



An  
Bord  
Pleanála

## Inspector's Report ABP-310495-21

---

<b>Development</b>	New access promenade & viewing area.
<b>Location</b>	Ballina, Co. Tipperary
<b>Local Authority</b>	Tipperary County 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>	None
<b>Observer(s)</b>	Dairygold Co-Operative Society
<b>Date of Site Inspection</b>	20 <sup>th</sup> September 2021
<b>Inspector</b>	Karla Mc Bride

## **1.0 Introduction**

- 1.1. Tipperary County Council is seeking approval from An Bord Pleanála to undertake amenity works along the River Shannon at Ballina in Co. Tipperary, which forms part of the Lower River Shannon SAC, and there are several other designated European sites in the wider area. A Stage 2 Appropriate Assessment report (Natura Impact Statement) and application under Section 177AE was lodged by the Local Authority on the basis of the proposed development's likely significant effect on a European site.
- 1.2. Section 177AE of the Planning and Development act 2000 (as amended) requires that where an appropriate assessment is required in respect of development by a local authority the authority shall prepare an NIS and the development shall not be carried out unless the Board has approved the development with or without modifications. Furthermore, Section 177V of the Planning and Development Act 2000 (as amended) requires that the appropriate assessment shall include a determination by the Board as to whether or not the proposed development would adversely affect the integrity of a European site and the appropriate assessment shall be carried out by the Board before consent is given for the proposed development.

## **2.0 Site and Location**

- 2.1. Ballina Village is located on the River Shannon in Co. Tipperary on the E shore of Lough Derg and directly opposite Killaloe Village in County Clare on the W shore, and the twin villages are connected by Killaloe Bridge. The surrounding area comprises a mix of commercial, residential, amenity, heritage and riparian uses. The project site is located along the E side of the River Shannon and to the S of Killaloe Bridge, and the works would provide pedestrian and wheelchair access to an existing riverside walkway and floating jetty.
- 2.2. The site is bound to the W by the River Shannon and Lough Derg, to the N by a stone-faced wall that forms part of Killaloe Bridge and to the S by Washerwoman's Bridge which is accessed off the main street to the E. A wall runs along part of the NE boundary for c.20m and a small wooded area extends along the E boundary, and the riverbank to the W is defined by riparian vegetation.

- 2.3. The River Shannon forms part of the Lower River Shannon SAC, and the footprint of the project would be located within this European site. The River Shannon flows SW to the Shannon Estuary at Limerick and the boundary with the River Shannon and River Fergus Estuaries SPA is located c. 20km from the site. The boundary of the Lough Derg (Shannon) SPA is located c.1.5km to the N, and the areas may be important for mobile species from this and other further afield European sites.
- 2.4. There are several features of historic and cultural heritage interest in the area including the early 18th Century Killaloe bridge to the N, Washerwoman's Bridge to the S, and other remnants of 19<sup>th</sup> Century railway infrastructure along the E bank of the river which extended c.5km from Ballina to Birdhill and hence to Limerick.
- 2.5. Photographs & maps in Appendix 1 describe the site & surroundings in more detail.

### **3.0 Proposed Development**

- 3.1. Tipperary County Council proposes to carry out amenity works along the River Shannon in Ballina Village. The project would facilitate pedestrian and wheelchair access from Killaloe Bridge to a new viewing promenade and footpath that would connect with an existing riverside path at Washerwoman's Bridge and floating jetty.

The proposed works would comprise:

- A new viewing platform, steps and sloped walkway (c.40m).
- Tree & vegetation removal
- Associated construction works (incl. decorative stone walls & drainage),
- Ancillary works (incl. information boards)

### **3.2. Accompanying documents**

The application was accompanied by the following documents:

- Drawings & photographs
- Appropriate Assessment Screening report
- Stage 2 Appropriate Assessment report (NIS)
- EIA Screening Determination report
- Works Requirements report

- Preliminary Health & Safety Plan
- List of Prescribed Bodies & copies of Public Notices.

## 4.0 Planning History

- 4.1. Several planning cases in the vicinity, none of which relevant to this case.

## 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.

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

5.3. European sites located within the Zone of Influence of the subject site include:

- Lower River Shannon SAC (Site code: 002165)
- Lough Derg (Shannon) SPA (Site code: 004058)

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

- 177(AE) sets out the requirements for the appropriate assessment of developments carried out by or on behalf of local authorities.
- Section 177(AE) (1) requires a local authority to prepare, or cause to be prepared, a Natura impact statement in respect of the proposed development.
- Section 177(AE) (2) states that a proposed development in respect of which an appropriate assessment is required shall not be carried out unless the Board has approved it with or without modifications.
- Section 177(AE) (3) states that where a Natura impact assessment has been prepared pursuant to subsection (1), the local authority shall apply to the Board for approval and the provisions of Part XAB shall apply to the carrying out of the appropriate assessment.
- Section 177(V) (3) states that a competent authority shall give consent for a proposed development only after having determined that the proposed development shall not adversely affect the integrity of a European site.
- Section 177AE (6) (a) states that before making a decision in respect of a proposed development the Board shall consider the NIS, any submissions or observations received and any other information relating to:
  - The likely effects on the environment.
  - The likely consequences for the proper planning and sustainable development of the area.
  - The likely significant effects on a European site.

## 5.5. National and Regional Planning policy

### ***National Planning Framework, 2018-2040***

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

### ***National Development Plan, 2021-2030***

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

### ***Climate Action Plan, 2019***

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

### ***Architectural Protection Guidelines for Planning Authorities, 2004***

These Guidelines provide a practical guide for planning authorities (and others) who must comply with Part IV of the Planning and Development Act 2000 on the protection of the architectural heritage. Section 14.2 deals specifically with bridges that are Protected Structures.

### ***The Planning System and Flood Risk Management, 2009:***

These Guidelines seeks to avoid inappropriate development in areas at risk of flooding and avoid new developments increasing flood risk elsewhere and they advocate a sequential approach to risk assessment and a justification test.

### ***Southern Regional Economic & Spatial Strategy 2020:***

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

### ***Tourism Masterplan for Shannon 2020-2030:***

This Masterplan has been developed by Failte Ireland, Waterways Ireland and the relevant riparian local authorities. It seeks to develop the tourism potential of the Shannon region and to achieve a better regional spread of tourism and visitor activity that will allow coordinated development and maximise beneficial outcomes which will harness the economic and social potential of the Shannon's natural and cultural assets in an environmentally sustainable way. Recommendation DZ3 lists several Priority Projects for the Lower Shannon that include a Feasibility Study for Development of the Shannon Greenway which would link Limerick to Killaloe/Ballina

## **5.6. Local Planning policy**

### ***North Tipperary County Development Plan 2010 (as varied & extended)***

Ballina is a designated Service Centre and one of the County's most important tourism destinations and a gateway town to the 'Lough Derg & Lakelands' area.

