



An
Bord
Pleanála

Inspector's Report ABP-313330-22

Development	Activity and Bike Park
Location	Hanover Park, Carlow, Co. Carlow
Local Authority	Carlow 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	None.
Observer(s)	None.
Date of Site Inspection	12 th May 2022
Inspector	Karla Mc Bride

1.0 Introduction

- 1.1. Carlow County Council is seeking approval from An Bord Pleanála to undertake amenity works in the existing public park at Hanover Park. The existing park is located adjacent to the River Burren which discharges W to the River Barrow, which in turn forms part of the River Barrow and River Nore SAC. 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) requires that where an appropriate assessment is required in respect of development by a local authority the authority shall prepare an NIS and the development shall not be carried out unless the Board has approved the development with or without modifications. Furthermore, Section 177V of the Planning and Development Act 2000 (as amended) requires that the appropriate assessment shall include a determination by the Board as to whether or not the proposed development would adversely affect the integrity of a European site and the appropriate assessment shall be carried out by the Board before consent is given for the development.

2.0 Site and Location

- 2.1. Hanover Park is located within an urban area on the southside of Carlow town, and to the N of the R448, and the surrounding area is characterised by a mix of residential and commercial uses. The entire N boundary is defined by the River Burren, the S boundary with the R448 is defined by a low wall and trees, whilst the remaining boundaries are defined by trees and hedgerows. The landscaped park is traversed by pedestrian footpaths, there are 2 x entrances off the R448, the SE corner is occupied by a bandstand, and a viewing platform extends N over the river.
- 2.2. The lands discharge to the adjacent River Burren which ultimately flows into the River Barrow c.600m to the W which forms part of the River Barrow and River Nore SAC. It is possible that the park and river may also be important for mobile species from other further afield European sites. There are several features of historic and cultural heritage interest in the wider area related to the historic development of Carlow as a Norman settlement.

2.3. Photographs & maps in Appendix 1 describe the site & surroundings in more detail.

3.0 Proposed Development

3.1. Project elements

Carlow County Council proposes to provide the following amenity works within an existing c.0.95ha public park:

- A network of accessible footpaths (3.5m wide).
- An accessible car park for up to 4 x vehicles (c.219sq.m.).
- An accessible & inclusive playground (c.515sq.m.).
- A mountain bike pump track (c.877sq.m.)
- Mini-basketball court (c.140sq.m).
- Biodiversity garden (c.124sq.m)
- Public lighting, seating & picnic tables.
- Associated site works.

3.2. Accompanying documents

The application was accompanied by the following **documents**:

- Project particulars
- Drawings & photographs
- AA Screening & NIS reports
- List of Prescribed Bodies
- Copies of Public Notices.

The application was supported by several **Technical Appendices**, including:

- Appendix 3: Desktop records of rare & protected species
- Appendix 4: Native & biodiversity friendly trees & shrubs
- Appendix C: Ecological Impact Assessment report
- Appendix D: Site Specific Flood Risk assessment report

- Appendix E: Noise Impact Assessment report
- Appendix F: CEMP
- Appendix G: Public Lighting report (incl. impacts on bats)

4.0 Planning History

- 4.1. Several planning cases in the vicinity, none of which are relevant to the project.

5.0 Legislative and Policy Context

- 5.1. **The EU Habitats Directive (92/43/EEC):** This Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. 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 (SI No.293 of 2011):** These Regulations consolidate the European Communities (Natural Habitats) Regulations 1997 to 2005 and the European Communities (Birds and Natural Habitats) (Control of Recreational Activities) Regulations 2010, as well as addressing transposition failures identified in CJEU judgements. The Regulations in particular require in Reg 42(21) that where an appropriate assessment has already been carried out by a 'first' public authority for the same project (under a separate code of legislation) then a 'second' public authority considering that project for appropriate assessment under its own code of legislation is required to take account of the appropriate assessment of the first authority.
- 5.3. **National nature conservation designations:** The three main types of designation are Natural Heritage Areas (NHA), Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) and the latter two form part of the European Natura 2000 Network.

5.4. European sites within the Zone of Influence (0-15km) of the subject site include:

- River Barrow & River Nore SAC
- River Slaney SAC
- Holdenstown Bog SAC
- Blackstairs Mountain SAC

5.5. **Planning & Development Acts 2000 (as amended):** Part XAB of the Planning and Development Acts set out the requirements for the appropriate assessment of projects that could have an effect on a European site or its conservation objectives.

