Inspector's Report
ABP 313623-22

Development	Development of a looped walk on the western periphery of Cappoquin, along the banks of the River Blackwater.
Location	Cappoquin and Kilbree East, Co Waterford.
Local Authority	Waterford City & 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	DAU. An Tasice.
Observer(s)	None.
Date of Site Inspection	August 3rd, 2022.
Inspector	Breda Gannon.

Contents

1.0 Introduction

1.1. Waterford City & County Council is seeking approval from An Bord Pleanála to develop a walking trail consisting of a looped walk on the western periphery of Cappoquin along the banks of the Blackwater River and within the River Blackwater (Cork Waterford) SAC which is a designated European site. There are several other designated European sites (SPAs and SACs) in proximity to 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) requires that where an appropriate assessment is required in respect of development by a local authority, the authority shall prepare an NIS and the development shall not be carried out unless the Board has approved the development with, or, without modifications. Furthermore, Section 177V of the Planning and Development Act, 2000 (as amended) requires that the appropriate assessment shall include a determination by the Board as to whether or not the proposed development would adversely affect the integrity of a European site and the appropriate assessment shall be carried out by the Board before consent is given for the proposed development.

2.0 Proposed Development

2.1. The proposal is to develop a circular walking trail at Cappoquin. Co Waterford. The trail would consist of a 1km looped walk (The Railway Bridge Loop Walk) which would incorporate the existing pathway over Avonmore Bridge and along Tourin Road. It would incorporate the Cappoquin Railway Viaduct for pedestrian use which would link the trail back to the east side of the River Blackwater. The walkway would then run along the quay wall and through the grounds of Cappoquin Rowing Club back to the town.

2.2. The works are described as follows in the planning documentation:

- A steel platform structure to link Avonmore Bridge with the existing Cappoquin Rowing Club access ramp.

- Refurbishment of the existing Cappoquin Rowing Club access ramp with anti-slip surfacing and new balustrades.
- A new asphalt surfaced trail route through the grounds of Cappoquin Rowing Club.
- New steps and pathway from Cappoquin Rowing Club to the N72.
- A new pedestrian and vehicular access between Port na h'Abhann and Cappoquin Rowing Club.
- Steps, stone gabions and landscaping between the proposed vehicular access to Cappoquin Rowing Club and river.
- A paved walking route along the quay wall to the rear of properties on Port na h'Abhann, including a new restraint along the river.
- New public realm spaces and a refurbished slipway at Cappoquin Boat Club.
- A woodland embankment trail on the eastern approach to the Old Red Railway Bridge, together with landscaping of the embankment and timber post and wire fence.
- Refurbishment of the masonry and steel sections of the Old Red Railway Bridge to form a new walking route, including asphalt surfacing on the masonry section of the bridge, decking to support composite surfacing on the steel section, balustrades and planted areas.
- Surface treatment of the existing steel on the Old Red Railway Bridge, including grit blasting and surface coating.
- A new steel access ramp to provide multi-user access to the western landing of the Old Red Railway Bridge, including balustrades.
- Refurbishment of the existing footpath along Tourin Road using asphalt and granite kerbing.
- Refurbishment of the existing footpath along Avonmore Bridge using natural stone paving together with a new drainage channel
- Public lighting along the entire trail route.

2.3. **Accompanying documents:**

- Planning Statement and Particulars
- Flood Risk Assessment at Appendix A
- Architectural Heritage Impact Assessment at Appendix B
- AA Screening Report and NIS
- Planning Drawings

2.4. The works are intended to upgrade sections of a pre-existing walkway to provide a continuous walking trail. It would involve the excavation and removal of grass and topsoil prior to the laying of new substrates and drainage. The excavated soil (100m3) would be reused on site and in the creation of new wildflower areas to enhance biodiversity. All disturbed lands would be reinstated following the completion of the works.

2.5. I would point out to the Board that Part 2 of the *Planning Statement and Particulars* provides a useful guide to the proposed works along the various sections of the looped walk, indicating the types of works proposed (Dwg No's 11624-LD-PLN-020 to 11624-LD-PLN-030), details of design and finishes and 'before' and 'after' images.

2.6. A phasing programme for the proposed development is set out in Chapter 7 of the *Planning Statement and Particulars* and an overview of the proposed construction methodology is set out in Chapter 8.

3.0 Site and Location

3.1. The site is located to the west side of Cappoquin, Co. Waterford and along the banks of the River Blackwater. It is bounded to the north by the N72, to the west by Tourin Road (L-1018) that crosses Avonmore Bridge over the Blackwater River. The eastern boundary is formed by the rowing club grounds, a trackway that extends through a small-wooded area and along the quay wall to the rear of the houses at Port na h'Abhann towards a slipway and storage shed. Thereafter, an overgrown pathway extends into a scrub/wooded area and connects into an embankment leading to the Old Red Railway Bridge along the southern boundary.

3.2. Avonmore Bridge is an impressive six arch limestone ashlar bridge, currently is use as a road and foot bridge. The Old Red Railway Bridge (Cappoquin Railway Viaduct) to the south which is no longer in use lies comprises a five arch rubble masonry stone railway viaduct with a six-span cast iron section. The bridge is supported by four sets of steel piers and two masonry abutments at the western end.

3.3. There are residential and commercial areas to the east of the site associated with the town. The site is readily accessible from the town centre and there is a carpark close by. There is also pedestrian access further north via a ramp and stairs to the rowing club grounds.

