



An  
Bord  
Pleanála

## Inspector's Report ABP-310427-21

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<b>Development</b>	Removal of vegetated sand and gravel deposits from the Stradbally River at Ballymanus Bridge.
<b>Location</b>	Ballymanus Bridge, Stradbally. Co Laois
<b>Local Authority</b>	Laois Co. Council
<b>Type of Application</b>	Application for approval made under Section 177(AE) of the Planning and Development Act, 2000 (local authority development requiring appropriate assessment)
<b>Prescribed Bodies</b>	Department of Housing, Local Government and Heritage.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	July 7 <sup>th</sup> , 2021.
<b>Inspector</b>	Breda Gannon

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## 1.0 Introduction

- 1.1. Laois County Council is seeking approval from An Bord Pleanála to undertake the removal of vegetated sand and gravel deposits from the Stradbally River which lies within the River Barrow and River Nore SAC (Site code: 002162), which is a designated European site. Ballyprior Grassland SAC (Site code: 002256) lies c. 6Km southwest of the proposed development. A Natura Impact Statement (NIS) and application under Section 177AE was lodged by the Local Authority on the basis of the proposed development's likely significant effect on European sites.
- 1.2. Section 177AE of the Planning and Development Act 2000 (as amended), requires that where an appropriate assessment is required in respect of development by a local authority, the authority shall prepare an NIS and the development shall not be carried out unless the Board has approved the development with or without modifications. Furthermore, Section 177V of the Planning and Development Act, 2000 (as amended), requires that the appropriate assessment shall include a determination by the Board as to whether or not the proposed development would adversely affect the integrity of a European site and the appropriate assessment shall be carried out by the Board before consent is given for the proposed development.

## 2.0 Proposed Development

- 2.1. It is proposed to carry out the removal of gravel and silt deposits at 5 no. locations in the Stradbally River adjacent to Ballymanus Bridge. The accumulations of gravel, silt and herbaceous material form islands in the watercourse. The works will be carried out using a 360 degree long-reach steel tracked excavator, which will operate from the bank of the river. There will be no access to the river channel by machinery. All excavated material will be deposited on the river banks on the existing historical embankments, as this practice has been carried out at this location in the past.
- 2.2. Access to the site will be along the L7951 road along the south river bank. No removal of riparian or bankside vegetation will be required to facilitate access to the embankment immediately upstream of the bridge. It is anticipated that the works will take 1-2 days to complete.

### 3.0 Site and Location

- 3.1. The site is located northeast of Stradbally in Co. Laois and comprises a stretch of the Stradbally River located between Ballymanus Bridge to the east and Derrybrock Bridge to the west. The Stradbally River flows in a north-east direction until it joins the River Barrow. This section of the river is heavily vegetated and areas of the banks are enclosed with trees/hedgerows.
- 3.2. The area is rural in character with isolated dwellings and farm holdings. The closest settlement is Stradbally to the southwest which provides a range of services, for the local community. The village of Vicarstown to the northeast provides amenities associated with the Grand Canal.

### 4.0 Planning History

- 4.1. No details of any relevant planning history relevant to the site or its environs have been forwarded by the planning authority.

### 5.0 Legislative and Policy Context

- 5.1. **The EU Habitats Directive (92/43/EEC):** This Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) and 6(4) require an appropriate assessment of the likely significant effects of a proposed development on its own and in combination with other plans and projects which may have an effect on a European Site (SAC or SPA).
- 5.2. **European Communities (Birds and Natural Habitats) Regulations 2011:** These Regulations consolidate the European Communities (Natural Habitats) Regulations 1997 to 2005 and the European Communities (Birds and Natural Habitats) (Control of Recreational Activities) Regulations 2010, as well as addressing transposition failures identified in CJEU judgements. The Regulations in particular require in Reg 42(21) that where an appropriate assessment has already been carried out by a 'first' public authority for the same project (under a separate code of legislation) then a 'second' public authority considering that project for appropriate assessment under its own code of legislation is required to take account of the appropriate assessment of the first authority.

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

5.4. European sites located in proximity to the subject site include:

- River Barrow and River Nore SAC (Site code 002162)
- Ballyprior Grassland SAC (Site code 002256).