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

5.6. National and Regional Planning policy

National Planning Framework, 2018-2040

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

National Development Plan, 2018-2027

This Plan underpins the National Planning Framework 2018-2040. It contains several priorities which include investment in regional growth potential and increasing investment in in national, regional and local roads.

Southern Regional Economic & Spatial Strategy, 2022

The RSES supports the delivery of the programme for change set out in the National Planning Framework and the National Development Plan. It sets out a strategic vision and policy objectives for urban and rural areas, people, the economy, the environment, connectivity, amenities, and utilities. It states that Local authorities should seek to enhance biodiversity and amenities and ensure the protection of environmentally sensitive sites and habitats.

Climate Action Plan, 2021

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

The Planning System and Flood Risk Management, 2009:

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

5.7. Local Planning policy

The site is located within an urban area that is covered by the policies and objectives contained in the current Carlow County Development Plan 2022-2028 and Joint Spatial Strategy for Greater Carlow Graiguecullen Urban Area, 2012-2018.

Carlow County Development Plan, 2022-2028

The current Development Plan contains several policies and objectives for the protection and enhancement of the environment, biodiversity (incl. SPAs, SACs & pNHAs), water quality, cultural heritage (incl. archaeology, protected structures & NIAH listings), tourism, recreation, and amenity.

Joint Spatial Strategy for Greater Carlow Graiguecullen Urban Area, 2012-2018 (as extended)

The lands are zoned “TC” for Town Centre uses, which seeks to protect the vitality and vibrancy of the town centre and provide for town centre activities. Playgrounds, community and recreational facilities are acceptable in principle. The Strategy also contains several policies and objectives for the protection and enhancement of the environment, biodiversity, cultural heritage, tourism, recreation and amenity.

6.0 Consultations

6.1. Prescribed Bodies:

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

- Dept. of Housing, Local Government & Heritage
- EPA & Irish Water
- Inland Fisheries Ireland & Waterways Ireland
- An Taisce, Failte Ireland & Heritage Council

The Prescribed Bodies did not submit any observations.

6.2. Public Submissions:

No submission received from members of the public.

7.0 **Assessment**

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

The proposed works would comply with national, regional and local policy in respect of climate change, residential amenity, cultural and natural heritage, the environment, recreation and amenity. The Council states that the works are justified as they would provide a fully accessible multi-activity facility within the town centre, along the banks of the River Burren, which would stimulate economic growth in response to the greater influx of people, users, locals and tourists. No submissions were received from the Prescribed Bodies or members of the public.

Design and layout:

The location and design of the proposed works are described in sections 2.0 and 3.0 above. The new network of tarmacadam footpaths (c.200m long X 3.5m wide) would link into the existing footpath that were installed in 2021. The new playground, basketball court and mountain bike pump track will be accessible and inclusive. Access to the car park (4 x spaces) will be off the Kilkenny Road/R448 and 12 x 6m high lighting columns will provide illumination along the footpaths and at the activity areas. Given that the project would seek to upgrade and enhance an existing amenity area, the design and layout of the project is considered acceptable.

Residential & visual amenity:

The existing public park is located to the S of Carlow town and the surrounding urban area is characterised by a mix of mainly residential and commercial uses. The lands to N, S and E comprises a mix of 2-storey houses and low-rise apartment buildings, whilst the lands to the W are occupied by a shopping centre car park, there is a riparian habitat to the N which is connected with the nearby River Barrow to the W. There are several features of cultural heritage interest the vicinity and within Carlow town centre.

The site comprises a landscaped park with a relatively formal layout and the site boundaries are defined by a mix of trees, hedges and shrubs whilst the N site boundary is defined by the River Burren and riparian vegetation, all of which contribute to the overall character of the area. Several policies and objectives in the

county Development Plan and local Spatial Strategy seek to protect residential amenity, the environment, designated sites, biodiversity, trees and hedgerows, and water quality. However, it is noted that the proposed development does not include any significant removal of trees or hedgerows or any physical incursion into the river, and the visual amenities of the area would not be adversely affected by the proposed works having regard to the mainly low-lying nature of the project.

In terms of general residential amenity, the proposed works would not overlook, overshadow, result in a loss of privacy or otherwise adversely affect the amenity of any nearby dwelling houses. The proposed construction works have the potential to cause a noise disturbance at nearby residences, however there would be no significant exceedance of acceptable standards. No adverse noise impacts are anticipated during the operational phase, having regard to the location of the existing park within a built-up urban area that is fringed by two regional roads with a bus depot to the E and a shopping centre car park to the W. Any localised removal of tree and hedgerow vegetation in the vicinity of the works would have a minor adverse impact on the visual amenities and character of the area in the short term. Notwithstanding these concerns, the proposed works will not give rise to an adverse visual impact on the character of the area or the amenities of nearby houses in the long term.

