



An
Bord
Pleanála

Inspector's Report ABP-310969-21.

Development

Demolition of derelict houses, sheds and site clearance and construction of 3 no. houses, associated footpath, parking, boundaries and connection to water and wastewater services and all associated works.

Location

Lackabeg, Kildavin, Co. Carlow.

Planning Authority

Carlow Co. Council.

Type of Application

Application for approval under Section 177AE of the Planning and Development Act, 2001 as amended.

Observers

None.

Date of Site Inspection

28 September 2021.

1.0 Overview

- 1.1. Carlow Co. Council is seeking approval from An Bord Pleanála for a development involving redevelopment of an existing residential site to provide 3 no. dwellinghouses and ancillary infrastructure at the edge of the village of Kildavin, Co. Carlow.
- 1.2. 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 effects on a European site.

2.0 Site Location and Description

- 2.1. The stated site area is 0.207 ha. And i comprises a triangular plot of land at the western side of the village of Kildavin. It is bounded to the north-east by lands associated with the N80 and to the south by the R724. The national primary road is stated to be at a level of 62.8 mOD as measured at the centre line. Adjacent the road carriageway is an existing planted area which is a linear strip of land running parallel to the carriageway. The level of the site at the northern corner is approximately 60.4 m OD and at the southern boundary is approximately 54 mOD. The majority of the site area which is to be developed falls between 54 and 57 mOD.
- 2.2. The site is separated from the commercial core of the village as well as social and community services by the N 80 flyover bridge. The character of the environs of the site is rural/suburban.
- 2.3. The site is currently in residential use. There is an existing single-storey dwelling house and associated sheds and a mobile home is in situ in addition.
- 2.4. Site investigations indicate that there is rock at 2 m below ground level within the site. There is also reference to an old drain which connects the site to the nearby water courses and ultimately to a European site.
- 2.5. Photographs taken by me at the time of my inspection are attached.

3.0 Proposed Development

- 3.1. The proposal development may be described as follows:

- Demolition of existing buildings to provide 2 no. two-bedroom and 1 no. three-bedroom dwellinghouses.
- Car parking is proposed to be provided adjacent the regional road.
- The site will be serviced by way of connection to public water main and foul sewer.
- An old drain within the site will be removed.
- A small public open space/amenity area is proposed.

3.2. The application is accompanied by the following reports:

- Application Drawings prepared by Carlow County Council Housing Department.
- Site Investigation Report prepared by Thomas Campbell Consulting Engineers Limited.
- Natura Impact Statement prepared by Panther Environmental Solutions Limited.

4.0 Prescribed Bodies

4.1. The application was referred to:

- Inland Fisheries Ireland
- Irish Water.

4.2. No responses were received.

5.0 Third Party Observations

5.1. None.

6.0 Planning History

6.1. There are is no recent planning history on or in the vicinity of the site.

7.0 Legislative Context

7.1. The EU Habitats Directive (92/43/EEC):

- 7.1.1. Article 6(3) and 6(4) of this requires 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.

7.2. European Communities (Birds and Natural Habitats) Regulations 2011:

- 7.2.1. These Regulations are relevant in terms of the transposition of the Directive in Ireland.

7.3. Planning and Development Acts 2000 (as amended):

- 7.3.1. 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) refers to preparation of a Natura Impact Statement in respect of proposed local authority developments.
 - Section 177(AE) (3) states that where a Natura Impact Statement 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.

8.0 Policy Context

8.1. National policy

8.2. National Planning Framework – Project Ireland 2040 (February 2018)

8.2.1. Amongst the objectives set out in section 6.6 of Chapter 6 are:

- Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location (Objective 33).
- Increase residential density in settlements through a range of measures including reductions in vacancy, re-use of buildings, infill development schemes, area or site-based regeneration and increased building heights (Objective 35).

8.3. Rebuilding Ireland – Action Plan for Housing and Homelessness (July 2016)

8.3.1. Key objectives include increasing the social housing stock owned by local authorities and approved housing bodies by at least an annual average of 10,000 per annum through a programme of acquisition, refurbishment and new build.

