



An
Bord
Pleanála

Inspector's Report ABP-310354-21

Development	Improvement Works at Mallow Town Park
Location	Mallow Town Park, Park Road / N72, Mallow, Co. Cork, in the townlands of Mallow, Castlepark and Killetra.
Local Authority	Cork County Council
Type of application	Application for approval made under Section 177(AE) of the Planning and Development Act, 2010
Observers	Liam Hallihan
Date of site inspection	15 September 2021
Inspector	Mairead Kenny

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1.0 Introduction

Cork County Council is seeking approval from An Bord Pleanála under the provisions of section 177AE(3) to undertake improvement works in Mallow Town Park.

An Environmental Impact Assessment (EIA) screening report, a Natura Impact Statement (NIS) and a Flood Risk Assessment (FRA) are enclosed.

2.0 Proposed Development

2.1. Description of Proposed Development

The proposed development involving works to Mallow Town Park primarily concerns redevelopment of the existing facilities and provision of new facilities including car parking, multipurpose space, new skate plaza and pump track and new entrance arrangements.

The elements of the proposed development are:

- enhancement of park entrances and construction of new entrances resulting in 2 no. vehicular entrances to the park from the south of Park Road adjacent an active recreational zone where there are pitches and a proposed multipurpose area
- widening of existing paths throughout the park and of the pedestrian bridge crossing at Caherduggan / Spa Glen Stream in the eastern side of the park
- construction of new footpaths notably a new route between the river level and the elevated N20 national road
- reconfiguration and enhancement of existing playing pitches to include a new training area to the south of the GAA pitch and removal of earthen berm to the north
- retention and improvement of soccer and rugby pitches - no additional lighting proposed except at ancillary parking
- construction of multiuse events area and jogging/walking trails

- construction of 5 no. angling stands on the banks of the river (1 no. concrete accessible angling stand at the western side and 4 no. angling stands in the eastern side of the park)
- redevelopment of the existing playground to the north of Park Road to provide an enhanced play area and construction of a skate plaza
- development of a pump track to the north of the GAA pitch at the location of the existing earthen berm - to provide for use of nonpowered bikes, skateboards, roller blades and scooters
- construction of bicycle and car parking involving 96 no. permanent spaces north and west of the soccer pitch
- provision of 114 car parking spaces in a seasonal event parking area adjacent the proposed multi-event area – both the parking and the multi-event area to be within an area of reinforced grass
- 425 m long 2m wide reinforced grass path along the northern edge of Town Park between the sports pitches and Park Road
- provision of an orienteering course
- undergrounding of existing 10 kV overhead power lines
- surface water drainage measures
- fencing/gates, signage, street furniture, planting and all associated site development and landscaping works.

The proposed works are stated to be within the curtilage of a number of protected structures and within an Architectural Conservation Area (ACA) designated under the Mallow Development Plan 2010-2016, which is stated to be still in effect.

The works are within the Zone of Archaeological Notification of a number of recorded monuments.

Sections of the park are within the Blackwater (Cork / Waterford) Special Area of Conservation (SAC).

The proposed development is situated within an area defined as 'High Probability' for river flood events based on the OPW website FloodInfo.ie.

The proposed development is to be implemented on a phased basis subject to the availability of funding.

In the site description section below, I refer again to elements of the proposed development in order to put it in context with the existing features.

2.2. Accompanying Documents

2.2.1. The plans and particulars submitted with the application include:

- Preliminary Design Report
- Landscape/Planning Design Report
- EIA Screening Report
- Outline Construction and Environmental Management Plan (CEMP)
- Invasive Species Management Plan (ISMP)
- Ecological Impact Assessment Report (EclA)
- Archaeological Impact Assessment Report (AIA)
- Architectural Heritage/Designed Landscape Appraisal Report
- Flood Risk Assessment
- Appropriate Assessment Screening and Natura Impact Statement
- Application drawings.

3.0 Site Location , description and proposed development

3.1. Outside of the Cork Metropolitan area Mallow is the largest town in the county with a population of over 12,000 people. The town occupies a strategic location in terms of road and rail network and in relation to the cities of Cork and Limerick. The food industries and tourism are identified as being of importance. The proposed development site (PDS) adjoins and forms part of the Blackwater (Munster) Special Area of Conservation and Mallow Architectural Conservation Area. A flood protection scheme is in place for lands to the north of the PDS and the majority of the PDS is subject to frequent and significant flooding.

- 3.2. Historically, Mallow is stated to have developed as an important fording point for the River Blackwater with origins in the mediaeval settlement which developed around a castle built by the Anglo Normans at the north of the river. Between 1282 and the late 16th century the town was under the Earls of Desmond. In the 16th century it became an important part of the Munster plantation within an estate of 6,000 acres focused on Mallow Castle. Mallow Castle and some of the remaining estate land continue to contribute to the urban structure and amenity and cultural heritage values of the town. Mallow survived a major fire in 1642. The further development of the town in the 18th and 19th centuries focused on its market function and built on the discovery of the curative powers of its mineral waters. Spa wells developed and in 1828 a Spa House was built in the eastern side of the town. The Spa House remains in place. The current Mallow bridge is a composite of two building phases and the four northern arches survive from 1712 and the remaining are from 1856.
- 3.3. Broadly speaking the town's commercial core is separated from the river by the centre of the town park. The town centre is bounded to the west by Dairygold and to the east by Mallow Castle. The eastern side of the town contains major amenity spaces and buildings of architectural and cultural heritage importance including Spa House, Mallow Castle and Deerpark, with all buildings being located to the north / north-east of and outside the PDS. The PDS comprises Mallow Town Park and is of stated area of 23 ha and 2.4 km long and situated to the north of the river. The main body of Mallow Town Park which is the centre for active recreation lies directly south of the town centre. That area is shown on the earliest ordnance survey mapping (1844) and was known as The Long Meadow. This area has been and remains subject to regular and significant flood events. The 1844 mapping shows the lands further east beyond Mallow bridge as landscaped parkland associated with the castle, with a stated demesne of 800 acres. The main areas of passive recreational value within the park are to the east and west. The PDS may be described in three sections, the western side, the main body in the centre and the eastern side as below.
- 3.4. The western side of the site comprises lands under the railway bridge and under the N20 and a strip of riverside lands. There is a formal path along the riverside which is planted with trees in a naturalistic style. The riverside path traverses south of the Dairygold WwTP, which discharges under licence to the river at this location. A

section of the site which projects in a north-south direction comprises steeply sloping lands; a path is worn in the grass here and there is evidence of use as an informal footpath from the lower grounds at the riverside to the footpath adjacent the elevated national road. The proposed development as relevant to the western side of the park would comprise footpath widening, installation of a concrete angling stand and provision of a ramped access to connect the lower grounds to the footpath at the elevated N20, along the informal path.

- 3.5. The central part / main body of the site comprises the area previously known as The Long Meadow. This 11 ha plot may have been used as a summertime meadow for grazing when it was not in flood. The history of Long Meadow includes a battle in 1690. Over the centuries a range of sporting and recreation activities have been carried out and since 1907 the estate has been in the care of a company for sporting and amenity purposes and recently was purchased by Cork County Council. The land uses to the north include a Tesco and a Lidl supermarket and the associated car parks. This central part of the park is and will remain the focus of active recreational pursuits within Mallow Town Park. At this location are rugby, soccer and GAA pitches (3 no. in all). Park Road largely defines the northern boundary of the centre of Mallow Town Park, but the playground and skate park are at the northern side of the road separated from the remainder of the park. This central part of the park is the main focus of works including the provision of 96 car parking spaces adjacent the soccer pitch, provision of a pump track, upgrading an existing playground at the northern side of Park Road to include a new playspace and a skate park, realignment of the GAA pitch and provision of a pump track to the north of it and a training area to the south, provision of a reinforced grass area which will function as a multi-event area and as a seasonal event parking area (114 spaces). There is an existing concrete and wrought iron gate feature which adjoins the GAA pitch, and which identifies the site as Bishop Casey Park and is to be demolished as part of the proposed development.
- 3.6. Within this central part of the park existing 2m footpaths are to be widened and provision is to be made for a surface water detention feature within an area which is under grass at present. The northern boundary of this central part of the park is defined by Park Road which is stated to be subject to periodic flooding and flood defences are in place at this location. For the purposes of accessing the proposed

multi-event area and adjacent parking area a new vehicular entrance will be installed. At the north western side there will be a vehicular access to the parking proposed adjacent the existing soccer pitch. Upgrades to pedestrian access points are proposed, notably at the north-eastern side of the site at the junction of Park Road and Mallow bridge. This pedestrian access point will connect with a pedestrian crossing and ultimately with the commercial core and Mallow Castle.

- 3.7. At the time of inspection two significant projects were underway, both within or adjacent the central part of the Town Park. The most notable of these is a scheme by Irish Water involving infrastructure works to provide *inter alia* for improvements to surface water management and involving works within the river where a coffer dam was in place. This involves works adjacent Park Road and use of lands for construction purposes. The second project under way involves the construction of a cantilevered boardwalk adjacent Mallow bridge to provide a dedicated route for vulnerable users. This project is at an advanced stage.
- 3.8. The third zone of the PDS comprises the eastern side of Mallow Town Park, which is valued and utilised as a promenade area and for related passive recreation and which is known as Castle Park. This area has a natural character as the majority of lands are under grass meadow and subject to an annual mowing regime. In addition, at this location there has been a recent and extensive tree planting project which was driven by the local community and implemented in conjunction with the local authority. The backdrop to this land includes the Deer Park which contains mature trees and a historic herd of white fallow deer, which are visible in glimpsed views from the PDS. The bridge at the stream crossing will be widened and there will be some footpath widening in addition. Angling stands are to be installed.
- 3.9. Photographs which were taken by me at the time of my inspection are attached.

4.0 Planning History

5.0 Legislative and Policy Context

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

- 5.1.1. 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

- 5.2.1. 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 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 that authority.

