



An  
Bord  
Pleanála

## Inspector's Report ABP 312227-21.

---

<b>Development</b>	Change of use from residential to recreational camping site and the construction of six cabins and all associated site works.
<b>Location</b>	Kilana Lodge, Rahena More, Ogannellae, Killaloe, Co. Clare.
<b>Planning Authority</b>	Clare County Council
<b>Planning Authority Reg. Ref.</b>	21536
<b>Applicant</b>	John Walsh
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse permission
<b>Type of Appeal</b>	First Party
<b>Appellant</b>	John Walsh
<b>Observers</b>	(1) Oonagh McElhinney (2) John & Breda Keavney (3) Enda Quinn
<b>Date of Site Inspection</b>	22 <sup>nd</sup> November 2022

**Inspector**

Siobhan Carroll

# Contents

1.0 Site Location and Description .....	5
2.0 Proposed Development .....	5
3.0 Planning Authority Decision .....	5
3.1. Decision .....	5
3.2. Planning Authority Reports .....	6
3.3. Prescribed Bodies .....	9
3.4. Third Party Observations .....	10
4.0 Planning History.....	10
5.0 Policy Context.....	10
5.1. Development Plan.....	10
5.2. Natural Heritage Designations .....	12
5.3. Environmental Impact Assessment (EIA).....	12
6.0 The Appeal .....	13
6.1. Grounds of Appeal .....	13
6.2. Planning Authority Response .....	18
6.3. Observations .....	18
7.0 Assessment .....	22
7.1. Principle of development.....	22
7.2. Roads/Parking Access .....	24
7.3. Wastewater treatment .....	26
7.4. Visual amenity.....	27
7.5. Appropriate Assessment .....	28
8.0 Recommendation.....	48

9.0 Reasons and Considerations..... 49

## 1.0 Site Location and Description

- 1.1. The appeal site is situated circa 6.2km to the north of Killaloe. It lies on the western shore of Lough Derg in the townland of Rahena More, Ogonnelloe, Co. Clare.
- 1.2. Killaloe Sailing club is located circa 1.5km to the south. Lough Derg Holiday Village is situated to the south of the sailing club. The R463 regional road links Limerick with Scarriff to the north. It is a busy scenic route which runs parallel with the Limerick navigation canal and then along the western shoreline of Lough Derg via Killaloe.
- 1.3. The site has a stated area of 0.411 ha. It comprises the northern section of the garden of a detached single storey dwelling. The property is served by a gated vehicular access on the R463. The front boundary of the site is formed by a block wall and timber fence. There is a garage on site 13m to the north of the dwelling. A jetty with two berths is located to the north-east of the site.
- 1.4. There is a detached residential property to the south of the site. The junction of the R463 and the Ballyheefy Road is located to the west of the site.

## 2.0 Proposed Development

- 2.1. Permission is sought for change of use from residential to recreational camping site and the construction of six cabins and all associated site works.

## 3.0 Planning Authority Decision

### 3.1. Decision

The Planning Authority refused permission for the following reason.

1. The proposal site is accessed via an existing entrance off the R463. Under the provisions of the Clare County Development Plan 2017-2023 (as varied), the R463 is a Strategic Regional Route, whereby Objective CDP8.5 restricts development to certain criteria; namely development of strategic importance, dwellings for established landowners and developments within settlement boundaries/50km/hr speed limit zones.

While noting that the proposed development is subsidiary to the primary residential use of the site, based on the information submitted with the application to date, the Planning Authority considers that proposed development would result in increased use of the existing access point onto the R463 and result in additional traffic movements at this location. It is considered therefore that the proposal would materially contravene objective CDP8.5, would endanger public safety by reason of a traffic hazard and would therefore be contrary to the proper planning and sustainable development of the area.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

Further Information was requested in relation to the following;

1.

(a) The proposed site is accessed via the R463 which is a Strategic Regional Route. It is an objective of the Clare County Development Plan under CDP8.5 to preserve the carrying capacity of Strategic Regional Routes and as such, new developments which require access onto such routes are highly restricted. The development proposal will result in an intensification of use of an existing entrance onto the regional road and therefore the Planning Authority has concerns in relation to compliance with objective CDP8.5. You are required to submit proposals to address these concerns. Such proposals should include detail of anticipated traffic movements associated with the developments and potential reduction in the size and number of glamping pods.

(b) You are required to provide details of the capacity of the existing jetty on the site to accommodate water borne transport associated with the development proposal.

Please note that any improvement works including dredging cannot be permitted under the current application and must be the subject of a separate consent process.

2. The proposed site adjoins the R463 which is a designated Scenic Route. Further detail is required in order to facilitate an assessment of the visual impact of the proposed development when viewed from the Scenic Route. In this regard you are required to submit a revised Site Survey showing (a) the levels associated with the mapped contours; (b) the ground levels of the public road as it passes the site, and (c) the finished floor level of the existing house within the landholding.
3. The applicant was required to redo the site suitability assessment in the presence of Clare County Council Environmental staff.
4. As detailed in the NIS and the Hydrogeological Assessment the existing waste water treatment plant on site will be decommissioned and the applicant's house dwelling will be connected to the proposed new treatment plant. This is not reflected on any drawings submitted with the application. The applicant was required to rectify this.
5. The roadside boundary of the site appears to be a recent construction. The applicant was requested to respond to this and if necessary, provide proposals to regularise the issue.
6. The third party observations refer to a right of way to the lakeshore and to the jetty. It is unclear if the proposed development obstructs the right of way or impedes the use of the jetty in third party ownership. Details are required to clarify this.
7. Revised plans required to indicate separation distances of cabins in accordance with the Building Regulations.
8. Proposals to provide bicycle parking in accordance with the Development Plan standards required.
9. Details required of proposed bins/bin storage locations on the site.

### 3.2.2. Other Technical Reports

- 3.2.3. Roads Design Office – The access for the proposed development is off the R463. The road has a speed limit of 80km/h. Sightlines and sight stopping distances of 160m from a setback of 2.4m and an object and eye object height of 1.08m are required. From observation on site visit on 30/6/2021 this was achieved. 5% car

parking spaces should be set aside for disabled car parking. Multiple bicycle parking spaces are required. All parking space sizes shall be in accordance with Clare County Council Development Plan 2017-2023.

- 3.2.4. Killaloe Municipal District Office – The applicant must show how permanent sightlines of a minimum of 160m can be achieved. As this application is an intensification of use on a regional road the minimum requirements of 160m sight distance must be met in both directions. This application should be referred to Environment and Waster Services for comment given the close proximity of the proposal to the lake edge.
- 3.2.5. Killaloe Municipal District Office – Observation on the Further Information. (1) Allowing staggered arrivals and departures to the site from the R463, will not be adequate due to unknown variables, like the examples listed below – if there are workmen on site – what about staff movements during the working day – the movement of the residents during the stay e.g. trip to Ballycuggaran, shopping trip to Killaloe and other day trips etc. – deliver – bin collections etc. (1) The retention of roadside boundary wall is not adequate as retention permission could be refused.
- 3.2.6. Chief Fire Officer – No objection to the proposed development provided it complies with any relevant requirements of the Building Regulations 1997 to 2019. If permission is granted the following condition is recommended. Every cabin should be not less than 6 metres from any other cabin in a separate occupation, and not less than 3 metres from the site boundary. Any storage sheds shall be non-combustible and located remote from egress routes. Porches may extend 1 metre into the 6m division and shall be of the open type.
- 3.2.7. Environment Section – Further Information response in relation to the proposed on site effluent treatment was examined. They question the details of the site tests carried out. It is stated that the times recorded on the photos submitted of the surface and subsurface test holes do not match what is entered in the Site Characterisation Form. It is necessary to provide an explanation for this and submit all photos taken to demonstrate the values on the Site Characterisation Form are the same as what was recorded on the photos. It states on the Site Characterisation Form that P tests were not carried out on site, however P test holes were dug at the



site on the 10<sup>th</sup> August 2021. They request percolation values are entered into the Site Characterisation Form.

