



An
Bord
Pleanála

Inspector's Report

ABP-313140-22

Development	Proposed Fáilte Ireland Platforms for Growth - shared community facilities
Location	Ballycuggaran, Killaloe, Co. Clare
Local Authority	Clare County Council
Type of Application	Application for approval made under Section 177(AE) of the Planning and Development Act, 2000 (local authority development requiring appropriate assessment)
Prescribed Bodies	Fáilte Ireland
Observer(s)	None
Date of Site Inspection	2022.06.21
Inspector	Jimmy Green

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1.0 Introduction

- 1.1. Clare County Council is seeking approval from An Bord Pleanála to construct a WC, Shower, and Changing Room facility including decommissioning of existing septic tank, provision of new sewage treatment plant and percolation area and all ancillary works and services at Ballycuggaran, Co. Clare. The site of the proposed development is in use as a lakeside public amenity space and is in proximity to the Lough Derg (Shannon) SPA which is a designated European site. There are other designated European sites (SPAs and SACs) in the wider area surrounding the proposed works (see further analysis below). A Natura Impact Statement (NIS) and application under Section 177AE was lodged by the Local Authority on the basis of the proposed development's likely significant effect on a European site.
- 1.2. Section 177AE of the Planning and Development act 2000 (as amended) ("the Act") requires that where an appropriate assessment is required in respect of development by a local authority the authority shall prepare an NIS and the development shall not be carried out unless the Board has approved the development with or without modifications. Furthermore, Section 177V of the Act 2000 requires that the appropriate assessment shall include a determination by the Board as to whether or not the proposed development would adversely affect the integrity of a European site and the appropriate assessment shall be carried out by the Board before consent is given for the proposed development.

2.0 Proposed Development

- 2.1. The proposed works constitute the provision of the following:
- Toilets, showers and changing room building, with solar panels on roof,
 - Access ramps and demarcation of parking spaces within existing car park,
 - Decommissioning of existing septic tank,
 - Installation of new sewerage treatment plant and percolation area and foul drainage network to service both the proposed development and the existing café,
 - Bike racks,

- Surface water drainage and soakpit,
- Landscaping and connection to all ancillary services

The proposed development will provide indoor and outdoor showers, serviced toilets, external and internal seating, communications workspace (to facilitate multi-media education/induction and learning area for the operators of, and visitors to, the extant facilities), lockers for secure storage, and washdown areas. The proposed changing/shower/toilet facility itself is a single storey contemporary design and has a wedged angular shape with various openings along the external panelled walls, leaving it open to public access, a sloped sedum clad roof with solar panels is also incorporated. The changing facility will also accommodate bench seating, lockers, accessible toilet/shower facilities and an informal meeting/discussion area. A second smaller building (plant/condenser store) is also proposed, this is single storey, flat roofed with timber panelled external cladding and will not be open to access from the public. Other works include delineation of car parking spaces (within an existing surfaced car park area, access footpaths and ramps, landscaping, and all civils works which include the removal and decommissioning of an existing septic tank system, and the provision of a new treatment plant with associated percolation area.

2.2. **Accompanying documents:**

The application is accompanied by the following documents:

- Project Explanatory Report,
- Natura Impact Statement (NIS),
- Ecological Impact Assessment (EclA),
- Environmental Impact Assessment Screening Report (EIASR),
- Letter from Irish Water,
- Site Ownership and Selection Statement,
- Sewage Treatment Plant Report Incl. Site Characterisation Report,
- List of Prescribed bodies and copies of letters issued,
- Construction and Environmental Management Plan (CEMP)
- Design Drawings

- Site location map
- Site and Newspaper notices
- Architects Concept Statement
- Photomontages

3.0 **Site and Location**

3.1. The site of the proposed development is located at an established and well-maintained public amenity lakeside parkland area at Ballycuggaran, Co. Clare, on the shore of Lough Derg. The site is approximately 3.5km north of Killaloe and is accessed off the R463 (Tuamgraney – Killaloe Regional Road). The site is irregular in shape. The western and central part of the subject site incorporates parts of the existing car parking area and road access - it is proposed to delineate car parking spaces, including accessible spaces at these locations. The site of the proposed changing room facilities is currently a grassed amenity (park) area which is maintained by, and under the ownership of, Clare County Council. This portion of the site forms part of the wider lakeside/parkland amenity space, it has a gentle slope from approx. 34.75 to 34.25m OD and has footpaths, picnic benches, bins and public seating in place. The shore of Lough Derg lies approximately 43m to the northeast of the site at its closest point (the shoreline being below 31.5mOD). The Lough Derg shoreline is an established bathing area at this location and has a gravel/rough sand beach along the edge of the amenity area. In the wider area there are walkways with broad-leafed woodland to the east. There are some scattered individual mature trees and stands throughout the amenity area. The south-eastern portion of the site (where it is proposed to accommodate the proposed foul drainage system and percolation area) is a maintained grassed area of gently sloping ground which rises from approx. 34.5m OD to 37.25m OD towards an existing café/check-in/coffee shop and a container located outside the redline boundary of the current application. There is also another larger container which operates as a changing room (for water activities) with picnic tables located to the west of the location of the proposed treatment plant.

- 3.2. Ballycuggaran Woods lie to the west of the site (on the opposite side of the regional road) and University of Limerick Activity Centre is located to the North, with the Scouting Ireland Killaloe National Water Activity Centre located to the southeast.
- 3.3. The site is currently used as a car park and lakeside parkland and functions as a well-maintained and managed amenity area. At time of inspection there was a large aquapark in place in the lake accessed off a pier/jetty to the north and a variety of group canoe/kayaking/water activities were also underway on the lake.
- 3.4. The site is located proximate to the Lough Derg (Shannon) Special Protection Area (SPA) which runs along the lakeshore line. The SPA lies approximately 43m to the northeast and 80m to the east of the proposed development site.

4.0 **Planning History**

- 4.1. The following are the most relevant and proximate planning applications in the vicinity of the proposed development.

PI. Ref. 21/1244 – Application for the installation of an inflatable aqua park to operate seasonally from May 1st to September 30th, development includes the provision of a floating pontoon, 20ft container for check-in, 40ft container for changing facilities and all associated works. Permission granted by the Planning Authority in March 2022 for a temporary period up to October 2026. Permitted development is in two parts – Inflatable aquapark located to the north of the proposed development site, while it wraps around (but does not include) the site of the permitted changing/check-in containers which are located to the east and southeast of the location of the proposed treatment plant.

PI. Ref. 21/869 – Application for the retention of a 20ft steel container used as a check-in area and a 40ft steel container used as a changing area. Application was withdrawn.