Biodiversity:

The site and environs are characterised by a landscaped public park that is located on the south side of the River Burren and the N section of the site is fringed by riparian habitats. The River Burren flows into the River barrow c.600m to the W which forms part of the River Barrow and River Nore SAC. The river, project site and environs may also be of value to mobile species from further afield European sites. Issues related to Appropriate Assessment will be addressed below.

Several desk top studies and a field survey were undertaken which were used to describe the receiving environment and to assess potential impacts on habitats and species. This includes an Appropriate Assessment (AA) Screening Report and Natural Impact Statement (NIS) which examined the relationship between the proposed works and European sites, and an Ecological Impact Assessment report.

The NIS contains construction phase mitigation measures which would serve to protect the River Burren and hence the River Barrow and River Nore SAC (and other sensitive ecological features) from any adverse effects.

The ecological characteristics of the site include the river and its embankments, trees and hedgerows. These areas may provide a habitat, refuge, foraging area or resting place for a variety of terrestrial and aquatic animal species, which have been described in the submitted documents. The desk top studies and field surveys noted that the site did not contain any protected habitats or plant species. The desktop studies recorded the presence of commuting otter along the river and several other species of mammal (incl. pine martin & fox) in the vicinity. Several species of bird were recorded (mainly passerines), and three species of bat foraging were recorded (incl. Leisler's bat and Common & Soprano pipistrelle bats).

The River Barrow & River Nore SAC is designated for its importance to a wide variety of terrestrial and aquatic habitats (incl. heathland, woodland, riparian vegetation, estuarine & coastal), along with one species of mammal (Otter), several species of fish (incl. Salmon, Shad & Lampreys), and 4 x freshwater invertebrate species (incl. pearl mussels, crayfish & whorl snail). The project site has a direct aquatic connection to this European site via the River Burren.

Otter has been recorded commuting and foraging along the larger rivers in the River Barrow and River Nore SAC and it is possible that it utilises the nearby watercourse and tributaries, including the River Burren. Any deterioration of water quality because of the proposed works and resultant impacts on the availability of fish biomass for otter could have an adverse impact on this species. However, the mitigation measures (incl. the measures to protect water quality and hence the availability of prey species) would serve to protect commuting otter during the construction and operational phases. A pre-construction otter survey should be undertaken.

The River Barrow is of ornithological interest for several **bird** species although none of interest were noted along the River Burren or within Hanover Park and its environs in the desktop or field surveys. The site and environs are mainly frequented by passerines, except for Gey wagtail which was not recorded nesting in the vicinity of the proposed works. The works have the potential to disturb nesting and wintering

birds and a condition should be attached which requires that works are undertaken outside the bird nesting season.

Several species of bat were recorded foraging along the River Burren and under Hanover Bridge in the desktop and field surveys (incl. Leisler's bat and Common & Soprano pipistrelle bats). It was noted that the bridge may provide suitable roosting habitat for bats, but that existing trees in the park do not have any bat roost features. A pre-construction bat survey should be undertaken. Artificial lighting (especially UV) has the potential to affect bats and their insect prey species (incl. attracting predators, collisions & a reduction in prey food availability) particularly along river corridors. However, the 6m high light columns, which are set back in excess of 10m from the riverbank would have LED luminaries which do not emit UV light, the Lux will vary between 1 and 5 to take account of seasonal variations and related foraging activity, with no additional light spill anticipated along the riparian corridor.

The proposed construction works have the potential to cause a noise disturbance, however the erection of a temporary noise barrier along the N boundary with the River Burren would serve to mitigate any adverse noise impacts on wildlife. No significant additional adverse noise impacts are anticipated during the operational phase, having regard to the location of the existing park within a built-up urban area that is fringed by two regional roads, with a residential area to the N, bus depot to the E and a shopping centre car park to the W.

The River Burren may provide suitable support habitat for several species of fish and macroinvertebrates prey species which may form part of the food supply for fish species in the downstream River Barrow. The site drainage arrangements have the potential to convey deleterious construction materials into the river in the absence of appropriate safeguards which could adversely affect water quality (incl. changes to water chemistry, pH & turbidity) and fisheries and aquatic invertebrates (incl. smothering, clogging & habitat degradation). The proposed works therefore have the potential to affect water quality, aquatic invertebrates, and fisheries, along with general noise and disturbance. However, the mitigation measures contained in the NIS would ensure that appropriate protection measures are put in place during the works (incl. adherence to best construction practices, surface water management, buffer zones, and protection of the watercourses from accidental spills and leaks).