5.3. Nature conservation designations

- 5.3.1. 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. Special Areas of Conservation (SACs) and Special Protection Area (SPAs) form part of the European Natura 2000 Network.
- 5.3.2. The Natura 2000 sites located within a 15km radius of the subject site are:
- Blackwater River (Cork / Waterford SAC (Site Code 002170)
 - Blackwater Callows SPA (Site Code 004094)
 - Kilcoman Bog SPA (Site Code 004095 SPA).

5.3.3. The Natural Heritage Areas and Proposed Natural Heritage Areas within a 15km radius of the site are:

- Awbeg Valley (Above Doneraile) pNHA (Site Code 000075)
- Awbeg Valley (Below Doneraile) pNHA (Site Code 000074)
- Awbeg Valley (Castlerock) pNHA (Site Code 001561)
- Eagle Lough pNHA (Site Code 001049)
- Ballinvonear Pond pNHA (Site Code 000012)
- Ballyhoura Mountains pNHA (Site Code 002036)
- Blackwater Valley (Killavullen) pNHA (Site Code 001080)
- Blackwater Valley (Ballincurrig Wood) pNHA (Site Code 001793)
- Kilcoman Bog pNHA (Site Code 000092).

5.4. Planning and Development Acts 2000 (as amended)

- 5.4.1. Part XAB of the Planning and Development Acts 2000-2010 sets out the requirements for the appropriate assessment of developments which could have an effect on a European site or its conservation objectives.
- 5.4.2. 177(AE) sets out the requirements for the appropriate assessment of developments carried out by or on behalf of local authorities.
- 5.4.3. 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.
- 5.4.4. 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.
- 5.4.5. 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 in the carrying out of the appropriate assessment.

- 5.4.6. 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.
- 5.4.7. Section 177AE (6) (a) states that before making a decision in respect of a proposed development the Board shall consider the NIS, any submissions or observations received and any other information relating to:
- The likely effects on the environment.
 - The likely consequences for the proper planning and sustainable development of the area.
 - The likely significant effects on a European site.

5.5. **Flood Risk Management Guidelines**

- 5.5.1.1. The guidelines include a broad assessment of the issue of flooding and sets out the the planning implications for flood zones A, B and C. Development in Flood Zone A should be avoided and/or only considered in exceptional circumstances such as city and town centres or in the case of essential infrastructure that cannot be located elsewhere and where the justification test has been applied. There is no explicit reference to car parks in the descriptions of the vulnerability class. Amenity spaces would be described as water compatible development, suitable for flood zone A.

5.6. **Development Plan**

The **draft Cork County Development plan 2021** sets out a number of policies which highlight the significance and guide the development of Mallow Town Park.

The Town Park together with Mallow Castle and Spa House Park are significant public spaces all within walking distance of the town centre. Between them these areas cover 50 ha. The overarching vision is to create a well-connected high quality amenity and tourist destination in the form of an integrated multiuse park network.

The Blackwater Amenity Corridor is described as the primary piece of multifunctional Green infrastructure in the town and considered to be of regional significance. The habitat value and ecological sensitivity of the landscape is referenced in relation to woodland and wetland habitat and specific species.

Objective MW-GR-04 is to protect and enhance the habitat, landscape, visual and amenity qualities of the River Blackwater including Town Park.

5.6.1. **Cork County Development Plan 2014 – 2020**

- 5.6.1.1. Amongst the range of nature conservation, biodiversity and environmental policy set out, objectives GI 10-1 and GI 10-2 relate to the protection of water quality in line with the Water Framework Directive and to protect and improve the quality and status of surface waters in the county. Objective GI 10-3 relates to the protection of ground and surface waters.
- 5.6.1.2. HE 2-1 relates to sites which are designated for nature conservation including European sites, Natural Heritage Areas and proposed Natural Heritage Areas. To fulfil obligations outlined with regard to these sites the Council will carry out an appropriate level of assessment in accordance with the Habitats Directive.

5.7. **Local plans**

The application documentation indicates that the Mallow Town Development Plan 2010-2016 remains in force. I have checked the local authority website and found no information to the contrary. A 2018 variation of the plan related to the vacant sites levy.

Mallow Town Development Plan 2010-2016 includes a range of relevant policies.

The PDS is located in a High Value Landscape but not governed by any scenic views or routes. The Town Park is within the 'Community / Recreational Quarter'. It is considered that the Town Park could be enhanced to provide for community and amenity uses and also functioning as a significant visual and tourist attraction.

The Blackwater is stated to provide an opportunity to create a substantial Riverside Park and the objective of lengthening the walkways is set out.

Objective EH2 is to protect and enhance the setting of the town park and develop it into an attractive amenity in line with the recommendations and findings of the commissioned study 'The Strategy for the Future Provision of Community, Social and Recreational Infrastructure in the Mallow Area'.

Objective EH1 is to protect the habitat, landscape, visual and amenity qualities of the river and its floodplains to ensure that they contribute to the environmental diversity of the area and be used for recreation and other compatible uses.

Objective EH3 and others relate to protecting the ecological integrity of European sites, tree stands and biodiversity.

Objective CR4 - protect the use of existing playing fields within the town centre.

Objective CR5 - facilitate the development of a public walkway and cycleway on the southern and northern banks of the river.

Objective ENV 1-1 - improve the provision of parks and play spaces.

Objective TAC1 - provide a slipway and fishing stands at suitable locations on the river to facilitate boating and fishing within the town.

The **Kanturk Mallow Municipal District Local Area Plan 2017** sets out figures for Mallow town and environs. The population level by 2022 is anticipated to be 20,000. The Local Area Plan sets out a strategy of growth which would ensure that new residential areas are within 20 minutes walk of the town centre or a planned neighbourhood centre. Two areas are identified for substantial residential development, one to the north-west of the town beyond the N20 and the other at the north-east.

6.0 Consultations

6.1. Prescribed Bodies

6.1.1. The application was circulated by the local authority to the following bodies:

- The Heritage Council
- An Taisce
- Irish Water
- Minister for Tourism, Culture, Arts, Gaeltacht, Sports and Media and Minister for Housing, Local Government and Heritage, c/o Development Applications Unit
Department of Culture, Heritage and the Gaeltacht
- Inland Fisheries Ireland

- Failte Ireland
- An Chomhairle Ealaíon / The Arts Council
- Transport Infrastructure Ireland
- Office of Public Works

6.1.2. A response was received from Transport Infrastructure Ireland. The issues raised are summarised as follows:

- There are a number of issues associated with the interactions of the scheme with the national road which are not addressed.
- Pedestrian access entrance number 7 to the N20 where the speed limit in excess of 50 kph applies would create pedestrian safety and construction impacts.
- Taking account of the new pedestrian access and associated path an assessment is required to demonstrate how the requirements for maintenance of the operation, capacity and safety of the N20 has been addressed. This should include analysis undertaken and mitigation measures developed to address the impacts of the proposed physical interventions on the safety of the N20 mainline, the associated infrastructure road and Town Park users.
- In addition, attention should be given to construction impacts on the national road, revision to national road signage requirements, any impacts to the road drainage scheme, TII Structures Technical Acceptance if appropriate and recommendations to ameliorate the impact on the N25 (sic) and also the safety of all road users.

6.2. Public Submission

6.2.1. One submission was received. The issues raised include:

- In principle the improvement works are welcome.
- The use of 7310 m² of valuable natural green open space in the town for 219 car parking spaces is totally unacceptable and at odds with encouraging modal shift, active travel and achieving the 10-minute town concept.

- No need for parking having regard to the quantum of parking in the immediate vicinity and the lands zoned for car parking in the draft plan.
- Pedestrian and cycle improvements to the park should be provided within the red line boundary and extended to include external access improvements, traffic calming and cycle lanes along the public road.
- Inadequate assessment of impacts of traffic generated.
- Objection to multiple crossovers and traffic crossing the path at Park Road.
- Need for EV charging points on street and disabled spaces on street and for bike parking/shelters.
- The CEMP is vague and is insufficient for assessing the impacts on the environment and it is unclear as to how conclusions are drawn in the environmental reports given the lack of detail in the CEMP.
- Inadequate consideration of the construction piling and use of angling stands, culverts and recontouring the riverbank on the environment and the SAC.
- IFI guidance for urban watercourses has not been considered.
- There is an opportunity to rethink the location of existing paths which are already too close to the river and an opportunity to establish buffer zones and new footpaths in the middle riparian zone and achieve in-stream rehabilitation and approach climate/flood risk and recreational planning as per the IFI guidelines. This would require a total redesign of the engineering led approach to this project.
- The use of bunds and stockpiling of soil on the site that floods the number of times each year would increase the sediment loading to the SAC. There is insufficient detail around construction to conclude that there would be no impacts on the pearl mussel population.
- Invasive species would need to be fully eradicated before works begin. Much of the mitigation measures focus on the roadside rather than the SAC.
- The guidelines do not list car parks as water compatible development and given the excessive quantum of such use within Zone A there are significant concerns regarding the vulnerability assessment and the conclusion that a Justification

Test is not required. The proposed development is not in compliance with the flood guidance.

- The loss of natural floodplain associated with the development arising from concrete footpaths, car park surfacing (porous asphalt and reinforced grass is not natural floodplain), unnatural contouring with 1:12 slope and flow regimes, loss of usable natural flat parkland, use of culverts in the riverbank et cetera and the cumulative impacts of a number of adjacent projects will together significantly alter the floodplain in the immediate vicinity of the site and have not been adequately assessed.
- Mallow Castle is the obvious location for events with a new car park, open space, hardstanding and a natural amphitheatre/space for events. There is no rationale for an events location and excessive parking in the flood land and this would undermine the role and importance of Mallow Castle as an events location, which is recognised in the draft development plan.
- The demolition of the iconic Bishop Casey gates reflects the lack of consultation with local people. This important visual heritage aspect of the town Park for local people should be retained in situ or relocated/reused at the main entrance.
- The mitigation proposed in the submitted ecology report suggesting no mounding of earth or disturbance near trees etc has not been complied with on site and cannot be complied with. The enclosed photographs attached show works already underway. Cumulative impacts arising from immediately adjacent projects has not been adequately considered.

