



An
Bord
Pleanála

Inspector's Report

ABP-313714-22

Development	Cemetery extension and all associated site development and landscape works.
Location	Tooreenagrena, Rockchapel, Co. Cork.
Local Authority	Cork 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	None.
Inspector	Mairead Kenny

1.0 Introduction

- 1.1. Cork County Council is seeking approval from An Bord Pleanála to undertake an extension to an existing cemetery which is adjacent to the designated European sites Lower River Shannon SAC and the Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA.
- 1.2. There are no other designated European sites (SPAs and SACs) in proximity to the proposed works. 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 the two European sites.
- 1.3. 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.
- 1.4. The Board requested further information regarding the nature of the development and other matters. The response was received on 5 September 2022.

2.0 Proposed Development

- 2.1. The proposed development consists of :
 - Extension to existing cemetery to provide an additional 193 plots.
 - It is clarified that there will be one grave per plot (the further information submission refers).
 - The burials will be 1.22m below ground level (bgl) and maximum burial depth will be 1.6m bgl.
 - Grave plots to be separated by concrete paths.

- Strip foundation for headstones as detailed.
- Associated entrance, access road and turning area.
- Boundary details.

Further detail of the proposed development is as follows:

- The access road is to use an existing agricultural entrance and the road will be finished with 10mm surface dressing on compacted stone.
- 120m sightlines are proposed.
- The existing parking to the front of the cemetery will serve the proposed development. A pedestrian connection will be provided through to the existing cemetery.
- The additional plots would be located at one end of the I-shaped site, covering about half of the site. The remainder of the site will be occupied by the new access road turning area.
- Boundary details include block wall at the area of the grave plots and a chain link fence at edge of access road.
- The drawings show the gates to a new agricultural entrance, which is outside the site boundary.
- Entrance gates details show that they would be traditional style metal structures.

2.2. The construction and design of the proposed development will include the following:

- Construction of the road will require cut and fill.
- Surface water drainage will be way of a new French drain and a soakway.

2.3. **Accompanying documents:**

- **Natura Impact Statement** prepared by Karen Banks MCIEEM also known as Greenleaf Ecology.
- The NIS incorporates a Screening report prepared by the same author.
- **Engineering Report** for the proposed development prepared by Billy Dennehy Assistant Engineer Cork County Council.

3.0 Site and Location

- 3.1. The site is located in Rockchapel which is a small village in the north-west of county Cork, close to the administrative areas of county Limerick and county Kerry. This area is remote and land use in the region includes relatively high levels of coniferous forestry planting and some windfarms.
- 3.2. The proposed development (PDS) is located to the southwest of Rockchapel village and comprises an I-shaped strip of land to the south and east of the existing cemetery. The roadside boundary of the site is defined by the R576 at the opposite side to which is the River Feale. To the west of the River Feale is a long strip of coniferous forestry.
- 3.3. The existing cemetery is a Recorded Monument dating to the mid/late nineteenth century. The boundary of the cemetery equates to the boundary of the Recorded Monument.
- 3.4. The PDS is of stated area of 0.2055 ha. The existing cemetery is stated to be 0.58ha. The lands rise to the north where the elevation is given as 196mOD while the elevation at the entrance is 189mOD.
- 3.5. The PDS is in agricultural use. The area which will be part of the extended cemetery has extensive growth of rushes and some ponded water. During site inspection and having regard to the application submissions the ponded water on site may be related to pounding of land by cattle.
- 3.6. The site is separated from the existing cemetery lands mainly by a concrete panel fence.
- 3.7. Access to the site is by way the regional road and a public footpath connects the site to the village.

4.0 Planning History

- 4.1. There is no indication of any recent relevant planning history.

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. 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).
- 5.2. **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.
- 5.3. **National nature conservation designations:** The Department of Culture, Heritage and the Gaeltacht 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.
- 5.4. European sites located in proximity to the subject site include:
- Lower River Shannon SAC (Site Code : 002165)
 - Stacks to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (Site Code 004161).
- 5.5. **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.

5.6. County Development Plan

The site is designated under the Cork County Development Plan 2022-2028 as being in North Cork within the Kanturk Mallow Municipal District. Rockchapel is designated as a Village. Villages are basically the lowest tier of the settlement hierarchy. In Rockchapel small scale residential development in the region of an addition 5 no. dwellinghouses is envisaged as well as the promotion of tourism and cultural development.

The cemetery is outside the designated area for Rockchapel and thus falls under the 'agricultural' use in the development plan. There are no designations relevant to

scenic landscapes, ecology or flood risk relevant to the actual site or the existing cemetery. The lands to the west including part of the road and the river and forestry are within Flood Zones A and B and within European sites.