8.4. Social Housing Strategy 2020 (November 2014)

8.4.1. This set the objective of providing 35,000 new social housing units over a six-year period. Key actions include the setting of targets for local authorities and the undertaking of a multi-annual planned program of local authority housing stock refurbishment.

8.5. The Planning System and Flood Risk Management Guidelines

8.5.1. In considering proposals for development which may be vulnerable to flooding there may be a requirement for detailed flood risk assessment.

8.6. Flood Risk Management Climate Change Adaptation Plan 2015

8.6.1. This includes recommended allowances for likely and extreme future scenarios, which are to be considered in the preparation of flood risk assessments.

8.7. Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009

8.7.1. These guidelines encourage sustainable urban development through the avoidance of excessive suburbanisation and the promotion of higher densities in appropriate locations. The greatest efficiency will be achieved by providing net residential densities in the general range of 35-50 dwellings per hectare and such densities (involving a variety of housing types where possible) should be encouraged generally. Development at net densities less than 30 dwellings per hectare should generally be discouraged, particularly on sites in excess of 0.5 hectares.

8.8. Carlow County Development Plan 2015 – 2021

8.8.1. Under the settlement hierarchy for the county the settlement of Kildavin is defined as a village and therefore is in the lowest tier of the hierarchy. It is noted that the expired local area plan contains a significant amount of information on natural and built heritage and other planning issues and that these will be used as supplementary guidance documents for planning purposes.

8.8.2. Under the core strategy a population increase of 27 is envisaged for Kildavin for the period 2015-2021.

8.8.3. Under the 2007 LAP for Kildavin the site is within an area zoned for residential development.

9.0 Planning Assessment

The issues arising are considered under the following headings:

- Principle and Density.
- Design, Standards and Parking
- Wastewater Treatment and Water Supply.
- Flood Risk.
- Ecology.

9.1. Principle and Density

- 9.1.1. The principle of residential use of this site is established and the site was previously zoned under a local area plan for residential use.
- 9.1.2. I consider that the provision of 3 no. dwellinghouses at this site constitutes an appropriate design having regard to the site constraints including the topography and the character of the immediate environs.
- 9.1.3. The dwelling house and the associated sheds include elements which are constructed of granite and represent fairly typical examples of vernacular architecture design. The subject buildings are not protected structures and are not listed on the National Inventory of Architectural Heritage. I have no objection in principle to their demolition and to the redevelopment of residential this site.
- 9.1.4. I consider that in terms of the principle of development and the density the proposed development is in keeping with national guidance and the development plan.

9.2. Design, Internal Space and Traffic and Parking

- 9.2.1. The form and layout of the proposed dwellinghouses reflects the existing vernacular design represented in the existing buildings on site. I note the use of grey granite stone and grey PVC double glazed windows, which I consider are acceptable design and finishes. The external façades will mainly be finished in a nap plaster. I consider that the proposed 3 no. terraced houses are of acceptable design and will integrate satisfactorily with the area.
- 9.2.2. In terms of the internal layout the dwellinghouses would appear to meet all minimum requirements in terms of room sizes. I consider that the overall floor area of the units at 66 m² for the two-bedroom units and 94.3 m² for the three-bedroom unit is suitable and sufficient. The building is to be constructed to nBEZ standard.
- 9.2.3. The adjoining regional road appears not to be heavily trafficked. I consider that the proposed parking arrangements comprising on street parking to the front and side do not raise any issues with respect to safety. A new concrete footpath is proposed adjacent the southern and western site boundaries. I consider that the proposed development is acceptable in terms of traffic safety and that it will result in an enhanced public realm which will benefit pedestrians and residents in the area.

9.2.4. I conclude that the housing units would comply with relevant national guidance in terms of layout, size and provision of private amenity space and that the development is acceptable in terms of traffic safety.