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

- 177(AE) sets out the requirements for the appropriate assessment of developments carried out by or on behalf of local authorities.
- Section 177(AE) (1) requires a local authority to prepare, or cause to be prepared, a Natura Impact Statement in respect of the proposed development.
- Section 177(AE) (2) states that a proposed development in respect of which an appropriate assessment is required shall not be carried out unless the Board has approved it with, or, without modifications.
- Section 177(AE) (3) states that where a Natura impact assessment has been prepared pursuant to subsection (1), the local authority shall apply to the Board for approval and the provisions of Part XAB shall apply to the carrying out of the appropriate assessment.
- Section 177(V) (3) states that a competent authority shall give consent for a proposed development only after having determined that the proposed development shall not adversely affect the integrity of a European site.

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

## 5.6. Laois County Development Plan

The operative development plan is the Laois County Development Plan 2017-2023. The site is located in a rural area and outside the development boundary identified in the settlement plan for Stradbally.

Section 7.12 of the Plan seeks to protect European sites including SAC's and SPA's (Policy NH9).

Section 7.16 of the development plan seeks to protect riparian zones from inappropriate development. It includes the following policies.

NH33 – Ensure that no development including clearance and storage of materials takes place within a minimum distance of 10-15m from each bank of any river, stream or watercourse.

NH35 – Work with State Agencies, landowners, local communities and other relevant groups to protect and manage inland waters, river corridors and their floodplains from degradation and damage, and to recognise and promote them as natural assets

## 6.0 The Natura Impact Statement

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

- 6.2. The NIS describes the elements of the development (alone or in combination with other projects and plans) that are likely to give rise to significant effects on the European sites. Potential significant effects are set out, as well as an assessment of their effect and the mitigation measures that are to be introduced to avoid, reduce or remedy the adverse effects on the integrity of the European sites.
- 6.3. The conclusion reached in the NIS is that subject to best practice and the full implementation of the recommended mitigation measures, the proposed development either on its own, or, in combination with other plans or projects would not result in adverse effects on the integrity of the designated sites and their qualifying interests.

## 7.0 Consultations

7.1. The application was circulated to the following bodies:

- An Taisce
- Arts Council
- Inland Fisheries Ireland
- National Parks and Wildlife Service
- Office of Public Works
- The Heritage Council
- Failte Ireland
- Environmental Protection Agency
- Waterways Ireland
- Department of Agriculture
- Department of the Environment.

A submission was received from the Department of Housing, Local Government and Heritage (DAU).

7.2. **Department of Housing Heritage and the Gaeltacht:** The DAU raised no objection to the proposed development and made the following recommendations:

- That the mitigation measures specify the exact location of the downstream Sedimat (e.g., whether it will be at 50m or 100m (or both)).
- The locations of the chemical/fuel and oil store mentioned in Mitigation No 11 be clearly specified.
- The location of the vehicle storage area be specified for the site.
- The location of biosecurity protocol no. 4 (washing of vehicles and disposal of water) be specified for this site.

## 8.0 **Assessment**

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

- 8.1. I consider that the proposed development is acceptable in principle. The removal of vegetated sand and gravel deposits with the watercourse will improve its overall environmental condition with positive outcomes for both biodiversity and hydraulic capacity.

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

- 8.2. The proposed development will be restricted to the river channel and other than matters relating to potential impacts on water quality and Appropriate Assessment which are considered in more detail below, there is limited potential for significant effects on other environmental media (population/human health, air/climate, land, soil, landscape, cultural heritage, material assets).

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

- 8.3. The areas addressed in this section are as follows:
- Compliance with Articles 6(3) of the EU Habitats Directive
  - Screening the need for Appropriate Assessment
  - The Natura Impact Statement
  - Appropriate Assessment



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

- 8.4. The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site.
- 8.5. The proposed development is not directly connected to or necessary to the management of any European site and is therefore subject to the provisions of Article 6(3)

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

- 8.6. The first test of Article 6(3) is to establish if the proposed development could result in likely significant effects to a European site. This is considered Stage 1 of the appropriate assessment process i.e., screening. The screening stage is intended to be a preliminary examination. If the possibility of significant effects cannot be excluded on the basis of objective information, without extensive investigation or the application of mitigation, a plan or project should be considered to have a likely significant effect and Appropriate Assessment carried out.
- 8.7. The applicant carried out an appropriate assessment screening exercise, which is contained in the Natura Impact Statement submitted with the application. The screening report identifies two European sites within the zone of influence of the proposed development, the River Barrow and River Nore SAC (Site code 002162) and Ballyprior Grasslands SAC (Site code 002256).
- 8.8. Ballyprior grasslands is located c 6km to the south-west of the site and is designated for one habitat *Orchid-rich Calcareous Grassland* which is listed on Annex 1 of the E.U Habitats Directive and is a priority habitat. Potential effects on Ballyprior Grasslands SAC were excluded due the lack of connectivity between the development site and the European site.
- 8.9. The site is within the River Barrow and River Nore SAC (Site Code 002162). The potential for significant effects on the qualifying interests of the River Barrow and