### 3.3. Prescribed Bodies

#### 3.3.1. Department of Housing, Local Government and Heritage – Development Applications Unit.

- The site is within the Lough Derg pNHA and adjacent to the Lough Derg (Shannon) SPA.
- The SPA is of high ornithological importance and the conservation objective is to maintain the special conservation interest for the SPA at “favourable conservation status.”
- In assessing the development application, the Council should consider the following:
  - Clare County Council should be satisfied that the water quality within Lough Derg will not be adversely by this proposed development.
  - The mature trees healthy trees within the site should be retained and remain unaffected by the proposed works.
  - Any additional landscaping of the site should use natural trees and shrub species.
  - External lighting should be kept to a minimum and to minimise disturbance to wildlife no lighting should be directed at the lake, fringing vegetation or any other feature of ecological sensitivity.
  - The applicant should be made aware that any grant of permission does not include permission for an extension of the existing jetty. Any plans to extend this jetty may require a separate planning application or written consent from the Minister for Housing, Local Government and Heritage.
  - No infilling of the lake margin should take place.
  - No dredging of the area around the jetty is permitted.
  - No work should take place within the lake without the consent of the appropriate authority.

- No machinery or material should be stored in the SPA.
- An oil spill kit should be in place on site throughout the entire development site.

### 3.4. **Third Party Observations**

- 3.4.1. The Planning Authority received 5 no. submission/observations in relation to the application. The issues raised are similar to those set out in the observations to the appeal.

## 4.0 **Planning History**

### On site

Reg. Ref. 05/1262 – permission was refused for the construction of a dwelling and the installation of an effluent treatment system and polishing filter, and associated site works.

Reg. Ref. P07/1284 – permission was refused to remove the existing jetty extending out into the lake and to replace it with a new jetty set into the site and associated site works.

Reg. Ref. P97/177 – permission was granted to retain the house, garage and septic tank as built.

## 5.0 **Policy Context**

### 5.1. **Development Plan**

- 5.1.1. The Clare County Development Plan 2017-2023 is the operative plan relevant provisions include:

- Chapter 8 refers to Physical Infrastructure Environment and Energy
- Objective CDP8.5 – Development Plan Objective: Development of Strategic Regional Roads.

It is an objective of Clare County Council:

- A. To upgrade and improve, where necessary, the Regional Roads in the County as outlined in Table 8.1 and Table 8.2. The Council will have regard to national and regional transport plans and the Council's programme of works. The undertaking of any works will be subject to the availability of finance and resources;
- B. To preserve the carrying capacity of Strategic Regional Roads and safeguard the investment in such infrastructure. Development requiring direct access onto the Strategic Regional roads identified in Table 8.1 will be restricted to the following criteria:
- Developments of strategic importance which by their nature are most appropriately located in a rural area;
  - Established rural landowners\* and their sons and daughters wishing to build a dwelling for their own occupation on family land. It must be clearly demonstrated that there is no reasonable alternative site with access off a minor road available, and that the development complies with the objectives as set out in Chapter 3 Urban and Rural Settlement Strategy;
  - Developments located within the settlement boundaries, residential clusters and where the 50km/h speed limit applies.
- Chapter 9 refers to Tourism
  - Objective CDP9.5 – Development Plan Objective: Tourist Accommodation

It is an objective of the Development Plan:

- A. To promote, encourage and facilitate the provision of new visitor accommodation and the expansion/upgrade of existing hotels, guesthouses, B&Bs and other tourist accommodation at appropriate locations throughout the County;
- B. To support the redevelopment of brownfield sites, both in settlements and in rural areas, for the provision of tourist accommodation;
- C. To support the development of new camping and glamping facilities and facilities for campervans/motor homes/touring caravans both within settlements and in rural locations across the County;

D. To ensure all proposals are in compliance with the requirements of Objective CDP2.1.

- Objective CDP9.13 – Lakeland and Waterway Tourism,

It is an objective of the Development Plan:

To support the development of tourism activities in lakeland areas and waterways subject to normal planning and environmental criteria. All proposed developments shall be in accordance with the Birds and Habitats Directive, Water Framework Directive and all other relevant EU Directives.

- Landscape, Chapter 13 – The site is located in a heritage landscape, and adjacent to a scenic route.
- Climate Change Adaption, Flood Risk and Low Carbon Strategy, Chapter 18 - The site is located in Flood Zone A. Section 18.6 Flood risk management is of relevance.
- Biodiversity, Natural Heritage and Green Infrastructure, Chapter 14 including CDP14.2 European Sites, CDP 14.4 Natural Heritage Areas (NHAs) and proposed Natural Heritage Areas (pNHAs), CDP14.1 Inland Waterways and River Corridors.

## 5.2. Natural Heritage Designations

- 5.2.1. The site is located immediately to the west of Lough Derg Shannon SPA (Site Code 004058).

## 5.3. Environmental Impact Assessment (EIA)

- 5.3.1. Having regard to the nature and scale of the proposed development and the nature of the receiving environment there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

A first party appeal was submitted by HRA Planning on behalf of the applicant Mr. John Walsh. The issues raised are as follows.

- The applicant submits that the proposed development by reason of its small scale, its seasonal function and planned use of an existing access point onto the R463 would not endanger public safety by reason of traffic hazard.
- The Council in their refusal of permission determined that in the context of Objective 8.5 of the Development Plan that the increased use of the existing access point would materially contravene this provision of the plan.
- The Council refused permission for the following reason.
  1. The proposal site is accessed via an existing entrance off the R463. Under the provisions of the Clare County Development Plan 2017-2023 (as varied), the R463 is a Strategic Regional Route, whereby Objective CDP8.5 restricts development to certain criteria; namely development of strategic importance, dwellings for established landowners and developments within settlement boundaries/50km/hr speed limit zones.

While noting that the proposed development is subsidiary to the primary residential use of the site, based on the information submitted with the application to date, the Planning Authority considers that proposed development would result in increased use of the existing access point onto the R463 and result in additional traffic movements at this location. It is considered therefore that the proposal would materially contravene objective CDP8.5, would endanger public safety by reason of a traffic hazard and would therefore be contrary to the proper planning and sustainable development of the area.

- The proposed development comprises a small and seasonal tourism enterprise located on the western shore of Lough Derg circa 5.5m from Killaloe/Ballina. The proposal entails the placement of 6 no. short stay tourism glamping pods within the applicant's landholding which includes his dwelling

which is his primary residence and from which the glamping pods will be managed.

- The applicant is seeking to link and base the proposed tourism development with the existing recreational asset of Lough Derg. It is highlighted that the site is accessible by watercraft.
- In relation to Objective 8.5 it is noted that the preamble text in the Development Plan in Section 8.2.3.4 states, “The Council will protect the identified strategic regional roads from a proliferation of access points and will ensure that their key function is retained.
- The applicant submits that the Development Plan and specifically objective 8.5 does not prohibit new development using existing access points onto those roads and that it does not preclude ‘additional traffic movements’ from existing access points onto those roads.
- It is clear that the key concern of the Council in relation to objective 8.5 is the control/limitation of new access points onto such roads to prevent proliferation of access points which might interfere with the integrity of these routes and that might affect adversely the functional integrity of those routes in their performance as link roads between primary towns and villages.
- The proposed development is considered to pass the first consideration in relation to objective 8.5. as it would not result in the proliferation of access points onto the Regional Road because it does not involve the creation of a new access point. Therefore, the other matter to consider is whether or not there is sufficient or otherwise road capacity and road geometry to facilitate the proposed development safely using the existing entrance onto the Regional Road.
- It is submitted that the proposed development having regard to the number and size of pods and the absence of other on site recreational activities is relatively small in scale. It is therefore submitted that the extent of increased traffic movements at the entrance onto the Regional Road is likely to be modest in scale. It is not expected that every trip generated will be by private car. The applicant is proposing to provide boat access and berthing facility to/from Killaloe in conjunction with existing boat and marina operators.