4.0 Planning History

4.1. **14/101** – Planning permission granted for the construction of a boat house, which has been constructed, on the east side of the river adjacent to the slipway.

5.0 Further Information

5.1. Further information on the application was sought from the planning authority on September 9th 2022, relating to the following:

- Detailed description of the works proposed for each phase of the development including works required for the refurbishment of the old railway bridge.
- Details of site-specific mitigation measures proposed for each phase of the development, including the placing of scaffolding and other works associated with bridge refurbishment. The information to be provided to be incorporated into a revised NIS.
- Ecological assessment at a local scale to include details of breeding birds likely to use the site and details of the presence/likely occurrence of bats and potential disturbance of any roost/potential sites in the masonry section of the bridge to be refurbished.

5.2. The response received on October 10th, 2022 and addressed the matters raised. It included a revised NIS and a bat survey and assessment.

5.3. The response provides further details of the phasing and construction methodology as follows:

- Phase 1: Quay Wall - involves an upgrade of the existing footpath to the top of the quay wall adjacent to the River Blackwater and extending from the outer boundary of Cappoquin Rowing Club to the slipway to the south of Port na hAbhann housing scheme. Site preparation would include surface strip and excavations to a depth of 350mm for new build up and surface treatment. The quay wall and existing surface levels would be retained. It would be necessary to remove some scrub and vegetation within the small wooded area adjacent to the Rowing Club. With the exception of one mature trees which will need to be removed, existing trees will be protected and preserved.
- Phase 2: Rowing Club Grounds – would involve the removal of a section of Avonmore Bridge stone parapet to connect the walking trail to the bridge and Tourin Road. A pedestrian path would be provided through the rowing club grounds connecting into Phase 1. Site preparation would include the demolition of the existing ramp balustrades and the provision of a new steel platform. The works would involve strip and excavation of soft ground, including clearance of scrub and self-seeded trees. All mature trees would be protected.
- Phase 3: Avonmore Bridge/Tourin Road – involves upgrades to the existing footpaths along Avonmore Bridge and Tourin Road from the junction with the N72 to the western landing at the old railway bridge. The works would involve removal of existing surface treatments and replacement with new surface treatments.
- Phase 4 (A and B): Old Railway Bride and Railway Embankment -phase 4(A) involves the restoration of the old railway bridge for pedestrian access. Phase 4(B) involves the construction of the woodland embankment path adjoining Phase 1 public realm works. Remedial treatment (pressure washing, application of primer and sealant) is required to protect the steel structure of the bridge. This would require scaffolding along the length of the steel structure on both sides and underneath the deck to completely enclose the bridge.

The proposed access ramp to be provided on the western side of the bridge would involve excavation works for the steel supports and foundations would be constructed from cast reinforced concrete installed via a piling rig. A crawler crane would be required to lift the prefabricated steel structures into place for the access ramp to the western landing of the bridge

6.0 Legislative and Policy Context

6.1. **The EU Habitats Directive (92/43/EEC):** This Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) and 6(4) require an appropriate assessment of the likely significant effects of a proposed development on its own and in combination with other plans and projects which may have an effect on a European Site (SAC or SPA).

6.2. **European Communities (Birds and Natural Habitats) Regulations 2011:** These Regulations consolidate the European Communities (Natural Habitats) Regulations 1997 to 2005 and the European Communities (Birds and Natural Habitats) (Control of Recreational Activities) Regulations 2010, as well as addressing transposition failures identified in CJEU judgements. The Regulations in particular require in Reg 42(21) that where an appropriate assessment has already been carried out by a 'first' public authority for the same project (under a separate code of legislation) then a 'second' public authority considering that project for appropriate assessment under its own code of legislation is required to take account of the appropriate assessment of the first authority.

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

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

- Blackwater River (Cork/Waterford) SAC (Site code: 002170)
- Blackwater Callows SPA (Site code:004094)

- Blackwater Estuary SPA (Site code: 004028).

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

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

6.6. **Local Policy**

The **Waterford City and County Development Plan 2022-2028** came into effect on July 19th, 2022.

Cappoquin is identified as a Rural Town in the Settlement Strategy described as rural in scale but providing a range of employment along with commercial, cultural and community services. It is zoned RV (Rural Village) with the following objective:

'Protect and promote the character of the Rural Village and promote a vibrant community appropriate to available physical and community infrastructure'.

The Plan recognises the importance of maintaining established rights of way and supports initiatives for establishing new walking routes/ trails/outdoor recreational amenity and enhanced accessibility subject to best practice principles and no adverse impacts on ecological integrity including the Natura 2000 network (Objective BGI 10 and BGI 13).

The development plan supports further development of Greenways, Blueways and Trails in Co. Waterford incorporating walking, cycling and other activities to support tourism development (Objective ECON 28).

7.0 The Natura Impact Statement

7.1. Waterford City & County Council's application for the proposed development was accompanied by a Natural Impact Statement (NIS), which was revised in response to further information. 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.

7.2. The NIS describes the elements of the development (alone or in combination with other projects and plans) that are likely to give rise to significant effects on the European sites. Potential significant effects are set out, as well as an assessment of their effect and the mitigation measures that are to be introduced to avoid, reduce or remedy the adverse effects on the integrity of the European sites.

8.0 Consultations

8.1. The application was circulated to the following bodies:

- An Taisce.