No vehicle refuelling, concrete mixing or vehicle washing would take place close to the river.

The proposed works would not require the significant removal of **trees, hedgerows or riparian vegetation** with no adverse impacts on biodiversity anticipated, although there would be some short term, temporary localised disturbance to foraging areas, resting places and refuges.

Invasive plant species Two non-native invasive species were recorded during the survey including one scheduled species (Himalayan balsam). A biosecurity condition should be attached to ensure that the works (and vehicles) do not spread or introduce invasive species to the area.

The proposed **Biodiversity Area** in the NW section and **Wildlife Buffer Zone** along the river would make a positive contribution to biodiversity in the park and along the River Burren, and the proposed works would not give rise to a **flood risk** or contribute to downstream flooding.

A **Project Ecologist** should be appointed to oversee the works and the mitigation measures contained in the NIS report in order to protect sensitive animal and plant species. The removal of vegetation during the bird nesting season (March to August) should be avoided.

In conclusion, having regard to all the above, I am satisfied that the proposed development would not have a significant adverse impact on biodiversity or give rise to a flood risk. Any impacts would be temporary and short term as most species will return to the area after the works are complete.

Cultural heritage:

Hanover Park and its environs are not covered by any sensitive cultural heritage designations, and it does not lie within a Zone of Archaeological Interest or an Architectural Conservation Area. The proposed development would not adversely affect the character or setting of any Recorded Monuments, Protected Structures, NIAH features of ACAs in Carlow. However, given the proximity of the site to the historic town of Carlow, it is possible that as yet undiscovered artefacts may be

uncovered during the works and archaeological monitoring should be required. This concern could be addressed by way of a planning condition.

It is noted that several policies and objectives in the County Development Plan and local Spatial Strategy seek to secure the protection and conservation of historic items of archaeological and cultural heritage interest, and the proposed development would comply with these policies.

Need, effectiveness & alternatives:

I am satisfied that the applicant has provided adequate background information to justify the need for the proposed works which seek to provide for a safe and inclusive multi-activity facility within an existing park and that the proposed works will function effectively and allow for greater accessibility by persons with disabilities. I am also satisfied, on the basis of my examination of the submitted documents and assessment of the proposed works, that the proposed development would constitute an appropriate and proportionate response to the need to provide for accessible and inclusive recreational facilities in Carlow town.

Conclusions:

Having regard to the foregoing, I am satisfied that the proposed development is acceptable in principle and that the recreation and amenity works are justified.

7.2. The likely effects on the environment

In relation to screening for Environmental Impact Assessment (EIA), I note that there is no specific provision under Section 177AE of the Act to require EIA or to carry out a formal EIA Screening Determination for a local authority project submitted under this section of the Act. Nonetheless, the Board, in making its decision, is required to consider the likely effects on the environment in respect of the proposed development.

The project is not of a type included in Schedule 5 Part 1 or Part 2 of the Planning and Development Regulations 2001 (as amended) or in the Roads Act 1993 (as amended). Furthermore, it does not meet any of the criteria set out in Schedule 7 of the Regulations for determining whether a sub-threshold development would be

likely to have significant effects on the environment, with regard to the characteristics of the works, its location and the characteristics of potential impacts.

Having regard to the nature and scale of the proposed development, which would comprise an accessible and inclusive multi-activity facility and associated amenity works, and the characteristics of the receiving environment which is not densely developed or covered by any sensitive heritage designations, and notwithstanding its aquatic connection to the River Barrow and River Nore SAC via the River Burren, I am satisfied that the proposed mainly low lying linear works, would not have any significant adverse effects on population and human health, biodiversity, land, soil or water, air and climate, material assets, cultural heritage or the landscape, and the need for environmental impact assessment can, therefore, be excluded.

Notwithstanding this conclusion, it is noted that the surrounding area has a rich ecological and cultural heritage related to the river, and the hedgerow and riparian habitats provide a refuge and foraging opportunities for a range of species (incl. mammals, birds, bats, fish & macroinvertebrates). As such the Council should ensure that the NIS ecological mitigation measures and any recommended conditions are fully implemented, and that the works do not take place during the bird nesting season.