#### **Zoning:**

The lands are zoned for Open Space & Amenity uses.

#### **General Objectives:**

**Gen. Obj. 3:** seeks to promote Ballina as a key tourism destination.

**Gen. Obj.7:** seeks to promote the sustainable development of public amenities & harmony with the lake setting & natural environment.

### **Tourism & Heritage Policies:**

**Policy SO6:** seeks to facilitate the expansion & development of new tourism infrastructure & activities, including recreational facilities for water, walking & cycling.

**Policy SO11:** seeks to encourage & support the development of tourism infrastructure, enhance linkages with walking, cycling & water-based activities.

**Policy SO12:** seeks the reopening of the eye of the arch-bridge so as to facilitate the free movement of the public along the banks of the river.

**Policy SO13:** seeks the protection & enhancement of protected structures, historic buildings and buildings/structures of archaeological significance.

**Policy SO14:** seeks to ensure the ecological protection of Lough Derg SPA/SAC.

**Policy SO15:** seeks to protect trees & natural hedgerows in the village.

**Policy SO16:** seeks to support the development of blue & green infrastructure of the town, including the enhancement and development of ecological corridors and wildlife as part of new development proposals and public realm projects and trails.

**Policy SO17:** seeks to develop a natural & built heritage trail in the town

**Policy SO18:** seeks to ensure the ecological protection of Lower Shannon SAC.

**Policy SO19:** seeks to prepare a Conservation Management Plan for Killaloe Bridge.

**Policy SO20:** seeks to ensure the preservation of existing public rights of way.

**Policy SO21:** seeks the protection of public views and vistas.

### **Transport policies:**

**Policy SO23:** seeks to make provision, as opportunities arise, for enhanced pedestrian & cycle transport and facilities in the town

### **Archaeological Monuments & Protected Structures:**

Several in vicinity including Killaloe Bridge.



## 6.0 Consultations

### 6.1. Prescribed Bodies:

The Council circulated the project details to the following Prescribed Bodies:

- Dept. of Housing, Local Government & Heritage (& DAU)
- Dept. of Tourism, Culture, Gaeltacht, Sport & Media
- Clare County Council
- Inland Fisheries Ireland
- Waterways Ireland
- Irish Water
- Failte Ireland & An Taisce
- Heritage Council & An Chomhairle Ealaíon

No submissions were received from Prescribed Bodies, however the submitted documentation contains a letter from ***Inland Fisheries Ireland*** (dated 21/11/2018) which states the following in relation to the potential impact of the Ballina Riverside Walkway on fish species:

- Main impacts on fisheries relate to the generation of pollutants during the construction phase and potential pollutants from the operational phase.
- A detailed methodology should be in place to prevent the discharge of suspended solids in surface water run-off during construction.
- This methodology should include for the provision of silt curtains between the works area and the river, and the contractors should liaise with IFI.
- The finish on the footpath should, if possible, incorporate SUDs and/or supporting infrastructure, and if tarmacadam is used it would be preferable for it to drain into the land and/or land drain which should be similar to an agricultural drain that could be used to filter out suspended solids.
- In relation to specific species:
  - *Freshwater pearl mussel*: no records in the vicinity & no impacts anticipated.

- *Sea lamprey*: landlocked population in Lough Derg, but no records in the vicinity & no impacts anticipated.
- *Brook & River lampreys*: no records in the vicinity & no impacts anticipated.
- *Salmon & Brown trout*: adults & juveniles likely to be present in the area & there may be some potential for spawning; the area could be considered a zone of passage for salmon, but no records in the vicinity and the vast bulk of spawning takes place in the Lough Derg tributaries; no impacts anticipated for these species anticipated.
- In relation to specific species, it is noted that the Irish Pollan, European eel & several different coarse fish species are likely to be present in the area

### **Public Submissions:**

One submission received from Dairygold Co-Operative Society Limited who welcomed the project but raised concerns that the proposed pedestrian access off Killaloe Bridge would be via lands owned by the Co-op. The submission was circulated to the County Council for comment.

### **Council response to submission:**

- Welcome support for the project and the Draft Killaloe Ballina Enhancement & Mobility Plan which proposes public realm works as a result of the future Killaloe Bypass & Shannon bridge crossing.
- The Draft Plan contains a Site-Specific Intervention for the Dairygold Co-Op site that will be transformed into a new public space connected to the proposed Promenade & Viewing Area, which is consistent with Recommendation DZ3 of the Tourism Masterplan for Shannon 2020-2030.
- Dairygold closed in 2019 and the Council has commenced negotiations with its Board with a view to purchasing the lands and will not commence works on the proposed development until an agreement is in place.
- Another option for access off Killaloe Bridge is now proposed which comprises a new opening towards the future Killaloe Pedestrian Zone, the section of wall is owned by the Council (Folio TY67149F) and a pedestrian safety barrier would be included (Drg. No. NMD-RDS-53/Sketch 1).

## **7.0 Assessment**

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

The proposed development would comply with national, regional and local policy in respect of climate change, the environment, tourism, cultural and natural heritage, and residential amenity. The Council states that the works are justified as they would provide for pedestrian and wheelchair access, and connectivity between the NE end of Killaloe Bridge (and adjacent amenities) and the existing riverbank to the S, which would take account of the difference in levels between the two locations. No submissions were received from Prescribed Bodies, although the accompanying documents contain a previous submission from IFI which did not raise any objections to the proposed development. One submission was received from an adjoining landowner (Dairygold Co-Op) who raised land ownership and access issues which are summarised in section 6.0 above along with the council's response to this submission. No other submissions were received from members of the public.

#### ***Design and layout:***

The location and design of the proposed amenity works within Ballina Village are described in sections 2.0 and 3.0 above. The site, which is located on the SE side of Killaloe Bridge, is occupied by a small wooded area, grassland and the river bank, and the proposed development would link into the existing pedestrian pathway that runs S from Washerwoman's Bridge parallel to the River Shannon. The proposed development would comprise a new viewing platform, steps and sloped walkway (c.40m). The works would entail tree and vegetation removal, associated construction works (incl. decorative stone walls & drainage) and ancillary works (incl. information boards). The originally proposed access from Killaloe Bridge would be off the adjacent Dairygold Co-Op site, however the Council has submitted an alternative proposal for a direct access off the bridge by removing a section of the wall, although it is unclear from the submission as to whether or not this section of wall is covered by the Protected Structure designation for Killaloe Bridge.