- The Heritage Council.
- Waterways Ireland.
- Inland Fisheries Ireland.
- Department of Housing, Local Government and Heritage (DAU).
- National Monuments Service.
- Department of Tourism, Culture, Arts, Gaeltacht, Sports and Media.

Responses were received from the Department of Housing, Local Government and Heritage and An Taisce and are summarised below.

8.2. **Department of Housing, Local Government and Heritage (DAU)**

The submission from the DAU notes that Recorded Monuments WA021-014001 *bridge* and WA021-014002 *road/trackway* are located within the confines of the proposed loop walk. It is noted that while most of the loop walk is largely located along existing roads, except where the proposed walkway extends along the eastern river bank on the town side and to the rear of the existing houses at Port na hAbhann where the springing point for the 17th century bridge was located.

An Archaeological Impact Assessment is required prepared by a suitably qualified and experienced archaeologist with underwater and terrestrial archaeology experience. The assessment should be submitted as further information.

An Taisce

8.3. An Taisce in their submission dated June 27th, 2022 notes that the proposal provides for the welcome use of the old Blackwater Railway Bridge for a walking route subject to appropriate ecological mitigation.

9.0 Assessment

9.1. Introduction

In accordance with the requirements of section 177AE(6)(a) this assessment includes consideration of the following:

- The likely consequences for the proper planning and sustainable development of the area.
- The likely effects on the environment
- The likely effects on a European site

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

9.2.1. The proposal to develop a looped walk is consistent with the policy and objectives of the development plan, which supports initiates for establishing new walking routes, outdoor recreational amenities and improved accessibility. Similar to many Irish towns, Cappoquin turns its back to the river and the proposed development of the lopped walking trail, will open up the river to both residents and tourists allowing them to reconnect with the amenity afforded by the River Blackwater.

9.2.2. The development will make a positive contribution to the local area in terms of increased recreational opportunities both passively on land and actively on water, with improved access facilities. Through the provision of additional viewing and seating areas and improvements to biodiversity there will be significant enhancement of the public realm. It will also return the disused railway bridge into active use ensuring that this important feature of architectural and cultural heritage is preserved and enhanced.

9.2.3. I consider that subject to effective mitigation and the imposition of appropriate conditions, the proposed looped walking trail can be developed in sympathy with the natural environment. I would conclude therefore that the proposed development is in accordance with the proper planning and sustainable development of the area.

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

9.3.1. The application is supported by an EIA Screening Report. It rules out the need for mandatory EIA but concludes that the project can be considered a sub-threshold project under Class 10 (b) (iv) of Part 2 ‘Urban Development’ as the development is for the redevelopment of a site of less than 10 hectares within the built up area.

9.3.2. EIA screening was carried out having regard to the criteria listed in Schedule 7 of the Planning and Development Regulations, 2001, as amended and taking into account the relevant information listed in Schedule 7A.

9.3.3. Having regard to the limited scale (< 1ha) and the characteristics of the proposed development (upgrade of sections of pre-existing walking trail in order to provide a continuous walking trail), I agree with the conclusions reached in the report that there is no real likelihood of significant effects on the environment arising from the proposed development and EIA is not therefore required.

9.3.4. I consider that the main impacts on the environment which require consideration by the Board relate to the following:

- Impacts on bats and breeding birds
- Impacts on cultural heritage
- Flooding

Impacts on bats and breeding birds

9.3.5. The response to further information indicates that bats are currently present in the stonework of the old railway bridge to be refurbished. During dawn and dust surveys Soprano Pipistrelle were detected foraging over the river having left cavities within the underside of the arches.

9.3.6. All bat species are protected under the Wildlife Acts and are listed in Annex IV of the Habitats Directive. The greatest potential for impacts on bat species is likely to occur during the construction stage. The main refurbishment works are to the parapets and the upper deck and will not impact on the area underneath the arches. However, scaffolding will be erected and there is potential for noise and disturbance associated with the work. Inappropriate lighting has the potential to impact on bat roosts during the operational phase.

9.3.7. A range of mitigation measures are proposed to mitigate impacts on any bats and any roost sites that exist in cavities beneath the arches. These include timing of the works (post November 1st), the retention of cavities unless filling is required to maintain the structural integrity of the bridge and no netting will be provided over scaffolding while work is in progress. Post construction, bat boxes will be provided on the bridge structure and there will be controls on the position, direction and types of lighting to minimise impacts.

9.3.8. Should the Board be minded to grant approval for the development I recommend that a condition be attached limited the hours of construction to daylight hours to

minimise impacts on bats which are nocturnal creatures. Furthermore, I recommend that the refurbishment works be supervised by a bat specialist to ensure potential impacts are mitigated. Subject to the mitigation measures proposed and the application of suitable conditions, I do not consider that the proposed development will impact significantly on bats using crevices in the arches under the bridge structure.

Regarding potential impacts on breeding birds, the further information response notes that site specific breeding bird surveys were not carried out due to seasonal survey restrictions. The response identifies those species associated with the River Blackwater SAC citation records, noting that not all species will be apparent on this stretch of the river.

Potential habitat for breeding birds is identified within the woodland area to the east (to the south of the slipway) and in the grassland area to the west. The area to the east is currently overgrown and as part of the proposal a structured walkway (c 211m2 in length x 1.2m wide) will replace the existing route. It will utilise the existing embankment which will be widened and reprofiled as required. There will be loss of some scrub/shrub vegetation, but no trees will be lost. A timber post and rail fence will isolate the pathway from the surrounding area and existing vegetation will be retained or reinstated.