- An attached correspondence from Kincora, Harbour confirms the availability of a permanent berth at the marina in Killaloe. The applicant intends to use this as a staging point for access to Killaloe from the harbour on site.
- An attached document from Raymond Molly Marine Services confirms that he owns and operates a 12 seat passenger boat which is based in Ballina/Killaloe. It is confirmed that he can provide a water taxi service and waterway exploration between the site and other locations of tourism and recreational interest on Lough Derg.
- The site lies on the edge of Tinerana Bay on Lough Derg located between Killaloe-Ballina and other tourist, recreation and heritage locations. These include Holy Island, Garykennedy, Mountshannon, Scarriff, Dromineer, Williamstown, Terryglass and Portumna all of which are accessible by small craft. There is an existing dedicated pathway which passes the front of the existing site entrance which links Killaloe-Ballina to the south with Ogonnelloe and Scarriff to the north. The path provides pedestrian and cycle connectivity to the “Two-Mile Gate” amenity area, the UL Activity Centre and the Ballycraggan Coillte forest amenity area.
- Therefore, it is submitted that the proposed development is not situated in an isolated rural area. It is submitted that the proposed development is not dependent upon access by car given the accessibility by the Lough Derg waterway.
- It is noted that the report from the Roads Design Section of the Council stated that they were satisfied with the entrance geometry and stopping sight lines. It is also noted that the report did not raise technical concerns regarding the carrying capacity of the road, site access or road design issues relating to the proposed development.
- The applicant submits that the proposed development would not materially contravene the provisions of Objective 8.5 of the Development plan and that the proposed development would not endanger public safety by reason of traffic hazard as it would not give rise to a proliferation of new entrances onto the regional road and that the proposal does not give rise to technical issues that militate the carrying capacity of the road.

- The Development Plan contains other objectives which seek to attract greater numbers of visitors.
- Objective CDP9.4 refers to Tourism Developments and Tourist Facilities. Part B is highlighted which states – “To permit tourism related development outside settlements where there is clear need for the specific location and the benefits to the local community balanced with the potential environmental impact of the development. The requirements of Objective CDP2.1 will have to be considered in such cases.”
- Objective CDP9.5 refers to Tourist Accommodation. Part C is highlighted which states, “To support the development of new camping and glamping facilities and facilities for campervans/motor homes/touring caravans both within settlements and in rural locations across the County;”.
- Objective CDP13 – is noted which refers to Lakeland and Waterway Tourism. It is an objective of the Development Plan: To support the development of tourism activities in Lakeland areas and waterways subject to normal planning and environmental criteria. All proposed developments shall be in accordance with the Birds and Habitats Directive, Water Framework Directive and all other relevant EU Directives.
- It is stated that the provisions of Objectives CDP9.4, CDP9.5, CDP 9.13 and Section 9.3.4 are pertinent to the proposed development. Objective CDP 9.5 glamping facilities are expressly identified and facilitated in rural locations and outside settlements.
- The Visitor Experience Development Plan 2020-2024 is referred to which refers to the Lough Derg region. The visitor experience plan identifies Killaloe/Ballina as a tourism ‘Destination Hub’. The vision for the Killaloe/Ballina Destination Hub is the pursuit of “fantastically exciting family friendly adventures in nature utilising the continuously safe treks and trails leading from the town onto the water and into the mountains east and west.” These walks will link and loop seamlessly with safe cycling, boat trips, easy or guided canoeing and great local food experiences across a “slow travel network”. The Plan also states that there may be scope for distinctive



alternative accommodation in line with Failte Ireland Welcome Standard: glamping, pods, huts, conversion of commissioned cruise boats etc.

- It is stated that the proposed development is ideally situated on the current 'Slow Travel Network' and also adjacent to the 'Slow Travel', 'Key Interchanges' including Killaloe/Ballina, Ballycuggan and Tinerana Bay/Annacarrig. The Slow Travel network and slow travel interchanges are places that site at the junctions of existing water and land trails and the Shannon navigation.
- It is submitted that having regard to the position of the subject site with accessibility to existing cycle and walkways the lakeshore and adjacent to existing and planned tourism assets and infrastructure.
- The subject site is ideally situated to accommodate the proposed development and that it would contribute to strategic and local tourism objectives and that it is consistent with the provisions of Objective CDP9.4, Objective CDP9.5 and Objective CDP9.13.
- It is submitted that the proposed development is of a suitable scale and that it would not give rise to effects on the natural amenities of the surrounding area.
- It is noted that at the pre-planning stage that applicant was originally considering a development with 3 no. glamping pods. The applicant was advised to consider proposing 6 no. glamping pods. The applicant therefore notes the initial advice differs from the planning decision. The applicant accepts pre-planning advice is given without prejudice to future considerations on a Planning Authority.
- It is stated that the applicant has submitted sufficient supporting technical evidence to demonstrate that it is consistent with Objective CDP2.1 of the Development Plan that the proposed development would not give rise to adverse effects on the receiving environment.
- The Natura Impact Statement prepared by Ecofact confirms that the mitigation measures will ensure no significant affects would arise on the adjacent or surrounding Natura 2000 network. The Board will note that the Planning Authority were also satisfied with this.

- It is submitted that the proposed development by virtue of scale, form and arrangement relative to the site boundaries and alignment and position of the adjacent Regional Road and does not give rise to the potential for significant effects on any views to be had from the designated scenic route.
- In conclusion, the applicant therefore submits that the proposed development is not contrary to the provisions of Objective 8.5 as it would not interfere with the integrity of the road. For the reasons set out in the appeal the applicant submits that the proposed development is consistent with the provisions of the development plan and is consistent with the proper planning and sustainable development of the area.

## 6.2. Planning Authority Response

- The site is accessed via the R463 which is identified as a Strategic Regional Route in the Clare County Development Plan 2017-2023 (as varied). New developments requiring direct access onto the regional road are restricted by the provisions of Objective CDP8.5 of the County Development Plan. The proposed development would significantly increase the number of vehicular movements at the existing entrance to the site during times of peak usage and as such would contravene Objective CDP8.5 which aims to protect the carrying capacity of the regional road network.
- The Planning Authority also notes that the pre-planning advice given in respect of the proposal was appropriate to the development details presented at that time, where water-borne transport was indicated to be the primary means of access to the site.
- In all other respects the Planning Authority refers to the considerations set out in the Planner's Report on the application and respectfully requests that the Board uphold the decision of the Planning Authority.

## 6.3. Observations

Observation to the appeal have been received from the following;

- (1) Oonagh McElhinney

- The Observer states that their garden runs parallel and uphill from the appeal site. Concern is expressed at the potential disturbance which could arise due to the proposed cabins.
- The Observer welcomed the decision of the Planning Authority to refuse permission for the proposal on the basis of increased traffic.

(2) John & Breda Keavney

- The Observers reiterated the concerns they raised in their submission to the Planning Authority in respect of the application.
- Concern is raised in relation to water supply to serve the proposed cabins including fire fighting water supply.
- The matter of the proximity of the site to Lough Derg (Shannon) SPA is raised. Concern is expressed at potential light spillage from the proposed development.
- The issue of visual impact in terms of views from the lake is raised.
- The matter of potential pollution of groundwater and of the lake is raised.
- The issue of traffic safety is raised.
- The applicant proposed that guests could arrive by water taxi. The observer expresses concern whether the water is of a sufficient depth to accommodate cruisers and water taxis at this location.

(3) Enda Quinn

- It is considered that the grounds of appeal submitted by the applicant has not sufficiently justified the proposed development in relation to addressing the reason for refusal.
- Regarding the proposed site access, it is outlined in the appeal that the proposed development is intended to be accessed by a boat service. It is stated in the development description refers to the development consisting of 7 no. car parking spaces for the 6 no. cabins. The proposed development will result in an increase of traffic movements at the subject site and along the R463 regional road. It is highlighted that the section of road where the entrance is located has a speed limit of 80km/hr it has a continuous white line

and that there are dangerous bends located to the north. It is stated that the additional traffic movements generated would endanger public safety.