9.3. **Open space**

9.3.1. The proposed development incorporates private rear gardens. Due to the site topography these rear gardens will be surrounded by a retaining wall and will be accessed by way of a few steps from the footpath at the rear of the dwellinghouses. There is a gently slope incorporated into the main area of the rear gardens. I am satisfied that the design of the rear gardens will ensure they are suitable for recreational use by the residents.

9.3.2. A significant part of the site is to be developed as an amenity area. It's development will involve removal of existing trees and vegetation and planting a mix of semi mature ash, hornbeam and birch trees as well as filling, grading of the site with topsoil. A new path and some seating will be included.

9.3.3. I note that the internal report of the Senior Executive Planner expresses reservations relating to the lack of surveillance of the new public space and recommended that the proposing Department of Carlow County Council review this aspect of the development so that any public open space/amenity area can be appropriately located and forms part of the considered layout.

9.3.4. I have considered the comments of the Senior Executive Planner. Having regard to its proximity to the national road and to the site topography, I consider that the reservation of the rear of these lands as open space is appropriate. It is not clear to me how the site layout could be redeveloped to incorporate a more centrally positioned open space. I also consider that in the context of a small village the open space may become a valued amenity. Accordingly, I consider that this element of the proposed development is acceptable and does not warrant amendments.

9.3.5. I consider that the planting and landscaping treatment of the proposed amenity open space is sufficiently specified in the application drawings.

9.4. Surface Water, Wastewater Treatment and Water Supply

- 9.4.1. The proposals for surface water drainage within the site include new soakpits, which will be constructed within the site to cater for the drainage from the proposed dwellinghouses. At the rear of the dwellinghouses and beyond the proposed retaining wall a land drain is to be developed within the site to manage surface water from the higher parts of the land. This drain will connect to the existing surface water network, which is to be upgraded.
- 9.4.2. The proposed 3 no. dwellinghouses are to be served by the public foul infrastructure.
- 9.4.3. The applicant submission indicate that a favourable response was received from Irish Water in relation to a pre-connection enquiry for water supply.
- 9.4.4. I conclude that the proposed development is acceptable with respect to the arrangements for surface water management, water supply and wastewater treatment.

9.5. Flood Risk

- 9.5.1. Residential development is 'highly vulnerable' under the Planning System and Flood Risk Management Guidelines. I note and accept the applicant's statement that there is no need for site specific flood risk assessment. The site is elevated above the road and there is no history of flooding. Neither the site nor the lands in the vicinity are within the 1:100 or 1:1000-year flood risk zones. I consider that there is no risk of fluvial flooding.
- 9.5.2. The site is separated from the elevated national road by a wide strip of planted land, which will not be altered. There is nothing to indicate that there has been any history of flooding related to water run-off from the national road. There is ample space to the rear of the site to accommodate additional roadside drainage should that be required in the future. I consider that there is no risk of pluvial flooding.
- 9.5.3. In conclusion I consider that the development is acceptable in terms of flood risk.

9.6. Conclusion

- 9.6.1. I consider that the development is acceptable in principle and in terms of the residential amenity for future occupants and the landscape and visual amenities of

the area. The proposed development would not give rise to traffic hazard. It may be concluded that the proposal is in accordance with the proper planning and sustainable development of the area.

10.0 Appropriate Assessment

10.1. Introduction

10.1.1. The requirements of Article 6(3) as related to appropriate assessment of a project under the Planning and Development Act 2000 (as amended) are considered fully in this section. The areas addressed in this section are as follows:

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

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

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

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

10.3. Screening

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

10.4. Background on the Application

10.4.1. The applicant has submitted a screening report as part of the planning application. This report is presented as Section 4 of the report entitled Natura Impact Statement Lackabeg, Kildavin, Co. Carlow, which was prepared for Carlow County Council by Panther Environmental Solutions Ltd and is dated 14th October 2020.

10.4.2. I consider that the applicant's Stage 1 AA Screening Report was prepared in line with current best practice. I note in particular that the description of the development makes particular reference to the existing sewer pipe which will be demolished as part of the proposed development. The description of the development in section 4.1 of the NIS also draws attention to stormwater which will be diverted to the existing surface water drainage system which is to be upgraded.