On the west side of the river the walking trail will continue to use the footpath on the Tourin Road. The new ramped access to the old railway bridge will be accommodated in an area to which cars/pedestrians currently have access. The remainder of the riverbank extending northwards towards the town is and will remain fenced off.

Potential impacts on breeding birds could arise during the construction and operational stages of the development associated with noise, disturbance and increased human activity. I note that construction will be scheduled to take place outside the breeding season (March to August) which will minimise impacts. Having regard to the existing use of the site, the nature of the proposed development, the limited area of the riparian habitat that will be impacted and the vast areas of similar habitat on both side of the river that will remain undisturbed, I do not consider that

the impacts on breeding birds associated with the development are likely to be significant.

Cultural Heritage

9.3.9. The proposed development has the potential to materially impact on two bridges, both of which are listed in the Record of Protected Structures and the National Inventory of Architectural Heritage (NIAH).

9.3.10. Avonmore Bridge (RPS 50) is rated of Regional Importance in the NIAH (22810097) and of architectural and technical interest. It is described as follows:

Six-arch limestone ashlar road bridge, built 11850. Limestone ashlar walls with rounded cut-waters to piers, cut limestone stringcourse, and cut-stone coping to parapets. Series of five elliptical arches with limestone ashlar voussoirs, and cut stone soffits lime render over.

9.3.11. The proposed development would involve the removal of a section of Avonmore Bridge. The main alterations to the bridge are shown on Dwg No 11624-LD-PLN-020 and will involve the following:

- Provision of level access to the bridge from the trail behind the Rowing Club.
- Removal of a section of the bridge stone parapet.
- Construction of stone piers to match existing and make good new opening.
- Existing footway on bridge to be lifted and resurfaced with natural stone paving and natural stone kerb.
- Low level lighting will be integrated into the existing bridge parapet at 15m intervals.

9.3.12. Having regard to the limited nature and scale of the works and the proposal to reusing existing stone where possible and construct the stone piers to match the masonry of the existing bridge, I accept that the proposal will not result in unacceptable damage to the fabric and character of the protected structure.

9.3.13. The works will have an overall positive and beneficial impact on the area by creating safe access directly from the bridge to the new walking trail, which is currently accessed directly off the N72 road at a location with no footpaths. I consider that the works to replace the existing footpath over the bridge with natural stone paving /kerb

and the provision of new lighting will enhance the amenity value of the bridge as part of the proposed looped walk.

9.3.14. Cappoquin Railway Viaduct (RPS 519) (Old Red Railway Bridge) is also rated of Regional Importance in the NIAH (22810114) and of architectural, historical, social and technical interest. The bridge is considered to be of particular importance for its association with the introduction of the railway to Cappoquin in the mid to late nineteenth century. It is described as follows:

Five-arch rubble stone viaduct over river, opened 1878, with five-span cast iron section to north-west originally having six spans. Decommissioned in 1967. Now disused with span to north-west removed. Broken coursed rock-faced squared rubble stone walls to section to south-east with cut-stone cut-waters to piers, cut stone stringcourse and cut-stone coping to parapets. Series of five segmental arches with cut stone voussoirs, and squared rubble stone soffits having traces of render over. Cut-stone round piers to section to north-west with string courses and coping, and cast-iron panelled parapets. Series of five flat spans (originally six spans with one removed) on cast-iron girders.

9.3.15. The proposed development would involve the removal of a section of the Cappoquin Railway Viaduct to make away for the proposed access ramp. The works would involve alterations to the stone section of the bridge and both alterations and repairs to the iron section.

9.3.16. The alterations to the stone section are shown on Dwg No 11624-LD-PLN-026 and 027 and would include:

- Resurfacing with asphalt incorporating planting niches and metal rails set within asphalt referencing railway
- Addition of steel and timber handrail to parapet to increase height to 1.5m
- Integration of low-level lighting to parapet at 15m intervals.

9.3.17. The alterations to the iron section Dwg No 11624-LD-PLN-028 and 029 would include:

- Resurfacing of iron section with composite planks laid in reinforced sub-base.
- Addition of steel and timber handrail to increase height to 1.5m.

- Integration of low-level lighting at 1.5m intervals.
- Removal of section of iron structure to allow access from new free standing sectional steel ramp.
- Addition of steel parapet to match existing parapet at northeast end of bridge.

9.3.18. The repairs to the iron section of the bridge would involve high pressure jet washing and application of anti-corrosion treatment.

9.3.19. I accept that the proposed works to both the stone and iron sections of the protected structure which involve minimal intervention are positive in terms of restoring the bridge into active use. The greatest impact will occur to the west side associated with the provisions of a pedestrian ramp, which will necessitate the removal of a small part of the iron section of the bridge. This will have a negligible impact on the fabric of the protected structure.

9.3.20. The proposed pedestrian ramp is a large structure which will alter the setting of the existing bridge. However, this has to be balanced against the alternative which is to leave the protected structure in a deteriorating condition and the positives that will be achieved by returning the bridge into active use, including the significant amenity that will be provided for both residents and visitors to the area.

9.3.21. Regarding archaeological heritage, the application documentation notes that the zone of notification of Sites and Monuments Record (WA021-014001) described as a as a '*wooden bridge'* would be impacted by the proposed development but makes no further comment. The bridge is also referred to by the DAU together with WA021-014002 described as a '*road/trackway',* neither of which are visible. It notes that the springing point for the 17th century bridge was located in the area to the rear of the existing houses at Port na hAbhainn and recommends archaeological assessment, with specialist underwater archaeological assessment for any works proposed along the riverbank and or within the river/riverbed.