PI. Ref. 16/168 – Application by Waterways Ireland for upgrade and enhancement of the existing canoe trail, consisting of new signage, canoe storage at Ballycuggaran on a site to the north of the current proposal. Permission granted by the Planning Authority in May 2015.

Pl. Ref. 13/409 – Permission granted (July 2014) by the Planning Authority on a site to the southeast of the current proposal to extend and refurbish the existing accommodation building at the National Water Activities Centre for Scouting Ireland, including the provision of additional accommodation and upgrade of the foul drainage system.

Pl. Ref. 15/360 – Permission granted by the Planning Authority in July 2015 to modify and convert the roof space of existing accommodation building at the National Water Activity Centre, incl. new shower and changing facilities.

5.0 **Legislative and Policy Context**

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

- 5.1.1. This Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Articles 6(3) and 6(4) require an appropriate assessment of the likely significant effects of a proposed development on its own and in combination with other plans and projects which may have an effect on a European Site (SAC or SPA).

5.2. **European Communities (Birds and Natural Habitats) Regulations 2011 as amended:**

- 5.2.1. These Regulations consolidate the European Communities (Natural Habitats) Regulations 1997 to 2005 and the European Communities (Birds and Natural Habitats) (Control of Recreational Activities) Regulations 2010, as well as addressing transposition failures identified in CJEU judgements. The Regulations in particular require in Reg 42(21) that where an appropriate assessment has already been carried out by a 'first' public authority for the same project (under a separate code of legislation) then a 'second' public authority considering that project for appropriate assessment under its own code of legislation is required to take account of the appropriate assessment of the first authority.

5.3. **National nature conservation designations:**

- 5.3.1. The Department of Housing, Local Government and Heritage and the National Parks and Wildlife Service (NPWS) are responsible for the designation of conservation sites throughout the country. The three main types of designation are Natural

Heritage Areas (NHA), Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) and the latter two form part of the European Natura 2000 Network.

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

- Lough Derg (Shannon) SPA, Site Code [004058]
- Slieve Bernagh Bog SAC, Site Code [002312]
- Lower River Shannon SAC, Site Code [002165]
- Slieve Aughty Mountains SPA, Site Code [004168]
- Glenomra Wood SAC, Site Code [001013]
- Slievefelim to Silvermines Mountains SPA, Site Code [004165]
- Silvermines Mountains West SAC, Site Code [002258]

5.4. **Planning and Development Acts 2000 (as amended):**

5.4.1. Part XAB of the Planning and Development Act as amended sets out the requirements for the appropriate assessment of developments which could have an effect on a European site or its conservation objectives.

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

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

5.5. National Planning Framework

5.5.1. The Project Ireland 2040 National Planning Framework (NPF) is the Government’s high-level strategic plan for shaping the future growth and development of Ireland to 2040. It is a framework to guide public and private investment, to create and promote opportunities and to protect and enhance the Irish environment. The NPF creates a shared set of goals for every community across the country which are expressed as 10 no. National Strategic Outcomes. The Seventh National Strategic Outcome is “*Enhanced Amenity and Heritage*”, which is described as follows:

“This will ensure that our cities, towns and villages are attractive and can offer a good quality of life. It will require investment in well-designed public realm, which includes public spaces, parks and streets, as well as recreational infrastructure. It also includes amenities in rural areas, such as national and forest parks, activity-based tourism and trails such as greenways, blueways and peatways. This is linked to and must integrate with our built, cultural and natural heritage, which has intrinsic value in defining the character of urban and rural areas and adding to their attractiveness and sense of place.”

5.5.2. The objectives listed under this strategic outcome include the following:

- We will conserve, manage and present our heritage for its intrinsic value and as a support to economic renewal and sustainable employment.
- Open up our heritage estates to public access, where possible.
- Invest in and enable access to recreational facilities, including trails networks, designed and delivered with a strong emphasis on conservation, allowing the protection and preservation of our most fragile environments and provided a wellbeing benefit for all.

5.6. **Regional Spatial and Economic Strategy (RSES) for the Southern Region**

5.6.1. The site of the proposed development is in County Clare which is within the Southern Regional Assembly (SRA) area. The RSES supports the NPF objectives and contains a wide range of Regional Policy Objectives (RPOs) in this regard. Furthermore, the RSES acknowledges that further promotion and development of attractions and capacity to capitalise on latent potential in tourism and local enterprise is essential to ensure the sustainable development of the region. The RSES RPOs include the following:

- RPO 50 – supports the development of a diverse base of smart economic specialisms across the rural region including tourism to leverage the opportunities from the Wild Atlantic Way, Irelands ancient East and Irelands hidden heartlands brands.
- RPO 53 – states it is an objective to inter alia (a) enhance provision of tourism and leisure amenities to cater for increased population, (b) promote activity tourism, and (c) sustainably develop facilities and connectivity networks for improved visitor access and foster longer dwell times.
- RPO 181 – seeks to promote disability awareness and improve equal access for all through universal design in relation to transport, housing, social, cultural and recreational facilities.

5.6.2. The RSES acknowledges that Lough Derg is a tourism asset in the mid-west Spatial Planning Area, and it supports the promotion of Lough Derg subject to the outcome of environmental assessments and the planning process.

5.7. **Clare County Development Plan 2017-2023**

5.7.1. Clare County Development Plan 2017-2023 (CDP) is the relevant local planning policy document. The site is located within the Ballycuggaran Amenity Areas on the shore of Lough Derg. From the CDP provisions the site of the proposed development is within a Heritage Landscape and is accessed off an existing entrance from the R463 which is a Strategic Regional route and a designated scenic route at this location. The most pertinent provisions of the CDP are noted below:

- CDP 2.1 – relates to Appropriate Assessment, Strategic Environmental Assessment and Strategic Flood Risk Assessment and states that all

applications for development must be fully informed by the strategic assessments in the CDP and by ecological and environmental constates at the earliest stage.

- CDP 8.5(b) requires that the carrying capacity of strategic regional roads will be preserved and that there will be restrictions applied in relation to developments requiring direct access. These restrictions allow for developments of strategic importance that must be located in a rural area, dwellings for established landowners, and developments located within settlement or residential cluster areas where reduced speed limits apply.
- CDP 9.2 – states that it is an objective to promote tourism in Co. Clare and work with all local, national and international bodies and groups to ensure a cohesive approach and support is provided.
- CDP 9.4 – relates to Tourism Developments and facilities and 9.4(b) states that tourism related developments can be permitted outside settlements where there is a clear need, where benefits are balanced against potential environmental impacts and the considerations of CDP 2.1 are considered.
- CDP 9.8 states it is an objective to (a) work with local communities and relevant agencies to achieve the sustainable development of Clare as a world-class destination for sports and recreation-related tourism, (b) support appropriate development of low impact experiential tourism to diversify the range of tourist activities available and expand the tourist season and
 - “(c) To support the sustainable development of watersports, surfing, sailing and water-related events at appropriate locations in the County, subject to analysis of their potential environmental impact.”*
- CDP 9.13 – relates to Lakeland and Waterway Tourism and states that it is an objective to support the development of tourism activities in lakeland areas and waterways subject to normal planning and environmental criteria and in accordance with the relevant Directives.
- CDP 9.19 relates to accessible tourism and notes that the CDP will facilitate and support the provision of accessible facilities including access to water-based activities.

