would be located within the Comeragh Mountains SAC and identified 5 other European sites located within a 15km radius of the proposed works. It examined connectivity and characterised the possible effects of the proposed development on these sites. It concluded that significant effects could not be ruled out for the Comeragh Mountains SAC as there is potential for significant effects on the conservation objectives some of the QI habitats (incl. Dry Heath) and preparation of an NIS is required.

The NIS report also described the receiving environment, proposed development and rationale for the works. It described the Comeragh Mountains SAC, listed its QI habitats and species and described the nature of the relationship between the proposed works and the SAC. It characterised the potential effects on the European site including in-combination effects in view of the site's Conservation Objectives. The identified potential effects relate to loss of Dry Heath habitat, drainage impacts on Wet Heath and Blanket Bog habitats, and sediment / pollutant run-off into the Mahon River. Section 5.2 contains a list of mitigation measures which include habitat management and restoration, surface water management, and monitoring. The NIS

formally concluded that any residual effects, either individually or in combination with other plans and projects, have been assessed as not constituting adverse effects on the integrity of the European sites concerned. This assessment was undertaken on the basis of the available scientific information and field.

7.6. Having reviewed the NIS and the supporting documentation, I am satisfied that it provides adequate information in respect of the baseline conditions, does clearly identify the potential impacts, and does use best scientific information and knowledge, and details of mitigation measures are provided. I am satisfied that the information is sufficient to allow for appropriate assessment of the proposed development (see further analysis below).

7.7. **Appropriate Assessment**

7.8. The proposed development, which would comprise an extension to an existing car park, the creation of new and modifications to existing lay-bys located along the access loop road, associated drainage and site works, is not directly connected with or necessary to the management of any European sites in the surrounding area.

7.9. 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.

7.10. The potential likely significant impacts that could arise during the construction and operational phases of the proposed development on the European site's QI habitats and species, or SCI species are:

- Loss of or damage to QI habitats and species (incl. drainage patterns).
- Release of sediment & pollutants to ground & surface water.
- Noise and disturbance to non-situ QI/SCI species during construction.
- Introduction and/or dispersal of invasive species with resultant impacts on QI habitats and species.

Stage 1 Screening Assessment.

The 7 x European sites within the Zone of Influence (i.e the area over which an impact can have a potential effect in relation to proximity of European sites and the mobility of faunal species from further afield sites) of the proposed works and approximate separation distances are set out below.

European Site	Qualifying Interests	Distance	Link
Comeragh Mountains SAC (Site code: 001952)	Oligotrophic waters Floating River vegetation Northern Atlantic wet heaths European dry heaths Alpine & Boreal heaths Blanket bogs Siliceous scree of montane to snow levels Calcareous & Siliceous rocky slopes Slender Green Feather-moss	Within	Yes
Nire Valley Woods SAC (Site code: 000668)	Old sessile oak woods	8.5km NW	No
Lower River Suir SAC (Site code: 002137)	Atlantic & Mediterranean salt meadows Floating River vegetation Hydrophilous tall herb fringe communities Old sessile oak woods Alluvial forests & Taxus baccata woods Freshwater Pearl Mussel White-clawed Crayfish Sea, Brook & River Lamprey Twaite Shad & Salmon Otter	9.5km N (NE & NW)	No
River Blackwater SAC	Estuaries, Mudflats & sandflats Perennial vegetation of stony banks Salicornia & other annuals colonising mud and sand Atlantic & Mediterranean salt meadows Floating River vegetation Old sessile oak woods & Alluvial forests	13.5km SW	No