Given that the project would provide improved pedestrian and wheelchair access to the riverside walkway and enhance the tourism and recreational amenities of the village in line with several Development Plan policies in respect of Ballina Village, the design and layout of the proposed works are considered acceptable. It is noted that the project would serve to achieve several key objectives for the village which seek to promote Ballina as a key tourism destination (Gen. Obj. 3), the sustainable development of public amenities (Gen. Obj.7), the expansion and development of new tourism infrastructure and activities (Policies SO6, SO11, SO16 & SO17), and enhanced pedestrian and cycle transport and facilities (SO23).

***Residential & visual amenity:***

The proposed development would be located alongside the River Shannon to the immediate SE of Killaloe Bridge and within the village centre of Ballina. The surrounding area is characterised by a mix of commercial, residential, recreational, tourism and riparian uses. There are several heritage features in the vicinity including Killaloe Bridge which is a Protected Structure, and the River Shannon is a designated European site. There is a marina to the N of the bridge, a small jetty to the S with footpaths along the riverbank. Several of the houses and commercial premises located along Main Street run parallel to the riverside footpath.

The site and environs are defined by a small, wooded area which comprises trees of mixed species in various stages of maturity along the boundary with the Dairygold Co-Op site, grassland and riparian vegetation, all of which contribute to the overall character of the area. It is noted that Policy SO15 of the Development Plan in respect of Ballina Village seeks to protect trees and natural hedgerows in the village. Although the proposed development would result in the removal of several trees and hedges, the project would serve to achieve several other key objectives for the village which seek to promote Ballina as a key tourism destination, the development of new tourism infrastructure and activities, and enhanced pedestrian and cycle transport and facilities, as outlined above (Design and Layout).

In terms of general residential amenity, the proposed works would not overlook, overshadow, result in a loss of privacy, or otherwise adversely affect the amenity of any nearby dwelling houses. However, any localised removal of woodland and riparian vegetation in the vicinity of the works would have a minor adverse impact on

the visual amenities and character of the area in the short term. Notwithstanding these concerns, the proposed works will not give rise to an adverse visual impact on the character of the area or the amenities of nearby houses in the long term.

***Biodiversity:***

The linear riverside site is located within Ballina village, to the S of Killaloe Bridge and to the E of the River Shannon which forms part of the Lower River Shannon SAC. The riparian site mainly comprises an area of grassland that is bound to the E by a small wooded area comprising hedgerows and trees of mixed species in various stages of maturity, and to the W by the river embankment and riparian vegetation. The site and its immediate environs are located within Lower River Shannon SAC which is designated for wide variety of terrestrial and aquatic habitats and species. The site is also located to the immediate S of the Lough Derg pNHA and a short distance to the S of the Lough Derg (Shannon) SPA which is designated for several species of water bird. Appropriate Assessment issues will be addressed below.

The adjacent watercourse and embankments may provide a habitat, refuge, foraging area or resting place for a variety of terrestrial and aquatic animal species (incl. otters, birds, bats, fish & aquatic invertebrates) which have been described in the submitted documents. This includes an Appropriate Assessment Screening Report and Stage 2 Appropriate Assessment report which examined the relationship between the proposed development and several European sites. These reports were informed by desk top studies and site surveys which described the ecological characteristics of the receiving environment and identified the potential impacts on Europeans Sites and biodiversity. The Stage 2 Appropriate Assessment report contains mitigation measures which will be incorporated into the CEMP.

No SAC QI habitats or species were recorded in the vicinity or immediately downstream of the proposed development, and no suitable habitat or the SPA SCI species was noted in the desktop studies and field surveys, having regard to the proximity of the site to Ballina Village. However, the River Shannon may provide suitable support habitat for several fish species (incl. River & Brooke Lampreys and Salmon). Otter may commute or forage along the river and its tributaries. The riparian vegetation along with the small wooded area may contain suitable nesting

and/or foraging habitat for birds and bats, and the arches under Killaloe Bridge may contain suitable roosting habitat form bats.

There was no significant evidence of nesting **birds** in the vicinity of the proposed works or the in the wider area, possibly related to the proximity to the village and bridge. Notwithstanding this, a condition should be attached to ensure that the site clearance and construction works take place outside of the bird nesting season.

Killaloe Bridge and surrounding riparian lands, hedgerows and trees may provide suitable roosting, nesting or foraging habitat for **bats** although no evidence of bats was detected during the surveys. Notwithstanding this, a planning condition should be attached which would require the applicant to carry out a pre-construction survey of the bridge for bats, and to seek a Derogation Licence in the event that any species is present in the easternmost Arch, to enable their safe and humane relocation to another suitable nearby habitat, as required.

The adjacent River Shannon and its downstream tributaries, along with the upstream Lough Derg and its tributaries may provide suitable habitat for several species of **fish** (incl. Lampreys, Salmon, Brown trout, Irish Pollan, European eel & several different coarse fish species) along with suitable habitat for several prey species of **aquatic invertebrate** and macrophytes which form part of the food supply for fish species in the river. The IFI noted the presence of a landlocked population of Sea lamprey in Lough Derg but that there were no records of River or Brook lampreys, Salmon or Brown trout in the vicinity. The river has the potential to convey deleterious construction materials downstream in the absence of appropriate safeguards which could adversely affect water quality and fisheries (incl. riverbed smothering, changes to pH, clogging fish gills & habitat degradation). The proposed works have the potential to affect water quality along with general noise and disturbance. However, the mitigation measures contained in the Stage 2 Appropriate Assessment report would ensure that appropriate protection measures are put in place during the construction works (incl. buffer zones, no concrete mixing or vehicle washing on site, and protection from silt & chemical contamination).

**Otter** has been recorded in the lower reaches of the River Shannon and the receiving watercourse and its downstream tributaries may provide suitable habitat for foraging. No evidence of otter was detected during the surveys although there is an historic record of its presence downstream of the proposed works. A planning condition should be attached which would require the applicant to carry out a pre-construction survey of the area for this species before works commence.

The proposed works would require the removal of the small wooded area along the E site boundary which comprises a mix of **trees and hedgerows** with no significant adverse impacts on biodiversity anticipated during the works anticipated. However, there could be some localised disturbance to foraging areas, resting places and refuges for birds and possibly bats. The removal of vegetation during the bird nesting season should be prohibited and per-construction surveys for bats required.