River Nore SAC is identified via the mobilisation of silt and sediment during the works

8.10. Based on my examination of the NIS report and supporting information, the NPWS website, aerial and satellite imagery, the scale of the proposed development and likely effects, separation distances and functional relationship between the proposed works and the European sites, their conservation objectives and taken in conjunction with my assessment of the subject site and the surrounding area, I would conclude that a Stage 2 Appropriate Assessment is required for the River Barrow and River Nore SAC (Site code 002162) as the possibility of significant effects cannot be ruled out.

8.11. Ballyprior Grasslands SAC (Site code: 002256) can be screened out for further assessment because of the scale of the proposed works, the nature of the Conservation Objectives, Qualifying Interests, the separation distance and the lack of a substantive linkage between the proposed works and the European site.

It is therefore reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, the proposed development, individually or in combination with other plans or projects would not be likely to have significant effects on Ballyprior Grasslands SAC (Site code:002256) in view of the site's conservation objectives and Appropriate Assessment is not therefore required for this European site. No measures designed or intended to avoid or reduce any harmful effects on a European Site have been relied upon in this screening exercise.

### **Natura Impact Statement**

8.12. The Stage 1 Screening Assessment concluded that a Stage 2 Appropriate Assessment (NIS) was required as significant effects on The River Barrow and River Nore SAC could not be ruled out. The NIS outlined the methodology used for assessing potential impacts on the habitats and species within the River Barrow and River Nore SAC that have the potential to be affected by the proposed development. It predicted the potential impacts for these sites and their conservation objectives, it suggested mitigation measures, assessed in-combination effects with other plans and projects and it identified any residual effects on the European site and its conservation objectives.

- 8.13. The NIS was informed by the following studies, surveys and consultations:
- A desk top study.
  - An examination of aerial photography, on line mapping systems and recognised databases (NPWS, National Biodiversity Centre, EPA, IFI)
  - An ecological walkover survey of the proposal site and its surroundings.
- 8.14. The report concluded that, subject to the implementation of best practice and the recommended mitigation measures, the proposed development would not individually, or, in combination with other plans or projects adversely affect the integrity of any European site.
- 8.15. Having reviewed the NIS and the supporting documentation, I am satisfied that it provides adequate information in respect of the baseline conditions, does clearly identify the potential impacts, and does use best scientific information and knowledge. Details of mitigation measures are provided and they are summarised in Section 6.3 of the NIS. I am satisfied that the information is sufficient to allow for appropriate assessment of the proposed development (see further analysis below).

**Stage 2 - Appropriate Assessment**

- 8.16. The AA Screening report concluded that it is not possible to rule out the potential for significant effects on the River Barrow and River Nore SAC (Site code 002162) and that a Stage 2 Appropriate Assessment (NIS) was required. The qualifying interests of the SAC are listed below, with those likely to be impacted by the works highlighted in bold.

European site (SAC/SPA)	Qualifying Interests	Within Zone of Influence
River Barrow and River Nore SAC (Site code: 002162)	<ul style="list-style-type: none"> <li>• Estuaries</li> <li>• Mudflats &amp; Sandflats</li> <li>• Reefs</li> <li>• <i>Salornica</i> mud</li> <li>• Atlantic salt meadows</li> <li>• Mediterranean salt meadows</li> <li>• <b>Floating river vegetation</b></li> <li>• European dry heaths</li> </ul>	Yes. Works will take place within the Stradbally River and within the SAC

European site (SAC/SPA)	Qualifying Interests	Within Zone of Influence
	<ul style="list-style-type: none"> <li>• Hydrophilous tall herb communities</li> <li>• Petrifying springs*</li> <li>• Old sessile oak woods</li> <li>• Alluvial forests*</li> <li>• Desmoulin's Whorl Snail</li> <li>• Freshwater Pear Mussel</li> <li>• <b>White-clawed Crayfish</b></li> <li>• <b>Sea Lamprey</b></li> <li>• <b>Brook Lamprey</b></li> <li>• <b>River Lamprey</b></li> <li>• Twaite Shad</li> <li>• <b>Salmon</b></li> <li>• <b>Otter</b></li> <li>• Killarney Fern</li> <li>• Nore Pearl Mussel</li> </ul>	