European Site	Qualifying Interests	Distance	Link
	Freshwater Pearl Mussel White-clawed Crayfish Sea, Brook & River Lamprey Twaite Shad & Salmon Otter & Killarney Fern		
Glendine Woods SAC (Site code: 002324)	Killarney Fern	11.5km S	No
Dungarvan Harbour SPA (Site code: 004032)	Great Crested Grebe Light-bellied Brent Goose Shelduck & Oystercatcher Red-breasted Merganser Golden Plover & Grey Plover Lapwing, Knot & Dunlin Black-tailed & Bar-tailed Godwit Curlew, Redshank & Turnstone Wetland and Waterbirds	14.5km S	No
Mid Waterford Coast SPA (Site code: 004193)	Cormorant & Peregrine Herring Gull & Chough	15.5km SE (Straight) 20km + SE (Aquatic)	Yes

Based on my examination of the NIS report and supporting information (incl. the desktop studies & field surveys), NPWS website, aerial and satellite imagery, the scale of the proposed works and nature of the likely effects, the absence of a direct connection (Nire Valley Woods SAC & Glendine Woods SAC), the absence of a direct aquatic connection or location upstream of the works (Lower River Suir SAC, River Blackwater SAC & Dungarvan Harbour SAC), the substantial separation distance and functional relationship between the proposed works and the European sites and their conservation objectives (Mid Waterford Coast SPA), and the site specific characteristics, and taken in conjunction with my assessment of the subject site and surrounding area, I conclude that a Stage 2 Appropriate Assessment is required for one of the seven European sites referred to above which I consider to be within the Zone of Influence by virtue of the project being located within this European site (Comeragh Mountains SAC).

7.11. Stage 2 Appropriate assessment:

Comeragh Mountains SAC:

The proposed development would be located within this European site.

European site description:

The Comeragh Mountains consist of a plateau of Old Red Sandstone with its edges deeply scarred by glaciation. Corries and deep valleys are cut into the E and W sides leaving a narrow central ridge. The rocks stand out as a series of terraces around the corries which house several small mountain lakes. The site has been designated for the several upland (Wet & Dry heath, Blanket bog, Rocky slopes & Scree) and aquatic habitats (Oligotrophic waters & Floating river vegetation), and one species (Slender Green Feather-moss). The site, which is traversed by several streams, also supports or provides suitable habitat for several species of bird (incl. Peregrine falcon, Hen harrier & Raven) and plant species (incl. St. Patrick's-cabbage, Dwarf willow, mosses, ferns & pondweeds). The River Mahon flows to the E of the subject site. The NPWS Site Synopsis notes that the integrity of the remaining areas of blanket bog and the general habitat diversity of the site are under threat from land use pressures such as grazing, burning, afforestation and leisure activities.

Qualifying Interest habitats and species:

This SAC is designated for its importance to a wide variety of upland and aquatic habitats and species, which are present to varying extents throughout the SAC, and the full list of QI habitats and species is set out in the table above.

It is noted from the NPWS documentation and accompanying maps (Nos. 2 to 10) that several of the QI habitats and species for the SAC are located a considerable distance from the proposed development with no aquatic connections. For this reason, combined with the modest scale of the proposed works, the specific QI site characteristics and locational requirements, the following QI habitats will be excluded from any further consideration: -

- Oligotrophic waters
- Alpine and Boreal heaths
- Siliceous scree of the montane to snow level

- Calcareous rocky slopes
- Siliceous rocky slopes
- Slender Green Feather-moss

Conservation Objectives:

1. To restore the favourable conservation condition of the habitats in Comeragh Mountains SAC (Northern Atlantic wet heaths, European dry heaths & Blanket bogs, which is defined by the following list of attributes and targets.
2. To maintain the favourable conservation condition of Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation (Floating River Vegetation) in Comeragh Mountains SAC, which is defined by the following list of attributes and targets.

Qualifying Interests, attributes & targets:

The relevant Qualifying Interests for the remaining habitats, and the applicable attributes, measures and targets are set out below.