The proposed works would not require the substantial removal of **riparian vegetation** with no significant adverse impacts on biodiversity during the works anticipated, however there could be some localised disturbance to foraging areas, resting places and refuges for birds and possibly otter. The works should be conducted in accordance IFI guidance and outside the fish spawning seasons, the removal of vegetation during the bird nesting season should be prohibited, and per-construction surveys for otters and bats should be required.

One **Invasive plant species** was recorded in the vicinity of the proposed development (Japanese Knotweed) and it is proposed to prepare an Invasive Species Plan to manage its removal. A biosecurity condition should be attached to ensure that the works (and vehicles) do not introduce invasive species to the area.

An **Ecological Clerk of Works** will be appointed to oversee the works and the mitigation measures contained in the Stage 2 Appropriate Assessment report which would protect sensitive species (incl. otter, birds, bats & fish).

**Conclusion:** Having regard to all of the above, the predicted impacts on biodiversity would be temporary and short term as most species will return to the area after the works are complete. The proposed development would connect to any existing riverside path and the site is already accessible to the public. It is noted that NPWS and IFI did not submit any observations, however the application documentation

contained a previous letter from IFI which did not anticipate any adverse impacts on any species of fish species subject to appropriate construction methodologies. No significant adverse impacts on biodiversity are anticipated, subject to pre-construction otter and bat surveys, the avoidance of works during the bird nesting and fish spawning seasons, and the implementation of water quality protection measures during the constructional and operational phases.

### ***Cultural heritage:***

The site is located within the historic village of Ballina on the E side of the River Shannon, which is twined with Killaloe village on the W side of the river, and both villages are covered by several sensitive archaeological and built heritage designations. There are several national and recorded monuments in the wider area and Killaloe Bridge is a Protected Structure. The presence of a wooden bridge at this location dates back to the early 11<sup>th</sup> Century and the present early 18<sup>th</sup> Century stone bridge was built with 13 Arches. An additional Arch was added in the 1860's to accommodate the Ballina to Limerick railway line and the proposed development would occupy the footprint of the former railway track. Access across the railway track to the river for local washerwomen was maintained by means of a stone bridge off Main Street to the E, and this feature known as "Washerwoman's Bridge" remains in-situ. The River Shannon was historically used for commercial barge navigation.

The development as originally proposed, which provided for pedestrian access via the adjacent Dairygold Co-Op site on the E side of Killaloe Bridge, would not adversely affect the character or setting of any cultural heritage features in the area (incl. Recorded Monuments, Protected Structures or NIAH listings). It is noted that Policy SO13 of the Development Plan in respect of Ballina Village seeks the protection and enhancement of protected structures, historic buildings and buildings/structures of archaeological significance, and the proposed development would comply with this policy.

However, I have reservations about the proposed alternative access directly off Killaloe Bridge which is a designated Protected Structure, and it is unclear whether or not the section of wall to be removed is covered by this heritage designation. It is therefore possible that a heritage assessment should be carried out in accordance



with the Architectural Protection Guidelines for Planning Authorities in relation to works carried out at historic bridges. It is noted that Section 4.2.5 of the Guidelines states that proposals to reinforce, widen or infill sections of a protected bridge will require alterations to the character and quality of the structure. Where the impacts are likely to be substantial and would damage the character and integrity of the protected structure to an unacceptable extent, alternative solutions should be explored.

It is also possible that as yet undiscovered artefacts may be uncovered during the works, and archaeological monitoring should be required by way of a planning condition. It noted that Policy LH16 of the Development Plan seeks to safeguard sites and features of archaeological interest and the proposed development would comply with this policy, subject to the attachment of the aforementioned condition.

***Need, effectiveness & alternatives:***

I am satisfied that the applicant has provided adequate background information to justify the need for the proposed access promenade and viewing area which seek to improve pedestrian and wheelchair access to the River Shannon footpath from Killaloe Bridge in the centre of the village, and that the proposed works will function effectively. I am also satisfied, on the basis of my examination of the submitted documents and assessment of the site and environs, that the proposed works constitute an appropriate and proportionate response to the need to improve access to riverside amenities.

**Conclusions:**

Having regard to the foregoing, I am satisfied that the proposed development is acceptable in principle and that the works to implement the new access, promenade and viewing area are justified.

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

The applicant's Environmental Impact Assessment Screening Determination Report concluded that the proposed new access, promenade and viewing area does not need to be subject to EIA and that no EIAR report is required for the proposed development. I note that there is no specific provision under Section 177AE of the Act to require EIA or to carry out a formal EIA Screening Determination for a local authority project submitted under this section of the Act. Nonetheless, the Board, in making its decision, is required to consider the likely effects on the environment in respect of the proposed development. The project is not of a type included in Schedule 5 Part 1 or Part 2 of the Planning and Development Regulations 2001 (as amended). Furthermore, it does not meet any of the criteria set out in Schedule 7 of the Regulations for determining whether a sub-threshold development would be likely to have significant effects on the environment, with regard to the characteristics of the works, its location and the characteristics of potential impacts.

Having regard to the nature and scale of the proposed development, which would comprise a new access, short promenade and viewing area along with associated and ancillary works, and the characteristics of the receiving environment which is not densely developed, albeit within and proximate to areas covered by sensitive ecological and heritage designations, I am satisfied that the proposed works would not have any significant adverse effects on population and human health, biodiversity, land, soil or water, air and climate, material assets, cultural heritage or the landscape, and the need for environmental impact assessment can, therefore, be excluded.

Notwithstanding this conclusion, it is noted that the surrounding area has a rich cultural heritage related to the river crossing and former railway, and the woodland/riparian habitats provide a refuge and foraging opportunities for a range of species (incl. mammals, fish, birds & possibly bats). As such the Council should ensure that the ecological mitigation measures contained in the Stage 2 Appropriate Assessment report are fully implemented, that a pre-construction bat and otter surveys are undertaken before works commence, and that the works do not take place during the bird nesting or fish spawning seasons.

### **7.3. Other matters**

For the avoidance of doubt, the original pedestrian access arrangements via the adjacent Dairygold Co-Op lands, as described in the planning application received by the Board on the 14<sup>th</sup> day of June 2021 shall be implemented, subject to the future agreement of the Board of Dairygold Co-Op.

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

The areas addressed in this section are as follows:

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

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

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

### **7.6. The Natura Impact Statement (The Stage 2 Appropriate Assessment)**

The application was accompanied by a Stage 1 Appropriate Assessment Screening report and a Stage 2 Appropriate Assessment report which scientifically examined the proposed works and their relationship with European sites in the surrounding area. The reports were informed by desk top studies (incl. NPWS, NBDC, IFI & OPW datasets) and a site survey which included a detailed Otter survey.