7.0 Assessment

7.1. Introduction

- 7.1.1. Section 177AE of the Act requires that where an appropriate assessment is required in respect of a development which is being carried out by or on behalf of a local authority that is the planning authority, the local authority shall prepare an NIS and shall apply to the Board for approval and the provisions of Part XAB shall apply.

The Board in making a decision in respect of the proposed development shall (inter alia) consider:

- The likely effects on the environment,
- The likely consequences for the proper planning and sustainable development in the area, and
- The likely significant effects of the proposed development upon a European site.

The structure of the assessment section of this report follows those three topics.

7.2. The likely effects on the environment

The applicant's submissions include an EIA Screening Report. This concludes that there is no requirement for mandatory or sub-threshold EIA in respect of the proposed development.

There is no provision under section 177AE of the Planning and Development Act 2000, as amended, to require Environmental Impact Assessment or to carry out a formal EIA Screening Determination for a local authority project, submitted under this section of the Act. No issues have been raised by any observer in relation to EIA Screening. The application documentation includes Schedule 7A information.

I emphasise that I have taken this into account solely as background information in my consideration of the likely effects on the environment. There is no role for the Board to consider EIA in its determination on this case.

Taking into account the environmental setting and the nature of the proposed development I consider that the likely effects of the proposed development on the environment can be assessed under the following headings:

- Design and Material Assets
- Hydrology, Land and Soil
- Biodiversity
- Cultural Heritage and Landscape
- Population and Human Health
- Risk of Major Accidents and Disasters
- Cumulative Impacts

7.2.1. Design and Material Assets

- 7.2.1.1. In terms of the overall approach to the proposed development I consider it relevant to point out the neither the nature of the works or the location of the proposed upgrades and interventions constitutes a significant departure from the existing character, layout or functions of the area. The approach to the design has been to build on the existing infrastructure within the park and generally to retain the functions but upgrade the infrastructure. In this respect for example the permanent parking to serve the playing pitches is to be located at an area where there is hardcore and which is already utilised as an informal parking space. Generally works to be undertaken will be within areas devoid of significant vegetation/ecological value or are immediately adjacent to existing built features. I consider that the overall design approach is suitable and I further comment on specific elements of the proposed development below in response to observations.
- 7.2.1.2. The submission of TII raises issues relating to the proposed 3m wide ramped footpath access route. In principle I consider that the development of this feature accords with the national and development plan strategic aims with respect to increasing the use of sustainable modes of transport. Even at present despite the precipitous nature of the topography there is an informal access path which connects the lower riverside level to the footpath adjacent the N20 above. Provision of a formal route at appropriate grade as proposed would be of major benefit to residents in suburban parts of the north-west of the town, which is designated for growth. The proposed ramped access would join the national road at a point where the speed limit exceeds 50kph, which is the basis for the concerns raised by TII. Regarding the potential for conflicts between vehicular traffic and pedestrians departing the park by way of the footpath adjacent the national road at this location I consider that the design incorporates measures including a 90 degree turn and change in material which would signal the end of the route. However, I am also of the opinion that the detailed design would benefit from a road safety audit and I recommend a condition to this effect. At the riverside end of the path there may be potential for conflicts between cyclists using the ramped access from the higher level and users of the riverside path, which would also benefit from a road safety audit.
- 7.2.1.3. Amongst the matters raised in the TII's submission is a reference to signage. There is a proposal for a 4m high powder coated steel sign adjacent to the N20, which

would highlight the new entrance to the Town Park at this location. Notwithstanding that this new entrance would constitute a significant entry point to the north-west of the park for pedestrians, I am not convinced of the merits of this proposal at this location adjacent the national road but consider that the matter is best reserved for consideration under the recommended road safety audit. Regarding the construction impacts on the national road I do not consider that any significant matters are likely to arise and I am satisfied that the local authority and statutory body can engage in any operational and technical details as necessary. A CEMP incorporating a traffic management plan is recommended.

- 7.2.1.4. Regarding the matters raised by TII my overall conclusion is that relevant matters can be addressed by condition and on that basis, I am satisfied that the proposed development would not undermine the safety or efficiency of the national road or constitute a traffic hazard.
- 7.2.1.5. The concerns of an observer focus on the proposed parking and the arrangements for pedestrian and vehicle entrances to Park Road as well as the principle of retaining and widening the riverside footpaths. Having regard to the significance of this park to the town and wider region and the presence of 3 no. playing pitches and a proposed training area I do not consider that the provision of 96 car parking spaces is proposed adjacent the soccer pitch would constitute an excessive level of parking. In this respect I note that a number of the parking spaces would be reserved as accessible spaces and in addition that there is a substantial area of bicycle parking proposed. No clarity has been provided as to how the parking would be regulated but the local authority would have extensive powers in this respect. I recommend that a condition be attached to require management measures to be put in place to ensure that its use is for short-term parking in association with the Town Park.
- 7.2.1.6. I note the observer sets out a concern with respect to the assessment of the traffic impacts including in the EIA screening. This is not a commercial car park. The parking which is proposed is very much ancillary to the sports facilities and the multiuse parking zone would rarely be used. I am satisfied that more detailed information relating to the traffic impacts of the scheme is not warranted.
- 7.2.1.7. Regarding the availability of other nearby parking areas these are associated with commercial enterprises and at the opposite side of the road to the majority of the

town park facilities. The proposed 114 car parking spaces adjacent the multi-event area would be for seasonal use in association with any use of the amenity space to the west. It is not specified what purpose the multi-event zone would serve but its reservation for circuses / fairs or other regulated uses would appear to me to be reasonable in this town centre location as part of a major public amenity. I note the comments made by the observer that Mallow Castle is the appropriate location for such uses and that its function in this regard would be undermined. I disagree with this argument and do not consider that the provision of an additional multifunction amenity space is disproportionate in Mallow, which is the second largest town in Cork County. I recommend a condition that the use of car parking be strictly in association with the use of the multi-event space for occasional uses as authorised by the local authority. This condition is recommended for clarity. I note that the car park entrance contains removable bollards, which will facilitate its management as for occasional uses.

- 7.2.1.8. I note that the observer refers to the use of Park Road as a popular walking route and that this function would be undermined by the opening of vehicular entrances. The proposed development includes a new reinforced grass route which is to be provided on the park side of the boundary. I consider that this is likely to supplant use of the Park Road footpath for recreational walking. Furthermore, I consider that the overall proposals which are set out in detail relating to pedestrian entrances 1-6 will constitute a significant improvement for the users of the Park Road footpaths. In this respect I refer to the use of high-quality materials including limestone slabs and concrete pavers to define the crossing points. The vehicular entrances are similarly defined. I consider that the detailed design will emphasise pedestrian priority and is appropriate.
- 7.2.1.9. The observer refers to the need for upgrades to Park Road and the provision of various infrastructure at that location. These comments refer to lands which are outside of the scope of the current application.
- 7.2.1.10. I consider that the retention and widening of riverside footpaths is appropriate. The observer argues that the upgrade of the park presents an opportunity to remove the path to a more suitable location at a further distance from the river. In general, I consider that the removal of the existing riverside paths would in itself give rise to environmental impacts and would be unwarranted and in terms of the central part of

the scheme could detract from existing active recreational uses. I note at the eastern side of the scheme in the recently planted wood lands there is a natural gap in the trees which appears to be in use. It would be appropriate that the maintenance regime of the wild meadows at this location include the maintenance of an amenity grassland footpath, to encourage and facilitate further use of this route which is away from the river. This would provide an option for pedestrians and may benefit biodiversity. I have drafted a recommendation to this effect.

- 7.2.1.11. In conclusion in terms of the overarching design strategy, I consider that subject to the recommended conditions below that the design is appropriate. The proposed development will have a beneficial effect in terms of material assets. I consider that this is a not significant impact as the effect of the proposed development would effectively be the replacement of existing facilities.

7.2.2. Hydrology, Land and Soil

- 7.2.2.1. The entire site is subject to regular and significant flood events, the primary source of which is fluvial flooding from the Blackwater and its tributaries. Figure 5 of the Flood Risk Assessment (FRA) shows that the 10% AEP flood extent covers the entirety of the PDS and adjacent lands including Park Road. The PDS also receives surface water from existing road drainage on Park Road which can contribute to waterlogging resulting in a high risk of pluvial flooding at the site.
- 7.2.2.2. A town flood defence scheme is in place, and the boundary wall north of the site adjacent Park Road acts as a partial flood defence wall protecting the road during minor flood events. The design at the Park Road entrances have been prepared following consultation with OPW. The partial flood defence wall will maintain its function as the entrances will ramp up and down into the park as show on Figure 7 of the FRA. This measure will have no effect in flood events greater than the 1 in 10 year fluvial floods as the raised ground will continue to be subject to flooding; therefore there will be no impact as a result of this works on floodplain storage.
- 7.2.2.3. Off-site impacts are addressed further in section 7 of the FRA. This references the use of drainage measures designed to ensure that run-off from the site will not be increased compared to the existing situation. These include the use of permeable parking spaces which mimic the natural drainage process and localised drainage measures such as the soakway proposed in association with the skate park. I

present further information relating to surface water mitigation measures under the Appropriate Assessment section below. An observer disputes the effectiveness of the measures set out but has given no technical evidence to support his argument. I am satisfied that the natural drainage process and localised drainage will not be impacted by works to the active amenity spaces including the provision of parking zones.