- CDP 9.23 relates to Tourism in East Clare and states that it is an objective inter-alia to (E) facilitate and encourage the development of new and expanded outdoor activities in East Clare such as canoeing, water sports, bird watching, mountain-biking and walking trails and develop links to complimentary facilities, and (H) to support the upgrade of the amenity facilities in the Ballycuggaran area.
- CDP 13.5 relates to Heritage landscapes and notes that it is an objective that all proposed developments in such areas must demonstrate that every effort has been made to reduce visual impact, sites must avoid visually prominent locations, avail of existing topography and vegetation to minimise visual impact and building heights must be minimised.
- CDP 13.7 relates to Scenic routes and states that it is an objective to protect sensitive areas from development, ensure developments take into consideration their effects on views from the public road network, and ensure appropriate standards in siting, design and landscaping are achieved.
- CDP 14.7 relates to European designated sites and notes that it is an objective to afford the highest level of protection to such sites and require all necessary reporting (i.e., provision of an NIS) to be submitted as appropriate.

5.8. **Draft Clare County Development Plan 2023-2029**

- 5.8.1. The Draft Clare County Development Plan 2023-2029 was put on public display between December 2021 and March 2022, with the Chief Executives report on submissions to the Draft Plan currently being prepared. Under the published draft plan, the site remains subject to similar provisions as the existing CDP, the site remains located in a heritage landscape, and the R463 retains its designation as both a strategic regional route and a designated scenic route at this location. The objectives and policies of the Draft Plan remain consistent with that of the current plan set out above. The Draft Plan retains all tourism policies set out above (CDP, 9.2, 9.4, 9.8, 9.13, 9.19 and 9.23). The Draft plan also contains policy objectives consistent with those of the existing CDP (cited above) in relation to the protection of the landscape, designated sites, biodiversity and to protect strategic regional roads albeit the numbering scheme for the various policies has been altered).

5.9. Other relevant Policy Guidance

- 5.9.1. There are a number of tourism policy documents at national and local level such as “People, Place and Policy: Growing Tourism to 2025” (Department of Transport, Tourism and Sport), The Shannon Tourism Masterplan (March 2021) Waterways Ireland and the County Clare Tourism Strategy 2030 (Clare County Council) which all provide broad support for the provision of additional facilities and improved facilities to further support the development of the tourism product at this location.

6.0 The Natura Impact Statement

- 6.1. Clare County Council’s application for the proposed development was accompanied by a Natura Impact Statement (NIS) which scientifically examined the proposed development and European sites. The NIS identified and characterised the possible implications of the proposed development on the European sites, in view of the site’s conservation objectives, and provided information to enable the Board to carry out an appropriate assessment of the proposed works.
- 6.2. The NIS provides an overview and description of the proposed development and is based on desktop study as well as surveys that were conducted between August 2020 and April 2021. The surveys conducted included a habitat assessment, mammal survey (for bats the focus was placed on evaluation of suitable habitats to support roosting), Bird surveys were recorded by sight and sound surveys and included a winter bird assessment, with specific attention placed on recording birds of special conservation interest (SCI) relating to SPAs within commuting range. The NIS identifies and characterises the potential effects arising from the proposed development (construction activities, operational impacts arising from facilitating lakeside activities), and sets out a detailed suite of mitigation measures including the provision of a Construction and Environmental Management Plan (CEMP), ecological signage, wastewater treatment, grey water management, visitor management and litter management. The submitted NIS concludes that subject to the adherence to the various mitigation measures proposed that the proposed development will not give rise to any significant adverse effects on any designated European sites either alone or in combination with other plans or projects.

7.0 Consultations

7.1. The application was circulated to the following bodies

- The Minister for Department of Housing Local Government and Heritage
- The Minister for the Department of the Environment, Climate and Communications
- An Taisce
- Inland Fisheries Ireland
- Clare County Council
- National Parks and Wildlife Service
- The Heritage Council
- Fáilte Ireland
- Waterways Ireland

One response was received from Failte Ireland, this is discussed below.

7.2. Fáilte Ireland:

7.2.1. The submission from Failte Ireland has been made in support of the proposed development and can be summarised as follows.

- There is a shortfall in quality and quantity of adequate visitor facilities to support high quality outdoor activities in Ireland.
- In April 2021 Fáilte Ireland announced a €19 million investment to develop facilities to support outdoor water-based activities, falling under the Governments Project Ireland 2040 strategy.
- The subject facilities will support the local economy and the outdoor activity sector by enhancing visitor experience, providing new business opportunities in the local community and facilitate the extension of the tourism season beyond the summer months.
- The proposed development complies with the Shannon Tourism Masterplan (2021), County Clare Tourism Strategy 2030, as well as being consistent with and support the polices/objectives of national, regional and county level planning policy.

- One team was appointed to bring forward universal standardised design options for all activity design centres to be delivered while allowing for adaptations depending on local site conditions.
- The scheme proposes that once constructed the facility will be owned and operated by the Local Authority.
- The proposed development will strengthen the appeal of the county with strong high quality outdoor water-based activities and facilities while satisfying all environmental requirements.

7.3. **Public Submissions:**

7.3.1. There have been no public submissions lodged in relation to the proposed development.

8.0 **Assessment**

8.1. The Board, in making a decision in respect of an application under Section 177AE must consider:

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

The structure of this report follows the above three topics.

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

8.2.1. The purpose of the proposed development is to consolidate and improve the existing water-based facilities and amenity offering that is already present at the Ballycuggaran Amenity area Co. Clare. There are a number of existing amenity facilities at this location with a café, parkland, public seating, waterside amenities (picnic tables, seating, etc) and a blue flag swimming already in place and aqua park and other water-based activity centres in the wider area. The proposed development will augment and provide better facilities for the activities that are already in place

and the application documentation references that the proposed development will increase visitor numbers and facilitate the extension of the season. I accept that the proposed development will prolong the season and will augment and improve the facilities available, however, in my opinion it will not in and of itself greatly increase the numbers using this amenity area as it is already a popular destination with an established wide range of water-based activities and amenities in place.