Qualifying Interests	Attributes & Targets
Northern Atlantic wet heaths	Habitat Area (stable or increasing); Habitat Distribution (no decline); Ecosystem function (soil nutrients & pH); Community diversity (maintain variety); Vegetation composition (various species); Vegetation composition (various negative & non-native indicator species); Vegetation structure (various species); Vegetation structure (signs of browsing, disturbance & burning); Indicators of local distinctiveness (no decline).
European dry heaths	As for Wet heaths.
Blanket bogs	As for Wet & Dry heaths; plus Ecosystem function (soil nutrients, pH, peat formation & hydrology); Vegetation structure (signs of browsing, disturbance, burning, drainage & erosion).
Floating River vegetation	Habitat Area (stable or increasing); Habitat Distribution (no decline); Hydrological regime (river flow & groundwater discharge); Substratum composition; Water chemistry; Water quality; Vegetation composition; Riparian habitat (area & condition).

Potential direct effects: The proposed development would be located within a European site but it is not relevant to the maintenance of any European site. There is potential for direct effects on this European site during the **construction phase** as a result of: - localised habitat loss along with the loss of constituent species; disturbance to drainage patterns; and water pollution from the unmitigated release of fine sediments in runoff during the works and hydrocarbons by way of accidental spillages from machinery which could give rise to the contamination of surface and ground water, with resultant impacts on the attributes and targets for the QI habitats and constituent species, in the absence of mitigation. Further potential direct effects relate to the uncontrolled introduction of invasive species from works vehicles which could give rise to the colonisation of habitats by invasive species, with resultant impacts on the attributes and targets for the QI habitats and constituent species, in the absence of mitigation. There is no potential for any additional significant direct adverse effects during the **operational phase** as the proposed works comprise a modest extension to an existing long established car park and a small number of additional and modified lay-bys along the local loop road.

Potential indirect effects: As the proposed development would be located within a European site there is no potential for indirect effects on this European site during the **construction phase**. There is no potential for any additional significant indirect adverse effects during the **operational phase** as the proposed works comprise a modest extension to an existing long established car park and a small number of additional and modified lay-bys along the local loop road. The concerns raised by several of the Observers (incl. NPWS & An Taisce) in relation to the attraction of additional visitors to the wider area and further incursion into the surrounding sensitive upland habitats during the operational phase are noted. However, I am satisfied that the purpose of the proposed development is to provide for existing visitor numbers as addressed in section 7.1 (Traffic & Movement) of this report. It is also noted that the Council intend that the site and environs will form part of an overall integrated management plan for the Comeragh Mountains. This would be an appropriate forum in which to deal with potential pressures associated with any anticipated increased visitor numbers.

Mitigation measures: The NIS report contains a comprehensive list of mitigation measures which would serve to protect the SAC and its QI habitats and species from adverse effects, and these include: -

- Monitoring & appointment of Ecological Clerk of Works.
- Avoidance of sensitive habitats (Blanket Bog and Wet & Dry heath).
- Habitat restoration (Blanket Bog and Wet & Dry heath).
- Re-use of excavated soil for berms.
- Machinery & waste management.
- Buffer zones & surface water management measures.

Peatland habitats:

The site is located within an extensive peatland environment which comprises the following QI habitats which have been screened in for further assessment.

- ***Northern Atlantic wet heaths:*** the NPWS Site Synopsis notes that this habitat and its constituent species (incl. *Erica tetralix* {bog heather}) has been recorded throughout the SAC, and that it covers approximately 528ha and c.8.4% of the European site. There are extensive patches along the valley of the Mahon River, and the site and environs are located to the W of this river. NPWS Map no.3 indicates a significant level of cover on the E side of the River Mahon (c.60.1 to 80%) and a low level of cover to the W (c.0.1 to 20%), and this includes the site of the proposed works.
- ***European dry heaths:*** the NPWS Site Synopsis notes that this Annex 1 habitat and its constituent species (incl. *Calluna vulgaris* {ling heather}) has been recorded throughout the SAC, and that it covers approximately 2,094.6ha and c.33.28% of the site. NPWS Map no.4 indicates a moderate level of cover (20.1 to 40%) on the lands to the E of the proposed works which are located between the River Mahon and the loop road (incl. eastern lay-bys), and this area of Dry Heath extends further NW beyond the site of the proposed works. Map no.4 indicates a relatively low level of cover on the lands occupied by the existing car park and proposed works

(incl. car park extension & western lay-bys). However, having regard to the proximity of the site to these areas and to the scale and minimal level of detail provided in Map no. 4, the possible occurrence of this habitat and its constituent species in the vicinity of the works cannot be ruled out.