6.0 The Natura Impact Statement

6.1. Cork County Council's application for the proposed development was accompanied by a Natural Impact Statement (NIS) which scientifically examined the proposed development and the European sites. The NIS was prepared by Greenleaf Ecology. It identified and characterised the possible implications of the proposed development on the European sites, in view of the site's conservation objectives, and provided information to enable the Board to carry out an appropriate assessment of the proposed works.

6.2. The application details include an Engineering Report.

6.3. Further information submitted clarifies the description of the proposed development and also presents an opinion on the proposed development in the context of the Water Framework Directive.

7.0 Consultations

7.1. The application was circulated to the following bodies:

- Minister for Tourism, Culture, Arts, Gaeltacht, Sports and Media
- Minister for Housing, Local Government and Heritage
- The Heritage Council
- Irish Water
- Inland Fisheries Ireland
- An Taisce

No responses were received.

7.2. **Public Submissions:**

7.3. No observations were received.

8.0 Planning Assessment

8.1. The likely consequences for the proper planning and sustainable development of the area

- 8.2. The proposed development will provide for a very limited extension to an existing cemetery which has been active since the mid-19th century. The proposed development comprises 190 plots and will have an estimated lifespan of 50 to 100 years. It is stated that the likely level of use will be 2 to 4 burials per annum.
- 8.3. The further information submitted addressed conflicting information in the original submission including with respect to the depth of the burials which will be a minimum of 1.22m and the revised section drawing presented shows that the burials will not be deeper than 1.6m bgl. It is clarified that there will be one burial per grave only, which is more restrictive than would normally be allowed under the Cemetery Bylaws. This information is in line with the NIS submitted. I am satisfied that the documentation submitted clarifies the nature of the proposed development.
- 8.4. In the context of small scale of Rockchapel and its status as a Village designated for limited amount of growth, I am satisfied that the scale of the proposed development is proportionate.
- 8.5. The development which comprises an extension to an established cemetery and is needed to meet local demand is acceptable in principle and is in accordance with the proper planning and sustainable development of the area.

8.6. The likely effects on the environment

- 8.7. *Cultural Heritage* With respect to cultural heritage impacts the existing cemetery is a Recorded Monument dating to the mid/late nineteenth century. The applicant notes the requirement to notify the National Monuments Service two months in advance of any works taking place. I am satisfied that any impacts relevant to cultural heritage can be appropriately addressed through this mechanism and the normal legal provisions and I attach a planning condition which is broad and which emphasises general requirement to ensure preservation and protection of archaeological heritage.
- 8.8. *Surface water and groundwater* The site investigation involving 5 no. trial pit logs across the site identify that a large part of the site is unsuitable for use for grave plots

due to the high level of pencil / shale. The Engineering Report concludes that the high level of pencil / shale will be present in all surrounding areas together with a high-water table. The site is deemed to be suitable on that basis subject to remedial works and constraints including improvement of land drainage and a limit of two coffins in each burial plot. This has been revised to one burial per plot under the further information response in line with the NIS.

- 8.9. Regarding the potential for impacts on groundwater the information provided is that there are no bored wells within 500m of the proposed cemetery extension. The Engineering Report does identify one potential bored well which is within 1000m of the proposed extension. I accept the conclusion that there is no potential for impacts on private water supplies as the identified well is upgradient and other wells would be over 1km from the cemetery extension.
- 8.10. The northern part of the site (trial holes 4 and 5) contains the more favourable conditions although even this land is deemed to require certain remedial works and constraints. At trial hole 5 there is a depth of soil of up to 1.6m deep, while at trial hole 4 Pencil is present together with soil at a depth of 800mm. There was no evidence of water in the trial holes. Although the site investigation took place over the summer months, I accept its conclusions in relation to there being no impact on the water table and note the absence of mottling in this regard.
- 8.11. Having regard to the limited scale and intensity of the proposed development and the absence of groundwater wells which could be impacted I consider that there is no potential for significant impact on groundwater resources or connected surface waters in the context of the proper planning and sustainable development of the area. The EPA monitoring upstream and downstream of the site records 'high' Q values and the proposed development will not reduce these values or undermine the objectives of the Water Framework Directive.
- 8.12. *Roads and Traffic* Regarding the potential impacts on roads and traffic, the proposed development results in the creation of a new entrance and relocation of the existing agricultural entrance onto a regional road. Having regard to the level of traffic which would be generated and the sightlines, I am satisfied that the proposed development is acceptable in terms of traffic safety.