7.3. The likely significant effects on a European site:

The areas addressed in this section are as follows:

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

7.4. Compliance with Articles 6(3) of the EU Habitats Directive

The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the

management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site.

7.5. **The Natura Impact Statement**

The application was accompanied by a Screening for Appropriate Assessment report and Natural Impact Statement (NIS) which scientifically examined the proposed works and European sites and was informed by desk top studies and field survey.

The desk top studies and field survey described the site and surrounding area. This included details of potential connections between the proposed works and European sites (incl. River Barrow & River Nore SAC). The reports assessed the receiving environment and the ecological characteristics of the riverside site, which includes riparian vegetation and hedgerows. The desk studies and field survey noted that the site does not contain any protected plant species, and one scheduled invasive species was recorded during the surveys (Himalayan balsam).

The AA Screening report identified 4 x European sites located within the Zone of Influence of the proposed works. It concluded that significant effects could not be ruled out for 1 x site (River Barrow & River Nore SAC) and that an NIS was required in order to assess the potential impacts resulting from the construction and operational phases. All other European sites were ruled out from further examinations due either to distance or absence of pathways with the project site.

The NIS report also described the receiving environment and the proposed development. It described the River Barrow & River Nore SAC, listed the SAC Qualifying Interest (QI) habitats and species, and it described the nature of the connection between the proposed works and the European site. It was informed by several desk top studies and field surveys. It characterised the potential effects on the European site in view of the site's Conservation Objectives, and with respect to

any listed NPWS Targets, Measures and Attributes. The identified effects relate to general disturbance during the works (incl. noise, dust & lighting) and water pollution resulting from the release of construction pollutants and delivery of silt into the water at River Barrow & River Nore SAC. It also examined potential cumulative impacts in combination with other plans and projects and listed a series of construction phase mitigation measures.

The NIS formally concluded that following mitigation, the proposed project does not have the potential to significantly affect the conservation objectives of this Natura 2000 site and the integrity of this site will not be adversely affected, and no residual effects will occur on the Natura 2000 network

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, and details of mitigation measures are provided. I am satisfied that the information is sufficient to allow for appropriate assessment of the proposed development (see further analysis below).

7.6. Appropriate Assessment

7.7. The proposed development, which would provide a multi-activity sports facility within an existing park, is not directly connected with or necessary to the management of any European sites in the surrounding area.

7.8. Having regard to the information available, the 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 4 x European Sites are considered relevant to include for the purposes of initial screening for the requirement for Stage 2 appropriate assessment on the basis of likely significant effects.

7.9. The potential likely significant impacts that could arise during the construction and operational phases of the proposed development on the European site's QI habitats and species are:

- Release of sediment & pollutants to surface & ground water during the works.
- Loss of or damage to habitat/resting/foraging places used by QI species.
- Noise and lighting disturbance to QI species during construction and operation.
- Dispersal of invasive species with resultant impacts on QI habitats and species, during construction.

Stage 1 Screening Assessment:

The European sites within the Zone of Influence of the proposed works and approximate separation distances are set out below.

European sites	Site code	Qualifying Interests	Separation distance	Links
River Barrow & River Nore SAC	002162	Estuaries & Reefs Mudflats & sandflats Salicornia & other annuals Atlantic & Mediterranean salt meadows Floating River Vegetation European dry heaths Tall herb fringe communities Petrifying springs Old sessile oak woods Alluvial forests Desmoulin's Whorl Snail Freshwater Pearl Mussel & Nore Pearl Mussel White-clawed Crayfish Sea, Brook & River Lamprey Twaite Shad & Salmon Otter & Killarney Fern	c.400m	Yes Aquatic
Slaney River Valley SAC	000781	Estuaries, Mudflats & sandflats Atlantic & Mediterranean salt meadows	c.10km	No

		Floating River Vegetation Old sessile oak woods Alluvial forests Freshwater Pearl Mussel Sea, Brook & River Lamprey Twaite Shad & Salmon Otter & Harbour Seal		
Holdenstown bog SAC	001757	Transition mires & Quaking bogs	c.18km	No
Blackstairs Mountain SAC	000770	Wet heaths & European dry heaths	c.22km	No

7.10. Based on my examination of the NIS report and supporting information (incl. the desktop studies & field surveys), NPWS website, aerial and satellite imagery, the scale of the proposed works and nature of the likely effects, the substantial separation distance and functional relationship between the proposed works and the European sites and their conservation objectives, the site specific characteristics, the species specific characteristics and requirements (incl. habitat preference, diet & foraging distances), and the absence of suitable support habitats or an aquatic connection between the European site and the proposed works, taken in conjunction with my own assessment of the subject site and surrounding area, I conclude that a Stage 2 Appropriate Assessment is required for one European site which I consider to be within the Zone of Influence by reason of mobile and/or aquatic connections (River Barrow & River Nore SAC).