- **Blanket bogs:** the NPWS Site Synopsis notes that this habitat and its constituent species has been recorded throughout the SAC, it covers approximately 907.2ha and c.14.4% of the SAC (incl. c.838ha of active & 69.2ha of inactive blanket bog) with extensive areas to the far N of the subject site. NPWS Map no.6 indicates a low level of cover (0.1 to 20%) on the lands to the E of the proposed works which are located between the River Mahon and the loop road (& eastern lay-bys), and this area of Blanket bog extends further NW beyond the site of the proposed works. Map no.6 also indicates a relatively moderate level of cover (c.20.1 to 40%) on the lands occupied by the existing car park and the proposed works (incl. car park extension & lay-bys). Having regard to the proximity of the site to these areas and to the scale and minimal level of detail provided in Map no.6, the possible occurrence of this habitat and its constituent species in the vicinity of the works cannot be ruled out.

There may be some potential for direct effects by way of habitat loss and disturbance to drainage patterns with resultant impacts on peatland hydrology having regard to the nature of the proposed works, which would involve some site excavation and new drainage arrangements. Such works could affect sections of Dry Heath and Blanket Bog habitats and their constituent species. However, the applicant's NIS desk top and site surveys, and the NPWS and Council Heritage Officer's submissions have confirmed that none of the QI habitats or species for which the European site is designated are present within or near the footprint of the works.

Although I noted the fragmented presence of some QI Dry heath habitat constituent species (*Calluna vulgaris* {ling heather}) in the area around the car park, I did not observe any significant occurrence of peatland habitats or their constituent species in the vicinity of the works, either at the lay-bys or the area covered by the car park extension. It is noted that the surrounding area has been affected by historic and on-

going agricultural and management practices (incl. sheep grazing & burning). However, in the event that fragments of constituent species are present, it is proposed to relocate them to a suitable similar location elsewhere within the SAC.

Having regard to the nature and small scale of the proposed development, I am satisfied that following the implementation of the mitigation measures and any recommended conditions (incl. habitat avoidance & restoration, species translocation, and the control of invasive species) the proposed works would not have an adverse impact on the remaining QI peatland habitats or their constituent species and hence the Comeragh Mountains SAC, or introduce invasive species to the area during any of the works. There would be no resultant adverse effects on these QI habitats with respect to their attributes and targets (incl. Habitat Area & Distribution; Ecosystem function; Community diversity; Vegetation composition & structure; or Indicators of local distinctiveness or management).

Floating River vegetation:

The site and environs drain to the nearby River Mahon which forms part of the Comeragh Mountains SAC. The NPWS Site Synopsis notes that Floating River vegetation is present throughout the SAC river systems but that rare or threatened bryophytes are not specifically associated with rapidly moving freshwater habitats, such as this section of Mahon River. Furthermore, I did not observe the occurrence of Floating River vegetation in the vicinity or immediately downstream of the works.

Having regard to the nature and small scale of the proposed development, I am satisfied that following the implementation of the mitigation measures and any recommended conditions (incl. the management of sediments & accidental spills, and the control of invasive species) the proposed works would not have an adverse impact on water quality in the River Mahon and hence the Comeragh Mountains SAC, or introduce invasive species to the watercourse during any of the works. There would be no resultant adverse effects on this QI habitat with respect to its attributes and targets (incl. Habitat Area & Distribution, Hydrological regime, Substratum composition, Water quality, Vegetation composition/diversity, and Riparian habitat (area & condition)).