9.3.22. Minimal intervention is proposed in the area to the rear of the housing scheme as documented in section 5.3 above. It is proposed to retain the quay wall and no works below the wall or within the river are proposed. I consider that this matter can be adequately addressed by way of a condition should the Board be minded to grant approval for the development.

Conclusion

9.3.23. The proposed development respects established conservation principles in terms of maintaining the bridge structure in active use. Through minimal levels of intervention and the use of appropriate materials the special interest of the two protected structures is protected and enhanced. Subject to appropriate conditions, I would conclude that the proposed development will not result in significant adverse effects on the architectural, archaeological or cultural heritage of the area.

Flooding

9.3.24. The application is supported by a Flood Risk Assessment (Appendix A Planning Statement and Particulars). There have been a number of recorded flood events in the surrounding area and within the subject site. Based on OPW modelling (PFRA, CFRAM) the subject site is located within the 1% AEP fluvial and coastal event and may be subject to an extreme flood event. The site is not considered to be at risk from pluvial flooding during an extreme (0.1% AEP) flood event or from groundwater flooding.

9.3.25. The site is identified as located within Flood Zone A, where there is high probability of flooding. The *Planning System and Flood Risk Management Guidelines* (2009) categorises different types of development into three vulnerability classes based on their sensitivity to flooding. Outdoor developments including amenity open space such as that proposed are considered 'water compatible' and appropriate in Flood Zone A, without the necessity for a justification test.

9.3.26. The proposed development is considered 'water compatible' in terms of its sensitivity to flooding under The Planning System and Flood Risk Management Guidelines (2009) and is therefore acceptable in this area.

Conclusion

9.3.27. The proposed development is located in an area at risk of flooding. However, the proposed development, which not involve any significant changes in site levels and will improve site drainage, will not contribute to, or, exacerbate flooding elsewhere.

9.4. **The likely significant effects on a European site:** The areas addressed in this section are as follows:

- Compliance with Articles 6(3) of the EU Habitats Directive
- Stage 1 Screening for Appropriate Assessment.
- The Natura Impact Statement
- Appropriate Assessment

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

9.4.1. 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.

9.4.2. The proposed development is not directly connected to or necessary to the management of any European site and is therefore subject to the provisions of Article 6(3) and Part XAB of the Planning and Development Act, 2000, as amended.

Screening the need for Appropriate Assessment

9.4.3. The first test of Article 6(3) is to establish if the proposed development could result in likely significant effects to a European site. This is considered Stage 1 of the appropriate assessment process i.e., screening. The screening stage is intended to be a preliminary examination. If the possibility of significant effects cannot be excluded on the basis of objective information, without extensive investigation or the application of mitigation, a plan or project should be considered to have a likely significant effect and Appropriate Assessment carried out.

9.4.4. The applicant carried out an appropriate assessment screening exercise, which is appended to the Natura Impact Statement submitted with the original application. Using the Source-Pathway-Receptor model, the screening report identifies three

European sites within the zone of influence of the proposed development. These include:

- Blackwater River (Cork/Waterford) SAC (Site code 002170),
- River Blackwater Callows SPA (Site code:004094), and
- Blackwater Estuary SPA (Site code: 004028).

9.4.5. The proposed development lies within the boundaries of the River Blackwater (Cork/Waterford) SAC and it is not therefore possible to rule the potential for significant effects.

9.4.6. The location of the European sites is shown in Figure 5.1 of the screening report. River Blackwater Callows SPA lies c 5.6km to the west and upstream of the site. The site is designated for Whopper Swan, Widgeon, Teal, Black-tailed Godwit and Wetlands and Waterbirds. It is noted that the habitats upon which the special conservation interests of the SPA rely are found at the project site (mudflats, wet grassland). However, the potential for significant effects is ruled out on the basis of distance and consultation with NPWS District Conservation Officer who confirmed that the qualifying interests features of the SPA do not frequent the site of the proposed development in any significant number.

9.4.7. The Blackwater Estuary SPA lies 14.5km to the south and is of conservation interest for Wigeon, Golden Plover, Lapwing, Dunlin, Black-tailed Godwit, Bar-tailed Godwit, Curlew, Redshank and Wetland and Waterbirds. Some of the habitats for these birds occur within the site but having regard to the significant distance between the development site and the SPA, I accept that there is no potential for significant effects on the bird species for which the site is selected.

Conclusion - Stage 1 Screening Report

9.4.8. 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 screening determination, that the proposed development, individually or in combination with other plans and projects would not be likely to have a significant effect on European sites, Blackwater Callows SPA (Site code:004094) or Blackwaters Estuary SPA (Site code 004028), in view of the site's Conservation Objectives and a Stage 2 Appropriate Assessment is not therefore required for these sites.

9.4.9. Having regard to the nature 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 I would conclude that it is not possible to rule out the potential for significant effects on the River Blackwater (Cork/Waterford) SAC (Site code:002170) and that a Stage 2 Appropriate Assessment and a Natura Impact Statement is therefore required. No measures designed or intended to avoid or reduce any harmful effects on a European site have been relied upon in this screening exercise.

The Natura Impact Statement

9.4.10. The application was accompanied by an NIS which was revised in response to further information. It describes the proposed development, the project site and the surrounding area. 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 the site and its 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 its conservation objectives.