***The desk top studies and site survey*** described the site and surrounding area. This included details of potential connections between the proposed works and two European sites (incl. Lower River Shannon SAC & Lough Derg (Shannon) SPA). The reports assessed the surrounding watercourses and environs for aquatic and mobile species of Qualifying Interest and Special Conservation Interest for the European sites. The ecological characteristics of the riparian site were described, EPA water quality data for the River Shannon and its relevant tributaries and Lough Derg was provided, and the European sites within the Zone of Influence (2km) were identified. No European site QI habitats or species were recorded on or in the vicinity of the site which is also outside the favourable reference range for many SCI/QI species, and it does not contain suitable habitat or foraging potential for many of these species. One scheduled invasive species (Japanese Knotweed) was recorded at the NE boundary.

***The AA Screening report*** identified 2 x European sites located within a Zone of Influence (2km radius) of the proposed works, it examined connectivity and characterised the possible effects of the proposed development on these sites. It concluded that significant effects could not be ruled out for 1 of the sites (Lower River Shannon SAC) and that the preparation of a Stage 2 Appropriate Assessment report was required. It concluded that the works would not have a significant effect on the Lough Derg (Shannon) SPA due to its remote distance from the works (c.1.5km downstream) and the intervening buffers (incl. houses, roads & agricultural fields).

***The Stage 2 Appropriate Assessment*** report described the receiving environment and the proposed development. It described the Lower River Shannon SAC, listed its QI habitats and species for this site and described the nature of the connection between the proposed works and the European site. It characterised the potential effects on the European site including in-combination effects in view of the site's Conservation Objectives. The identified effects related to surface water pollution, discharges resulting in loss/change to habitats and disturbance to commuting/forging territory. The Stage 2 Appropriate Assessment formally concluded that provided the proposed mitigation measures are fully and adequately implemented during the proposed works no significant direct, indirect or cumulative impacts on the integrity of the Lower River Shannon SAC or any other European site is likely to occur.

Having reviewed the Stage 2 Appropriate Assessment and supporting documentation, I am satisfied that it provides adequate information in respect of the baseline conditions, does clearly identify the potential impacts, and does use best scientific information and knowledge, and details of mitigation measures are provided. I am satisfied that the information is sufficient to allow for appropriate assessment of the proposed development, subject to the further consideration of European sites located within an enlarged Zone of Influence (further analysis below).

#### **7.7. Appropriate Assessment**

- 7.8. The proposed development, which would comprise the construction of a new access promenade and viewing area along the River Shannon, is not directly connected with or necessary to the management of any European sites in the surrounding area.
- 7.9. Having regard to the information and submissions available, nature, size and location of the proposed development and its likely direct, indirect and cumulative effects, the source pathway receptor principle and sensitivities of the ecological receptors, the following European Sites are considered relevant to include for the purposes of initial screening for the requirement for Stage 2 appropriate assessment on the basis of likely significant effects.
- 7.10. The potential likely significant impacts that could arise during the construction and operational phases of the proposed development on the European site's QI habitats and species, or SCI species are:
- Release of sediment & pollutants to surface & ground water during construction works.
  - Loss of or damage to habitat/resting/foraging places used by QI/SCI species.
  - Noise and disturbance to QI/SCI species during construction.
  - Dispersal of invasive species with resultant impacts on QI habitats and species, or SCI species during the construction works.

### **Stage 1 Screening Assessment.**

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

<b>European Site</b>	<b>Qualifying Interests / Special Conservation Interests</b>	<b>Distance (Straight line)</b>	<b>Link</b>
<b>Lower River Shannon SAC (002165)</b>	Sandbanks & Estuaries Mudflats & sandflats Coastal lagoons & Reefs Large shallow inlets and bays Perennial vegetation of stony banks Vegetated sea cliffs Salicornia and other annuals Atlantic salt meadows Mediterranean salt meadows Common Bottlenose Dolphin Water courses of plain to montane levels with the Ranunculus fluitans and Callitriche-Batrachium vegetation Molinia meadows Alluvial forests Freshwater Pearl Mussel Sea, Brook & River Lampreys Salmon & Otter	Adjacent	Yes
<b>Lough Derg (Shannon) (004058)</b>	Cormorant & Tufted Duck Goldeneye & Common Tern Wetland and Waterbirds	c.1.5km	Yes
<b>Slieve Bernagh Bog SAC (002312)</b>	Northern Atlantic wet heaths European dry heaths Blanket bogs	c.3km	No
<b>Slievefelim to Silvermines Mountains SPA (004165)</b>	Hen Harrier	c.8.5km	No

European Site	Qualifying Interests / Special Conservation Interests	Distance (Straight line)	Link
<b>Silvermine Mountains West SAC (002258)</b>	Northern Atlantic wet heaths  European dry heaths  Calaminarian grasslands	c.9.5km	No
<b>Glenmora Wood SAC (001013)</b>	Old sessile oak woods	c.10.5km	No
<b>Keeper Hill SAC (001197)</b>	Northern Atlantic wet heaths  Blanket bogs	c.12km	No
<b>Silvermine Mountains SAC (000939)</b>	Northern Atlantic wet heaths  Species-rich Nardus grasslands	c.14km	No
<b>River Shannon &amp; River Fergus SPA (004077)</b>	Cormorant & Whooper Swan  Light-bellied Brent Goose  Wigeon, Teal & Pintail  Shoveler, Scaup & Shelduck  Ringed, Golden, & Grey Plover  Lapwing, Knot & Dunlin  Black-tailed & Bar-tailed Godwit  Curlew, Redshank & Greenshank  Black-headed Gull  Wetland and Waterbirds	c.20km	Yes

7.11. Based on my examination of the NIS report and supporting information (incl. the desktop studies & field surveys), NPWS website, aerial and satellite imagery, the scale of the proposed works and nature of the likely effects, the substantial separation distance and functional relationship between the proposed works and the European sites and their conservation objectives, the site specific characteristics and requirements, and the absence of an aquatic connection, taken in conjunction with my assessment of the subject site and surrounding area, I conclude that a Stage 2 Appropriate Assessment is required for 2 of the European sites referred to above which I consider to be within the Zone of Influence by reason of direct aquatic and/or mobile connections (Lower River Shannon SAC & Lough Derg (Shannon) SPA).