- It is stated that the proposed development does not meet the criteria of CDP8.5, where development requiring direct access onto strategic regional roads is restricted to areas where the 50km/hr speed limit applies.
- It is submitted that the increase in traffic and activity on site would give rise to increased noise and disturbance which would negatively impact upon adjacent residents.
- Regarding the matter of flooding, it is stated that circa a quarter of the site is located within an area which ranges from low probability to high probability of fluvial flooding. It is noted that the flooding history on the adjacent site indicates that the subject site would also be subject to significant flooding events. It is stated that the proposed percolation system for the on site wastewater treatment would be significantly impacted by flooding on the site during a flooding event. It is considered that the matter of the high probability of fluvial flooding has not been addressed by the applicant as required by Objective CDP18.6.
- The site is downward sloping towards the lake. The proposed development includes a percolation area for the on-site wastewater treatment system. Given the combination of the risk of flooding on the site and the slope of the site towards the lake it is considered that the site is unsuitable for the installation of a percolation area.
- It is stated that the jetty on the site was extended and that the works carried out were unauthorised.
- The site is located within a Heritage Landscape area. Heritage Landscapes are described as “these areas within the County where sensitive environmental sources – scenic, ecological and historic are located.”
- Objective CDP 13.5 states – “It is an objective of the Development Plan:
- To require that all proposed developments in Heritage Landscapes demonstrate that effort has been made to reduce visual impact.

- This must be demonstrated for all aspects of the proposal – from site selection through to details of siting and design. All other relevant provisions of the Development Plan must be complied with.
- All proposed development in these areas will be required to demonstrate:
  - That sites have been selected to avoid prominent locations.
  - That site layouts avail of existing topography and vegetation to minimise visibility from scenic routes, walking trails, public amenities and roads.
  - That design for buildings and structures minimise height and visual contrast through careful choice of forms finishes and colour and that any site works seek to reduce the visual impact of the development.
- The R463 is designated a scenic route in the Development Plan. It is adjacent to the site. This route is associated with a valuable view which is required to be protected and conserved.
- CDP 13.7 – states that “It is an objective of Clare County Council:
  - A. To protect sensitive areas from inappropriate development while providing for development change that will benefit the rural community.
  - B. To ensure that proposed development taken into consideration that effects on views from the public road towards scenic features or areas and are designated and located to minimise their impact.
- In relation to the NIS submitted with the application, it is stated that the site boundary assessed in the NIS is not consistent with the application layout. It is stated that the NIS relies on a site visit carried out in July 2019 and that it is outdated.
- The site is located adjacent to Lough Derg (Shannon) SPA Site Code [004058]. The European site is designated for breeding and wintering waterfowl. It is stated that no breeding or wintering bird surveys have been carried out to inform the NIS. The NIS identifies the potential for impact on the Annex II species Otter. No details of site surveys for this species have been included.

- The NIS notes the presence of the invasive species Himalayan Balsam within the site. No map or the detail of the extent of the Himalayan Balsam on site has been provided.
- The NIS notes that a Construction Management plan and Operational Management plan are required and that these will be prepared prior to construction.
- It is proposed that guest access will be via boat from Lough Derg. The NIS does not address potential pollution and disturbance from boat access.
- It is considered that insufficient information has been provided in relation to the potential impact of the development on the River Shannon SPA.

## 7.0 **Assessment**

The main issues in this appeal are those raised in the grounds of appeal and observations to the appeal and it is considered that no other substantive issues arise. The issues can be dealt with under the following headings:

- Principle of development
- Road/Parking/Access
- Waste water treatment
- Visual amenity
- Appropriate Assessment

### 7.1. **Principle of development**

- 7.1.1. The proposal entails the change of use from residential to recreational camping site and the construction of six cabins and all associated site works. The appeal site comprises a large section of the garden of a detached single storey dwelling. The applicant has put forward the case for the proposed development in terms of how it is in accordance with the Development Plan policies and objectives in relation to Tourism in County Clare. Specifically, reference is made to Objective CDP9.4 which refers to Tourism Developments and Tourist Facilities. Part b of this objective is highlighted in the appeal as it refers to tourism outside settlements. It states “To

permit tourism related development outside settlements where there is clear need for the specific location and the benefits to the local community balanced with the potential environmental impact of the development. The requirements of Objective CDP2.1 will have to be considered in such cases.”

- 7.1.2. Objective CDP9.5 of the Development is also referred to in the appeal. It refers to Tourist Accommodation and part C is highlighted which states, “To support the development of new camping and glamping facilities and facilities for campervans/motor homes/touring caravans both within settlements and in rural locations across the County;”.
- 7.1.3. It is set out in the appeal that the provisions Section 9.3.4 of the Development Plan are relevant to the proposal. This section of the development plan refers to Visitor Accommodation and it states that while it is an objective for new tourist accommodation to locate in towns and villages in close proximity to services and amenities it is recognised that some forms of tourism developments due to their scale or nature may require a location outside of settlement boundaries. It is advised under this section of the plan that such developments and their requirement to locate outside of an established settlement will be assessed on a case by case basis having regard to their nature, scale, site suitability and normal planning considerations.
- 7.1.4. The appeal refers to other Tourism initiatives and policies including the Lough Derg Visitor Experience Development Plan 2020-2024. Under the section of the Plan which refers to the Opportunities, it is stated that there may be scope for distinctive alternative accommodation in line with the Fáilte Ireland Welcome Standard for glamping, pods, huts conversion of commissioned boats etc. Reference is also made in the appeal to the fact that Killaloe/Ballina is identified as a tourism ‘Destination Hub’ and that the ‘Slow Travel’ network on Lough Derg adjoins the site. Accordingly, the proposed development is supported by a number of objectives of the Clare County Development Plan 2017-2023 and also the tourism document the Lough Derg Visitor Experience Development Plan 2020-2024.

## 7.2. Roads/Parking Access

- 7.2.1. The Planning Authority refused permission for the proposal on the basis that the proposed development would result in increased use of the existing access point onto the Regional Road the R463 and that it would result in additional traffic movements at this location. The refusal reason cited objective CDP8.5 of the Development Plan and stated that the proposal would contravene this objective and that it would endanger public safety by reason of a traffic hazard and would therefore be contrary to the proper planning and sustainable development of the area.
- 7.2.2. It is stated in the appeal that the concern of the Planning Authority regarding Objective 8.5 of the Development Plan is the control/limitation of new access points onto such roads to prevent proliferation of access points which might interfere with the integrity of these routes and that might affect adversely the functional integrity of those routes in their performance as link roads between primary towns and villages. It is argued in the appeal that the proposal would not result in the proliferation of access points onto the Regional Road because it does not involve the creation of a new access point. Therefore, they contend that the only other matter which should be of consideration is whether or not there is sufficient road capacity to facilitate the proposal safely using the existing entrance onto the Regional Road.
- 7.2.3. The appellant sets out that they consider that the proposed development is relatively small in scale having regard to the number and size of the cabins proposed. Therefore, it is submitted in the appeal that the level of additional traffic movements which would be generated at the entrance would be relatively modest in scale. Furthermore, it is set out in the appeal that not all journeys generated by the proposed development would be by car. As detailed in the appeal the applicant is proposing boat access and berthing facility to/from Killaloe in conjunction with existing boat and marina operators. The appeal includes a letter from Kincora, Harbour which confirms the availability of a permanent berth at the marina in Killaloe. The applicant intends to use this as a staging point for access to Killaloe from the harbour on site.
- 7.2.4. In relation to the location of the existing vehicular entrance which serves the applicant's dwelling, and which is proposed to serve the development it is situated on the eastern side of the R463 where the speed limit of 80km/h applies. The vehicular



entrance is located on the R463 at a point where there is a continuous white line and there is a contiguous white line along this section of the R463 to the north and south apart from the short section at the junction with the Ballyheefy Road. While I note the point made in the appeal that the proposal would not entail the development of a new vehicular entrance at this location it would notwithstanding this fact entail the intensification of use of the existing entrance.