10.4.3. The applicant's AA Screening Report concluded that during construction/demolition works the proposed development has the potential to impact upon the qualifying interests/special conservation interests of Slaney River Valley SAC due to a potential deterioration in water quality. Therefore, a Natura Impact Statement is required.

10.4.4. The Natura 2000 sites considered in the Screening Report are:

- Slaney River Valley SAC (000781)
- Blackstairs Mountain SAC (000770)
- River Valley and River Nore SAC (002162)

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

10.5. Screening for Appropriate Assessment- Test of likely significant effects

- 10.5.1. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site.
- 10.5.2. The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site.

10.6. Brief description of the development

- 10.6.1. The applicant provides a description of the project in section 4.1 of the NIS. In summary, the development comprises:
- Construction of 3 no. residential dwellinghouses, an amenity area, 4 no. parking spaces, new boundary wall/fences and associated site works.
 - Demolition of existing dwelling house, sheds and outbuildings.
 - Decommissioning of existing sewer pipe and installation of new sewer pipe to connect the proposed development with the Kildavin UWWTP.
 - Stormwater management to include new soak pits, a land drains system and onward connection to the existing public surface water drainage system.
 - Landscaping including amenity planting and some hard landscaping are proposed. Where possible it is stated that hedgerow/tree removal would not be undertaken between 1st March and 31st August.
 - There would be a requirement during excavation works to temporarily store excavated soil on the site.
- 10.6.2. The existing environment and the development site are described in section 4.2 of the NIS. This includes a review of the actual site from the point of view of the buildings and vegetation on site and a short consideration of flood risk.
- 10.6.3. The site walkover undertaken identified nine habitats. It is noted that the majority of the development site comprising of recolonising bare ground (ED3) and buildings and artificial surfaces (BL3) habitats would be considered of low biodiversity value.

There are sections of hedgerows and tree lines which can be considered to be of moderate conservation value. No plants of conservation significance or third schedule invasive plant species were recorded. There was no evidence of badger or otter at the site and the only mammal reported is brown rat. Mammals which are typical of that found throughout the rest of Ireland and which would be expected to be found in the general area include bats, badgers, foxes, otter, pine marten and others. Birds would be expected to be common species typically found in agricultural areas and hedgerows. None of the recorded bird species which were noted during site inspections are listed under Annex I of the Birds Directive.

10.6.4. The information on water quality is based on the EPA mapping for the Slaney and Wexford Harbour Catchment (Slaney sub-catchment SC_050). The Kildavin Stream flows approximately 200 m to the south-west of the proposed development site. The river Slaney is approximately 1.15 km to the east. The Kildavin Stream enters the Slaney approximately 2 km south of the proposed development site. EPA records of water quality for monitoring stations is presented in table 4.2. In 2019 the EPA reported that the Kildavin Stream was mainly achieving Good ecological quality with some signs of enrichment.

10.7. Submissions and Observations

10.7.1. No responses were received from prescribed bodies and no observations received.

10.8. Aspects of the proposed development.

10.8.1. I consider that the main aspects of the proposed development that could adversely affect the conservation objectives of European sites are related to discharge of potentially polluted liquids from the site entering the watercourse during the construction phase and could include in particular:

- Run-off of large volumes of silt-laden water during construction.
- Run-off of water contaminated by cement, concrete or other liquids or spillages of these materials.
- Run-off of water contaminated by fuel, oil and hydrocarbons or spillages of these materials.

- 10.8.2. In the event of discharge of large volumes of liquids to the watercourse including as a result of demolition, excavation, stockpiling or as a result of a chemical, oil or fuel spill polluted material could be transported to the Slaney River Valley SAC by way of the Kildavin Stream 200m away.
- 10.8.3. There is no likelihood of significant disturbance to qualifying interests related to noise/disturbance or air pollution having regard to the scale and nature of the proposed development and the locational context.
- 10.8.4. There is no particular risk related to the potential introduction of invasive species.
- 10.8.5. The proposed development would not be associated with any risk of habitat fragmentation or habitat loss.
- 10.8.6. There is no likelihood of operational phase impacts. In this regard I note that there is no information presented to indicate any difficulties with the operation of the wastewater treatment plant which would serve the proposed development.
- 10.8.7. In conclusion taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are relevant for examination in terms of implications for likely significant effects on European sites:
- Construction related -uncontrolled surface water/silt/ construction related pollution.