AA Screening Conclusion

In conclusion, having regard to the nature and scale of the proposed development, to the separation of the public amenity site from the European sites, to the nature of the qualifying interests and conservation objectives of the European sites and to the available information as presented in the supporting documentation regarding ground and surface water pathways and mobile connections between the site and the European sites, and other information available, it is my opinion that the proposed development has the potential to affect one of the European sites having regard to the conservation objectives of the relevant site, and that progression to a Stage 2 Appropriate Assessment is required.

7.11. Stage 2 Appropriate assessment:

River Barrow & River Nore SAC:

River Barrow & River Nore SAC lies within the Zone of Influence of the proposed works as it has a direct aquatic connection to the site of the works via the River Burren along the N site boundary, over an aquatic distance of c.600m.

European site description:

This site consists of the freshwater stretches of the Barrow and Nore River catchments. The River Barrow & River Nore SAC extends from the Slieve Bloom Mountains in Co. Offaly to the Creadun Head estuary in Co. Waterford, the site includes the River Barrow and it is designated for a wide variety of habitats and species.

Site name	QIs & SCIs	Conservation Objectives
River Barrow & River Nore SAC (002162)	<p>Estuaries & Reefs, Mudflats & sandflats, Salicornia & other annuals, Atlantic & Mediterranean salt meadows.</p> <p>Floating River Vegetation, European dry heaths, Tall herb fringe communities, Petrifying springs, Old sessile oak woods, Alluvial forests.</p> <p>Desmoulin's Whorl Snail, Freshwater Pearl Mussel & Nore Pearl Mussel, White-clawed Crayfish.</p> <p>Sea, Brook & River Lamprey, Twaite Shad & Salmon.</p> <p>Otter & Killarney Fern</p>	<p>To maintain or restore the favourable conservation condition of the habitat(s) and/or the species for which the SAC has been selected, subject to specified Attributes and Targets</p>

The River Barrow & River Nore SAC is designated for its importance to a wide variety of terrestrial and aquatic habitats (incl. heathland, woodland, riparian vegetation, estuarine & coastal), along with one species of mammal (Otter), several species of fish (incl. Salmon, Shad & Lampreys), and 4 x freshwater invertebrate species (incl. pearl mussels, crayfish & whorl snail). The full list of QI habitats and species is set out in the table above. It is noted from the NPWS documentation and accompanying maps that several of the QI estuarine and coastal habitats are located a considerable distance downstream of the proposed works and they will not be

included for further consideration. It is also noted in NPWS Maps that some of the QI habitats and species are either upstream or at a considerable distance downstream of the confluence of the River Burren and River Barrow, or are more likely to be present in the River Nore but not the River Barrow, and they will not be included for further consideration (Nore Freshwater Pearl Mussel & Old sessile oak woods & Killarney fern).

The remaining QI habitats and species and their main Attributes and Targets are summarised below:

Relevant QIs	Attributes & Targets
<i>Floating River Vegetation</i>	Habitat Area (stable or increasing); Habitat Distribution (no decline); Hydrological regime (river flow & groundwater discharge); Substratum composition; Water chemistry; Water quality; Vegetation composition; Floodplain connectivity.
<i>Tall herb fringe communities</i>	Habitat distribution (no decline); Habitat area (stable); Hydrological regime (maintained); Vegetation structure (sward height); Vegetation composition (broadleaf herb: grass ratio); Vegetation composition (typical species & negative species indicator).
<i>Alluvial forests</i>	Habitat area (stable or increasing); Habitat distribution (no decline); Woodland size (stable or increasing); Woodland Structure (maintain cover, diversity & regeneration); Hydrological Regime (maintain flood depth); Woodland Structure (no decline); Vegetation Composition (maintain range of species & no increase in negative species indicators).
<i>Petrifying springs</i>	Habitat area (stable or increasing); Habitat distribution (no decline); Hydrological Regime, Water quality & Vegetation composition (maintain).
<i>Desmoulin's Whorl Snail</i>	Distribution (no decline); population size & density; Area of occupancy; Habitat quality (vegetation & soil moisture).
<i>White-tailed crayfish</i>	Distribution (no reduction), Population structure (recruitment); Negative species indicators; Disease; Water quality (at least Q3-4); & Habitat quality (no declines).
<i>Freshwater Pearl Mussel</i>	None specified & under review.
<i>Sea, Brook & River Lamprey</i>	Distribution; Population structure of juveniles; Juvenile density in fine sediment; Extent and distribution of spawning habitat; Availability of juvenile habitat.