- 7.2.2.4. An assessment is also undertaken in the FRA of various elements of the development which could impact on the conveyance of floodwater including the landscaping at Mallow Bridge, the tree planting, the widening of the pedestrian bridge and the provision of angling stands. The only identified measure which could have any impact on flood water conveyance relates to the pedestrian bridge widening. There is a marginally increased risk of trapping flood borne debris. I accept that given the small size of the bridge and its distance from vulnerable receptors the potential impact would be very low and furthermore I note that this aspect of the proposed development will require the consent of the OPW. In major events the bridge may be inundated and would have no impact on conveyance of floodwater. I am satisfied that the proposed off-site impacts relating to floodplain storage, run-off or conveyance of water are not significant.
- 7.2.2.5. The proposed development incorporates a new drainage swale between the proposed reinforced (seasonal) car parking area and Mallow Bridge. This area is currently prone to localised flood events the source of which appears to be slow drainage of high water levels in Spa Glen Stream. The measure would allow for a direct discharge to the main channel of the Blackwater allowing for the release of water after a fluvial flooding event and reducing the duration of flooding of this part of the site. The drainage swale will be planted with grass meadow and the resulting 'amphitheatre' space will be of potential value as an additional amenity space within the park.
- 7.2.2.6. In relation to the operational stage and use of the park, which is likely to be intensified as a result of the proposed development it is relevant to note that there is a forecasting and warning system in operation and that the general public will have adequate time to vacate the site in advance of a flood.

- 7.2.2.7. The observer expresses concern relating to the undertaking of works within the floodplain because of the potential for water quality effects and considers that the CEMP presented is inadequate. In relation to the potential for water quality effects the potential for inadvertent spillages and increased silt levels during construction will be subject of a range of standard mitigation procedures. These measures include the submitted preliminary Construction Environmental Management Plan (CEMP) which takes account of relevant UK guidance relating to control of pollution and good practice. All individual elements of work will be covered by full method statements and the works will be undertaken under a designated Environmental Manager. Specific measures relating to the control of silt laden run-off include the use of silt fences and suitable positioning of topsoil storage. Measures relating to management of hydrocarbons and concrete include maintenance of spill kits and designation of suitably bunded impermeable areas for storage and cleaning as well as specific measures relating to pouring of concrete. The overall timing of the project together with suitable location of stockpile areas, use of plastic sheeting in wet weather, cessation of works during extended periods of heavy rainfall and other measures are set out. I am satisfied that there are sufficient protective measures set out in the outline CEMP to indicate the direction of measures to be adopted in the final CEMP. The flood regime in the town is well understood and the nature of the project and implementation of suitable mitigation would not pose any particular challenges. I recommend a condition relating to the adoption of a final CEMP.
- 7.2.2.8. The operational phase water quality will be protected as the car park and site wide drainage design is based on a sustainable drainage design which will ensure that stormwater run-off from the PDS is at or below the current greenfield run-off rate. Specific measures which are incorporated to ensure no risk to water quality in the operation phase include the use of geotextile material under the porous asphalt surface.
- 7.2.2.9. An observer states that the proposed development is contrary to the flood risk guidelines by reason of the inclusion of car parking within Flood Zone A. Car parks are not specifically identified as water compatible development which would be acceptable in Zone A. Indeed, the guidelines are silent on appropriate locations for parking in the context of the flood risk zones. The car parking proposed is directly adjacent to amenity open space, outdoor sports and recreation which are acceptable

in Flood Zone A. In my opinion the proposed parking may be described as ancillary development. I disagree with the observers interpretation of the guidelines and I consider that the car parking does not contravene the guidelines.

- 7.2.2.10. I consider that the potential effects on land and soil are limited and not significant notwithstanding the amount of earthworks involved and the scale of the PDS. Once completed the land-use will revert to use as a public open space and no significant impacts on land and soil would result. The proposed development complies with relevant planning policies and national guidance relating to flood risk and would not undermine the existing flood defence scheme or exacerbate flooding issues and would not result in significant adverse effects in terms of water quality effects. The proposed development would not result in significant effects on land, soil or water.

7.2.3. **Biodiversity**

- 7.2.3.1. There is potential for adverse effects on the ecology of the area which I consider under this section. This section solely concerns general biodiversity and in particular the potential for impacts on habitats and species which are not qualifying interests of European sites. The submission by the applicant entitled Ecological Impact Assessment is of particular relevance. That report was compiled following studies undertaken in September 2020 and May 2021 and involved habitat mapping, bat surveys, mammal survey with focus on otter, bird surveys and survey for invasive species. In terms of the habitats and species which have been recorded in the vicinity of the proposed development site, the Ecological Impact Assessment report notes a number of species of high value.
- 7.2.3.2. Pygmy shrew are likely to be present within the site and red squirrel have been recorded in the vicinity of the Town Park. Due to the habitats within the site both white fallow deer and Sika deer are likely to occur within the proposed development site. No signs of badger were recorded during site surveys. The scheme will result in an increase in tree planting and on maturation of these areas it is stated that habitat suitability for mammals in general will be enhanced. I accept this conclusion.
- 7.2.3.3. Regarding the observer's suggestion that the main riverside footpaths at the south of the park should be relocated further inland away from the river rather than widened, I have earlier recommended that this suggestion should not be favourably considered by the Board. Following inspection, I am satisfied that the existing footpath is not

unduly close to the river and also that this element of the project would not give rise to a need for removal of trees or vegetation. The existing footpaths for the most part is set in amenity grasslands and in my opinion there would be no significant ecological impacts by reason of the construction works or the use of the paths. The removal of 4 no. poplar trees will be required for the installation of the ramped access to the N20, which I consider is not significant and is acceptable.

7.2.3.4. I am satisfied also that the installation of 5 no. angling stands would not give rise to significant disturbance to mammals or birds and at the location of these features has been selected to minimise impact on existing vegetation. I note the observer's objection in this respect. The proposed precast concrete stand at the western side of the park will be within an area of open grass. The access to the other angling stands will consist of a 900 mm wide step area leading down to a decked platform made of lightweight recycled plastic structure and will be located in the openings of existing riverbank vegetation.

7.2.3.5. The September 2020 and May 2021 bat surveys both recorded high levels of bat activity along the riparian vegetation and over the river channel. In section 11.1 of the EclA it is reported that the lighting plan for the proposed development site includes lighting of the two parking areas and at the existing soccer pitch. The lighting will be directed downwards to minimise light spillage and the areas to be lit are over 30m from riparian woodland. On this basis and taking into account the additional planting of native trees, hedgerows and wildflower meadows as described in the Landscape Planning Design Report it is reported that there will be an enhancement of the value of the site as a foraging and roosting site for bats. The report and drawings prepared by Varming Consulting Engineers confirm the lighting as described. The rugby pitch is presently fitted with light stands and there is no reference to these being removed or altered in the application documentation. It is clearly stated that there is to be no additional lighting installed at or close to the riverside footpaths. To ensure that there is no conflict between the internal documentation I recommend that the extent of lighting permitted be subject of a planning condition to clarify that new lighting will be restricted to the soccer pitch parking. Subject to a requirement of this nature, I consider that the proposed development will not have an adverse effect on mammals.

- 7.2.3.6. I note that the observer refers to ongoing works within the crown spread of trees which I am satisfied are not part of the current scheme, which has not commenced and therefore not relevant to this application.
- 7.2.3.7. A number of red listed birds of conservation concern in Ireland have been recorded in the general area and species within the proposed development footprint which were recorded during habitat surveys include red listed swift and grey wagtail. One kingfisher (Annex 1) was recorded but no nests were recorded within the proposed study area. As reported in the EclA there will inevitably be short-term impacts on birds due to noise and disturbance during construction. I accept the conclusions of the report including with respect to kingfisher and consider that it may be concluded that the birds present will continue to use habitats within the PDS following construction. In this respect again I refer to the biodiversity enhancements and tree planting which will secure additional habitat and to the minimal disturbance which is proposed at the riverside.
- 7.2.3.8. Water quality and flow changes could occur, which could impact aquatic ecology. I have concluded above that the proposed development will not result in significant water quality effects during the construction or operation phases subject to the implementation of the mitigation measures outlined by the applicant. The proposed development would not affect aquatic ecology.
- 7.2.3.9. The invasive species which are present within the PDS are Japanese knotweed, Himalayan balsam and Old Man's Beard, which could give rise to habitat deterioration if allowed to spread in an uncontrolled fashion. The application documentation includes an Invasive Species Management Plan (ISMP). Japanese knotweed is the primary concern due to its presence close to proposed angling stand 4; the management proposals include use of trial pits to determine the extent of contamination taking into account that the roots of the species can spread 7m from the parent plant. The management measures which are set out take into account the fact that the site is prone to flooding which is relevant to the timing of the application of chemicals. Himalayan balsam is evident throughout the site along by the riverside including close to the locations of the proposed angling stands. This is easily identified and mainly will be addressed by removal by hand at an appropriate time of year. Old man's beard will be removed by cutting and chemicals until eradicated to the satisfaction of the appointed ecologist. There is also potential for other invasive

species to be introduced, which will be addressed by the construction phase hygiene protocols described. I am satisfied that the ISMP sets out a range of management options for the species which are present and to prevent importation of additional species.

7.2.3.10. To conclude, I am satisfied that the proposed development would not give rise to significant effects on biodiversity.

7.2.4. Cultural Heritage and Landscape

7.2.4.1. The context and setting for the proposed development include the location of the site within the archaeological zone of notification of Mallow Castle, which is a national monument and of a number of recorded monuments which are listed under the RMP. Amongst the recorded monuments is the extensive area designated as Mallow Historic town and Mallow Bridge which is also a protected structure. The archaeological impact assessment undertaken was based on nonintrusive assessment involving background research and geophysical survey and walkover study. I have provided a summary of the key phases and the evolution of the town in my site description above.

7.2.4.2. Regarding potential archaeological impacts including uncovering of heretofore unknown archaeological remains the results of the geophysical and walkover surveys as interpreted in the AIA are:

- Some linear responses beneath the GAA pitch and a possible pit feature beneath the soccer pitch in the main body of the park are of most interest in terms of the results of geophysical survey of the 8.6 ha. No large or recognisable archaeological site types were identified in the geophysical survey. There is low to moderate potential for impact on unknown archaeology that is present in this requires mitigation.
- The development works at the GAA and soccer pitches may involve drainage or ground conditioning which could have archaeological impacts and requires mitigation.
- During the walkover surveys no surface features or indicators of potential subsurface archaeological sites or material were noted.