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

- A desk top study.
- An examination of satellite imagery, online mapping systems and recognised databases (NPWS, EPA, NBDC)
- A site survey of the proposal site and surroundings including habitat, otter and badger surveys.
- Consultations with the National Parks and Wildlife Service.

9.4.12. The report concluded that, subject to the implementation of best practice and the recommended mitigation measures, the proposed development would not individually, or, in combination with other plans and projects adversely affect the integrity of any European sites.

9.4.13. Having reviewed the NIS and the supporting documentation, I am satisfied that it provides adequate information in respect of the baseline conditions, clearly identifies the potential impacts, and uses best scientific information and knowledge. Details of

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

Appropriate Assessment

9.4.14. The AA screening Report concluded that it was not possible to rule out significant effects on The River Blackwater (Cork/Waterford) SAC (Site code:002170) in which the development site is located. A description of the site is provided below:

The Blackwater River SAC (Cork/Waterford) SAC (Site code:002170)

The site synopsis (NPWS) describes the site as follows:

The site consists of the freshwater stretches of the River Blackwater as far upstream as Ballydesmond, the tidal stretches as far as Youghal Harbour and many tributaries. The portions of the Blackwater and its tributaries that fall within the SAC flow through the counties of Kerry, Cork, Limerick, Tipperary and Waterford.

The site is of special conservation interests for a range of species and habitats listed on Annex I and II of the E.U Habitats Directive. It is also of high conservation value for populations of bird species that use it. Two Special Protection Areas, designated under the E.U.Birds Directive are also located within the site- the Blackwater Callows and Blackwater Estuary. Additionally, the importance of the site is enhanced by the presence of a suite of uncommon plant species.

The site supports several Red Data Book plant species some of which are protected under the Flora Protection) Order 2015, including Killarney Fern which is also listed on Annex II of the Habitats Directive. The freshwater stretches of the Blackwater River are designated salmonid rivers. The site supports many of the mammal species occurring in Ireland. Those which are listed in the Irish Red Data Book include Pine Martin, Badger and Irish Hare. The bat species Natterer's Bat, Daubenton's Bat, Whiskered Bat, Brown Long-eared Bat and Pipistrelle feed along the river and roost under the old bridges and in old buildings.

Common Frog, a Red Data Book species which is also legally protected under the Wildlife Act, 1976) also occurs throughout the site. Several bird species listed on Annex I of the E.U. Birds Directive are found on the site. The site also holds important numbers of wintering waterfowl. Other important species found within the

site include Long-eared Owl, which occurs along the Blackwater River and Barn Owl, which is found in some buildings. Reed Warbler, a scarce breeding species in Ireland, was discovered for the first time in the site in 1998 at two locations.

Site Specific conservation objectives have been published for the site, which is to maintain/restore the favourable conservation condition of the habitats and species for which the site is selected.

Details of the SAC and its qualifying interests are set out below:

Blackwater River (Cork Waterford) SAC (Site code 002170)	[1130] Estuaries [1140] Tidal Mudflats and Sandflats [1220] Perennial vegetation of stony banks [1310] Salornica mud [1330] Atlantic salt meadows [1410] Mediterranean salt meadows [3260] Floating River Vegetation [91A0] Old Oak Woodlands [91E0] Alluvial Forests* [91J0} *Taxus baccata* woods of the British Isles [1029] Freshwater Pearl Mussel [1092] White-clawed Crayfish [1095] Sea Lamprey [1096] Brook Lamprey [1099] River Lamprey [1103] Twaite Shad [1106] Atlantic Salmon [1355] Otter [1421] Killarney Fern

Appropriate Assessment of the implications of the proposed development on the River Blackwater SAC (Site code: 002170)

9.4.15. The proposal is to create a looped walk on a site which lies predominantly within and alongside the SAC. The main potential impacts associated with the proposed development are habitat loss/fragmentation, deterioration in water quality, spread of invasive species and species disturbance.

Habitat loss/fragmentation

The new pedestrian link between Avonmore Bridge and the lopped walk will result in direct habitat loss. However, the main impacted area, which extends from the rear of the clubhouse to Avonmore Bridge largely consists of *'buildings and other artificial surfaces'*, which is not qualifying habitat. The amenity trail will pass through a small area of woodland adjacent to the rowing club and an area of riparian woodland (211m2) close to the eastern end of the old railway bridge. The riparian woodland is considered to correspond to the Annex 1 habitat 'Alluvial forest'. There is also potential for fragmentation and a reduction of habitat within the SAC associated with the provision of the amenity trail and increase in hard surfaced areas

Deterioration in water quality

9.4.16. The is potential for indirect impacts on habitats and species for which the SAC is selected associated with discharges of sediment/silt and other pollutants (hydrocarbons/chemicals) into the adjacent watercourse, including those associated with the repair of the old railway bridge, resulting in a deterioration in water quality during the works.

Spread of Invasive Species

9.4.17. Six terrestrial invasive non-native species including Japanese knotweed, Himalyan balsam and Three cornered leek (Third Schedule species) were identified during the site surveys. There is potential for the spread of these species during the works with impacts on the habitats and species for which the site is selected.

Species Disturbance

9.4.18. Noise and disturbance associated with increased human activity during the construction and operational phases of the development has the potential to cause disturbance to mammals.