10.9. European Sites

- 10.9.1. The applicant notes the 3no. European sites which are within a possible zone of influence. I agree that these are the only European sites which might be considered to be relevant to the proposed development and the matter of Appropriate Assessment. In this respect I note that while there is a hydrological connection between the site and the European sites at Wexford and Wexford harbour (Raven Point Nature Reserve SAC, The Raven SPA, Wexford Harbour and Slobs SPA) these are a considerable distance downstream and can for this reason be discounted for the purposes of identification of European sites within the zone of influence.

10.9.2. I set out below the distance to the relevant European site and comment with respect to possible connections between the site of the proposed development and the European site.

10.9.3.

European Site (code)	Distance from proposed development (Km)	Connections (source, pathway receptor)	Considered further in screening Y / N
Slaney River Valley SAC (Site Code 000781)	1.1km east	Hydrological connection to site by Kildavin Stream and old sewer.	YES
Blackstairs Mountain SAC (Site Code 000700)	6.6km south	No hydrological or other relevant connection.	NO
River Barrow and River Nore SAC (Site Code 002126)	11.7km south-west	No – the SAC is elevated and is upstream.	NO

10.9.4. The development site is not located in or immediately adjacent to a European site. The closest European site is Slaney River Valley SAC, which is stated to be over 1.1 km downstream, and which is connected to the site of the proposed development by way of Kildavin Stream.

10.9.5. I consider that Slaney River Valley SAC is the only Natura 2000 site which can reasonably be described as being within the possible zone of influence of the proposed development. A possible hydrological connection between the development and the European site has been described above.

10.9.6. I consider that the conclusion in the applicant's Screening contained within the NIS are reasonable and do not require further discussion or assessment in view of the

nature and scale of the proposed development and having regard to the separation distance and lack of ecological connectivity to all of the relevant sites (apart from Slaney River Valley SAC).

10.10. Mitigation measures

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

10.11. Screening Determination

10.11.1. The proposed development was considered in light of the requirements of 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually (or in combination with other plans or projects) could have a significant effect on European Site No. 000781, in view of the site's Conservation Objectives, and Appropriate Assessment is therefore required.

10.12. Appropriate Assessment – Stage 2

10.12.1. Following the screening process, it has been determined that Appropriate Assessment is required as it cannot be excluded on the basis of objective information that the proposed residential development at Lackabeg, Kildavin, Co. Carlow individually or in-combination with other plans or projects will have a significant effect on the Slaney River Valley SAC (Site Code 000781).

10.12.2. Measures intended to reduce or avoid significant effects have not been considered in the screening process.

10.13. The Natura Impact Statement

10.13.1. The application includes a NIS which examines and assess potential adverse effects of the proposed development on the Slaney River Valley SAC.

10.13.2. I consider that the information supplied is adequate. It is clear that the NIS was prepared in line with current best practice. It provides an assessment of potential impacts and pathways which I consider is sufficient. The detailed design of

the proposed development is relatively advanced and site conditions are well understood. The information provided demonstrates an understanding of the relevant construction phase impacts.

10.13.3. The NIS concludes that provided the avoidance and mitigation measures suggested are implemented in full, it is not expected that the proposed development will have a significant adverse impact on the Natura 2000 site Slaney River Valley SAC.

10.13.4. Having reviewed the documents, I am satisfied that the information allows for a complete assessment of any adverse effects of the development, on the conservation objectives of the Slaney River Valley SAC alone, or in combination with other plans and projects.