- 7.2.5. Objective CDP8.5 of the Development Plan and specifically part (b) of the objective seeks to preserve the carrying capacity of Strategic Regional Roads and safeguard the investment in such infrastructure by restricted restricting development to that of strategic importance which by their nature are most appropriately located in a rural area and to developments located within the settlement boundaries, residential clusters and where the 50km/h speed limit applies. The subject site is located in a rural area outside where the 50km/h speed limit applies and the roadway in the vicinity of the site predominately has a continuous white line therefore the generation of additional traffic and intensification of use of the existing vehicular entrance would not be appropriate in this context from a traffic safety perspective.
- 7.2.6. In relation to access to the site, I also note that the applicant is proposing some access to the proposed tourist accommodation by boat from Lough Derg, this would entail the visitors having to park their cars off-site and then gain access to the proposed accommodation by boat. However, this arrangement may be restrictive to visitors who may require that they access the accommodation by car in order to then access facilities and services during their stay and therefore, it perhaps is not practical for access for this type of tourist accommodation to very restricted to solely boat access. The submitted plans indicate 6 no. car parking spaces, while I note that the proposed car parking could be omitted with access solely by boat, I do not consider that it would provide for viable access arrangements for the subject tourist accommodation.
- 7.2.7. Accordingly, I would concur with the assessment of the Planning Authority that the proposed development would entail the provision of tourism accommodation located on a site outside of an established settlement and with vehicular access via an existing entrance off the R463 and it would result in additional traffic movements at this location. Objective CDP8.5 of the Clare County Development Plan 2017-2023 (as varied) restricts development to certain criteria; namely development of strategic

importance, dwellings for established landowners and developments within settlement boundaries/50km/hr speed limit zones in order to maintain and protect the carrying capacity and efficiency of roads. Accordingly, it is considered that the proposed development would endanger public safety by reason of traffic hazard due to the additional traffic turning movements that would be generated at a point where the general speed limit of 80 km/h applies.

### 7.3. **Wastewater treatment**

- 7.3.1. The existing dwelling is served by a wastewater treatment system located to the north-west of the building. Under the subject development, it is proposed that the existing dwelling would be served by the same wastewater treatment system as the proposed 6 no. cabins. The existing property is served by a well which is located 30m from the proposed percolation area. This well is supplied from the public mains.
- 7.3.2. A Kingspan biodisc secondary effluent treatment system is proposed to be installed to the south of the proposed cabins. The percolation area with an area of 100sq m it proposed to be located circa 10m to the west of the existing dwelling.
- 7.3.3. As part of the further information the applicant was requested to address a number of outstanding issues including some discrepancies in the Site Characterisation form. Details in relation to those matters were provided to the Planning Authority and they considered that the outstanding issues were satisfactorily addressed.
- 7.3.4. Concern has been expressed in the observations to the appeal, that there is potential for flooding from the lake to impact the development and specifically the wastewater treatment system. In relation to the matter of potential flooding the CFRAM flood line is indicated on drawing no. 20. 07-PL-201. It is located to the east of the proposed cabins. It lies 4m from cabin no.1, 6.5m from cabin no. 2 and 4m from cabin no. 3. In relation to the distance between the CFRAM flood line and the location of the proposed percolation area a distance of circa 42m is provided. Furthermore, it is noted that the percolation area is located over 50m from the lake shoreline. Therefore, I am satisfied that the proposed scheme would not be subject to undue flood risk.
- 7.3.5. Accordingly, having regard to the information submitted including the site characterisation reports and the proposal to install a secondary treatment system

with soil polishing filter, I would concur with the assessment of the planning authority that site is suitable for the proposed on-site effluent treatment system subject to the system being constructed and maintained in accordance with the details submitted.

#### **7.4. Visual amenity**

- 7.4.1. The observations to the appeal have raised the issue of the potential visual impact of the proposed development. Specifically, concern is expressed that the proposed 6 no. cabins, would have a negative impact upon views from the lake west towards the shoreline at Tinarana Bay. It is noted that the site is located in a heritage landscape, and adjacent to a scenic route which runs along the R463. A photomontage of the proposed development was provided with the application. It indicates a view of the proposed cabins to the west from the lake. As indicated in the photomontage the proposed cabins are integrated into the site and surrounding landscape and screened by mature trees. On inspection of the site, I noted the presence of a line of trees located along the eastern side of the site close to the shoreline which would serve to screen the proposed cabins from potential views from Lough Derg to the east.
- 7.4.2. As part of the further information the applicant was requested to submit a revised site survey indicating the levels associated with the mapped contours, the ground levels of the public road as it passes the site, and the finished floor level of the existing house within the landholding in order to facilitate an assessment of the visual impact of the proposed development when viewed from the Scenic Route. In response to these matters the applicant submitted further drawings. Drawing no: P-05 indicates the finished floor levels of the proposed cabins, the finished floor level of the existing dwelling, site contours and the levels along the R463.
- 7.4.3. The level of the R463 in the vicinity of the site is 34m. The finished floor levels of cabins no's 4-6 which is proposed closest to the road are 32.84m. Accordingly, the proposed cabins which are single storey with a proposed ridge height of 4.815m would be circa 1.16m below the road level. The roofs of the proposed cabins would be visible from the R463, however there are mature trees along the western site boundary which would screen the cabins from views from the Scenic Route.

7.4.4. Accordingly, having regard to the siting and design of the proposed development, and topography of the area I am satisfied that the proposed development would not unduly interfere with the character of the landscape or form a visually obtrusive or incongruous feature.

## 7.5. **Appropriate Assessment**

### **Overview**

7.5.1. Accompanying this application is a Screening Report for Appropriate Assessment and a Natura Impact Statement prepared by Ecofact.

### **Screening**

7.5.2. In accordance with the obligations under the Habitats Directive and implementing legislation, to take into consideration the possible effects a project may have, either on its own or in combination with other plans and projects, on a European site; there is a requirement on the Board, as the competent authority, to consider the possible nature conservation implications of the proposed development on the Natura 2000 network, before making a decision, by carrying out appropriate assessment. The first stage of assessment is 'screening.'

7.5.3. The methodology for screening for Appropriate Assessment as set out in EU Guidance and the Department of Environment, Heritage and Local Government is:

1. Description of the plan or project and local site or plan area characteristics.
2. Identification of relevant European site and compilation of information on their qualifying interests and conservation objectives.
3. Assessment of likely significant effect-direct, indirect, and cumulative, undertaken on the basis of available information.
4. Screening Statement with conclusions.

### **Project Description and Site Characteristics**

7.5.4. The project description is given as Glamping Site adjacent to an existing dwelling house at Kilana Lodge in the townland of Ballyheefy, Co. Clare. The site is situated on the western bank of Lough Derg at Tinarana Bay. The proposed glamping site

development will comprise the construction of 6 glamping pods with a total capacity of 18 residents. It is proposed that the development will serve as short stay accommodation and will be open year round. Car parking spaces are proposed on site. Access to the site is also proposed via Lough Derg facilitated by an existing jetty. The development is proposed to be served by a self-contained water and waste treatment system. A packaged wastewater system and polishing filter is proposed.

7.5.5. The matter of the adequacy of surveys informing the appropriate assessment was raised in an observation to the appeal. In response to the matter, I note that the appeal site was surveyed via a walkover in July 2019 and the information sources used to complete the AA screening and AA include comprehensive data available from the National Parks and Wildlife Service in respect of all the relevant European Sites and in terms of all the qualifying species. Accordingly, I am satisfied regarding that the matter of the adequacy of surveys.

7.5.6. The screening report identified the following European sites:

- Lough Derg Shannon SPA (Site Code 004058) adjacent to the site to the east.
- Lower River Shannon SAC (Site Code 002165) circa 5.8km to the south of the site.
- Slieve Bernagh Bog SAC (Site Code 002312) circa 2.9km to the west of the site.
- Slieve Aughty Mountains SAC (Site Code 004168) circa 8.5km to the north of the site.
- Loughatorick South Bog SAC (Site Code 000308) circa 12.7km to the north of the site
- Glenomra Wood SAC (Site Code 001013) circa 12.8km to the south-west of the site.
- Slievefelim to Silvermines Mountains SPA (Site Code 004165) circa 13.2km to the south-east of the site.
- Silvermines Mountains West SAC (Site Code 002258) circa 13.5km to the south-east of the site.