- 8.2.2. The site of the proposed development is already in use as a popular public amenity space and swimming location which is surrounded by extant water activity operators. The amenity area is well-managed, at time of site inspection it was litter free and being maintained by Council staff, with bins being cleared and all benches and public facilities being clean and serviceable.
- 8.2.3. The site is highly accessible being located immediately adjacent to an extant car parking facility which is to be improved through delineation of spaces and designation of accessible parking. Vehicular access is off a strategic regional road via existing access points with good sightlines and therefore the proposed development in and of itself does not require any new or direct access onto the regional road.
- 8.2.4. I note that the regional road is a strategic regional road at this location and that development requiring access is restricted under the provisions of CDP 8.5 to developments of (e.g., developments of strategic importance which by their nature must be located in rural areas, specified cases of housing need, or locations where the 50km speed limit applies). In this regard I also note that the proposed development will improve and augment existing approved uses that are location dependent, furthermore, the development of tourism facilities has been identified in national, regional and local planning policy documents as being of strategic importance. I also note that the planning authority's consideration of PI. Ref. 21/1244 (Aqua Park planning application at this location) noted that that development could be considered as being within the 50km speed limit zone as it was the intention of the planning authority to reduce the speed limits at this location in May 2022. A temporary speed limit order has been made to the R463 at this location (dated 19th May 2022) for a period of 12 months to facilitate proposed traffic calming measures (namely a controlled pedestrian crossing) at this location. Accordingly, for these reasons I consider that the proposal does not in principle conflict with CDP 8.5 and

will neither impede the carrying capacity of the regional road nor present a traffic hazard at this location.

8.2.5. The CDP contains a wide range of policies and objectives that support the provision of improved and better tourism facilities in general, as well as supporting the provision of such facilities in rural areas where appropriate (CDP 9.4 refers), and specifically supporting the improvement of facilities at Ballycurragan subject to adequate environmental controls and sensitive site selection (CPD9.23 refers). While environmental matters, biodiversity and protection of designated sites are discussed in further detail below, in summary I consider that the proposed development is sensitively sited within a managed amenity area that is already catering for a wide range of water-based activities and in this regard, I consider it compliant with the tourism policies of the County Development Plan.

8.3. The site is in a heritage landscape, in this regard the proposed buildings are small in scale, single storey, have been designed to have minimal visual impacts. Furthermore, the proposed development retains existing mature planting and proposes further planting/landscaping to aid assimilation of the project into the landscape and provide screening. The development is sensitively designed, appropriately sited, and can be accommodated within the site without adverse impacts on visual amenities.

8.4. In conclusion and on review of the above I consider that the principle of the proposed development complies with the relevant provisions of the CDP and is consistent with the proper planning and sustainable development of the area, and accordingly I am of the opinion that the proposed development is appropriate in principle at this location.

8.5. **The likely effects on the environment**

8.5.1. There is no provision under Section 177AE of the Act to require Environmental Impact Assessment (EIA) or to carry out a formal EIA screening of development for a local authority project which has been submitted under this section of the Act. The proposed development which is described as a community facility and essentially proposes a building to accommodate showers and toilet facilities (including accessible facilities) at a rural location which is already in use as an amenity area/parkland and which facilitates water-based activities is not of a development

type for the purposes of Part 10 as listed in Schedule 5 of the Planning and Development Regulations 2001 (as amended) (“the Regulations”). Notwithstanding this, an EIA screening report has been prepared on behalf of Clare County Council and accompanies the current application documentation. The submitted screening report considers the potential impacts of the project having regard to the characteristics of the proposed development, its location, as well as the types and characteristics of potential impacts. I note the conclusions of the submitted Screening Report which states that the environmental impacts of the proposed development are not likely to be significant within the meaning of the EIA Directive.

8.5.2. Having reviewed the application documentation and bearing in mind the small-scale nature of the proposed development I consider that the proposed development will not give rise to significant environmental impacts, however, the proposal does merit further consideration in relation to the following – traffic, flood risk, biodiversity, drainage, visual impact, and cultural heritage.

8.5.3. Traffic:

8.5.3.1. In relation to traffic the site is accessed off a strategic regional road, via existing entrances with adequate sight-lines. There is also extant significant car parking available which is to be lined-out as part of the current application and will also provide for accessible parking. The proposed development will augment and improve existing facilities which I consider represents an appropriate extension of existing facilities. This location is well-serviced in terms of access arrangements, and these are to be improved through the provision of a controlled pedestrian crossing being provided by the County Council linking the established car parking area to the woodland walks on the opposite side of the road. The regional road is in good condition, and existing pedestrian linkages north and south along the road are in place. I note that there will be impacts during the construction stage, however, these will be temporary, contained to the site workings and deliveries which will not impede traffic or pedestrian movements in the vicinity. I, therefore, do not consider these impacts to be significant nor inappropriate. Accordingly in relation to traffic I conclude that the proposed development is appropriate and will not give rise to inappropriate movement/generation of traffic nor present a traffic hazard.

8.5.4. Flooding:

8.5.4.1. In relation to floodrisk I note that there are no records of flooding on site (www.floodinfo.ie refers), nor has this site been designated as being within a floodzone A or B from the mapping in the CDP. Accordingly, I am satisfied that the proposed development is appropriate at this location.

8.5.5. Biodiversity:

8.5.5.1. In relation to Biodiversity the application documentation includes an Ecological Impact Assessment (EcoA). The site of the proposed development is located within lands/habitats that have been identified as Buildings and Artificial Surfaces (BL3) and Amenity Grassland (GA2). Neither of these habitats are environmentally sensitive and both are highly managed through the ongoing, established and approved amenity landuses that are currently in place. No Annex I habitats are present on site, and it is the surrounding habitats (treelines, lake, woodlands) which are of more importance for local mammal, bird and insect species. The lake represents a very important freshwater habitat, and this is considered in further detail within section 9 of this report below. Treelines and woodlands in the vicinity are to be retained and while I acknowledge that construction activities will create disturbance this will be temporary in nature and subject to controls as set out in the submitted CEMP, accordingly construction impacts will not be a significant impact in my opinion. The CEMP also sets out good practice in terms of management of building materials, hydrocarbons, and sediment that could potentially arise from works areas.

8.5.5.2. No evidence of badger setts or otter activity were recorded on site and due to the nature of the site I consider the affected habitats to be of limited use to these species, albeit the area could be used for foraging/commuting. The woodland, treelines and lake are of importance to bats, these features will not be subject to change by the proposed development. I note that lighting may have an impact on bats and accordingly it will be important in the event of favourable consideration to ensure that lighting is designed and operated in a way to ensure impacts on bats are minimised.