10.14. Appropriate Assessment of implications of the proposed development

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

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

10.15. European Sites

10.15.1. The qualifying interests of the Slaney River Valley SAC are:

- Estuaries [1130]
- Mudflats and sandflats not covered by seawater at low tide [1140]
- Atlantic salt meadows (*Glauco-Puccinellietalia maritimae*) [1330]

- Mediterranean salt meadows (*Juncetalia maritimi*) [1410]
- Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitriche-Batrachion* vegetation [3260]
- Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles [91A0]
- Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*) [91E0]
- *Margaritifera margaritifera* (Freshwater Pearl Mussel) [1029]
- *Petromyzon marinus* (Sea Lamprey) [1095]
- *Lampetra planeri* (Brook Lamprey) [1096]
- *Lampetra fluviatilis* (River Lamprey) [1099]
- *Alosa fallax fallax* (Twite Shad) [1103]
- *Salmo salar* (Salmon) [1106]
- *Lutra lutra* (Otter) [1355]
- *Phoca vitulina* (Harbour Seal) [1365].

10.15.2. There are detailed conservation objectives set for the Slaney River Valley SAC. These relate to maintaining or restoring the favourable conservation condition of the qualifying interests which is defined by a list of attributes and targets. Following review of the website of National Parks and Wildlife Service I can confirm that the NIS is based on the most relevant up to date information – Version 1.0 of the Conservation Objectives. I have had regard to that publication and the associated maps.

10.15.3. I consider that the following qualifying interests can be discounted from potential impact as the habitats are located at a considerable distance downstream of the development site. The effect of dilution and the potential for response to any accidents means that potential deterioration in water quality can be discounted and that there is no likelihood of significant effects on these qualifying interests.

- Estuaries [1130]
- Mudflats and sandflats not covered by seawater at low tide [1140]

- Atlantic salt meadows (*Glauco-Puccinellietalia maritimae*) [1330]
- Mediterranean salt meadows (*Juncetalia maritimi*) [1410].

10.15.4. There is potential for water quality impacts on the following qualifying interest which habitat is known to be present along much of the Slaney and which would be affected by adverse water quality impacts. I consider that it cannot be excluded that the proposed development will have a significant effect on the following qualifying interest:

- Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitriche-Batrachion* vegetation [3260].

10.15.5. The area around Kildavin is one of the few locations within the large SAC which contains the qualifying interest old oak woodlands. The information presented in the NIS is that the habitat is located 1.85km downstream and 3.22km upstream of the development site. There may be other areas as yet unrecorded. It is clear that this habitat does not lie within the site based on the reported investigations presented by the applicant. I accept the applicant's conclusion that these terrestrial habitats would not be likely to be significantly impacted as a result of water quality effects in the construction phase. I support the conclusion that the proposed development would not have a significant effect on the following qualifying interest:

- Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles [91A0].

10.15.6. There is potential for effects on the priority habitat Alluvial Forests in the event of deterioration in water quality during construction. The nearest known downstream area of this habitat is approximately 20km away but there may be areas of this habitat which are not recorded on map 6. As such a precautionary approach is advisable. I consider that it cannot be excluded that the proposed development will have a significant effect on the following qualifying interest:

- Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*) [91E0].

10.15.7. The qualifying interest Freshwater Pearl Mussel is under review and no detailed conservation objectives have been prepared as a result. The species has previously been recorded in the Derreen River circa 11km upstream. The possibility

that the species is present downstream of Kildavin cannot be ruled out in the absence of surveys and a precautionary approach is warranted. I consider that it cannot be excluded that the proposed development will have a significant effect on 'Margaritifera margaritifera (Freshwater Pearl Mussel) [1029]'.

10.15.8. It is considered unlikely but possible that the qualifying interest Sea lamprey is located within the zone of influence of the proposed development. Surveys reported in the NIS however did report small numbers of juvenile sea lamprey within the nearby River Derry and Sea lamprey redds at downstream Bunclody. The species would be adversely impacted upon by a deterioration in water quality. I consider that it cannot be excluded that the proposed development will have a significant effect on 'Petromyzon marinus (Sea Lamprey) [1095]'.