**Table 1: European Sites within the Zone of Influence of the Appeal Site**

Site Name & Code	Distance	Qualifying Interests	Conservation Objectives
Lough Derg Shannon SPA  (Site Code 004058)	Adjacent	Cormorant ( <i>Phalacrocorax carbo</i> ) [A017]  Tufted Duck ( <i>Aythya fuligula</i> ) [A061]  Goldeneye ( <i>Bucephala clangula</i> ) [A067]  Common Tern ( <i>Sterna hirundo</i> ) [A193]	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.
Lower River Shannon SAC  (Site Code 002165)	5.8km to the south of the development site	Sandbanks which are slightly covered by sea water all the time [1110]  Estuaries [1130]  Mudflats and sandflats not covered by seawater at low tide [1140]  Coastal lagoons [1150]  Large shallow inlets and bays [1160]  Reefs [1170]  Perennial vegetation of stony banks [1220]	To maintain and/or restore the favourable conservation condition of the Annex I habitats and/or the Annex II species for which the SAC has been selected which are defined by lists of attributes and targets

		<p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (Glauco-Puccinellietalia maritima) [1330]</p> <p>Mediterranean salt meadows (Juncetalia maritimi) [1410]</p> <p>Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation [3260]</p> <p>Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) [6410]</p> <p>Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0]</p> <p>Margaritifera margaritifera (Freshwater Pearl Mussel) [1029]</p>	
--	--	--	--

		<p>Petromyzon marinus (Sea Lamprey) [1095]</p> <p>Lampetra planeri (Brook Lamprey) [1096]</p> <p>Lampetra fluviatilis (River Lamprey) [1099]</p> <p>Salmo salar (Salmon) [1106]</p> <p>Tursiops truncatus (Common Bottlenose Dolphin) [1349]</p> <p>Lutra lutra (Otter) [1355]</p>	
Slieve Bernagh Bog SAC (Site Code 002312)	2.9km to the west	<p>Northern Atlantic wet heaths with Erica tetralix [4010]</p> <p>European dry heaths [4030]</p> <p>Blanket bogs (* if active bog) [7130]</p>	To restore the favourable conservation condition of Northern Atlantic wet heaths, European dry heaths and Blanket bogs (*if active bog) in Slieve Bernagh Bog SAC, which is defined by lists of attributes and targets
Slieve Aughty Mountains SPA	8.5km to the north	Hen Harrier (Circus cyaneus) [A082]	To maintain or restore the favourable



(Site Code 004168)		Merlin (Falco columbarius) [A098]	conservation condition of the bird species  listed as Special Conservation Interests for this SPA
Loughatorick South Bog SAC (Site Code 000308)	12.7km to the north	Blanket bogs (* if active bog) [7130]	To restore the favourable conservation condition of Blanket bogs (*if active bog) in Loughatorick South Bog SAC, which is defined by lists of attributes and targets
Glenomra Wood SAC (Site Code 001013)	12.8km to the south-west	Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]	To maintain the favourable conservation condition of Old sessile oak woods with Ilex and Blechnum in the British Isles in Glenomra Wood SAC which which are defined by lists of attributes and targets

Slievefelim to Silvermines Mountains SPA (Site Code 004165)	13.2km to the south-east	Hen Harrier (Circus cyaneus) [A082]	To restore the favourable conservation condition of hen harrier in Slievefelim to Silvermines Mountains SPA which is defined by lists of attributes and targets
Silvermines Mountains West SAC (Site Code 002258)	13.5km to the south-east	Northern Atlantic wet heaths with Erica tetralix [4010] European dry heaths [4030] Calaminarian grasslands of the Violetalia calaminariae [6130]	To maintain the favourable conservation condition of the Annex I habitats and/or the Annex II species for which the SAC has been selected which are defined by lists of attributes and targets

7.5.7. An assessment of the significance of potential impact upon the European Sites within the zone of influence of the proposed development is determined on the basis of the following indicators;

- Habitat loss or alteration;
- Habitat/species fragmentation;
- Disturbance and/or displacement of species;

- Changes in population density; and
- Changes in water quality and resources.

7.5.8. In relation to the matter of habitat loss or alteration the proposed development site is immediately beside Lough Derg Shannon SPA and part of the appeal site is within SPA boundary the however the proposal would not result in direct loss or alteration of the habitat. Regarding the issue of habitat/species fragmentation the proposed development would not result in any direct habitat loss fragmentation.

7.5.9. In relation to the matter of disturbance and/or displacement of species as set out in the screening report the proposed development does have the potential to cause a disturbance and/or displacement to the bird species of qualifying interest in the Lough Derg Shannon SPA.

7.5.10. The proposed development is not considered to have the potential to result in the reduction in the baseline population of species associated with any of the European sites identified within the zone of influence.

7.5.11. In relation to the matter of changes to water quality and resources it is set out in the screening report that the appeal site adjoins Lough Derg. Accordingly, potential water quality impacts have been identified from potential during both construction and operational phases upon qualifying interest species in Lough Derg Shannon SPA. Potential water quality impacts have been identified to the following species of qualifying interest Sea Lamprey, River Lamprey, Salmon and Otter.

### **Assessment of likely Effects**

7.5.12. Having regard to the 'source-pathway-receptor' model the submitted screening report identified potential effects on the Lough Derg Shannon SPA (Site Code 004058) and the Lower River Shannon SAC (Site Code 002165). The aquatic habitats/species in the Lower River Shannon SAC would be sensitive to any deterioration of water quality and the bird species in Lough Derg Shannon SPA would be sensitive to any disturbance. In the absence of appropriate controls and mitigation measures the potential for significant adverse effects on the conservation status of the Lough Derg Shannon SPA and Lower River Shannon SAC cannot be ruled out.

### **Screening Statement and Conclusions**

7.5.13. The screening assessment concludes that significant effects cannot be ruled out on the Lough Derg Shannon SPA (Site Code 004058) and Lower River Shannon SAC (Site Code 002165) and that a Stage 2 Appropriate Assessment is required. In conclusion having regard to the foregoing, it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that significant effects cannot be ruled out and a Stage 2 Appropriate Assessment is therefore required.

### **Stage 2 – Natura Impact Statement (NIS)**

7.5.14. I propose to consider the requirements of Article 6(3) with regards to appropriate assessment of a project under Part XAB, Sections 177U and 177V of the Planning & Development Act, 2000, as amended, in this section of my report. In particular, the following matters:

- Compliance with Article 6(3) of the EU Habitats Directive.
- Screening the need for Appropriate Assessment.
- The Natura Impact Statement; and,
- An Appropriate Assessment of the implications of the proposed development on the integrity of each Natura site set out under Section 7.5.5 to 7.5.12 as detailed above.

7.5.15. On the matter of screening the need for ‘Appropriate Assessment’, this I have set out under Section 7.5.11 and 7.5.12 of my report above and in this case ‘Appropriate Assessment’ is required as it cannot be excluded on the basis of the information available to the Board that the proposed development individually or in-combination with other plans or projects in its vicinity would have a significant effect on the following Natura sites:

- Lough Derg (Shannon) SPA (Site Code 004058) adjacent to the site to the east.
- Lower River Shannon SAC (Site Code 002165)

7.5.16. A description of the site and their Conservation and Qualifying Interests/Special Conservation Interests, including any relevant attributes and targets for these sites, are set out in the NIS and summarised in tables no. 2 & no. 3 of this report as part of my assessment. I have also examined the Natura 2000 data forms as relevant and

the Conservation Objectives supporting documents for these sites available through the NPWS website ([www.npws.ie](http://www.npws.ie)).

### **Potential for direct and indirect effects**

- 7.5.17. There would be no direct effects upon Lough Derg (Shannon) SPA (Site Code 004058) and Lower River Shannon SAC (Site Code 002165) as there would be no direct habitat loss or fragmentation as a result of the proposed development.
- 7.5.18. In relation to indirect effects, the proposed development does have the potential to cause disturbance and/or displacement to species of qualifying interest to the Lough Derg (Shannon) SPA. As detailed in the NIS the site of the proposed development is located adjacent to Lough Derg and also and part of the appeal site is within SPA boundary. Regarding the Cormorant there is potential for some displacement during the construction phase where the birds may move to other areas to forage and nest. It is stated in the NIS that the maximum number workers on site is likely to be four and that therefore it is unlikely to result in any significant impacts in relation to disturbance. In relation to the operational phase, it is stated in the NIS that the increased activity could cause changes in the use of certain areas and potentially alter the site selection range within the SPA. Therefore, it is considered that mitigation is required to reduce disturbance.
- 7.5.19. Regarding the Tufted Duck there is potential that this species could be affected due to disturbance, displacement, water quality and invasive species during the construction phase. In relation to the operational phase, similar to the Cormorant the increased activity could cause changes in the use of certain areas and potentially alter the site selection range within the SPA. Therefore, it is considered that mitigation is required to reduce disturbance.
- 7.5.20. In relation to Goldeneye, it is noted that they are visitors to Lough Derg in winter and that if the construction works were carried out during the winter, then these birds could be affected due to disturbance, displacement, water quality and invasive species. Regarding the operational phase it is considered that occupancy in the

winter would be less than in the summer, however that mitigation is required to reduce potential disturbance.