- 8.5.5.3. The lake is of importance to Amphibians and Invertebrates; however, the construction of the proposed development will not interfere with or involve the lake or its shoreline and appropriate operational management and signage will be adopted to ensure that the users of the facility will respect sensitive habitats and species. I therefore consider that the proposed development will not give rise to significant adverse impact in this regard.
- 8.5.5.4. In relation to Birds, the trees and woodland (as well as the lake) are the habitats of most value. A winter bird survey has been carried out with 12 no. species identified, of these, 2 no. (Goldeneye and Tufted Duck – both on the qualifying interests (QIs) of the Lough Derg SPA which is discussed in section 9 below) are on the red list. The bird activity recorded on site includes mallards, mute swans and black headed gulls which sit along the shore edge at this location waiting to be fed. Foraging and roosting locations have been identified and mapped within the Ecol. In the event of favourable consideration of this proposal I recommend that these locations be made subject to management by operators to ensure activities avoid such areas.
- 8.5.5.5. The wildlife in the immediate vicinity of the proposed development is habituated to human activity due to the long-standing parkland/public lakeside use that has been in place and its popularity. There are a variety of mitigation measures set out within the submitted CEMP which will minimise impacts on species and habitats during the construction period which I consider should be implemented in the event of favourable consideration.
- 8.5.5.6. The proposed development has the potential to give rise to adverse impacts from its operational phase. I note that the site is already in use for a wide range of water-based activities and that existing operations result in significant visitor numbers. Notwithstanding the consideration that wildlife has become accustomed and acclimated to such activities I consider it important that the precautionary principle be adopted and the operations of the facility be made subject to conditions requiring the implementation of all mitigation measures set out in the CEMP and Ecol including controls being applied to construction activities, lighting (construction and operation) signage, a visitor management plan, and litter management. With the implementation

of these mitigation measures I consider that the proposed development will not have a significant adverse impact on biodiversity.

8.5.6. Drainage:

8.5.6.1. The proposed development will also improve and upgrade the extant foul drainage system that is in place. The existing foul drainage (from the existing café) is carried out by means of a large septic tank which is augmented during the summer season by deploying additional portaloo's in the car park. There are no specific details provided in relation to the existing foul drainage network, which is presumed to discharge to a soakaway and not a percolation area (Clare County Council Environment Section commentary on treatment system report refers) however, no issues have been raised in relation to the operation or capacity of the existing septic tank.

8.5.6.2. The foul treatment proposals provide for the installation of a treatment system that is modular and which can be programmed to run in different modes to deal with surges and times when full capacity is not required, which is necessary as the proposed development will be seasonal in nature. The Site Characterisation form accompanying the application notes that the site is suitable for the provision of a treatment plant, has the required depth of unsaturated soil to accommodate percolation and that necessary set-backs and separation distances are achievable. In the event of favourable consideration, I recommend that the provision of all required set-back distances be made subject of an appropriate condition due to the presence of the lake and the bathing area. The Environment Section of the Planning Authority have noted as follows in relation to the proposed foul drainage proposals:

“The new system will significantly improve the quality of the discharge and minimise the impact on the environment. Groundwater will be protected due to the sufficient depth of well drained brown earths which will comprise the polishing filter. The system will be over 100m from the lake shore and therefore should not adversely impact on lake water quality.”

8.5.6.3. Notwithstanding the above, I note that the application documentation states that the capacity of the treatment plant has been calculated considering 6 no. showers which

does not appear to include the 4 no. external showers included within the proposed development. In this regard while there is some head-room built into the proposed system in terms of its design capacity and it is modular in design, capacity can be increased if required, in the alternative the proposed outdoor showers could be omitted to comply with the submitted capacity calculations. In either event I am satisfied that the proposed foul drainage system can be adequately accommodated on site, and that this matter can be made subject to an appropriate condition in the event of favourable consideration.

8.5.6.4. Surface water drainage is proposed to be separated from the foul drainage network to a specifically designed soakaway, I consider this approach to be appropriate and it will not give rise to adverse impacts.

8.5.7. Visual Amenity:

8.5.7.1. The design of the proposed development is low impact, being single storey, with a sloped sedum roof, heights have been minimised and the buildings will assimilate effectively within the chosen site. As noted, the site is already in use as an amenity space with various water-based activities in the vicinity, furthermore the presence of mature trees both along the road-side and in the vicinity will aid in the visual screening and assimilation of the proposed development. The proposed development also incorporates additional tree and shrub planting to the immediate southeast of the proposed buildings and in the vicinity of the proposed percolation area. In my opinion the proposed development represents a successful design intervention at this location, minimising potential visual impact through its discrete contemporary design while maximising the facilities being provided.

8.5.8. Cultural Heritage:

8.5.8.1. The site of the proposed development is not located in the vicinity of any recorded monuments or features nor are any buildings from the record of protected structures affected by the proposal. Notwithstanding this however, I recommend in the event of a grant of permission that excavations be monitored by a suitably qualified archaeologist.

8.5.9. **Conclusion:**

I conclude that the proposed development would not give rise to significant residual effects on the environment having regard to the nature and scale of the proposed development and subject to the mitigation measures presented and to the conditions included in the recommendation below.

9.0 **The likely significant effects on a European site:**

9.1. The areas addressed in this section are as follows:

- Compliance with Articles 6(3) of the EU Habitats Directive,
- The Natura Impact Statement and associated documents,
- Appropriate Assessment Screening,
- Appropriate Assessment,

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

9.2.1. 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.

9.3. **The Natura Impact Statement:**

9.3.1. The application was accompanied by an NIS which described the proposed development, the project site and the surrounding area. The NIS contained a Stage 1 Screening Assessment which concluded that a Stage 2 Appropriate Assessment was required in relation to one Natura 2000 site (Lough Derg (Shannon) SPA). The NIS outlined the methodology used for assessing potential impacts on the habitats and species within the European Site that has the potential to be affected by the proposed development. It predicted the potential impacts for this site and their

conservation objectives, it suggested mitigation measures, assessed in-combination effects with other plans and projects and it identified any residual effects on the European site and their conservation objectives.

9.4. The NIS was informed by the following studies, and surveys:

- A desk top study.
- A habitat survey of the site and its environs.
- Mammal Surveys, for bats the focus was on evaluation of suitable habitats to support roosting bats, and
- Bird Surveys including a winter bird survey

9.5. The NIS considered that the main impacts that could be arising from the proposed development on the Natura 2000 site was arising from construction interactions/releases/discharges (due to the proximity of the site to the waters/SPA edge) and during the operational phase by introducing disturbance effects to nesting species through the users of the facility carrying water activities in inappropriate locations.

9.6. The submitted NIS concludes as follows:

“Having incorporated mitigation measures, it is concluded that the Platform for Growth; Shared Community Facilities at Ballycuggeran (Killaloe) Lough Derg Blueway is not foreseen to give rise to any significant adverse effects on designated European sites, alone or in combination with other plans or projects. This evaluation is made in view of the conservation objectives of the habitats or species for which these sites have been designated.”