- At the location of the concrete angling stand and the proposed surface water detention feature and swale and grass overflow car park and multipurpose events area there has in the past been significant previous impacts. Mitigation will be undertaken.
- At the location of the playground to the north of the national road there has been extensive ground disturbance due to the existing playground which lessons potential for survival of archaeological material.
- Any riverbank/bed disturbance relating to installation of the angling stands and the works proposed for the pedestrian bridge involving ground disturbance in the vicinity of the watercourse will require mitigation to avoid impacts on potential archaeology.

7.2.4.3. In summary therefore it is submitted in the AIA that the PDS has been subject of limited habitation but significant disturbance. Archaeological mitigation measures are set out in section 8. Noteworthy is the recommendation to avoid the possible pit like feature beneath the soccer pitch and the area where there are linear responses beneath the GAA pitch. It is recommended that impacts due to drainage or soil/ground conditioning be designed in this context and if that is not possible that a brief programme of test trenching be undertaken. Other than that specific issue the recommended mitigations are of fairly standard nature and in my opinion are appropriate.

7.2.4.4. The applicant states that the area of the historic estate west of the bridge is of lesser importance in terms of the historic landscape design of Mallow Castle. In terms of the setting of the old town and the amenity of Mallow Castle complex the development is considered to enhance the setting of these features. I consider that this conclusion is reasonable although the impact is likely to be minimal. In general I consider that it may be concluded that the development due to its nature, involving minimal permanent visual changes, would not adversely impact on protected structures, the architectural conservation areas or architectural heritage generally.

7.2.4.5. The observer states that the demolition of the Bishop Casey gates reflects the lack of consultation with local people in designing the project. He states that this is an important visual heritage feature for local people and should be retained in situ or at least relocated/reused at the main entrance. I have examined the NIAH, and the

development plan and I note that there is no ascribed protection for this structure. Under the Landscape / Planning Design Report and as shown on drawing 6615-378 the Bishop Casey Remembrance Plaque is to be retained and to be re-erected at Park Road at entrance 4, which is the main entrance point to the park from the town centre and the castle. I consider that the structure is of very limited architectural or historic interest. I have no objection to the demolition of the concrete structure and gates.

- 7.2.4.6. In conclusion I consider that the detailed design of the scheme resulted from a process which had due regard to minimising archaeological impacts and responded appropriately to the cultural heritage of the area. The development is acceptable in terms of cultural heritage and landscape. There is no likelihood of significant effects on cultural heritage including archaeological or architectural resources. I recommend the attachment of a standard condition in the context of the recommendations of the archaeological assessment and condition 1 below.

7.2.5. Population and Human Health

- 7.2.5.1. Having regard to the nature of the proposed works involved in the proposed development and the separation from residential properties, I do not consider that there would be significant impacts on human beings in the construction phase by reason of air emissions, noise, traffic congestion or visual effects. The nature of the development and its scale and the short duration of works is such that it can be concluded that there would be no likely significant effects on air and climate. The development will be regulated by the implementation of a CEMP. Once completed the proposed development will constitute enhanced facilities which will be available to the resident and visiting population. Any effects resulting would be likely to be positive including indirect effects on human health and the local economy but would not be significant as the amenities are generally in existence. I conclude that there would be no significant effects on population and human health as a result of construction and operation of the proposed development.
- 7.2.5.2. As set out earlier my conclusion is that the development will not give rise to adverse effects on hydrology, biodiversity or cultural heritage. As such the potential for related adverse indirect effects can be ruled out.

7.2.5.3. I conclude that the proposed development is likely to result in long-term direct and indirect benefits to the local economy, the resident population and to human health. Any adverse effects would be short-term in nature and amenable to suitable mitigation.

7.2.6. Risk of major accidents and disasters

7.2.6.1. The nature and scale of the proposed development and the type of construction methodology to be deployed does not result in any likelihood of major accidents or disasters. There is not a high risk of accidents subject to compliance with the normal health and safety and other best practice measures. I conclude that there would be no risk of major accidents and disasters.

7.2.7. Cumulative impacts

7.2.7.1. I have reviewed the planning history and the applicant's submission in terms of the potential for cumulative impacts. In the preliminary examination report submitted the applicant states that the proposed development does not give rise to cumulation with other developments. Having regard to the nature of the project I consider that the potential impacts which could give rise to in combination effects would relate to effects on water. For there to be potential for significant in combination effects there would have to be a temporal overlap in effects. The ongoing major works by Irish Water including in river works utilising a coffer dam are at an advanced stage. A planned resurfacing of Park Road would be very short duration and not likely to result in significant effects on water. Other consented developments in the general vicinity of the park are not of major scale. All of the permitted development and the existing facilities such as the Dairygold discharge are required to comply with strict environmental guidance, condition and/or licence. I conclude that there is no potential for significant in-combination effects.

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

7.3.1.1. The strategic location of the town relative to major cities has been mentioned earlier as has the historic and future potential for increased tourism to support the town's economy. The proposed development affects an area which is designated as A High

Value Landscape and which enhances the active and passive recreational resources benefiting the town's resident and visiting populations. I consider that the nature of the proposed development consolidates the amenity values of this area for active recreation and is noteworthy for broadening the range of activities and increasing their accessibility. I am satisfied that the proposed development does not undermine the designation of the area as a High Value Landscape . I consider that on completion the river valley corridor would retain its character and function as a green corridor for recreational and amenity uses. The development and enhancement of recreational facilities and amenity spaces and open space supports objectives set down in the statutory planning policy documents.

- 7.3.1.2. The nature and scale of the development are such that they can be undertaken without undermining the ecological values of the area and there is minimal loss of trees and very low likelihood of significant ecological or water quality effects.
- 7.3.1.3. The proposed development would not undermine the town's flood defence system or give rise to excessive run-off from the site or affect the drainage associated with the national road.
- 7.3.1.4. Subject to mitigation as set out there will be no adverse effects on cultural heritage.
- 7.3.1.5. On completion I consider that the development will benefit the town through the enhancement of material assets which will aid its promotion as a tourism destination for which its potential has been recognised in the RSES. Direct benefits to local residents utilising the enhanced public amenity will accrue.
- 7.3.1.6. I conclude that the likely consequences for the proper planning and sustainable development of the area are largely positive and that the upgrade works would be in compliance with the development plan objectives. The proposed development would improve the standard of and access to the Town Park and would be consistent with the prevailing and emerging planning policies and be in accordance with the proper planning and sustainable development of the areas.

7.4. Appropriate Assessment

- 7.4.1. The requirements of Article 6(3) as related to appropriate assessment of a project under part XAB, sections 177U and S 177AE of the Planning and Development Act

2000 (as amended) are considered fully in this section. The areas addressed in this section are as follows:

- Compliance with Article 6(3) of the EU Habitats Directive
- Screening the need for appropriate assessment
- The Natura Impact Statement and associated documents
- Appropriate assessment of implications of the proposed development on the integrity each European site

7.4.2. Compliance with Article 6(3) of the EU Habitats Directive

7.4.3. 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 before consent can be given.

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

7.4.5. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.

7.4.6. Background on the Application

7.4.7. The applicant has submitted a report entitled *Report in Support of Appropriate Assessment (AA) Screening and Natura Impact Statement (NIS)* which was prepared by DixonBrosnan Environmental Consultants and is dated May 2021.

7.4.8. Section 4 of the report deals with Screening for Appropriate Assessment. I consider that this in line with current best practice guidance. It provides a description of the proposed development and identifies European sites within a possible zone of influence of the development. I am satisfied that the report was prepared by a suitably qualified and experienced specialist with relevant expertise.

7.4.9. The applicant's AA Screening Report concluded in summary that:

On the basis of objective information and in view of best scientific knowledge, the possibility of significant effects from the proposed development on a European site, the Blackwater River (Cork/Waterford) SAC, cannot be ruled out and therefore an Appropriate Assessment is required.

7.4.10. Having reviewed the documents and submissions, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

7.4.11. The Stage 2 Appropriate Assessment is contained in the remainder of the report entitled *Report in Support of Appropriate Assessment (AA) Screening and Natura Impact Statement (NIS)*. Section 5 examines the qualifying interest potentially impacted by the proposed development. It is considered that in the absence of mitigation measures potential impacts could theoretically arise in relation to Atlantic salmon, Brook lamprey, sea lamprey, river lamprey, otter, freshwater pearl mussel and watercourses of plain to montane levels with the *Ranunculus fluitans* and *Callitriche-Batrachium* vegetation. Impacts on White clawed crayfish are also possible although less likely. No significant potential risk to the remaining qualifying species and habitats is identified.

7.4.12. Section 6 assesses potential impacts which could arise as a result of habitat loss, water quality, noise and disturbance, impacts from the spread of invasive species and biosecurity risks and in combination impacts.

7.4.13. Section 7 deals with mitigation measures which relate to construction phase mitigation, water quality protection, management of hydrocarbons and concrete, lighting, noise and habitat protection. Specific measures are also set out with respect to otter and control of invasive species.

7.4.14. Section 9 sets out the following Appropriate Assessment Conclusion:

- It has been objectively concluded following an examination, analysis and evaluation of the relevant information, including in particular the nature of the predicted effects from the proposed development and with the implementation of the mitigation measures proposed, that the construction, operation and decommissioning of the proposed development will not adversely affect (directly or indirectly) the integrity of any European site, either alone or in combination with any other plans or projects. There is no reasonable scientific doubt in relation to this conclusion. The competent authority will make the final determination in this regard.

7.4.15. **Screening for Appropriate Assessment**

7.4.16. The proposed development is as described earlier in this report and in the application drawings. The development involves works within the Blackwater River SAC in lands which are also within the floodplain of the river. The application documentation is rich in detail relating to surface water drainage measures and salient aspects are summarised in section 3 of the *Report in Support of Appropriate Assessment Screening and NIS*.