7.12. In coming to this conclusion, I am satisfied that the River Fergus and River Shannon SPA can be screening out from any further assessment, notwithstanding the possible aquatic connection, having regard to the substantial separation distance (c.20km straight line) between the proposed development and this European site and the site-specific coastal requirements of its SCI bird species.

7.13. **Stage 2 Appropriate assessment:**

**Lower River Shannon SAC:**

This European site lies within the Zone of Influence of the proposed works as it has a direct aquatic connection to the site of the proposed works.

***European site description:***

This very large European site stretches along the Shannon valley from Killaloe in Co. Clare to Loop Head/Kerry Head over a distance of c.120km. It encompasses the Shannon and Fergus estuaries, several river catchments, the freshwater lower reaches of the River Shannon, and the marine area between Loop Head and Kerry Head. Semi-natural habitats, such as wet grassland, wet woodland and marsh occur by the rivers, but improved grassland is the most common habitat type.

***Qualifying Interest habitats and species:***

This SAC is designated for its importance to a wide variety of habitats and species, which extend from the upland source of the watercourse (N) to the coastal estuary (SW). The full list of QI habitats and species is set out in the table above.

It is noted from the NPWS documentation and accompanying maps that several of the QI habitats and species for the SAC (coastal & estuarine) are located a considerable distance downstream of the proposed development (more than 25km straight line). For this reason, combined with the modest scale of the proposed works, the specific QI site characteristics and locational requirements, and the dynamics of coastal and tidal processes, the following QI habitats will be excluded from any further consideration: -

- Sandbanks & Estuaries
- Mudflats & sandflats
- Coastal lagoons & Reefs



- Large shallow inlets and bays
- Perennial vegetation of stony banks
- Vegetated sea cliffs
- Salicornia and other annuals
- Atlantic salt meadows
- Mediterranean salt meadows
- Common Bottlenose Dolphin

It is further noted from the NPWS documentation and maps that several of the remaining QI habitats and species for this SAC are either located a considerable distance downstream of the proposed works (in excess of 25km straight line) or have site specific locational requirements (Freshwater pearl mussel in the Cloon River, Co. Clare). The IFI submission also stated that there are no records of Freshwater pearl mussel in this section of the river which does not contain optimum habitat conditions for several reasons including its depth.

The NPWS documentation also notes that there are barriers to fish migration along the watercourses. Barriers are present in the River Fergus which block Sea Lamprey migration upstream to the River Shannon, and the IFI submission also noted that the Lough Derg population of Sea lamprey is landlocked. Artificial barriers also block Salmons' upstream migration, thereby limiting the species to lower stretches of the River Shannon and restricting access to spawning areas. It notes that the hydro-electric station at Ardnacrusha and the Parteen regulating weir present considerable obstructions to upstream passage of salmon on the Shannon main channel.

However, the IFI submission noted that adult and juvenile Salmon are likely to be present in the area, there may be some potential for spawning and the area could be considered a zone of passage for salmon, although it noted that the vast bulk of spawning takes place in the Lough Derg tributaries.

For these reasons, combined with the modest scale and nature of the proposed works, and the specific QI site characteristics and locational requirements, the following QI habitats and species will be excluded from any further consideration:

- Sea Lamprey
- Freshwater pearl mussel

### **Conservation Objectives:**

The Conservation Objectives for the various habitats and species seek to maintain the favourable conservation condition of the habitats and species in the Lower River Shannon SAC, which are defined by a specific list of attributes and targets.

### **Qualifying Interests, attributes & targets:**

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

Qualifying Interests	Attributes & targets
<b>Floating river vegetation</b>	Habitat Area (stable or increasing); Habitat Distribution (no decline); Hydrological regime (river flow & groundwater discharge); Substratum composition; Water chemistry; Water quality; Vegetation composition; Floodplain connectivity.
<b>Molina meadows</b>	Habitat Area (stable or increasing); Habitat Distribution (no decline); Vegetation structure & composition.
<b>Alluvial forests</b>	Woodland structure (no decline); Vegetation composition
<b>Brook &amp; River Lamprey</b>	Distribution; Population structure of juveniles; Juvenile density in fine sediment; Extent and distribution of spawning habitat; Availability of juvenile habitat.
<b>Salmon</b>	Distribution; Adult spawning fish; Salmon fry abundance; Out-migrating smolt abundance; Number and distribution of redds; Water quality.
<b>Otter</b>	Distribution; Extent of terrestrial & freshwater habitats; Couching sites & holts; and Fish biomass (no significant decline).

**Potential direct effects:** The proposed development would be located within a European site. It is not relevant to the maintenance of any European site. No potential for direct effects having regard to the location and scale of the proposed development and to the separation distance between the works and the QI habitats and species.

**Potential indirect effects:** There is potential for indirect effects on this European site during the **construction phase** as a result of: - water pollution from the unmitigated release of fine sediments in runoff during construction works and hydrocarbons by way of accidental spillages from machinery which could give rise to water pollution, chemical contamination, riverbed smothering and clogging of fish gills, with resultant impacts on the attributes and targets for the QI habitats and species, in the absence of mitigation. Further potential indirect effects relate to the

uncontrolled spread and/or introduction of invasive species from works vehicles which could give rise to the colonisation of habitats by invasive species, with resultant impacts on the attributes and targets for the QI habitats and species, in the absence of mitigation.

There is no potential for any additional significant indirect adverse effects during the **operational phase** as the proposed works comprise a short extension to an existing riverside footpath within an area to which the public already has access.

**Mitigation measures:** The Stage 2 Appropriate Assessment report contains a comprehensive list of mitigation measures which would serve to protect the SAC and its QI habitats and species from adverse effects, and these include: -

- Preparation of a CEMP
- Preparation of an Invasive Species Management Plan
- Erection of site boundary fencing.
- Installation of 2-Stage silt fencing along SE & SW site boundaries.
- Timing & seasonality of works.
- Appointment of Ecological Clerk of Works
- Adherence to best construction practices
- Surface water management measures to protect water quality including:
  - regular surface water monitoring,
  - no concrete mixing, refuelling or washing out on site,
  - waste management plan,
  - protection of the river from sediment & chemical contamination.

**Floating river vegetation:** The site and environs drain to the River Shannon which forms part of the Lower Shannon SAC. The NPWS Site Synopsis notes that Floating River vegetation is present throughout the major river systems within the SAC. NPWS Map No.13 also indicates the presence of this habitat in some of the River Shannon tributaries located further downstream of the proposed development, but also downstream of the confluence of these watercourses with the main channel of the River Shannon. Having regard to the nature and small scale of the proposed development, I am satisfied that following the implementation of the mitigation

measures and any recommended conditions (incl. the management of sediments & accidental spills, and the control of invasive species) the proposed works would not have an adverse impact on water quality in the Lower River Shannon SAC or introduce invasive species to the watercourses during any of the works. There would be no resultant adverse effects on this QI habitat with respect to its attributes and targets (incl. Habitat Area & Distribution, Hydrological regime, Substratum composition, Water quality, Vegetation composition/diversity, and floodplain connectivity).