8.13. *Biodiversity* The long and narrow site is elevated and comprised mainly of agricultural grasslands and wet grassland. From a general inspection it would not appear to have any significant potential to host or be relevant to high value ecological receptors. Species and habitat surveys undertaken included a badger survey, otter survey and a preliminary bat roost survey in relation to which otter is a qualifying interest of the SAC and is considered further in the Appropriate Assessment section below. The surveys did not indicate that the site was of important to bats or badger and nothing reported in the applicant's submissions indicate that there is any relevant ecological receptor of significance which might be impacted. I conclude that the proposed development is acceptable in terms of biodiversity.

8.14. **Conclusion**

8.15. I conclude that the proposed development will not adversely impact cultural heritage, groundwater or surface water resources or biodiversity in the area and that it is acceptable in terms of traffic safety and is in accordance with the proper planning and development of the area.

9.0 **Appropriate Assessment**

9.1. **The likely significant effects on a European site**

9.2. 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

9.3. **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.

9.4. **The Natura Impact Statement**

- 9.5. The application was accompanied by an NIS which described the proposed development, the project site and the surrounding area. The NIS contained a Stage 1 Screening Assessment which is incorporated as Appendix A of the NIS. This concluded that a Stage 2 Appropriate Assessment was required. The NIS outlined the methodology used for assessing potential impacts on the habitats and species within several European Sites that have the potential to be affected by the proposed development. It predicted the potential impacts for these sites and their conservation objectives, it suggested mitigation measures, assessed in-combination effects with other plans and projects and it identified any residual effects on the European sites and their conservation objectives.
- 9.6. The NIS was informed by a desk top study including of OPW flood mapping and EPA and GSI sources. An ecological walkover study and a site survey for fauna were undertaken on March 17 2021.
- 9.7. In addition the applicant sent emails to Development Applications Unit and to the District Conservation Officer of National Parks and Wildlife by way of consultation. No responses were received.
- 9.8. The report concluded that, subject to the implementation of best practice and the recommended mitigation measures, the integrity of the Lower River Shannon SAC and Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA will not be adversely and no reasonable scientific doubt remains as to the absence of such adverse effects.
- 9.9. Having reviewed the NIS and the supporting documentation, including the further information submitted, I am satisfied that it provides adequate information in respect of the baseline conditions and does clearly identify the potential impacts, and does use best scientific information and knowledge. Details of mitigation measures are provided and they are summarised in Section 6 of the NIS. I am satisfied that the information is sufficient to allow for appropriate assessment of the proposed development as further discussed below.

9.10. Appropriate Assessment

- 9.11. The proposed development of an extension to Rockchapel Cemetery is not directly connected with or necessary to the management of any European site.
- 9.12. Having regard to the information and submissions 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 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.

European sites considered for Stage 1 screening:

European site (SAC/SPA)	Qualifying Interests	Distance
Lower River Shannon SAC	<p>Sandbanks which are slightly covered by sea water all the time [1110]</p> <p>Estuaries [1130]</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Coastal lagoons [1150]</p> <p>Large shallow inlets and bays [1160]</p> <p>Reefs [1170]</p> <p>Perennial vegetation of stony banks [1220]</p> <p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (Glaucopuccinellietalia maritimae) [1330]</p> <p>Mediterranean salt meadows (Juncetalia maritimi) [1410]</p> <p>Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation [3260]</p> <p>Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) [6410]</p> <p>Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0]</p>	10m

European site (SAC/SPA)	Qualifying Interests	Distance
	Margaritifera margaritifera (Freshwater Pearl Mussel) [1029] Petromyzon marinus (Sea Lamprey) [1095] Lampetra planeri (Brook Lamprey) [1096] Lampetra fluviatilis (River Lamprey) [1099] Salmo salar (Salmon) [1106] Tursiops truncatus (Common Bottlenose Dolphin) [1349] Lutra lutra (Otter) [1355]	
Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA	Hen Harrier (Circus cyaneus) [A082]	40m

9.13. Based on my examination of the NIS report and supporting information including the NPWS website, the nature and scale of the proposed development and likely effects, the separation distance and functional relationship between the proposed works and the European sites, their conservation objectives and taken in conjunction with my assessment of the subject site and the surrounding area, I would conclude that a Stage 2 Appropriate Assessment is required for the two European sites referred to above.

9.14. Having regard to the nature and scale of the proposed works and the likely effects, the separation distances and the lack of a substantive linkage between the proposed works and other European sites, I consider that there is no potential for connectivity between the proposed development and these European sites and their qualifying interests and therefore no potential for impact on the Conservation Objectives.