Overall conclusion: Having regard to the foregoing, it can be reasonably concluded on the basis of best scientific knowledge therefore that the proposed development will not adversely affect the integrity of the Comeragh Mountains SAC in view of the sites' Conservation Objectives.

Potential in-combination effects: Potential indirect in-combination effects relate to damage to QI habitats and constituent species because of habitat loss, disturbance to drainage patterns, accidental spillages and sediment run off during the construction works, and the poorly managed removal of or introduction of invasive species. This could give rise to habitat loss or fragmentation, pollution, contamination and colonisation with resultant impacts on constituent species diversity, water quality and drainage patterns, having regard to the various plans or projects in wider area which mainly include agricultural and recreation leisure pursuits, in the absence of mitigation. However, having regard to the implementation of the aforementioned mitigation measures, I am satisfied that there would be no adverse cumulative effects on the European site or its QI habitats and species.

Residual effects: None anticipated post mitigation.

NIS Omissions: Nothing significant noted, except for the omission of the River Blackwater SAC from the Stage 1 AA Screening exercise.

Suggested conditions: 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. Having regard to the mill related industrial heritage along the nearby River Mahon, the works should be carried out under the supervision of an archaeologist.

Conclusion: I am satisfied that the proposed development individually or in combination with other plans or projects would not adversely affect the integrity of this European site in light of its Conservation Objectives, subject to the implementation of mitigation measures outlined above.

7.12. Appropriate Assessment Conclusions:

Having regard to the foregoing 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 no. 001952 or any other European site, in view of the site's Conservation Objectives.

8.0 Recommendation

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 those 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 Government of Ireland Climate Action Plan, 2021,
- (d) the Southern Regional Economic & Spatial Strategy, 2019-2031,
- (e) the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the likely significant effects of the proposed development on a European Site,
- (f) the conservation objectives and qualifying interests for the Comeragh Mountains SAC (site code: 001952),
- (g) the policies and objectives of the Waterford City and County Development Plan 2011 to 2017 (as extended),
- (h) the nature and extent of the proposed works as set out in the application for approval,
- (i) the information submitted in relation to the potential impacts on habitats, flora and fauna, including the Natura Impact Statement, 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 Comeragh Mountains SAC (site code: 001952), 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 Sites, namely the Comeragh Mountains SAC, 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 Sites, 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 and 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 be detrimental to the visual or landscape amenities of the area, would not seriously injure the amenities of property in the vicinity, would not adversely impact on the cultural, archaeological and built heritage of the area and would not interfere with the existing land uses in the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area and it would not give rise to likely effects on the environment.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, including the Further Information received by the Board on 30th day of November 2021, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. The mitigation and monitoring measures outlined in the plans and particulars relating to the proposed development or as may be required in order to comply with the following conditions shall be implemented. Prior to the commencement of development, details of a time schedule for implementation of mitigation measures and associated monitoring shall be prepared by the local authority and placed on file and retained as part of the public record.

Reason: In the interest of protecting the environment and European Sites.

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

Reason: In the interest of protecting the European Sites and biodiversity.

4. The following nature conservation requirements shall be complied with:
 - (a) The works shall be carried out in compliance with the Inland Fisheries Ireland document “Guidelines on protection of fisheries during construction works in and adjacent to waters.”
 - (b) No vegetation removal shall take place during the period 1st March to 31st August (inclusive).

Reason: In the interest of biodiversity and nature conservation.

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 implementation of mitigation measures relating to ecology. The ecologist shall be present during repair and remediation 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 the protection of biodiversity.

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. 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. A suitably qualified archaeologist shall be appointed by the County Council to oversee the site set-up and construction of the proposed development and the archaeologist shall be present on-site during construction works.

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.

Karla Mc Bride

Senior Planning Inspector

5th January 2022