Potential for significant effects on qualifying interests of the SAC

9.4.19. The revised NIS considers the potential for significant effects on each of the qualifying habitats and species for which the SAC is selected. A potential pathway for likely significant effects has been identified between the works and 5. no. qualifying habitats (Estuaries, Tidal Mudflats and Sandflats, Floating River Vegetation, Alluvial Forests and Old Oak Woodlands). The justification for the inclusion of these habitats is documented in Table 2 and is based on their occurrence/potential presence within the zone of influence of the proposed development.

9.4.20. I note that site is located within the upper reaches of the tidal estuary and tidal mudflats are stated to occur along the banks of the river through Cappoquin which are exposed at low tide. The full distribution of Floating River Vegetation within the river system is unknown but is likely to occur downstream. Alluvial forest is found along sections of the river and while old sessile oak woodland occurs principally on the steep valley sides of the rivers, there are areas yet to be surveyed including river islands and woodland bordering the river and its tributaries. No pathways were identified between the development site and the remaining qualifying habitats within the SAC.

9.4.21. The potential for significant effects has been identified for 6 no. qualifying species for which the site is selected (Sea, Brook and River Lamprey, Twaite Shad, Salmon and Otter). All of these species rely on good water quality and have either been recorded or are likely to use the stretches of the river close to Cappoquin.

9.4.22. In terms of the other qualifying species of the SAC, the NPWS maps identify the catchment and areas of suitable habitat for Freshwater Pearl Mussel. The development site is not located within these areas. The largest catchment for the species is upstream of the works. The other catchment is a significantly distance downstream on a separate tributary and no likelihood of significant effects arises. White-clawed crayfish are only present on the Awbeg River upstream of the works and Killarney Fern also occurs at sites upstream and approximately 20km downstream on separate tributaries and will not be impacted by the proposed development.

9.4.23. In the absence of mitigation, the construction phase of the development has the potential to result in direct loss of habitat and the discharge of sediment laden water and other pollutants (hydrocarbons/chemicals) to the water course causing a reduction in water quality and potential significant adverse effects on the 5 no. qualifying habitats and 6 no. qualifying species referred to above. The construction phase could also result in the spread of invasive species which has the potential to outcompete native species and alter the species structure and composition of habitats within the SAC and the species they support. Significant adverse effects on the integrity of the European site and its qualifying interests cannot therefore be ruled out.

9.4.24. During the operational stage, the main potential for significant effects is on Otter, associated with increased human activity and artificial lighting.

Mitigation Measures

9.4.25. The only potential for direct loss of qualifying SAC habitat is associated with the proposed trail through riparian woodland from the slipway towards the eastern bridge abutment. While this habitat is stated to correspond with *Alluvial Forest* habitat, the proposed development involves an upgrade of a pre-existing walking route along an embankment with no trees. The walking trail will be fenced off from adjacent woodland which will prevent access and future significant effects on this habitat.

9.4.26. A suite of measures is proposed to mitigate potential impacts on water quality during construction (Appendix 3 of the revised NIS). These measures are standard best practice to prevent silt/sediments and pollutants from entering the watercourse. They include the provision of silt fences along the eastern bank of the River Blackwater within the grounds of the Cappoquin Rowing Club, along the quay wall, slip way and in proximity to bridge works on both the eastern and western sides of the river. A site compound will be established on both the east and west sides of the river within the application boundary (Fig 1 of Appendix 3).

9.4.27. No direct discharges to the watercourse will be permitted and appropriate buffers will be maintained. Standard best practice will be adhered to in terms of stockpiling/management of excavated soil/materials to prevent erosion, surface water run-off, storage of fuel/oil/chemical and other hazardous substances and refuelling of plant/machinery to prevent pollution of the watercourse. The scaffolding

required for the repair of the old railway bridge will be encapsulated to prevent pollutants entering the watercourse during the works.

9.4.28. Subject to the implementation of these measures, I accept that no significant effects are likely on the qualifying habitats and species, in view of their conservation objectives. Following the completion of the works, no significant effects on water quality within the SAC are likely to arise.

9.4.29. The construction phase has the potential to cause disturbance to Otter. However, this will be temporary and short term and provided the works are restricted to daylight hours and outside the time period when the species which are crepuscular and nocturnal are most active, the impacts will not be significant. Due to the low level of construction activity proposed close to the river, there will be no significant disturbance of foraging or commuting habitat for Otter and the measures to protect water quality will protect prey sources. Once complete, it is not considered that the walking trail will result in significant effects on Otter using the area in the vicinity of the site.

9.4.30. No instream works are proposed and no structures will be placed within the river channel that would create a barrier to fish movement or migration and access to spawning areas.

9.4.31. An outline Invasive Species management Plan has been prepared (Appendix 2) which outlines the measures that will be implemented to control and eradicate invasive species present on the site. In advance of the works, it is intended that the area would be resurveyed by a suitably qualified specialist to confirm the extent of invasive species prior to construction and appropriate treatment. Subject to the implementation of these measures and ongoing monitoring, I consider that invasive species are not likely to significantly impact on qualifying habitats and species of the SAC.

In-combination effects

9.4.32. The potential for in-combination effects with other plans and projects is considered in the NIS. The majority of the projects identified are small scale residential developments within an urban setting, which are not likely to act in combination with the proposed development to generate significant effects.