10.15.9. As larvae River and Brook lamprey are indistinguishable. Juvenile/River lamprey have been recorded in the main Slaney channel and in the River Derry and are assumed to be present within the zone of influence of the proposed development. I consider that it cannot be excluded that the proposed development will have a significant effect on:

- Petromyzon marinus (Sea Lamprey) [1095]
- Lampetra planeri (Brook Lamprey) [1096]

10.15.10. The NIS sets out details of records for the qualifying interest Twaite Shad. The development is outside the current known distribution and favourable reference range of this species. Filamentous algae and macrophyte growth could impact gravel beds for spawning. As stated in the NIS precautionary proactive measures would be needed to be undertaken to ensure that this does not occur. It cannot therefore be concluded that there is no potential for significant water quality effects on 'Alosa fallax fallax (Twaite Shad) [1103]'.

10.15.11. The Slaney is a salmonid river and Salmon was recorded as the most common fish species at some sampling sites close to the proposed development site. It is probable that Atlantic salmon are present within the vicinity of the proposed development. Juveniles and spawning beds would be especially sensitive to sedimentation and water pollution. I consider that it cannot be excluded that the proposed development will have a significant effect on 'Salmo salar (Salmon) [1106]'.

10.15.12. While there was no recorded evidence of Otter during the site assessment it is likely that the species could be present within the vicinity of the site. The site is within the current known distribution and favourable reference range of the species which is widespread throughout the European site. In the event of a significant water quality impact which caused a reduction in prey populations there is potential for impact on the qualifying interest. I consider that it cannot be excluded that the proposed development will have a significant effect on 'Lutra lutra (Otter) [1355]'.

10.15.13. Harbour seal are highly mobile. The nearest recorded qualifying interest habitat is Enniscorthy, approximately 30 km downstream. I support the NIS conclusion that the proposed development would not have a significant effect on the qualifying interest 'Phoca vitulina (Harbour Seal) [1365]'.

10.15.14. In conclusion the proposed development has the potential to impact on the SAC due to a potential deterioration in water quality in the construction and demolition phases and could impact on the following qualifying interests of the Slaney River Valley SAC:

- Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation [3260]
- Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (Alno-Padion, Alnion incanae, Salicion albae) [91E0]
- *Margaritifera margaritifera* (Freshwater Pearl Mussel) [1029]
- *Petromyzon marinus* (Sea Lamprey) [1095]
- *Lampetra planeri* (Brook Lamprey) [1096]
- *Lampetra fluviatilis* (River Lamprey) [1099]
- *Alosa fallax fallax* (Twite Shad) [1103]
- *Salmo salar* (Salmon) [1106]
- *Lutra lutra* (Otter) [1355].

10.16. Mitigation

10.16.1. Section 8 of the NIS presents a range of mitigation measures which are related to the construction and demolition phases of the development. The measures

referenced include the relevant CIRIA and IFI guidance as well as a range of standard measures relating to avoidance of spillage and mitigation in the event of a water quality pollution event.

10.16.2. Amongst the targeted and noteworthy measures which are to be employed are:

- Daily visual inspections of the adjacent roads.
- Provision of silt control features including silt fencing along the road boundary of the development site.
- Use of silt fencing adjacent to storage areas of stockpiled soil.
- Daily inspection and appropriate maintenance of silt control features.
- During ground inspections no water was found on the site and is not anticipated to be encountered during the excavation works. If a requirement for pumping of watering emerges it will be pumped to a constructed silt control features such as a detention pond. Other related measures are presented.
- A range of standard measures are presented relating to fuel and oils and concrete.
- In the unlikely event of a deterioration in water quality within the Kildavin Stream construction works would immediately cease and be subject to investigation. Relevant NPWS and Inland fisheries Ireland personnel would be informed.