- 7.5.21. Regarding the Common Tern, during the construction phase similar to the Cormorant and the Tufted Duck there is potential that this species could be affected due to disturbance, displacement, water quality and invasive species. In relation to the operational phase, it is noted that the Common Tern breed in Lough Derg during the summer months. The increased activity arising from the usage of the development would give rise to disturbance impacts to the Common Tern. Therefore, it is considered that mitigation is required to reduce disturbance.
- 7.5.22. In terms of the Lower River Shannon SAC the appeal site is located circa 6km upstream of the European Site. Regarding the Annex I Habitats as detailed in the NIS no potential pathway for impact to any of those habitats is identified due to the separation distance. In relation to Annex II species within the Lower River Shannon SAC, five have been identified where there is potential for adverse effects. The Sea lamprey may use areas within the zone of influence of the proposed development and adjacent Lough Derg. During the construction phase there is potential for suspended solid pollution and dust generation from concrete and cement spillages. It is also possible that invasive species could be introduced and spread due to the proximity of Lough Derg. In relation to the operational phase no adverse effects are anticipated in relation to water quality. Potential adverse effects could arise from invasive species during the operational phase. In relation Brook lamprey, River lamprey and Salmon there is potential that these species could be affected in a similar manner to Sea lamprey in respect of water quality impacts during the construction phase due and also regarding the potential introduction of invasive species. In relation to the operational phase, also similarly to the Sea lamprey there is potential for adverse effects from the introduction of invasive species.
- 7.5.23. Otter is also identified as a species of qualifying interest which could be affected by water quality and invasive species impacts both during the construction and operation phase in a similarly manner to the other species as discussed above. Furthermore, otter could be affected by disturbance during the operational phase. It was confirmed in the NIS that no holts are present on the site, however that the shoreline is used as a forging area by otter. Accordingly, mitigation measures are necessary in order to reduce disturbance.

7.5.24. Accordingly, there is the potential for indirect adverse effects on the Lower River Shannon SAC. The indirect effects would be the potential for the proposed development to affect the qualifying interests and special conservation interests of these designated sites through deterioration of water quality arising from pollution from surface water run-off the during the construction phase and also through the potential introduction of invasive species during both the construction and operational phases. Therefore, mitigation measures are required to address these matters.

**Table 2 – AA summary matrix for the Lough Derg (Shannon) SPA**

<p><b>Lough Derg SPA: (Site Code 004058)</b>  <b>Summary of Key issues that could give rise to adverse effects</b></p> <ul style="list-style-type: none"> <li>• Disturbance/displacement of QI species</li> <li>• Water Quality and water dependant habitats</li> <li>• Water Quality on QI species</li> <li>• Invasive species on QI species and water dependant habitats</li> </ul> <p><b>Conservation Objectives:</b></p> <p><b>A0017 – Cormorant (<i>Phalacrocorax carbo</i>): To maintain or restore the favourable conservation condition of Cormorant in the Lough Derg (Shannon) SPA.</b></p> <p><b>A061 – Tufted Duck (<i>Aythya fuligula</i>): To maintain or restore the favourable conservation condition of Tufted Duck in the Lough Derg (Shannon) SPA.</b></p> <p><b>A067 – Goldeneye (<i>Bucephala clangula</i>): To maintain or restore the favourable conservation condition of Goldeneye in the Lough Derg (Shannon) SPA.</b></p> <p><b>A193 – Common Tern (<i>Sterna hirundo</i>): To maintain or restore the favourable conservation condition of Goldeneye in the Lough Derg (Shannon) SPA.</b></p> <p><b>A999 – Wetlands &amp; Waterbirds: To maintain or restore the favourable conservation condition of wetland habitat at the Lough Derg (Shannon) SPA as a resource for the regularly occurring migratory waterbirds that utilise it.</b></p>					
<b>Summary of Appropriate Assessment</b>					
<b>Qualifying Interest feature</b>	<b>Conservation Objectives Targets and attributes</b>	<b>Potential adverse effects</b>	<b>Mitigation measures</b>	<b>In-combination effects</b>	<b>Can adverse effects on</b>

					<b>integrity be excluded?</b>
Cormorant	To maintain or restore the favourable conservation condition of Cormorant in the Lough Derg (Shannon) SPA	Noise disturbance generated by the Construction and/or Operational phases of the proposed development Potential water pollution  Potential sedimentation from surface water runoff  Excess dust emitted during the Construction Phase of the proposed development Introduction of invasive species	Mitigation measures required and detailed in full in Table 4 of the NIS	None	Yes
Tufted Duck	To maintain or restore the favourable conservation condition of Tufted Duck in the Lough Derg (Shannon) SPA	As detailed above	As detailed above	None	Yes
Goldeneye	To maintain or restore the favourable conservation condition of Goldeneye in the Lough Derg (Shannon) SPA	As detailed above	As detailed above	None	Yes
Little Tern	To maintain or restore the favourable conservation condition of Little	As detailed above	As detailed above	None	Yes



	Tern in the Lough Derg (Shannon) SPA				
Wetlands & Waterbirds	To maintain or restore the favourable conservation condition of wetland habitat at the Lough Derg (Shannon) SPA as a resource for the regularly occurring migratory waterbirds that utilise it.	<p>Potential water pollution</p> <p>Potential sedimentation from surface water runoff</p> <p>Excess dust emitted during the Construction Phase of the proposed development</p> <p>Introduction of invasive species</p> <p>Noise disturbance generated by the Construction and/or Operational phases of the proposed development</p>	As detailed above	None	Yes
<p><b>Overall conclusion: Integrity test</b></p> <p>Following the implementation of mitigation, the construction and operation of this proposed development will not adversely affect the integrity of this European site and no reasonable doubt remains as to the absence of such effects.</p>					

**Table 3 – AA summary matrix for the Lower River Shannon SAC**

<p><b>Lower River Shannon SAC: (Site Code 002165)</b></p> <p><b>Summary of Key issues that could give rise to adverse effects</b></p> <ul style="list-style-type: none"> <li>• Potential water pollution - Water Quality and water dependant habitats</li> <li>• Invasive species - Water Quality and water dependant habitats</li> </ul> <p><b>Conservation Objectives:</b></p>
--

**1095 – Sea Lamprey: To restore the favourable conservation condition of Sea Lamprey in the Lower River Shannon SAC, which is defined by a list of attributes and targets.**

**1096 – Brook Lamprey: To restore the favourable conservation condition of Brook Lamprey in the Lower River Shannon SAC, which is defined by a list of attributes and targets.**

**1099 – River Lamprey: To maintain the favourable conservation condition of River Lamprey in the Lower River Shannon SAC, which is defined by a list of attributes and targets.**

**1106 – Salmon: To restore the favourable conservation condition of Salmon in the Lower River Shannon SAC, which is defined by a list of attributes and targets.**

**1355 – Otter: To restore the favourable conservation condition of Otter in the Lower River Shannon SAC, which is defined by a list of attributes and targets.**

Qualifying Interest feature	Conservation Objectives Targets and attributes	Summary of Appropriate Assessment			Can adverse effects on integrity be excluded?
		Potential adverse effects	Mitigation measures	In-combination effects	
Sea Lamprey Petromyzon marinus	Greater than 75% of main stem length of rivers accessible from estuary; At least three age/size groups present; Juvenile density at least 1/m <sup>2</sup> ; No decline in extent and distribution of spawning beds; More than 50% of sample sites positive;	Potential water pollution  Potential sedimentation from surface water runoff  Introduction & spread of invasive species can negatively affect the habitat utilized by sea lamprey	Mitigation measures required and detailed in full in Table 4 of the NIS	None	Yes
Brook Lamprey	Access to all water courses down to first order streams;	As detailed above	Mitigation measures required and detailed in full in	None	Yes