<i>Twaite Shad</i>	Distribution (extent of anadromy); Population structure (age classes); Extent and distribution of spawning habitat (no decline); Water quality (oxygen levels); Spawning habitat quality: Filamentous algae; macrophytes; sediment (stable).
<i>Salmon</i>	Distribution; Adult spawning fish; Salmon fry abundance; Out-migrating smolt abundance; Number and distribution of redds; Water quality
<i>Otter</i>	No significant decline in: - Distribution, Extent of terrestrial & freshwater habitats, couching sites & holts, Availability of fish biomass & Connectivity.

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

Potential indirect effects: There is potential for indirect effects on this European site during the ***construction phase*** as a result of: - water pollution from the unmitigated release of fine sediments in runoff during works and hydrocarbons by way of accidental spillages from machinery which could give rise to water pollution, chemical contamination, increased turbidity and riverbed smothering, with resultant impacts on the attributes and targets for the QI habitats and species, in the absence of mitigation. Further potential indirect effects relate to the uncontrolled introduction of invasive species from works vehicles which could give rise to the colonisation of habitats by invasive species, with resultant impacts on water quality and the attributes and targets for the QI habitats and species, in the absence of mitigation. There no potential for any additional significant indirect adverse effects during the ***operational phase***.

Mitigation measures: The NIS contains a list of mitigation measures which would serve to protect the SAC and its QI habitats and species from adverse effects, and these include: -

- Protection of the River Burren from contamination.
- Riparian Buffer Zone, rivers setback & silt fences.

- No stockpiling within Buffer Zone.
- Surface water management measures to protect water quality:
- Designated concrete mixing or washing out areas.
- Storage of fuel & chemicals within secure areas.
- Adherence to best construction practice.
- Waste management & emergency spill kits.
- Timing and seasonality of works (to protect wildlife).
- Control of invasive species.

Floating river vegetation, Tall herb fringe communities, Alluvial forests &

Petrifying springs: The site and environs drain to the River Burren which discharges into the River Barrow c.600m to the W, which forms part of the River Barrow and River Nore SAC. The NPWS Site Synopsis notes that these habitats are present throughout the river systems within the SAC. Having regard to the nature the proposed development and the avoidance of in-stream works, I am satisfied that following the implementation of the mitigation measures and any recommended conditions (incl. the management of sediments & accidental spills, and the control of invasive species) the proposed works would not have an adverse impact on water quality in the River Barrow and River Nore SAC or introduce invasive species to the watercourses during any of the works. There would be no resultant adverse effects on these QI habitats with respect to their attributes and targets (incl. Habitat Area & Distribution, Hydrological regime, Floodplain connectivity, Substratum composition, Water quality, Vegetation composition & diversity, Woodland size & structure and no increase in negative species indicators).

Desmoulin's Whorl Snail: There are no recent records of the occurrence of this species in the River Burren or downstream of its confluence with the River Barrow. However, it may be present in the tall herb communities fringing sections of the River Barrow, and it could be indirectly affected by changes in water quality and sediment patterns, or the introduction of invasive species. Subject to the implementation of the water quality mitigation measures, there would be no resultant adverse effects on this QI species respect to its attributes and targets (incl. Distribution, Population size & density, Area of occupancy & Habitat quality).

White-tailed crayfish & Freshwater pearl mussel: The NPWS Site Synopsis notes that these species may be present throughout this SAC. Map no.6 specifically notes the presence of White-tailed crayfish in the River Barrow, both upstream and downstream of the confluence of the River Burren and River Barrow, and the desktop studies record its historic occurrence in the River Burren (incl. Hanover Bridge). Having regard to the nature of the proposed development and the avoidance of in-stream works, I am satisfied that following the implementation of the mitigation measures and any recommended conditions (incl. the management of sediments & accidental spills, and the control of invasive species) the proposed works would not have an adverse impact on water quality or river morphology in the River Barrow and River Nore SAC or introduce invasive species or disease to the watercourses during any of the works. There would be no resultant adverse effects on these QI species, with particular reference to White-tailed crayfish and its attributes and targets (incl. Distribution, Population structure, Negative species indicators; Disease and Water & Habitat quality).