9.7. Having reviewed the NIS and the supporting documentation, I am satisfied that it provides adequate information in respect of the baseline conditions, does clearly identify the potential impacts, and does use best scientific information and knowledge. Details of mitigation measures are provided and they are summarised in Sections 4 and 5 of the NIS. I am satisfied that the information is sufficient to allow for appropriate assessment of the proposed development (see further analysis below).

9.8. Appropriate Assessment Screening

- 9.8.1. Section 177AE sets out the requirements for appropriate assessment (AA) of development carried out by or on behalf of a local authority. 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 AA. There is no requirement for the Board to undertake screening in these cases as it presupposed that the Local Authority has established the need for AA through its own screening process (unless issues arise as to the adequacy or otherwise of the screening determination by the applicant). Nonetheless, it is considered prudent to review the screening process to ensure alignment with the sites brought forward for AA and to ensure that all sites that may be affected by the development have been considered.
- 9.8.2. The submitted NIS carried out by CAAS on behalf of Clare County Council included AA Screening which concluded on the basis of objective information and in view of best scientific knowledge, the possibility of significant effects from the proposed project on European sites could not be ruled out and therefore an Appropriate Assessment was required. The AA screening section of the NIS concluded that there was potential for the proposed development to significantly impact the Lough Derg (Shannon) SPA, from construction activities (e.g., dust, site discharges) and the operational period (water activities from those using the proposed facilities).
- 9.8.3. The Appropriate Assessment Screening included within the NIS acknowledges that there is a pathway for significant effects and potential for in-combination effects to arise from the proposed development on the Lough Derg (Shannon) SPA.

9.9. Appropriate Assessment Screening Determination

- 9.9.1. I consider that the proposed development of the Failte Ireland Platform for Growth – shared community facilities and all associated works is not directly connected with or necessary to the management of any European site.
- 9.9.2. Having regard to the information and submission available, nature, size and location of the proposed development and its likely direct, indirect and cumulative effects, the source pathway receptor principle and sensitivities of the ecological receptors the following European Sites are considered relevant to include for the purposes of initial

screening for the requirement for Stage 2 appropriate assessment on the basis of likely significant effects

Table 8-1: European sites considered for Stage 1 screening:

European site (SAC/SPA)	Qualifying Interests (QIs)	Approximate straight-line distance to site of proposed development
Lough Derg (Shannon) SPA, Site Code [004058]	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] Wetland and Waterbirds [A999]	43m northeast at its closest point,
Slieve Bernagh Bog SAC, Site Code [002312]	Northern Atlantic wet heaths with <i>Erica tetralix</i> [4010] European dry heaths [4030] Blanket bogs (* if active bog) [7130]	730m southwest at its closest point,
Lower River Shannon SAC, Site Code [002165]	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] Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (<i>Glaucopuccinellietalia maritima</i>) [1330] Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]	3.5km southeast at its closest point.

European site (SAC/SPA)	Qualifying Interests (QIs)	Approximate straight-line distance to site of proposed development
	<p>Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-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 (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 (Otter) [1355]</p>	
Slieve Aughty Mountains SPA, Site Code [004168]	<p>Hen Harrier (Circus cyaneus) [A082]</p> <p>Merlin (Falco columbarius) [A098]</p>	10.8km north and northwest at its closest point.
Glenomra Wood SAC, Site Code [001013]	Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]	11km to the southwest at its closest point
Slievefelim to Silvermines Mountains SPA, Site Code [004165]	Hen Harrier (Circus cyaneus) [A082]	11.8 km to the southeast at its closest point.

European site (SAC/SPA)	Qualifying Interests (QIs)	Approximate straight-line distance to site of proposed development
Silvermines Mountains West SAC, Site Code [002258] -.	Northern Atlantic wet heaths with <i>Erica tetralix</i> [4010] European dry heaths [4030] Calaminarian grasslands of the <i>Violetalia calaminariae</i> [6130]	12.3 km to the southeast at its closest point

9.9.3. Based on my examination of the NIS report and supporting information, the NPWS website, aerial and satellite imagery, the scale of the proposed development and likely effects, separation distance and functional relationship between the proposed works and the European sites, their conservation objectives and taken in conjunction with my assessment of the subject site and the surrounding area, I conclude that a Stage 2 Appropriate Assessment is required for one of the seven European sites referred to above. In this regard I concur with the findings of the Screening carried out by CAAS on behalf of Clare County Council in concluding that AA is required in relation to the Lough Derg (Shannon) SAC arising from its proximity and potential for construction and operational impacts to arise.

9.9.4. The remaining six sites can be screened out from further assessment because of, the scale of the proposed works, the nature of the Conservation Objectives, Qualifying and Special Conservation Interests, the separation distances, the inert nature of the operational phase in terms of hydrological interactions, significant dilution effects over distance, and the lack of a substantive linkages between the proposed works and the European sites. It is therefore reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site No.'s 002312, 002165, 004168, 001013, 004165, and 002258 in view of the sites conservation objectives and a Stage 2 Appropriate Assessment is not therefore required for this/these sites. Mitigation and/or avoidance measures are not required or relied upon in reaching this conclusion.

9.10. Stage 2 - Appropriate Assessment

9.10.1. The following is an objective scientific assessment of the implications of the proposal on the relevant conservation objectives of the European site using the best scientific knowledge (provided in the NIS). All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are examined and assessed for effectiveness. I have relied on the following guidance:

- 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
- EC (2021) Assessment of plans and projects in relation to Natura 2000 sites. Methodological guidance on the provisions of Article 6(3) and 6(4) of the Habitats Directive 92/43/EC
- EC (2018) Managing Natura 2000 sites. The provisions of Article 6 of the Habitats Directive 92/43/EEC

9.10.2. Description Lough Derg (Shannon) SPA, Site Code: 004058

9.10.3. Lough Derg lies within counties Tipperary, Galway and Clare and is the largest of the River Shannon Lakes being some 40 km long, for most of its length it is less than 5km wide but is approximately 13km at its widest. The site is a Special Protection Area (SPA) under the E.U. Birds Directive, of special conservation interest for the following species: Cormorant, Tufted Duck, Goldeneye and Common Tern. The E.U. Birds Directive pays particular attention to wetlands and, as these form part of this SPA, the site and its associated waterbirds are of special conservation interest for Wetland & Waterbirds. Lough Derg is of importance for both breeding and wintering birds.

9.10.4. Lough Derg (Shannon) SPA is of high ornithological importance as it supports nationally important breeding populations of Cormorant and Common Tern. In winter, it has nationally important populations of Tufted Duck and Goldeneye, as well as a range of other species including Whooper Swan. Parts of Lough Derg (Shannon) SPA are a Wildfowl Sanctuary.