***Alluvial forests:*** There are no records to indicate the presence of this habitat in the vicinity or immediately downstream of the proposed development although the NPWS documentation notes that it may be present at various locations throughout the SAC. Having regard to the nature and small scale of the proposed development, and in the event that Alluvial forest habitats may be present downstream of the works, I am satisfied that following the implementation of the mitigation measures and any recommended conditions (incl. the management of sediments & accidental spills, and the control of invasive species) the proposed development would not have an adverse impact the Lower River Shannon SAC, or introduce invasive species to the watercourses during any of the works. Therefore, there would be no resultant adverse effects on this QI habitat with respect to its attributes and targets (incl. Woodland structure & Vegetation composition/diversity).

***Molinia meadows:*** There are no records to indicate the presence of this habitat in the vicinity or immediately downstream of the proposed development although the NPWS documentation notes that it has been recorded on the E bank of the Shannon, just N of Castleconnell, Co. Limerick, c.11km to the S of Ballina (straight line distance), and that it may be present at various locations throughout the SAC. Having regard to the nature and small scale of the proposed development, and in the event that Molinia meadows habitats may be present downstream of the works, I am satisfied that following the implementation of the mitigation measures and any recommended conditions (incl. the management of sediments & accidental spills, and the control of invasive species) the proposed development would not have an adverse impact on water quality in the Lower River Shannon SAC, or introduce

invasive species to the watercourses during any of the works. Therefore, there would be no resultant adverse effects on this QI habitat with respect to its attributes and targets (incl. Habitat Area (stable or increasing); Habitat Distribution (no decline); Vegetation structure & composition).

***Fisheries:*** The site and environs drain to the River Shannon which forms part of the Lower Shannon SAC, and several species of fish (incl. Salmon, and Sea, River & Brook Lamprey) have been recorded in the river and its tributaries during their various lifecycle stages. The NPWS documentation notes that artificial barriers can block or cause difficulties to fish migration, both up- and downstream, thereby possibly limiting the species to specific stretches and creating genetically isolated populations (Lampreys). The IFI submission noted the presence of a landlocked population of Sea lamprey in Lough Derg. It also noted that there may be suitable spawning habitat for Salmon and Lampreys in the Lough Derg tributaries and that the main channel of the River Shannon may be considered a zone of passage for Salmon, but that there were no records of any of these species the vicinity of the project.

Any deterioration of biological or chemical water quality or smothering of the riverbed substratum because of siltation, accidental fuel spills or poorly managed in-stream works could have adverse resultant impacts on the QI fish species, by affecting spawning grounds, food availability (incl. macro-invertebrates & macrophytes) and health (incl. clogging of fish gills). However, I am satisfied that following the implementation of the mitigation measures and any recommended conditions (incl. the management of sediments & accidental spills, ongoing water quality monitoring and the control of invasive species), the proposed development would not have an adverse impact on fisheries in the Lower River Shannon SAC during the works. There would be no resultant adverse effects on these QI species with respect to their attributes and targets (incl. Distribution, Population structure & density, Extent and distribution of spawning habitat, Availability of juvenile habitat, & Water quality).

**Otter.** Otter has been recorded commuting and foraging along the larger rivers in the SAC and it is possible that it utilises the nearby watercourse and tributaries. There is an historical record of its presence downstream of the works. Any deterioration of water quality because of the proposed works and resultant impacts on the availability of fish biomass for Otter could have an adverse impact on this QI species. However, I am satisfied that following the implementation of the mitigation measures (incl. the measures to protect water quality and hence the availability of prey species) the proposed development would not have an adverse impact on Otter in nearby watercourses during the construction and operational phases. Therefore, there would be no resultant adverse effects on this QI species respect to its attributes and targets (incl. Distribution, Extent of terrestrial & freshwater habitats, Couching sites & holts, and availability of fish biomass).

**Potential in-combination effects:** Potential indirect in-combination effects relate to damage to QI habitats and species because of accidental spillages and sediment run off during the junction upgrade works, and the accidental introduction of invasive species by construction vehicles. This could give rise to pollution, contamination and/or colonisation with resultant impacts on water quality, fisheries, and the availability of prey species for otter, having regard to the various plans or projects in wider area (incl. agriculture, domestic & industrial discharges and recreation) in the absence of mitigation. However, having regard to the implementation of the aforementioned mitigation measures and recommended conditions (see below), I am satisfied that there would be no adverse cumulative effects on the European site or its QI habitats and species.

**Residual effects:** None anticipated post mitigation.

**NIS Omissions:** None noted.

**Suggested conditions:** All works should take place outside the bird breeding and fish spawning seasons. Compliance with IFI “Guidelines on protection of fisheries during construction works in and adjacent to waters” should be required. A Project Ecologist should be appointed to oversee the works. 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.

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

**Lough Derg (Shannon) SPA:**

This European site lies within the Zone of Influence of the proposed works as it has a direct aquatic and/or mobile connection to the site of the proposed works. The SPA site boundary is located c.1.5km to the N of the site of the proposed amenity works.

**European site description:**

Lough Derg lies within counties Tipperary, Galway and Clare and is the largest of the River Shannon Lakes. Most of the lower part of the lake is enclosed by hills on both sides, with the Slieve Aughty Mountains to the W and the Arra Mountains to the E, and the lake has been classified as a mesotrophic system. The lake has many small islands, especially on its W and N sides and the shoreline is often fringed with swamp vegetation. Lough Derg is of importance for both breeding and wintering birds. Lough Derg (Shannon) SPA is of high ornithological importance as it supports nationally important breeding populations of Cormorant and Common Tern. In winter, it has nationally important populations of Tufted Duck and Goldeneye, as well as a range of other species including Whooper Swan. The presence of Whooper Swan, Greenland White-fronted Goose, Hen Harrier and Common Tern is of particular note and parts of Lough Derg (Shannon) SPA are a Wildfowl Sanctuary.

***Special Conservation Interest species:*** Cormorant, Tufted Duck, Goldeneye, Common Tern, and Wetland & Waterbirds.

***Conservation Objectives:*** To maintain or restore the favourable conservation condition of the wetland habitat at Lough Derg (Shannon) SPA as a resource for the regularly-occurring migratory waterbirds that utilise it.