Fisheries: the site and environs drain to the River Burren and hence the River Barrow c. 600m to the W, which forms part of the River Barrow and River Nore SAC, and several species of fish (incl. Salmon, Twaite Shad, and Sea, River & Brook Lampreys) have been recorded in the River Barrow and its tributaries during their various lifecycle stages. Any deterioration of biological or chemical water quality or smothering of the riverbed substratum because of siltation, accidental fuel spills or poorly managed in-stream works could have adverse resultant impacts on the QI fish species, by affecting spawning grounds, food availability (incl. macro-invertebrates & macrophytes) and health (incl. clogging of fish gills). However, I am satisfied that following the implementation of the mitigation measures and any recommended conditions (incl. the management of sediments & accidental spills, ongoing water quality monitoring and the control of invasive species), the proposed development would not have an adverse impact on fisheries in the River Barrow and River Nore SAC. There would be no resultant adverse effects on these QI species with respect to their attributes and targets (incl. Distribution, Population structure & density, Extent and distribution of spawning habitat, Availability of juvenile habitat, & Water quality).

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

Conclusion: Having regard to the foregoing and taking account of the scale and nature of the proposed works which relate to the installation of a multi activity sports facility in an existing public park, it can be reasonably concluded on the basis of best scientific knowledge therefore that the proposed development will not adversely affect the integrity of the River Barrow & River Nore SAC in view of the sites' Conservation Objectives, subject to the implementation of the NIS mitigation measures and any recommended conditions.

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

Suggested conditions: Compliance with IFI “Guidelines on protection of fisheries during construction works in and adjacent to waters” should be required.

Preconstruction surveys for otter. A Project Ecologist should be appointed to oversee the works. All plant and machinery used during the works should be thoroughly cleaned and washed before delivery to the site to prevent the spread of hazardous invasive species and pathogens.

Residual effects: None anticipated post mitigation.

NIS Omissions: None noted.

7.12. **Appropriate Assessment Conclusions:**

Having regard to the foregoing I consider that it is reasonable to conclude on the basis of the information on the file, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, that the proposed development, individually or in combination with other plans and projects would not adversely affect the integrity of the European site no. 002126 or any other European site, in view of the site’s Conservation Objectives.

8.0 **Recommendation**

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

Reasons and Considerations

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

- (a) the EU Habitats Directive (92/43/EEC),
- (b) the European Union (Birds and Natural Habitats) Regulations 2011-2015,
- (c) the Regional Economic & Spatial Strategy for the Southern Region,

- (d) 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,
- (e) the conservation objectives and qualifying interests for the River Barrow & River Nore SAC (site code: 002162),
- (f) the policies and objectives of the Carlow County Development Plan, 2022-2028,
- (g) the policies and objectives of the Greater Carlow Graiguecullen Urban Area, 2012-2018 (as extended),
- (h) the nature and extent of the proposed works as set out in the application for approval,
- (i) the information submitted in relation to the potential impacts on habitats, flora and fauna, including the Natura Impact Statement, and
- (j) the report and recommendation of the person appointed by the Board to make a report and recommendation on the matter.

Appropriate Assessment:

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

The Board considered the Natura Impact Statement and associated documentation submitted with the application for approval, the mitigation measures contained therein, the submissions and observations on file, and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed development for the affected European Site, namely the River Barrow & River Nore SAC, in view of the site's conservation objectives.

The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment. In completing the appropriate assessment, the Board considered, in particular, the following:

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

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

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

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

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

9.0 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.

Reason: In the interest of clarity.

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

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

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

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

4. The following nature conservation requirements shall be complied with:

- (a) The works shall be carried out in compliance with the Inland Fisheries Ireland document "Guidelines on protection of fisheries during construction works in and adjacent to waters."
- (b) No vegetation removal shall take place during the period 1st March to 31st August (inclusive).

- (c) A pre-construction otter survey by a suitably qualified ecologist shall be carried out before works commence.
- (d) A pre-construction bat survey shall be carried out by a suitably qualified ecologist during the active bat season.
- (e) Any destruction of bat roosting sites or relocation of bat species shall be carried out by a suitably qualified ecologist under a Derogation Licence granted by the Minister for Housing, Local Government and Heritage.

Reason: In the interest of biodiversity and nature conservation.

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

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

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

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

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

Karla Mc Bride
Senior Planning Inspector
25th July 2022