9.10.5. Conservation Objectives for Lough Derg (Shannon) SPA

9.10.6. The Conservation Objectives for Lough Derg (Shannon) SPA note that the overall aim of the Habitats Directive is to maintain or restore the favourable conservation status of habitats and species of community interest. The conservation objectives of the Lough Derg (Shannon) SPA are as follows:

- *To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA. (i.e., Cormorant, Tufted Duck, Goldeneye and Common Tern – as listed in table 8-1 above)*
- *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.*

9.10.7. The proposed development in the absence of appropriate mitigation and management could give rise to the following effects on the SPA.

Potential direct effects:

- Loss/Reduction of habitat area arising from construction and operational activities. The potential operational impacts on habitat loss arises from visitor movements causing destruction of structures, vegetation and fauna.
- Habitat/Species fragmentation arising from habitat loss, construction activities, and/or light pollution.
- Operational and construction activities can create disturbance to key species (both protected species, their prey and/or other important species within the local ecosystem) through noise, and human activity/movement.

Potential indirect effects:

- The primary indirect effects that could arise would be the potential impact on water quality in the SPA associated with pollution that could arise from both construction and operational stages.

Potential in-combination effects:

- In-combination effects could arise from interactions with extant or permitted developments and/or from other plans or programmes pertaining to the area. The NIS lists the Clare County Development Plan 2017-2023, and Pl. Ref.

16/168 among other projects and plans that could have a bearing on potential in-combination affects. The NIS considers that there will be no in-combination effects arising. I broadly agree with this conclusion and note that the current development proposal is consistent with the requirements of the County Development plan, RSES and NPF. Similarly, permissions for projects in the vicinity are subject to the rigours of the planning system and the relevant policies and objectives of the CDP which include the protection of environmentally sensitive locations and designated sites. I am therefore satisfied that (in the event of favourable consideration) in-combination impacts will not arise subject to the inclusion of appropriate conditions and mitigation measures in relation to the current proposal.

Mitigation measures:

- I note that the siting of the proposed development and associated works have avoided environmentally sensitive areas and all proposed works are being carried out in/on habitats that are classified as Buildings and Artificial Surfaces (BL3) and Amenity Grassland (GA2). This mitigation measure ensures that there will be no direct loss, or fragmentation of habitat which is relied upon by the species which constitute qualifying interests of the SPA. Furthermore, no wetland habitat (another of the QIs of the SPA) will be directly impacted by the proposed development.
- The proposed development is replacing an existing septic tank and providing a specifically designed treatment system which will accommodate foul drainage and grey water from the existing facilities in the immediate environs as well as the proposed development. The proposal will therefore improve the foul drainage system in place as well as dealing with any new loadings associated with the new facilities, thereby ensuring that water quality of the SPA is protected and that there will be no impacts arising from inappropriate treatment of effluent or grey water during the operational period. Similarly, surface water drainage from the site is being channelled into a separate system which will deal with runoff separately within the site, without impact on the SPA.

- Construction activities will be subject to a Construction and Environmental Management Plan (copy of which is included within the application documentation, Section 3 of the CEMP provides a detailed list of the CEMP mitigation/control measures proposed). The application of the good house-keeping and construction activities and controls detailed within the CEMP will ensure that:
 - All hazardous materials will be handled in an appropriate manner,
 - Dust control measures will be applied,
 - Silt fences and grassed swales/catchment ditches will be constructed around works areas, stockpiles and compounds,
 - Refuelling if required will be carried out by trained personnel with appropriate equipment,
 - Industry best practice pollution control measures will be implemented by the contractor.
 - Hoarding will be provided around works areas and machinery will be prevented from idling when not in use.
 - Hours of operation will be limited, and noise generation will be monitored.

The application of the range of construction mitigation measures set out within the CEMP will ensure that the SPA will be protected from any inappropriate discharges from site during construction (e.g., dust, hydrocarbons or sediment laden water) which could potentially impact on its qualifying interests.

- Construction and operational phase lighting will be designed and implemented and operated in a sensitive manner. This mitigation measure will reduce the potential for any disturbance to arise on the SPA from on-site activities by ensuring that unnecessary light will not spill into the SPA or alter its existing conditions.
- Ecological signage will be installed to highlight key ecological resources and their sensitivities and clearly show where certain activities will be prohibited due to the potential harmful effects. The site will be subject to a visitor management plan focusing on two elements (a) any operators using the facility must uphold a code of conduct to agree to usher participants away from ecologically sensitive areas (shallow reed areas and islands, and (b)

general facility use will be monitored to ensure compliance with (a) and good site management. These mitigation measures will improve the education and increase the awareness of users of the facility of the sensitive habitats and species in the vicinity of their activities and will therefore improve the existing awareness of these features. Operators will have to monitor and control their activities to ensure sensitive areas are avoided, while members of the public will be made aware through the signage of the same sensitivities. I am satisfied that this will improve public and operator awareness and ensure that the QIs of the SPA are not adversely affected by the proposed development.

- Litter management will be carried out on site. In this regard I note that the proposed development itself is not likely to be a generator of litter and the site is already subject to comprehensive litter and site management by the local authority, however, the continuation of this practice will ensure that the QIs of the SPA will not be impacted by any litter arising from future users of the subject development.

9.10.8. I consider that the proposed mitigation measures as articulated in the NIS and detailed in the submitted CEMP as well as the grey water, surface water and foul drainage design are appropriate to the risks that have been identified and if implemented correctly will be sufficient to avoid significant effects arising and will exclude adverse effects on site integrity.

9.10.9. Residual effects/Further Analysis:

Having considered the design of the proposed development, its scale, location and current use, as well as the detailed mitigation measures that will be provided in the event of the proposed development being implemented to ensure significant adverse impacts on the Lough Derg (Shannon) SPA will not arise, I am satisfied that there will be no residual impacts arising.

9.10.10. NIS Omissions:

The NIS did not in itself list all the detailed mitigation measures instead referring to the content of other application documentation e.g., the CEMP, and pointed to the principle requirements of a visitor management plan without including the overall detail or arrangements for any such plan. The CEMP does not state construction hours nor give proposed noise limits. These omissions are not considered to be

fundamental flaws to the assessment, however, as the intent of the mitigation measures are clear I am satisfied that the relevant mitigation can be ensured by condition in the event of favourable consideration.

9.11. Integrity Test

9.11.1. Following the appropriate assessment and having regard to the scale of the proposed development and the implementation of the mitigation measures as set out I can ascertain with confidence that the proposed development will not adversely affect the Lough Derg (Shannon) SPA in view of its qualifying interests and conservation objectives. This conclusion has been based on a complete assessment of all implications of the proposed development alone and in combination with plans and projects.

9.12. I thereby consider that there is no possibility of any adverse affects on the QIs of the SPA or its conservation objectives arising from the proposed development.