***Attributes & targets:*** None specified.

**Potential direct effects:** The proposed development would not be located within this European site, it is not relevant to the maintenance of any European site there would be no potential for direct effects, given the separation distance.

**Potential indirect effects:** The construction works associated with the proposed development and its future operational use will take place entirely within the boundaries of the development site which is located downstream of Lough Derg. During the **construction phase** the proposed drainage arrangements and mitigation measures would ensure that no deleterious materials (incl. fine sediments, accidental chemical or fuel spills & other pollutants) would discharge to River Shannon which drains SW to the Shannon Estuary. The linear design of the project would ensure that the project would not introduce any additional barriers to bird mobility or a collision risk. Further potential indirect effects relate to the uncontrolled introduction of invasive species from works vehicles which could give rise to the colonisation of habitats by invasive species, with possible resultant impacts on SCI species and their prey species, in the absence of mitigation. There is no potential for any additional significant indirect adverse effects during the **operational phase** as the project would comprise a short extension to an existing riverside pathway on lands that already accessible to the public, with a minimal additional land take.

**Mitigation measures:** The Stage 2 Appropriate Assessment report contains mitigation measures which would serve to protect for the Lower River Shannon SAC and which would also protect this SPA and its SCI species from adverse effects.

**Potential in-combination effects:** Potential indirect in-combination effects relate to damage to SCI species because of accidental spillages and sediment run off during the construction works, and the introduction of invasive species from construction vehicles. This could give rise to pollution, contamination and/or colonisation with resultant impacts on water quality and the availability of prey species for SCI species, having regard to the various plans or projects in wider area (incl. agriculture, domestic & industrial discharges and recreation) in the absence of mitigation. However, having regard to the implementation of the aforementioned mitigation measures and suggested conditions (see below) I am satisfied that there would be no adverse cumulative effects on the European site or its SCI species.



**Residual effects:** None anticipated post mitigation.

**NIS Omissions:** The Stage 1 AA Screening report did not screen in the Lough Derg (Shannon) SPA for further consideration the Stage 2 Appropriate Assessment report.

**Suggested conditions:** All works should take place outside the bird breeding season. A Project Ecologist should be appointed to oversee the works. 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.

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

#### 7.14. **Appropriate Assessment Conclusions:**

Having regard to the foregoing I consider that it is reasonable to conclude on the basis of the information on the file, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, that the proposed development, individually or in combination with other plans and projects would not adversely affect the integrity of the European site no. 002165 and 004058 or any other European site, in view of the site's Conservation Objectives.

## 8.0 Recommendation

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

### Reasons and Considerations

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

- (a) the EU Habitats Directive (92/43/EEC),
- (b) the European Union (Birds and Natural Habitats) Regulations 2011-2015,
- (c) the Government of Ireland Climate Action Plan, 2019,
- (d) the Southern Regional Economic & Spatial Strategy, 2020,
- (e) the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the likely significant effects of the proposed development on a European Site,
- (f) the conservation objectives, qualifying interests and special conservation interests for the Lower River Shannon SAC (site code: 002165) and Lough Derg (Shannon) SPA (site code: 004058),
- (g) the policies and objectives of the North Tipperary County Development Plan, 2010 (as Varied & Extended),
- (h) the nature and extent of the proposed works as set out in the application for approval,
- (i) the information submitted in relation to the potential impacts on habitats, flora and fauna, including the Stage 2 Appropriate Screening report (NIS), and
- (j) the report and recommendation of the person appointed by the Board to make a report and recommendation on the matter.

**Appropriate Assessment:**

The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report that Lower River Shannon SAC (site code 002165) and Lough Derg (Shannon) SPA (site code: 004058), are the only European Sites in respect of which the proposed development has the potential to have a significant effect.

The Board considered the Stage 2 Appropriate Screening report and associated documentation submitted with the application for approval, the mitigation measures contained therein, the submissions and observations on file, and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed development for the affected European Sites, namely the Lower River Shannon SAC and Lough Derg (Shannon) SPA, in view of the site's conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment. In completing the appropriate assessment, the Board considered, in particular, the following:

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

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

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

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

It is considered that, subject to compliance with the conditions set out below, the proposed development would not have significant negative effects on the environment or the community in the vicinity, would not give rise to a risk of pollution, would not be detrimental to the visual or landscape amenities of the area, would not seriously injure the amenities of property in the vicinity, would not adversely impact on the cultural, archaeological and built heritage of the area and would not interfere with the existing land uses in the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area and it would not give rise to likely effects on the environment.

### **Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. For the avoidance of doubt, the original access arrangements described in the planning application received by the Board on the 14<sup>th</sup> day of June 2021 shall be implemented.

**Reason:** In the interest of clarity.

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

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

3. Prior to the commencement of development, the local authority, or any agent acting on its behalf, shall prepare in consultation with the relevant statutory agencies, a Construction Environmental Management Plan (CEMP), incorporating all mitigation measures indicated in the Stage 2 Appropriate Screening report, and demonstration of proposals to adhere to best practice and protocols.

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

4. The following nature conservation requirements shall be complied with:
  - (a) The works shall be carried out in compliance with the Inland Fisheries Ireland document “Guidelines on protection of fisheries during construction works in and adjacent to waters.”
  - (b) No in-stream works shall be undertaken without prior consultation with Inland Fisheries Ireland, and the works shall only be undertaken between October and June (inclusive).
  - (c) No vegetation removal shall take place during the period 1<sup>st</sup> March to 31<sup>st</sup> August (inclusive).
  - (d) A pre-construction otter survey by a suitably qualified ecologist shall be carried out before works commence.
  - (e) A pre-construction bat survey shall be carried out by a suitably qualified ecologist during the active bat season.
  - (f) Any destruction of bat roosting sites or relocation of bat species shall be carried out by a suitably qualified ecologist under a Derogation Licence granted by the Minister for Housing, Local Government and Heritage.

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

5. A suitably qualified ecologist shall be retained by the local authority to oversee the site set up and construction of the proposed development and implementation of mitigation measures relating to ecology. The ecologist shall be present during 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 biodiversity.

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

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

7. The County Council and any agent acting on its behalf shall facilitate the preservation, recording, protection or removal of archaeological materials or features that may exist within the site. A suitably qualified archaeologist shall be appointed by the County Council to oversee the site set-up and construction of the proposed development and the archaeologist shall be present on-site during construction works.

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

---

Karla Mc Bride

Senior Planning Inspector

08<sup>th</sup> October 2021