	At least three age/size groups of brook/river lamprey present; Mean catchment juvenile density of brook/river lamprey at least 2/m <sup>2</sup> ; No decline in extent and distribution of spawning beds; More than 50% of sample sites positive		Table 4 of the NIS		
River Lamprey	Access to all water courses down to first order streams; At least three age/size groups of river/brook lamprey present; Mean catchment juvenile density of river/brook lamprey at least 2/m <sup>2</sup> ; No decline in extent and distribution of spawning beds; More than 50% of sample sites positive	As detailed above	Mitigation measures required and detailed in full in Table 4 of the NIS	None	Yes
Atlantic Salmon	100% of river channels down	As detailed above	Mitigation measures required	None	Yes

	<p>to second order accessible from estuary; Conservation Limit (CL) for each system consistently exceeded; Maintain or exceed 0+ fry mean catchment-wide abundance threshold value. Currently set at 17 salmon fry/5 min sampling; No significant decline; No decline in number and distribution of spawning redds due to anthropogenic causes</p>		<p>and detailed in full in Table 4 of the NIS</p>		
<p>Otter Lutra lutra</p>	<p>No significant decline in distribution; No significant decline in extent of terrestrial Habitat; No significant decline extent of marine habitat; No significant decline extent of freshwater (river) habitat; No significant decline in extent of freshwater</p>	<p>Potential water pollution</p> <p>Potential sedimentation from surface water runoff</p> <p>Noise disturbance generated by the Construction and/or Operational phases of the proposed development</p>	<p>Mitigation measures required and detailed in full in Table 4 of the NIS</p>	<p>None</p>	<p>Yes</p>

	(lake/lagoon) habitat; No significant decline in couching sites and holts; No significant decline in fish biomass available; No significant increase in barriers to connectivity	Introduction & spread of invasive species can negatively affect the habitat utilized by sea lamprey			
<p><b>Overall conclusion: Integrity test</b> Following the implementation of mitigation, the construction and operation of this proposed development will not adversely affect the integrity of this European site and no reasonable doubt remains as to the absence of such effects.</p>					

## Mitigation Measures

- 7.5.25. Mitigation measures are proposed to be introduced to avoid, reduce, or remedy the adverse effects on the integrity of the designated Sites.
- 7.5.26. It is set out in the NIS under Section 7 which refers to mitigation that prior to commencement of works that a site specific Construction and Environmental Management Plan and Method Statement must be provided which details precisely how the works will be carried out in compliance with the necessary mitigation measures.
- 7.5.27. In relation to the matter of avoidance it is set out in the mitigation measures that the footprint of the development will be limited, and that fencing will be installed to delineate the works area. The fencing will comprise high hoardings which will reduce the potential risk of dust impacts from the works. It is highlighted that no machinery will be required for the installation of the pods.
- 7.5.28. The works will be carried out in daylight hours only to avoid potential disturbance to nocturnal animals, specifically otter. Works will be limited to between the hours of

7am and 7pm. It is also set out under the mitigation measures that the construction phase will avoid the bird breeding season between the 1<sup>st</sup> March and 31<sup>st</sup> August.

- 7.5.29. Regarding water quality it is noted that no site compound will be required as workers will use the toilets and facilities within the existing house. Oils or fuel which may be required during the proposed works, will be appropriately stored in bunded tanks located away from the waterbody. The proposed development does not require any site clearance, levelling or excavations.
- 7.5.30. Regarding the construction of the concrete pad foundations it is set out that typical and seasonal weather variations will be taken into account and that a five day weather window will be agreed to minimise any potential for flooding or excessive wet weather to reduce the potential of run-off.
- 7.5.31. In relation to invasive species biosecurity measures will be incorporated in the CEMP in accordance with NRA guidelines “The Management of Noxious Weeds and Non-native Invasive Plant Species on National Roads (2010). An Invasive Species Management Plan will be prepared including details on the eradication of the Himalayan balsam on site.
- 7.5.32. Regarding the operational phase it is set out under the mitigation measures that an Operational Environmental Management Plan will be prepared in advance of the works. It will detail how the site will be maintained, managed and operated. At the jetty a biosecurity facility will be located. This will include an anti-fouling station for routine boat/kayak/canoe cleansing procedures with cleansing/power washing stations for incoming/outgoing craft and the use of an approved aquatic disinfectant.
- 7.5.33. The proposed development will be marketed as part of the “Blueway Initiative”. This initiative includes standards for visitors behaviour and usage of the lake. All visitors entering the site should be briefed on the Code of Conduct for using the adjacent lake for any activities. The Operational Environment Management Plan will include details regarding waste management. The requirements and frequency of the maintenance of the foul water system will be included.
- 7.5.34. In relation to landscaping native tree planting will be provided following the development of the scheme. No trees or hedgerows are required to be removed to facilitate development. However, if tree cutting or alteration are required this will be done outside of the bird nesting season.

7.5.35. Regarding the matter of lighting, it is stated in the NIS that due to the proximity of the proposed development to Lough Derg (Shannon) SPA that lighting should be minimised as far as possible. Any lighting required for safety should follow relevant guidelines to reduce light spill adjacent to the lake. Light spill should be directional only and minimised by using masking, shields or louvres. Also lighting columns should be kept as low as possible and some restrictions may be considered during dark hours. It is stated that there should be no light spill on the adjacent Lough Derg.

#### **In combination effects**

7.5.36. In relation to in combination effects it is set out in the NIS that there is potential for in-combination effects on the SPA in relation to water quality, invasive species and disturbance impacts. It is highlighted in the NIS that the existing water quality status of Lough Derg is "At Risk". There is the potential for water quality impacts which could arise during the construction and operational phase of the development which could act in combination with existing pressures on water quality. Accordingly, mitigation measures are necessary to protect the adjacent waterbody.

7.5.37. The proposed development could contribute to increase disturbance to the bird species in the SPA and also otters which forage on the edge of the lake. Having regard to the nature of the existing site and relatively small scale and nature of the development it is considered that no significant cumulative impacts relating to disturbance are likely to arise

7.5.38. The NIS concluded that with the mitigation measures carried out and incorporated into the design of the proposed development that there would be no in-combination effects from the proposed development.

7.5.39. Therefore, 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 Lough Derg (Shannon) SPA (Site Code 004058) and Lower River Shannon SAC (Site Code 002165) in view of the Conservation Objectives of these sites. This conclusion has been based on a complete assessment of all implications of the proposed development and in combination with plans and projects.

## **Appropriate Assessment Conclusions**

7.5.40. I consider on the basis of the information on file that the applicant in this case has demonstrated in the submitted Natura Impact Statement that with the implementation of mitigation measures including robust construction management and also operational measures that are to the required standards, that the proposed development, individually or in combination with other plans and projects would not adversely affect the integrity of the Lough Derg (Shannon) SPA (Site Code 004058) and Lower River Shannon SAC (Site Code 002165) or any other such designated European, in view of the their Conservation Objectives.

## **8.0 Recommendation**

8.1. I recommend that permission is refused for the following reason.



## 9.0 Reasons and Considerations

1. It is considered that the proposed development providing for tourism accommodation located on a site outside of an established settlement and with vehicular access via an existing entrance off the R463 would result in additional traffic movements at this location. Objective CDP8.5 of the Clare County Development Plan 2017-2023 (as varied) restricts development to certain criteria; namely development of strategic importance, dwellings for established landowners and developments within settlement boundaries/50km/hr speed limit zones in order to maintain and protect the carrying capacity and efficiency of roads. Accordingly, it is considered that the proposed development would endanger public safety by reason of traffic hazard due to the additional traffic turning movements that would be generated at a point where the general speed limit of 80 km/h applies.

---

Siobhan Carroll  
Planning Inspector

13<sup>th</sup> December 2022