9.13. Appropriate Assessment Conclusions:

9.13.1. The proposed Fáilte Ireland, Platform for Growth – shared community facilities have been considered in light of the assessment requirements of Section 177AE of the Planning and Development Act, 2000 (as amended).

9.13.2. Having carried out screening for Appropriate Assessment of the project, it was concluded that there was potential for the project to affect the Lough Derg (Shannon) SPA. Accordingly, an Appropriate Assessment was required of the implications of the project on the qualifying interests of the SPA in light of its conservation objectives.

9.13.3. Following examination and review of all the material submitted within the planning application and on review of the submitted NIS, I am satisfied that the applicant has considered all the elements/features that could be affected in relation to the conservation objectives of the Lough Derg (Shannon) SPA and the information before the Board comprehensively addresses all issues and concerns regarding potential adverse effects on the SPA (subject to the implementation of mitigation measures and conditions outlined above).

9.13.4. On the basis of the above I consider that it is reasonable to conclude on the basis of the information on the file, which I consider adequate in order to carry out a Stage 2

Appropriate Assessment, that the proposed development, individually or in combination with other plans and projects would not adversely affect the integrity of the Lough Dery (Shannon) SPA [European site no. 004058], or any other European site, in view of the site's Conservation Objectives.

10.0 Recommendation

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

Reasons and Considerations

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

- (a) the EU Habitats Directive (92/43/EEC),
- (b) the European Union (Birds and Natural Habitats) Regulations 2011 as amended,
- (c) the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the likely significant effects of the proposed development on a European Site,
- (d) the conservation objectives, qualifying interests and special conservation interests for the Lough Derg (Shannon) SPA (site code:004058)
- (e) the policies and objectives of the Clare County Development Plan 2017-2023,
- (f) the nature and extent of the proposed works as set out in the application for approval,
- (g) the information submitted in relation to the potential impacts on habitats, flora and fauna, including the Natura Impact Statement,
- (h) the submissions and observations received in relation to the proposed development, and
- (i) the report and recommendation of the person appointed by the Board to make a report and recommendation on the matter

Appropriate Assessment:

The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report that the Lough Derg (Shannon) SPA (site code: 004058), is the only European Site 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, and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed development for the affected European Site, namely the Lough Derg (Shannon) SPA (site code: 004058), in view of the site's conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment. In completing the appropriate assessment, the Board considered, in particular, the following:

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

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

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

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

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

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where any mitigation measures set out in the Natura Impact Statement or Construction and Environment Management Plan 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. (a) The mitigation and monitoring measures outlined in the plans and particulars relating to the proposed development, including those set out in Section 5 of the Natura Impact Statement, shall be implemented in full or as may be required in order to comply with the following conditions. Prior to the commencement of development, details of a time schedule for implementation of mitigation measures and associated monitoring shall be prepared by the local authority and placed on file and retained as part of the public record.

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

3. Prior to the commencement of development, the local authority, or any agent acting on its behalf, shall prepare in consultation with the relevant statutory agencies, a Construction Environmental Management Plan (CEMP), incorporating all mitigation measures indicated in the Natura Impact Statement as well as incorporating all control measures set out in the submitted CEMP and demonstration of proposals to adhere to best practice and protocols. The CEMP shall include:
 - a. All mitigation measures indicated in the Natura Impact Statement.
 - b. All control measures set out in the CEMP submitted with the application proposals.
 - c. Hours of construction, and lights-out times during construction.
 - d. Details of protection measures to be employed to ensure that existing mature trees and vegetation will not be removed or impacted by construction.
 - e. Specific proposals as to how the measures outlined in the CEMP will be measured and monitored for effectiveness.

Reason: In the interest of protecting the environment and in the interest of public health.

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

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

5. (a) The treatment plant and percolation area shall be located, constructed and maintained in accordance with the details submitted to An Bord Pleanála with the application, and in accordance with the relevant requirements of the EPA in relation to the installation of such systems as set out in the relevant sections of the EPA Code of practice March 2021, and Wastewater Treatment Manuals – Treatment Systems for Small Communities, Business, Leisure Centres and Hotels, 1999. No system other than the type proposed in the submissions shall be installed unless it is certified to comply with the conditions below. Should an alternative system be appropriate its details shall be placed on file for record.
- (b) The four no. external showers shall be omitted from the proposed development unless the system manufacturer or other suitably qualified individual confirms in writing that the proposed system to be installed is appropriately sized to cater for 8 no. wc pans, 8 no. wash-hand basins, 10 no. showers and 1 no. kitchen sink. Should revisions or upgrades to the system be required these shall be placed on file.
- (c) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.
- (d) An on-going maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the proposed first use of the facility, thereafter, the maintenance contract shall be updated and remain in place at all times. Signed and dated copies of the contract and subsequent updates shall be submitted to the public file within four weeks of the installation and thereafter upon renewal of the maintenance contract.
- (e) Surface water soakways shall be located such that the drainage from the building and paved areas of the site shall be diverted away from the location of the percolation area.

(f) Within three months of the first operation of the treatment system, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner and that the percolation area is constructed in accordance with the standards set out in the EPA documents.

Reason: In the interest of public health and nature conservation.

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

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

7. Prior to commencement of development a Visitor Management Plan shall be prepared and implemented, generally in accordance with the commitments regarding same set out in the submitted Natura Impact Statement. A copy of the Visitor Management Plan will be attached to the file and retained as part of the public record. The Visitor Management Plan will be subject to annual review prior to the commencement of each summer season to ensure new operators using the facility are identified and any updates to protection measures or guidance in relation to key ecological receptors are provided as necessary.

Reason: In the interests of nature conservation, protecting the environment and the proper planning and sustainable development of the area.

8. A suitably qualified ecologist shall be retained by the local authority to oversee the site set up and construction of the proposed development and implementation of mitigation measures relating to ecology set out in the Natura Impact Statement, Ecological Impact Assessment and Construction

and Environmental Management Plan. The ecologist shall be present during site construction works. Upon completion of works, an ecological report of the site works shall be prepared by the appointed ecologist to be kept on file as part of the public record.

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

9. (a) A landscaping scheme generally in accordance with layout plans received shall be submitted to the file for public record. The landscaping scheme shall specify the nature and type of planting proposed and will consist of trees, shrubs and hedging of indigenous species. The planting shall be carried out in accordance with the landscaping agreed scheme and shall be completed within the first planting season following the substantial completion of external construction works.

(b) Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species.

Reason: In the interest of visual amenity.

10. All lighting within the site shall be cowled to prevent overspill outside the site and shall be designed to minimise impacts on bats in accordance with application documentation received.

Reason: In the interests of clarity, protection of bats and visual and residential amenity.

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

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

Jimmy Green
Senior Planning Inspector
4th August 2022