7.4.17. In terms of the aspects of the proposed development that could adversely affect the conservation objectives of European sites the following information is relevant ;

- A number of elements of the proposed development involve working in the SAC and close to the river's edge including the installation of angling stands, the widening of footpaths and a footbridge, the improvement of the rugby pitch and a small part of the following – the reinforced multi-event area, the reinforced grass seasonal parking area, the surface water detention and the works involving the relocation of the GAA pitch including removal of mounding and the development of a training area.
- There is potential for impacts on habitats and species which are qualifying interests of the SAC and for ex situ effects on birds.

- The overall development may be considered to be of significant scale having regard to the area involved and there is potential for surface water effects in the construction phase and on completion.
- The proposed porous asphalt car park surface is outside the defined European site and is designed to minimise disturbance and is stated to use an area which is already used for parking and is partly hardcore surfaces. The design involves measures to trap and break down hydrocarbons and to clean and filter surface water. Drainage is to a proposed adjacent soakway within the PDS.
- The development in its entirety, where relevant, is based on a SUDS drainage design which infiltrates and attenuates the surface water drainage on site and ensures runoff is at or below greenfield rates. There will be no increase in flooding or in the overall discharge.
- Regarding the proposed skate park proposed to the north of Park Road, this will not result in a significant reduction in impermeable tarmac over the existing playground areas and no additional storm water run-off will be generated. The proposed pump track of porous asphalt surface is designed to minimise excavations and will not create overall flood displacement.
- The soccer, rugby and GAA pitch and the seasonal event and car parking areas will all be naturally free draining grass surfaces with equal or better porosity than the existing grass surfaces according to the applicant submission.
- The surface water drainage design includes installation of a swale drainage basin adjacent to Mallow Bridge to which surface water from the park and from part of Park Road will drain and be retained in periods of high river flood. When not in flood this will form a dry grass amphitheatre type area with grass meadow planting.
- The widening of the existing bridge towards the western side of Castle Park will involve pouring of reinforced concrete abutments (one on each side of the river) and placing of precast concrete bridge beams on these abutments. The bridge surface will be completed with a poured finished screed. This method of construction is described as allowing for construction without disturbing

existing trunk watermain which is contained within the existing bridge deck. It is stated that bridge abutments will be set back from the river to ensure no debris enters.

- The construction of 4 no. angling stands will be at the location of existing openings of riverbank vegetation and will comprise grassed areas made good with geotextile protection matting which will be top soiled and seeded with an appropriate grass/wildflower mix which will be selected in consultation with the project ecologist. At the western side of the site an accessible angling stand formed of precast concrete slabs supported on screw piles and cantilevered reinforced ground beams will be installed. This is stated to minimise excavation and works along the river embankment.
- The development is planned to be implemented on a phased basis.
- The application documentation includes a silt management plan which is described in section 3.0 of the Civil Engineering Planning Report and Design Basis document. This also sets out the surface water drainage strategy for the proposed development. A construction strategy for the bridge widening and angling stands is described.
- The silt management plan/environmental protection and mitigation measures is described as a preliminary Construction Environmental Management Plan. The full CEMP will be prepared prior to execution of the works. Amongst the commitments in the preliminary CEMP is the designation of an Environmental Manager who will be responsible for adherence to CIRIA guidelines on the control of pollution from construction sites. Individual elements of work shall be covered by full method statements. The environmental protection and mitigation measures include the use of silt traps and silt fences, dampening of fill material to prevent airborne dust and suitable measures relating to topsoil and subsoil storage and maintenance of the pre-existing hydrological regime.
- Regarding suitability of the surface water drainage I note that the basis for the calculations includes site investigations which are reported in the application documentation.

7.4.18. Having regard to the above I consider that it may be concluded that the proposed development could give rise to significant effects on qualifying interests of the European sites due to the following:

- loss of habitat
- impacts from noise and disturbance
- impacts on water quality
- spread of invasive species
- in combination impacts.

7.4.19. I consider that the proposed development is not directly connected with or necessary to the management of any European site. Based on a source-pathway-receptor model and having regard to the potential associated impacts as a result of the proposed development which could give rise to significant effects, the European sites which are within the zone of influence of the proposed development , their qualifying interests and the relative location are set out in the table below:

European site (SAC/SPA)	Qualifying Interests	Location
Blackwater River (Cork / Waterford SAC (Site Code 002170)	Estuaries [1130] Mudflats and sandflats not covered by seawater at low tide [1140] Perennial vegetation of stony banks [1220] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330] Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] Water courses of plain to montane levels with the <i>Ranunculum fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation [3260]	Proposed development site overlaps with this European site.

European site (SAC/SPA)	Qualifying Interests	Location
	<p>Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</p> <p>Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0]</p> <p>Margaritifera margaritifera (Freshwater Pearl Mussel) [1029]</p> <p>Austropotamobius pallipes (White-clawed Crayfish) [1092]</p> <p>Petromyzon marinus (Sea Lamprey) [1095]</p> <p>Lampetra planeri (Brook Lamprey) [1096]</p> <p>Lampetra fluviatilis (River Lamprey) [1099]</p> <p>Alosa fallax fallax (Twaite Shad) [1103]</p> <p>Salmo salar (Salmon) [1106]</p> <p>Lutra lutra (Otter) [1355]</p> <p>Trichomanes speciosum (Killarney Fern) [1421]</p>	
Kilcoman Bog SPA (Site Code 004095 SPA)	<p>Whooper Swan (Cygnus cygnus) [A038]</p> <p>Teal (Anas crecca) [A052]</p> <p>Shoveler (Anas clypeata) [A056]</p> <p>Wetland and Waterbirds [A999]</p>	c. 12 km to the north
Blackwater Callows SPA (Site Code 004094)	<p>Whooper Swan (Cygnus cygnus) [A038]</p> <p>Wigeon (Anas penelope) [A050]</p> <p>Teal (Anas crecca) [A052]</p> <p>Black-tailed Godwit (Limosa limosa) [A156]</p> <p>Wetland and Waterbirds [A999]</p>	26 km to the east.

7.4.20. The inclusion of Blackwater River (Cork/Waterford) SAC in the table above is related to the undertaking of works on a large site within the SAC. There is potential for direct impacts, for disturbance and reductions in water quality which could impact qualifying species and habitats.

7.4.21. Relating to the other two European sites theoretically there is potential that qualifying species from these SPAs could forage on or near the proposed development site or could be impacted by disturbance in ex-situ habitats during construction or operation. The sites are a considerable distance from the PDS and the PDS does not support large numbers of the species which are special conservation interests for the European sites. The subject lands are presently and would continue to be subject of significant levels of disturbance. The lands do not contain any habitats which would be unique or highly valuable in terms of their interests to the relevant bird species. Once the development is completed any usage of the site by birds which are special conservation interests of the SPAs could resume. It may be concluded therefore that there are likely significant impacts on special conservation interests.

7.4.22. Having regard to the applicant's submissions and the information available on the NPWS website, the nature and scale of the proposed development and likely effects, separation distances and pathways between the proposed works and the European site and its conservation objectives, I consider that a Stage 2 Appropriate Assessment is required for the following European site:

- River Blackwater (Cork / Waterford) SAC (Site Code 002170)

and that the following sites can be excluded from further consideration:

- Kilcolman Bog SPA (Site Code 004095)
- Blackwater Callows SPA (Site Code 004094).

7.4.23. No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise.

7.4.24. **Stage 2 Appropriate Assessment**

7.4.25. Following the screening process, it has been determined that Appropriate Assessment is required as it cannot be excluded on the basis of objective information that the proposed Mallow Town Park Improvement Works individually or

in-combination with other plans or projects will have a significant effect on the River Blackwater (Cork / Waterford) SAC (Site Code 002170).

7.4.26. The NIS examines and assess potential adverse effects of the proposed development on this European Site. I consider that the information supplied is adequate. It is clear that the NIS was prepared in line with current best practice and utilising appropriate expertise. It relies on the detailed information presented in relation to the nature of the development and the detail of the works in particular the surface water drainage proposals. I consider that there has been adequate examination of the site in terms of the potential for direct or indirect impacts on qualifying interests. The NIS therefore contains a comprehensive assessment of potential pathways and effects.

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

7.4.28. The following is a summary of the objective scientific assessment of the implications of the project on the qualifying interest features of the European sites using the best scientific knowledge in the field. All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are considered and assessed.

7.4.29. In the foregoing I have regard to relevant guidance including the publication of DoEHLG (2009), Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities. Department of the Environment, Heritage and Local Government, National Parks and Wildlife Service. Dublin and the document of EC (2002), Assessment of Plans and Projects significantly affecting Natura 2000 sites. Methodological Guidance on the provisions of Article 6(3) and 6(4) of the Habitats Directive 92/43/EC.

7.5. **European Sites**

7.5.1. **River Blackwater (Cork / Waterford) SAC**

7.5.2. The site-specific conservation objective for River Blackwater (Cork / Waterford) SAC (Site Code 002170) is to maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been

selected which are listed in the earlier table and which are defined by a range of attributes and targets for each of the qualifying interests. Full details of the conservation objectives for the SAC are set out in the publication of NPWS of 31 July 2012 (Version 1.0).

7.5.3. This is a large site covering an extensive area and a diverse range of habitats and species. There is potential for impact on qualifying species and habitats by way of loss of habitat, disturbance and/or reductions in water quality during the construction or operational phases and from spread of invasive species.

7.5.4. The NIS describes the results of habitat mapping of terrestrial and aquatic habitats and describes the surveys for qualifying interest species within the PDS, which overlaps with the European site. I take this information into account in my assessment of the conservation objectives for the qualifying interests that could be affected.

7.5.5. The following qualifying interests are located over 50 km downstream of the proposed development site and no impact on these habitats is predicted given the distance and potential dilution:

- Estuaries [1130]
- Mudflats and sandflats not covered by seawater at low tide [1140]
- Perennial vegetation of stony banks [1220]
- Salicornia and other annuals colonising mud and sand [1310]
- Atlantic salt meadows (*Glauco-Puccinellietalia maritima*) [1330]
- Mediterranean salt meadows (*Juncetalia maritimi*) [1410]

and therefore significant effects on the above qualifying interests can be excluded without further consideration.