Conclusion on Appropriate Assessment

9.4.33. Having regard to the nature of the proposed development which involves a minimal amount of excavation and intrusive ground works, the mitigation measures proposed which are proven best practice, the information presented with the application, including the revised Natura Impact statement, which I consider is adequate to carry out an assessment of the implications of the proposed development on the integrity of the European sites, I consider that it is reasonable to conclude that the proposed development, individually or in combination with other plans and projects would not adversely affect the integrity of the River Blackwater (Cork/Waterford) SAC (Site Code: 002170) in view of the site's Conservation Objectives.

9.4.34. This conclusion is based on:

- The limited scale of the works proposed
- Avoidance of direct impacts on qualifying habitats and species of the European site.
- Prevention of potential indirect effects on the qualifying habitats and species of the European site by the implementation of standard best practice and proven mitigation measures.

9.4.35. This assessment is based on a complete assessment of all aspects of the proposed development and there is no reasonable doubt remaining as to the absence of such effects

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 set out below and subject to conditions including requiring compliance with the submitted details and with the mitigation measures as set out in the revised NIS.

Reasons and Considerations (Draft Order)

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

(a) the EU Habitats Directive (92/43/EEC) and Part XAB of the Planning and Development Act 2000, as amended, including section 177(AE) and 177(V),

(b) the European Union (Birds and Natural Habitats) Regulations 2011-2015,

(c) the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the likely significant effects of the proposed development on a European Site,

(d) the conservation objectives, and qualifying interests for the River Blackwater SAC (Cork/Waterford SAC (Site code: 002170),

(e) the policies and objectives of the Waterford City and County Development Plan 2022-2028,

(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 revised Natura Impact Statement,

(h) the submissions received in relation to the proposed development,

(i) the report and recommendation of the Inspector.

Appropriate Assessment:

The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report that the River Blackwater (Cork/Waterford) SAC (Site code: 002170), is the only European Site in respect of which the proposed development has the potential to have a significant effect.

The Board considered the revised Natura Impact Statement and associated documentation submitted with the application for approval, the mitigation measures contained therein, the submissions 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 Blackwater (Cork/Waterford) SAC (site code: 002170), 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 Site.

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 increase the risk of flooding within the site or in the wider area, 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.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and the information contained in the Natura Impact Statement, as amended by the further information received by An Bord Pleanala on the 19th day of October, 2022 except as may otherwise be required in order to comply with the following conditions. Where any mitigation measures or any conditions of approval require further details to be prepared by or on behalf of the local authority,

these details shall be placed on the file and retained as part of the public record.

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

2. The mitigation and monitoring measures contained in the revised Natura Impact Statement received by An Bord Pleanala on the 19th day of October, 2022 shall be implemented in full.

   Reason: In the interests of protecting the European Site.

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 revised Natura Impact Statement and demonstration of proposals to adhere to best practice and protocols. The CEMP shall include:

   a. a Method Statement for each phase of the works, including access/egress arrangements, traffic management plan, noise management measures and construction hours,

   b. details of the location of the sediment features/barriers required to protect water quality during each phase of the development,

   c. details of the measures proposed to encapsulate scaffolding to be erected on the old red railway bridge,

   d. invasive species management plan,

   e. location of the construction compound including the area identified for the storage of waste,

   f. containment for all construction related fuel and oil within a specifically constructed bund to ensure that fuel spillages are fully contained,

   g. details of how it is proposed to manage any excavated materials,

   h. emergency response plan,

i. proposals in relation to public information and communication, and

j. Specific proposals as to how the measures outlined in the CEMP will be measured and monitored for effectiveness.

The Construction Environmental Management Plan shall be retained on file as part of the public record.

Reason: In the interest of protecting the environment

4. Prior to the commencement of development, details of measures to protect fisheries and water quality 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, details of which shall be placed on the file as part of the public record.

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

5. The hours during which the works takes place on the site shall be confined to between 0800 and 1830 hours Monday to Friday inclusive and between 08.00 and 14.00 hours on Saturday and not all on Sundays and public holidays.

Reason: To safeguard the amenities of properties in the vicinity and in the interest of nature conservation and to ensure the protection of the European sites.

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. 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 revised NIS. 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.

8. The local authority, or any agent acting on its behalf shall retain the services of a suitably qualified and experienced bat specialist to survey the Old Red Railway Bridge for bat roosts, prior to commencement of development. In the event that roosts are identified, the National Parks and Wildlife Service shall be consulted regarding how best to deal with such roosts. The removal of any roost identified shall be carried out only under licence from the National Parks and Wildlife Service.

   Reason: In the interests of protecting ecology and wildlife in the area.

9. All artificial lighting sources along the walking trail shall be suitably cowled to prevent overspill outside the site. Lights with low/minimal ultra-violet spectrums shall be used on and in the vicinity of the Old Red Railway Bridge.

   Reason: In order to mitigate impacts on bats in the area.

10. The works to the Avonmore Bridge shall be carried in accordance with best construction practice as detailed in the Architectural Heritage Protection Guidelines for Planning Authorities issues by the Department of Arts, Heritage and the Gaeltacht in 2011. The works shall be designed to cause minimum interference to the bridge and the masonry walls and retain the maximum amount of historic fabric is situ.

Reason: To ensure the integrity of the protected structure is maintained

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. In this regard the developer shall-

    (a) employ a suitably qualified archaeologist who shall access the site and monitor all excavation and site works, and

    (b) provide suitable arrangements acceptable to the Department of Housing Local Government and Heritage for the recording and removal of any archaeological material which is considered appropriate to remove.

    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.

Breda Gannon
Senior Planning Inspector

7th, November 2022