\*Priority habitat

### River Barrow and River Nore SAC (Site code: 002162)

- 8.17. The site consists of the freshwater stretches of the Barrow and Nore River catchments as far upstream as the Slieve Bloom Mountains, and also includes the tidal elements and estuary as far downstream as Creadun Head in Waterford. The Stradbally River is one of the larger tributaries.
- 8.18. The site is of considerable conservation significance for the occurrence of good examples of habitats and of populations of plant and animal species that are listed on Annexes 1 and 11 of the EU Habitats Directive. Annex 11 animal species include Freshwater Pearl Mussel, White-clawed Crayfish, Salmon, Twaite Shad, three lamprey species, Desmoulin's Whorl Snail and Otter. This is the only site in the world for the hard water form of the Freshwater Peral Mussel (limited to a 10km stretch of the River Nore) and one of only a handful of spawning grounds in the country for Twaite Shad. The freshwater stretches of the River Nore main channel is a designated salmonid river.

- 8.19. The main threats to the site and current damaging activities include high inputs of nutrients into the river system from agricultural run-off and several sewage plants overgrazing in woodland areas and non-invasive species.
- 8.20. Site specific conservation objectives have been published for the site with the overall objective being to maintain or restore the favourable conservation condition of the Annex 1 habitat(s) and/or Annex 11 species for which the site is selected.

**Appropriate Assessment of the implications of the proposed development on the River Barrow and River Nore SAC (Site code:002162)**

- 8.21. The following is an objective assessment of the implications of the project on the relevant conservation objectives of the River Barrow and River Nore SAC (Site code: 002162). All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are examined and assessed.
- 8.22. The proposed development involves the removal of vegetated deposits (5 no.) within the river channel, which is part of the SAC. The works within the river would be limited to the removal of the upper layers of vegetated material and there would be no removal of deposits below water level or excavations of the river bed. The works would be carried out entirely from the river banks.
- 8.23. The works have the potential for direct effects on habitats (loss/fragmentation) and species (injury/mortality) for which the site is selected. There is also potential for indirect effects on habitats and species, through a deterioration in water quality. The NIS considers the potential for effects on each of the qualifying interests and the rationale for screening in/out from significant effects (Table 5-2).
- 8.24. The majority of the habitats for which the site is selected will not be affected by the proposed development. These include estuarine/marine habitats (*estuaries, mudflats & sandflats, Salornica mud, Atlantic salt meadows and Mediterranean salt meadows*) which are at a considerable remove from the site. Other habitats are also screened out due to lack of ecological connectivity, distance and lack of presence within/adjacent to the site (*European dry heaths, Hydrophilious tall herb communities, Petrifying Spings, Alluvial forests, Old sessile oak woods, Killarney Fern*). The proposed development would not result in any direct or indirect effects on

these qualifying habitats. No habitat resembling the qualifying interests of the SAC was identified during the site survey.

- 8.25. The NIS concludes that likely significant effects are uncertain in the case of the one habitat (*Floating River Vegetation*), which while not recorded in the immediate vicinity of the site, may be present downstream.
- 8.26. With regard to species, effects on *Desmoulins Whorl Snail* are screened out as they occur a considerable distance downstream and the habitats and hydrological conditions that occur in the vicinity of the site are unsuitable for the species. Nore Pearl Mussel is confined to the River Nore and Freshwater Pearl Mussel has not been recorded on the Stradbally River. It does occur a significant distance downstream and is not considered to be within the zone of influence of the proposed works. Twaite Shad is an anadromous species with adult fish migrating from saltwater to spawn in freshwater rivers. Due to the location of the main spawning ground in the lower reaches of the River Barrow, this species is not considered to be within the zone of influence of the proposed development. Information on protected species was obtained from IFI and National Biodiversity Centre records. Fish species encountered in the Stradbally catchment included Salmon, Lamprey species and White-clawed crayfish.
- 8.27. The NIS therefore concludes that likely significant effects are uncertain in the case of the one habitat (*Floating River Vegetation*) and 6 no. species (*White-clawed Crayfish, Sea, Brook and River Lamprey, Salmon and Otter*) arising from a potential deterioration in water quality.
- 8.28. Floating River Vegetation –the NPWS Site Synopsis for the SAC states that floating river vegetation is well represented in the River Barrow and many of its tributaries but the full distribution of the habitat is not currently known. It has the potential to be impacted by a deterioration in water quality arising from the mobilisation of silt and sediments from the works. It was not identified in the field surveys as present in the area of the river which will be impacted during the works. The Conservation Objective is to maintain its favourable conservation condition.