7.5.6. As described in table 6 of the NIS the habitats present within the PDS are not connected to Annex I habitats, the exception being two areas of FW2 Lowland/depositing river habitat which has links to the Annex I habitat Watercourses of plain to montane levels with the *Ranunculion fluitantis* and *Callitriche-Batrachion* vegetation [3260]. It is considered that the construction works on or adjacent to the river could potentially result in loss or deterioration of this qualifying interest and

there is potential for invasive species impacts arising from the proposed development. Significant effects on the qualifying interest Watercourses of plain to montane levels with the *Ranunculus fluitans* and *Callitriche-Batrachium* vegetation [3260] cannot be excluded without further consideration.

- 7.5.7. Following surveys of the woodlands within the PDS it has been determined that the two qualifying interests Old sessile oak woods and Alluvial forests are not within the PDS and therefore there is no potential for direct effects due to habitat loss. Given the distance to the nearest alluvial forests and the dilution within the river there is no likelihood of indirect impacts. Significant effects on the qualifying interest Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles [91A0] and Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alnus-Padion*, *Alnus incanae*, *Salix albae*) [91E0] can be excluded.
- 7.5.8. The River Blackwater (Munster) is the largest freshwater pearl mussel catchment in Ireland and is ranked 24 out of the 27 for the status of its FPM SAC population in Ireland. The Blackwater FPM population is in unfavourable conservation status and fails to meet all five environmental quality objectives. The population is believed to be composed entirely of aged adults and there is no evidence of juvenile recruitment. The conservation targets for sustainable mussel populations emphasise the maintenance of the riverbed structure in a condition suitable to breed the next generation. An aquatic survey of the Blackwater at Mallow, which was carried out in 2018 concluded that the habitat was unsuitable for both adult FPM and juvenile FPM recruitment due to heavy siltation, unsuitable and unstable substrata and eutrophication and only one live FPM was found. The NIS in summary states that the species could occur downstream of the PDS but given the population declines there are likely to be no more than a few individuals. Significant effects on the qualifying interest *Margaritifera margaritifera* (Freshwater Pearl Mussel) [1029] cannot be excluded without further consideration.
- 7.5.9. White-clawed Crayfish has been recorded at locations 4km upstream of Mallow town Park and downstream of the confluence of the Awbeg and Blackwater – the Awbeg is a stronghold for the species and the junction of the two rivers is 14 km (straight-line measurement) downstream of Mallow. There is no evidence of White-clawed Crayfish within or in close proximity to the proposed works and it is considered improbable that the species would be present. However, surveys suggest that the

range of the species is expanding within the Blackwater. Based on the precautionary principle the NIS assumes that this species will be present in the works area at the time of construction. The species could be impacted by water quality effects and in addition there is potential for spread of crayfish plague related to the use of the proposed angling stands. Significant effects on the qualifying interest *Austropotamobius pallipes* (White-clawed Crayfish) [1092] cannot be excluded without further consideration.

7.5.10. The qualifying interests of this site include sea lamprey, brook lamprey and river lamprey all of which inhabit and/or migrate through freshwater and could be impacted by habitat loss or water quality. In general the distribution of the species would be limited by upstream barriers. The weirs which are downstream of Mallow are probably an impediment preventing large-scale spawning of sea lamprey and river lamprey, which is not considered to occur within the works area. The 2018 aquatic survey in the vicinity of the site did identify suitable habitat for Brook lamprey, river lamprey and sea lamprey. Spawning of sea lamprey in the vicinity of Mallow Castle has however been recorded and there are other potential spawning habitats in the vicinity of the PDS. Good habitat in particular is present upstream of Mallow bridge. River lamprey may only pass by Mallow during flood conditions and one survey which is reported in the NIS recorded the species primarily in locations significantly downstream of the town. Juvenile river and brook lamprey have been recorded in the vicinity of the PDS. Significant effects on the qualifying interests *Petromyzon marinus* (Sea Lamprey) [1095], *Lampetra planeri* (Brook Lamprey) [1096] and *Lampetra fluviatilis* (River Lamprey) [1099] cannot be excluded without further consideration.

7.5.11. The Blackwater is one of the most important and prolific salmon rivers in Ireland and the main channel is a designated salmonid river. Recent surveys upstream and downstream of Mallow recorded salmon at every site. In addition, there are spawning and nursery habitats throughout the area surveyed by IFI which encompassed locations 9 km downstream of the town. Significant effects on the qualifying interest *Salmo salar* (Salmon) [1106] cannot be excluded without further consideration.

7.5.12. Surveys undertaken determined no holts or signs of otter within 150m of the proposed works. Other recent surveys undertaken in 2019 for the Mallow sewerage scheme recorded otter spraints on the western side of Mallow town bridge within the

PDS and at locations on the southern bank of the river and an otter holt was located at the southern side of the river. Disturbance levels on the southern bank of the river are lower which is stated to explain the greater prevalence of signs of otter at this location. Noise and disturbance effects in the construction period could potentially disturb the qualifying interest species otter, which may forage or breed within the PDS. The possibility of direct impacts on otter holts which might be constructed in the interim period has to be considered. In the context of the existing types of activity in the absence of holts it is considered that the construction and operation, including the installation of angling stands by the method described would not result in significant disruption of otter foraging or commuting behaviour. Indirect effects related to impacts on prey availability are possible. Significant effects on the qualifying interest *Lutra lutra* (Otter) [1355] cannot be excluded without further consideration.

7.5.13. Twaite Shad spend their adult life at sea or in estuaries. They spawn in freshwater in early summer and are known to occur in the river Blackwater but the spawning area at Cappoquin is a considerable distance from the site and the species do not occur in proximity to the proposed development. Significant effects on the qualifying interest *Alosa fallax fallax* (Twaite Shad) [1103] can be excluded without further consideration.

7.5.14. Killarney fern has very specific habitat requirements which are not found in this part of the river channel and the species does not occur in proximity to the PDS. Significant effects on the qualifying interest *Trichomanes speciosum* (Killarney Fern) [1421] can be excluded without further consideration.

7.5.15. Based on the above it may be concluded that the qualifying interests which could be impacted by the proposed development are Atlantic salmon, brook lamprey, sea lamprey, river lamprey, otter, white clawed crayfish, freshwater pearl mussel and Watercourses of plain to montane levels with the *Ranunculus fluitantis* and *Callitriche-Batrachion* vegetation.

7.5.16. I am satisfied that the identified impacts set out in section 6 are relevant and sufficient to the consideration of the effects on these qualifying interests and I continue with the assessment of potential impacts on a themed basis under those headings.

7.5.17. Tables 15 and 16 in the NIS summarise the attributes, measures and targets adopted as part of the site-specific conservation interests for the species and habitats.

Potential loss of habitat

7.5.18. As discussed earlier there will be no loss of terrestrial habitats which are listed as qualifying interests and no direct impact or indirect impacts on alluvial forests and oak sessile oak woods. Edge of river habitats where there is overhanging vegetation and reduced flows are important habitats for qualifying species within the SAC as they provide cover for fish, invertebrates and otter. The construction of angling stands may give rise to a need for some reduction in the crowns of trees but no riparian vegetation will be impacted. There is very limited tree removal proposed and no loss of riparian vegetation and therefore there will be no impact on Brook lamprey, sea lamprey, river lamprey, Atlantic salmon, White clawed crayfish, freshwater Pearl mussel and otter as a result of loss of habitat.

Impacts on water quality during construction

7.5.19. No aquatic habitats which are listed on Annex I of the Habitats Directive which are qualifying interests for the SAC are located within the works area. The works do not affect the main channel of the river. The proposed development including the widening of the pedestrian bridge over the Spa Glen Stream and the works involved in the positioning of the angling stands will not involve instream works or loss of aquatic habitat. There will be no impact on brook lamprey, sea lamprey, river lamprey, Atlantic salmon, white clawed crayfish, freshwater pearl mussel and otter as a result but there is potential for water quality impacts, which could affect aquatic habitats and dependent species. Increased silt levels and inadvertent spillages could have immediate and long-term adverse effects on brook lamprey, sea lamprey, river lamprey, Atlantic salmon, white clawed crayfish, freshwater pearl mussel and otter, due to reduction in prey availability. As described earlier the design of the significant elements of this scheme have been formulated with due consideration to minimising earth movement during construction by selection of appropriate levels. The construction of the development would be regulated by a range of mitigation measures in the construction phase including the employment of good construction management practices, adherence to CIRIA guidance, preparation and execution of

a CEMP and engagement of an environmental manager. Section 7.2 of the NIS sets out the main measures relating to protection of water quality and section 7.3 deals with the management of hydrocarbons and concrete in the construction phase. I am satisfied that these measures are sufficiently described and detailed for the purposes of this planning application and that the nature of the measures are well understood and the likelihood of successful implementation is very high. On that basis I consider that impacts on water quality during construction would not be significant and that this potential impact pathway would not undermine the conservation objectives relating to brook lamprey, sea lamprey, river lamprey, Atlantic salmon, white clawed crayfish, freshwater pearl mussel, otter and Watercourses of plain to montane levels with the *Ranunculus fluitans* and *Callitriche-Batrachion* vegetation.

Impacts on water quality during operational phase

- 7.5.20. Once completed there is potential for operational phase water quality impacts which could affect aquatic habitats and dependent species including in the event of hydrocarbon build-up at car parks or in the event that the hydrological regime was significantly altered. As described earlier the design of the significant elements of the scheme have taken into account the long-term site drainage with a view to ensuring that chemical contaminants can be managed and that there are no residual impacts on the hydrological regime of the river. The car park and site wide drainage design ensures that surface water will be infiltrated and attenuated so that the run-off is at or below the current greenfield rate. The achievement of this outcome relies on a number of detailed design measures which are included as part of the proposed development and which have been described earlier including the use of porous asphalt surfaces. The reinstatement of the sports pitches with grass surfaces formed on gravel and sand is an aid natural drainage. The measures which respond to the flooding on site include the dry grass amphitheatre which will also operate as a swale drainage basis and be located to the east of Mallow bridge. Other measures are presented in addition. I am satisfied that these measures are sufficiently detailed and appropriately designed and that the proposed development in the construction and operation phase would not pose a risk to local water quality or aquatic ecology. It can therefore be concluded that the proposed development would not undermine the conservation objectives for brook lamprey, sea lamprey, river lamprey, Atlantic salmon, white clawed crayfish, freshwater pearl mussel or otter Watercourses of

plain to montane levels with the *Ranunculus fluitans* and *Callitriche-Batrachium* vegetation.