10.16.3. Subject to the mitigation measures above I support the conclusion in the NIS that there would be no significant risk to water quality and the protected habitats and species of the Slaney River Valley SAC. I consider that this conclusion may be drawn as the nature and scale of the development and the type of construction involved would not give rise to any likelihood of complexities and do not constitute activities which will pose a high risk to the environment. In this context I consider that the construction and demolition related measures which are set out include activities and practices which are regularly utilised, and which are well understood. For these reasons there can be a high degree of confidence in the likelihood of the mitigation measures presented being satisfactorily implemented.

10.16.4. Regarding in combination effects the NIS notes the presence of a quarry 700 m to the south-east and four EPA licensed facilities within 10 km. The potential for in combination effects is discussed in terms of habitat loss/fragmentation, disturbance to species, air quality and water quality. Sections 9.1 – 9.4 of the NIS refer. I agree with the conclusions presented relating to these potential in combination effects. I consider that it may be concluded that no in combination effects on habitat loss/fragmentation, disturbance, air or water quality are relevant.

10.17. Integrity test

10.17.1. Following the appropriate assessment and the consideration of mitigation measures, I am able to ascertain with confidence that the project would not adversely affect the integrity of Slaney River Valley SAC in view of the Conservation Objectives of this site.

10.17.2. This conclusion has been based on a complete assessment of all implications of the project alone and in combination with plans and projects.

10.18. Appropriate Assessment Conclusion

10.18.1. The development comprising demolition of a dwellinghouse, sheds and site clearance and construction of 3 no. houses, all associated footpaths, parking, boundaries and connections to services and all associated works and the development of an amenity area at Lackabeg, Kildavin has been considered in light of the assessment requirements of Sections 177U and 177AE of the Planning and Development Act 2000 as amended.

10.18.2. Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on European site No 000781 Slaney River Valley SAC. Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of that site in light of its conservation objectives.

10.18.3. Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European site No 000781 Slaney River

Valley SAC, or any other European site, in view of the site's Conservation Objectives.'

10.18.4. This conclusion is based on:

- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures in relation to the Conservation Objectives of Slaney River Valley SAC.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of Slaney River Valley SAC.

11.0 Recommendation

On the basis of the above assessment, I recommend that the Board approve the proposed development subject to the reasons and consideration set out below and subject to the conditions requiring compliance with the submitted details and the mitigation measures 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 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 for the European site No 000781 Slaney River Valley SAC,
- (e) the policies and objectives of the Carlow County Development Plan 2015-2021,
- (f) the nature and extent of the proposed works set out in the application for approval,

- (g) 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 reached in the Inspector's report that the European site No 000781 Slaney River Valley SAC is the only European Sites in respect of which the proposed development has the potential to have a significant effect.

The Board considered the Natura Impact Statement and associated documentation submitted with the application for approval, the mitigation measures contained therein, the submissions and observations on file. The Board completed an appropriate assessment of the implications of the proposed development for European site No 000781 Slaney River Valley SAC, in view of the site's conservation objectives. The Board considered that the information before it was adequate to allow for a complete assessment of all aspects of the proposed development and enable them reach complete, precise and definitive conclusions for 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 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 be acceptable in terms of the visual amenities of the area and the residential amenity for future occupants, would not be at risk of flooding, 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 be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and the information contained in the Natura Impact Statement, 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 external finishes of the houses shall be as shown on the plans and particulars submitted.

Reason: In the interests of visual amenity.

3. Prior to commencement of development, the local authority or any agent acting on its behalf shall prepare a Construction Environmental Management Plan (CEMP) incorporating all measures set out in the application documentation including the mitigation measures indicated in the Natura Impact Statement and demonstration of proposals to ensure best practice.

The plan shall address *inter alia* measures relating to the traffic management, waste management and water quality.

The plan shall be placed on the file and retained as part of the public record.

Reason: In the interests of protecting the amenities of the area and the environment.

4. All areas of open space shown on the submitted drawings shall be reserved for such use and shall be levelled, contoured, soiled, seeded and landscaped. The open space shall be laid out and landscaped within six months of the occupation of the houses.

Reason: In the interests of proper development.

5. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of orderly development and the visual amenities of the area.



Mairead Kenny
Senior Planning Inspector

11 January 2022