White-clawed Crayfish – There are records of White-clawed Crayfish within the Stradbally River and it is dependent on good water quality and substrate within the river channel. It has the potential to be impacted by a mobilisation of silt/sediment

associated with the works. The Conservation Objective is to maintain the favourable condition of the species.

- 8.29. Sea, Brook and River Lamprey and Salmon – are mobile species using different areas within the SAC. Brook and River Lamprey have been recorded in the Stradbally River and Sea Lamprey occur further downstream. Salmon has also been recorded in the river, upstream at Inch Bridge, which is also noted to contain suitable spawning and nursery habitat. There is potential for these species to be impacted by the mobilisation of silt and sediment associated with the works. The Conservation Objective is to restore the favourable condition of each of these species.
- 8.30. Otter - the site survey did not reveal any sign of otter activity but it is considered that the Stradbally River would provide suitable foraging, commuting and holting habitat. There is potential for indirect effects on otter due to a reduction in prey sources associated with any deterioration in water quality. There is also potential for disturbance associated with noise during construction. The Conservation Objective is to restore the favourable conservation condition of the species.
- 8.31. No machinery will access the channel and there will be no removal of material below the water level or excavations of the river bed. No direct impacts on any of the qualifying habitats or species for which the site is selected are anticipated. The main impacts associated with the proposed development are the potential release of silt/sediment/nutrients and hydrocarbons within the watercourse during the works.
- 8.32. I would point out to the Board that an aquatic survey was not conducted which would yield better baseline information. However, the precautionary approach is adopted as reflected in the proposed mitigation measures. The river channel in the location of the proposed works is heavily vegetated which would not provide suitable habitat for any of these species. The works reflect the historic maintenance practices that would have occurred in the river channel to reduce the build up of sediment and improve hydraulic capacity. I note that the DAU have raised no objection to the development subject to certain matters to be agreed. I consider that these matters can be adequately addressed by condition.

#### **Mitigation measures during the works**

- 8.33. A suite of mitigation measures are proposed to mitigate potential impacts which include the following:

- Works will be carried out between July 1<sup>st</sup> to September 30<sup>th</sup> inclusive.
- No works shall take place during high river flows or prior to forecasts of heavy rain.
- Works shall take place in daylight hours only.
- Site staff will be informed of best practice methodologies to be employed regarding the protection of aquatic habitats and the sensitivity of the River Barrow and River Nore SAC.
- Prior to commencement of works, sedimats will be placed immediately downstream of the works area. A second set of sedimats will be placed approximately a further 50-100m downstream of the works area.
- No machinery shall enter the river as part of the works, which will be undertaken from the riverbank using a long reach excavator.
- There will be no removal of material below the water level and no excavation of the riverbed.
- Material removed from the river will be placed on the south bank during dry weather conditions and when no heavy rainfall is anticipated. It will be placed back from the river's edge with a buffer of natural river vegetation maintained between the placed spoil material and the river channel. When the works are complete, the spoil material will be covered with hessian material if there is a change in the ten-day forecast for heavy rain,
- Chemicals, fuel and oil stores will be located on an impervious base within a secured bund, provided with 110% storage capacity. Biodegradable oils and fuels only will be used.
- Standard best practice mitigation will be employed to prevent leakage of hydrocarbons, including the placing of drip trays underneath standing machinery, availability of emergency spill kits and daily checks of machinery for leakages.
- Implementation of biosecurity protocols to prevent the introduction of invasive species, including cleaning and disinfection of machinery and provision of



appropriate facilities for the containment, collection and disposal of material and/or water resulting from washing of vehicles and equipment.

### **Mitigation post works**

- 8.34. No mitigation is considered necessary post construction. The proposed development will not result in fragmentation of habitats of the SAC, nor will it pose a barrier to fish movement within the river.

### **Cumulative Impacts**

- 8.35. The potential for in-combination effects with other plans and projects is considered in Section 6.2.4 of the NIS. The Laois County Development Plan 2017-2023 has been subject to Strategic Environmental Assessment which concluded that significant environmental effects are not likely to arise from the adopted development scenario. An AA determination of the plan concluded that subject to the inclusion of achievable mitigation measures, significant effects on the integrity of any European site is not likely to arise.
- 8.36. The site is located in a rural area and agricultural activity is identified with the potential to result in potential impacts on the SAC. However, as impacts on the SAC are not predicted as a result of the proposed development, it is concluded that agricultural development/operations will not act in combination to create cumulative impacts.