Spread of invasive species

7.5.21. Japanese knotweed and Himalayan balsam have been recorded within the PDS.

There are two stands of Japanese knotweed, one at the location of angling stand 4 and Himalayan balsam (which is widely distributed throughout the study area) is located also at angling stands 2, 3 and 5 and close to the footbridge. Another potentially medium impact listed species Old Man's Beard was recorded along the Spa Glen Stream. Crayfish plague could potentially be spread as a result of angling. There is also potential for effects arising from the potential import of invasive species during the construction phase.

7.5.22. The application documents include an Invasive Species Management Plan which is presented as a separate report and which is relied upon and referenced in the NIS. The adoption of management measures to control and prevent the spread of terrestrial invasive species will be undertaken and will ensure the further spread of the species does not occur. Specific management options for Japanese knotweed include transport of any infested material under licence from NPWS for disposal at a suitably licensed site and implementation of site hygiene protocols to prevent contaminated material being brought to site. The control of Himalayan balsam will involve hand pulling and a two-year control programme. Stockpiling of potentially contaminated soil will not be within 20 m of any watercourse or flood zone. Amongst the other measures set out in the ISMP there is discussion of suitable ways of treating and applying chemicals, which takes into account the potential for flooding and the resultant risk of spread of this species and the implications for the application of herbicides and for the final disposal of Japanese knotweed rhizomes. Measures to deal with Old Man's Beard during construction involving the application of chemicals and other management are presented. The measures to prevent the spread of crayfish plague include the erection of signage at the angling stands requiring anglers to adopt a Check, Clean, Dry protocol. The signage will provide further advice to anglers to ensure that their actions do not result in adverse effects on White clawed crayfish.

7.5.23. I consider that the ISMP suitably targets the relevant species taking into account the risks of spread and the location of the site within the flood zone and I am satisfied that it provides the basis for resolution of existing issues and avoidance of new problems. The report allows for further development of the ISMP and I consider that this is appropriate having regard in particular to the difficulties that may be encountered in the installation of angling stand 4. Subject to the implementation of the ISMP I am satisfied that this potential impact pathway would not undermine the conservation objectives relating to white clawed crayfish or Watercourses of plain to montane levels with the *Ranunculus fluitans* and *Callitriche-Batrachium* vegetation or any other qualifying interests.

Noise and disturbance impacts

7.5.24. Noise, vibration and lighting could give rise to disturbance effects in the construction and operational period which could potentially affect otter. It is considered that as there are no instream works there is no potential for noise and disturbance effects on other qualifying interests. In general, apart from their breeding and resting sites otters are not considered to be sensitive to noise and light impacts during daylight hours as the species is nocturnal. Amongst the construction phase mitigation measures set out with respect to lighting or details to avoid light overspill on the riparian woodland and river zone and that works will primarily take place during hours of daylight. The nature of the works is such that no significant sources of noise are likely and in this respect the use of low noise and vibration piling systems is proposed. Adherence to best practice measures in BS 5228 is also highlighted. Operational lighting at the parking areas and existing playing pitch will be designed to minimise light spillage and no lighting is proposed for the paths in the vicinity of the river or the angling stands. I am satisfied that the range of measures set out are sufficient to ensure that there would be no disturbance effects to otters during the construction or operation periods. The proposed development would not undermine the conservation objectives relating to otter or any other qualifying interest.

Potential in-combination effects on the European Sites

7.5.25. In table 17 of the NIS there is a list of developments near the site which are considered to have potential for in combination effects. I have reviewed the information provided and considered the recent planning history relating to lands in

the vicinity of the site. I note the extensive list of existing and permitted developments and I would highlight the following:

- The IPPC licensed facilities discharging to the river upstream of the site, which are Dairygold, Micam, Road Binders, ALPS Electric Ireland and Newmarket Creameries Co-op. Discharges will not give rise to any long-term in combination impacts due to the governance of these discharges by strict limits.
- Registered quarries (12 no.) on the river include licensed discharges under the Water Pollution Act. The long-term in combination impact would be anticipated to be negligible.
- WWTP discharges are required to meet water quality standards and therefore the long-term in combination impact would be predicted to be negligible.
- Mallow sewerage scheme upgrade by Irish Water involving removal of combined sewer overflows from the network and alteration of the treatment plant to provide for increased capacity. This was permitted by Cork County Council in January 2020. Work on this scheme is ongoing.
- Dairygold wastewater treatment plant upgrade permitted in December 2020 by Cork County Council under reference 207001.
- Various public realm and infrastructure upgrades at Spa house/Tipp O'Neill Park were permitted under Part 8 and which are well separated from the proposed development. Future resurfacing of Park Road, which will be a minor project relatively and of short duration.

7.5.26. In the absence of suitable controls and measures there is the possibility that the construction and/or operation phases of the above developments could give rise to in combination effects related to water quality. The governing consents including licenses and permissions have been formulated to impose stricter limits and meet water quality standards and ensure implementation of good practice standard construction environmental measures. On that basis and given adherence to the relevant consents and implementation of best practice construction no significant in combination effects on the qualifying interests of the Blackwater River (Cork/Waterford) SAC are likely.

7.5.27. Appropriate Assessment Conclusion

7.5.28. I consider it reasonable to conclude on the basis of the information on the file, which I consider is 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 River Blackwater (Cork / Waterford) SAC (Site Code 002170), or any other European site, in view of their Conservation Objectives.

8.0 Recommendation

8.1. I recommend that the Board approve the proposed development subject to the reasons and considerations below and subject to the conditions set out.

9.0 Reasons and Considerations

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

- (a) the EU Habitats Directive (92/43/EEC),
- (b) the European Union (Birds and Natural Habitats) Regulations 2011-2015,
- (c) the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the likely significant effects of the proposed development on a European Site,
- (d) the conservation objectives, qualifying interests and special conservation interests for the River Blackwater (Cork / Waterford) SAC (Site Code 002170)
- (e) the policies and objectives of the Cork County Development Plan, 2014-2020,
- (f) the policies and objectives of the Mallow Development Plan, 2010-2016,
- (g) the nature and extent of the proposed works,
- (h) the information submitted in relation to the potential impacts on habitats, flora and fauna, including the Natura Impact Statement,
- (i) the submission and observation received in relation to the proposed development, and

- (j) the report and recommendation of the person appointed by the Board to make a report and recommendation on the matter.

9.2. Appropriate Assessment

- 9.2.1. The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the River Blackwater (Cork / Waterford) SAC (Site Code 002170) is the only European Site in respect of which the proposed development has the potential to have a significant effect.
- 9.2.2. The Board considered the Natura Impact Statement and associated documentation submitted with the application for approval, the mitigation measures contained therein, the submissions and observations on file and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed development for the affected European Site, namely the River Blackwater (Cork / Waterford) SAC (Site Code 002170) in view of the site's conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment. In completing the appropriate assessment, the Board considered, in particular, the following:
 - i. the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
 - ii. the mitigation measures which are included as part of the current proposal, and
 - iii. the conservation objectives for the European Site.
- 9.2.3. In completing the appropriate assessment, the Board accepted and adopted the screening and the appropriate assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Site, having regard to the site's conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Site, in view of the site's conservation objectives.

9.3. Proper Planning and Sustainable Development/Likely effects on the environment

- 9.3.1. 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 or road network in the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions.
Where any mitigation measures set out in the Natura Impact Statement or any conditions of approval require further details to be prepared by or on behalf of the local authority, these details shall be placed on the file and retained as part of the public record.

Reason: In the interest of clarity and the proper planning and sustainable development of the area and to ensure the protection of the environment.

2. The mitigation and monitoring measures outlined in the plans and particulars relating to the proposed development, shall be implemented in full or as may be required in order to comply with the following conditions.

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, the protection of European Sites and biodiversity.

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), including a Construction Traffic Management Plan and 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 environment and in the interest of traffic safety.

4. Prior to the commencement of development, the local authority, or any agent acting on its behalf, shall arrange for the preparation of a road safety audit within the meaning of the relevant TII guidance. This shall assess the construction and operational impacts of the proposed ramped pathway connection from the river level to the elevated N20 and the associated sign.

Prior to the commencement of development of this ramped pathway, the road safety audit report and the response of the local authority shall be placed on file and retained as part of the public record.

Reason: In the interest of traffic safety.

5. Car parking adjacent the soccer pitch shall be managed to ensure that it is used in accordance with the use of the town park as a recreational space. Parking associated with the multi-event area shall be available for use only in associated with events at that area.

Reason: To prevent an excess of supply of car parking and promote sustainable modes of travel.

6. Prior to the commencement of development, the local authority, or any agent acting on its behalf, shall arrange for a review and finalisation of the Invasive Species Management Plan.

Prior to the commencement of any development including set up works the final Invasive Species Management Plan shall be placed on file and retained as part of the public record.

Reason: In the interest of biodiversity.

7. 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.

8. A suitably qualified ecologist shall be retained by the local authority to oversee the site clearance and construction of the proposed development. The ecologist shall have full access to the site as required and shall oversee the implementation of mitigation measures arising from the updated ISMP and which are set out in the NIS.

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 biodiversity and the protection of European sites.

9. The maintenance regime associated with the wildflower meadow and neighbourhood forest at Castle Park shall include regular mowing to provide a grass lawn pathway along desire lines through the meadow.

Reason: To convenience pedestrians and in the interests of biodiversity.

10. New public lighting shall be restricted to the parking area to be developed to the north and west of the soccer pitch.

Reason: In the interest of clarity and to protect biodiversity.

11. 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.

Mairead Kenny
Senior Planning Inspector

19 October 2021