### **Conclusion on Appropriate Assessment**

- 8.37. The proposed development has been considered in light of the assessment requirements of sections 177U and 177V of the Planning and Development Act 2000 as amended.
- 8.38. Having regard to the nature of the proposed development and the mitigation measures proposed, the information presented with the application including the Natura Impact Statement, which I consider is adequate to carry out an assessment of the implications of the proposed development on the integrity of European sites, I consider it reasonable to conclude that the proposed development, individually or in combination with other plans and projects would not adversely affect the integrity of the River Barrow and River Nore SAC (Site code: 002162) or any other European site, in view of the site's Conservation Objectives.

This conclusion is based on:

- the nature, scale and limited duration of the proposed works,
- prevention of possible construction related pollutants entering the Stradbally River by best practice and effective mitigation measures;

The conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects.

## 9.0 Recommendation

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

### Reasons and Considerations (Draft Order)

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 Barrow and River Nore SAC (site code: 002162),
- (e) the policies and objectives of the Laois County Development Plan, 2017-2023,
- (f) the nature and extent of the proposed works as set out in the application for approval,
- (g) the information submitted in relation to the potential impacts on habitats, flora and fauna, including the Natura Impact Statement,

- (h) the submissions and observations received in relation to the proposed development, and
- (i) the report and recommendation of the person appointed by the Board to make a report and recommendation on the matter.

### **Appropriate Assessment: Stage 1**

The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report that the River Barrow and River Nore SAC (Site code: 002162) is the only European Site in respect of which the proposed development has the potential to have a significant effect.

### **Appropriate Assessment: Stage 2**

The Board considered the Natura Impact Statement and associated documentation submitted with the application for approval, the mitigation measures contained therein and the submissions and observations on the 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 Barrow and River Nore SAC (Site code: 002162), in view of the site's conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment. In completing the appropriate assessment, the Board considered, in particular, the following:

- i. the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- ii. the mitigation measures which are included as part of the current proposal, and
- iii. the conservation objectives for the European Site.

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

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Site, in view of the site's conservation objectives and there is no reasonable scientific doubt remaining as to the absence of such effects.

**Proper Planning and Sustainable Development/Likely effects on the environment:**

It is considered that, subject to compliance with the conditions set out below, the proposed development would not have significant negative effects on the environment or the community in the vicinity, would not give rise to a risk of pollution, and 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 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 measures contained in the Natura Impact Statement submitted with the application shall be implemented in full.

**Reason:** In the interest of protecting the environment, the protection of European Sites and in the interest of public health.

3. No works shall take place at or in the river between the 1<sup>st</sup> day of October and 30<sup>th</sup> day of June in any one year.

**Reason:** In the interests of nature conservation and to ensure the protection of the European site.

4. Prior to the commencement of development, the local authority, or any agent acting on its behalf, shall prepare in consultation with Inland

Fisheries Ireland, a works Method Statement, incorporating all mitigation measures indicated in the Natura Impact Statement and demonstration of proposals to adhere to best practice and protocols. The Method Statement shall include:

- (a) details of the exact location of the proposed downstream sediments,
- (b) the location of any chemical/fuel and oil storage facility, which shall be suitably bunded,
- (c) the location of vehicle storage area during the course of the works,
- (d) the location of facilities for the containment, collection and disposal of material and/or water resulting from washing facilities of equipment, vehicles and personnel for the site to prevent spread of invasive species.
- (e) details of how it is proposed to manage excavated materials, and
- (f) measures to prevent the spillage or deposit of material on the public road network

A record of daily checks that the works are being undertaken in accordance with the Method Statement shall be maintained on file as part of the public record.

**Reason:** In the interests of protecting the environment and the European Site

5. Prior to the commencement of development, details of measures to protect fisheries and water quality of the river system shall be outlined and placed on file. Full regard shall be had to Inland Fisheries Ireland's published guidelines for construction works near waterways (Guidelines on Protection of Fisheries during Construction Works in and Adjacent to Waters, 2016). A programme of water quality monitoring shall be prepared in consultation with the contractor, the local authority and relevant statutory agencies and the programme shall be implemented thereafter.

**Reason:** In the interest of protecting the receiving water quality, fisheries and aquatic habitats.

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

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

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

**Reason:** In the interest of nature conservation and the protection of terrestrial and aquatic biodiversity.

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Breda Gannon  
Senior Planning Inspector

14<sup>th</sup> September, 2021