1. Lower River Shannon SAC (Site Code 002165):

9.15. This is a very extensive site which includes freshwater, estuary and marine sections of the Shannon and contains a wide range of habitat types and species. Part of the site which is distant from and not hydrologically connected to the proposed development site is covered by the 2009 Freshwater Pearl Mussel Regulations. A

wide range of pressures and threats are relevant to the site. At the proposed development site the existing habitats comprise hardstanding, species poor wet grassland and improved agricultural grassland. Within the proposed development site there are no watercourses or drainage ditches. The River Feale is 40m to the west of the site and adjacent this is an area of coniferous plantation.

Conservation Objectives

- 9.16. The detailed conservation objectives for the site are set out in Version 1.0 which was published in August 2012 and which is displayed on the NPWS website and which form the basis for the information presented in the NIS.
- 9.17. With respect to the NIS Table 3-2 *Conservation Status and Main Threats to the Qualifying Interests of Lower River Shannon SAC* refers. This sets out each of the qualifying interests, the status of that habitat or species and the relevant pressures or threats.
- 9.18. The Conservation Objectives relate to the maintenance of the favourable conservation condition of each of the qualifying habitats and species for which the site is designated and which is defined by a detailed list of attributes and targets. Table 3-5 and Table 3-6 of the NIS set out the full *Site-specific conservation objectives, attributes and targets for the QI habitats and species*.

Potential direct effects:

- 9.19. The grave plots would be within 70m of the River Feale, which is part of the designated area of the Lower River Shannon SAC. All works which are required would take place at the opposite side of the regional road at a location separated from the SAC. There is no habitat on site which would be relevant to the qualifying habitats or which would be suitable for hosting qualifying species. I agree with the conclusion presented in the NIS that there is no potential for direct effects.

Potential indirect effects

- 9.20. The NIS identifies the potential for indirect effects on a number of qualifying interests which may be present in the River Feale (three lamprey species and salmon) or which may rely on the river habitat for prey (otter). These species could all be adversely affected by water quality deterioration arising during the construction or operation phases. The nature of the specific impacts which could arise are described

in sufficient detail in the NIS and relate to sedimentation loss and spillage of hydrocarbons or concrete in the construction phase. The nature of these potential impacts include matters which are common to most construction projects. The noteworthy factors in this case relate to the fact that the proposed development comprises a burial ground and the underlying geology which includes shallow subsoil.

- 9.21. The proposed development will involve a build-up of soil across the location of burials so that there is sufficient soil at the depth of the burials including at the location of trial holes 4 and 5. At this location an additional 200 to 300mm of soil will be put in place to supplement the minimum 800mm of soil and thereby facilitate burials at a depth of 1.6m. I note that there was no evidence of mottling in the trial holes. I accept that there is sufficient soil depth and that having regard to the topography including the 10m difference between the site and the river and the information presented there is no likelihood that the water table will be encountered.
- 9.22. Regarding the surface water management system which will be in place for the operational period this will comprise a roadside drain and soakway. There is no hydrological pathway from the site to the river.
- 9.23. On the basis of the information presented in the two paragraphs above I accept the NIS conclusion that no significant adverse effects on surface or groundwater quality in the river and in the SAC are expected. Mitigation measures are however required for the construction phase.
- 9.24. The NIS conclusion on impacts is based on the description of the burial plots set out in section 1.2.1.2 of the NIS which states that maximum burial depths are expected to be 1.6mbgl. It is clarified that this will only allow single burials in each plot which is in line with the Cork County Council policy for burial grounds. This information has been confirmed in the further information response which eliminates any lack of certainty relating to the nature and scale of the proposed development.

Potential in-combination effects

- 9.25. Having regard to the list of plans and projects which are identified in Table 5-2 of the NIS, the operation of any significant existing facilities under licence and the nature of permitted development in the immediate area which comprises small scale

residential development, I accept the conclusion presented in the NIS that there is no potential for significant in-combination effects.

Mitigation measures

- 9.26. To mitigate the likely significant impacts on water quality during the construction phase a number of construction phase mitigation measures are presented in section 6.1.1.1 of the NIS. These include measures to minimise silt transportation, use of sediment control measures, avoidance of work in bad weather, undertaking of a site drainage audit and implementation of relevant measures to as well as protection of surface and groundwater from spillages of soils, lubricants and concrete. The works will also be undertaken in accordance with relevant CIRIA guidance and requirements for fisheries habitats.
- 9.27. To conclude, I am satisfied that the proposed development individually or in combination with other plans or projects would not adversely affect the integrity of this European site in light of its conservation objectives (subject to the implementation of mitigation measures outlined above).

2. Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (Site Code 004161):

- 9.28. This European site located to the west of the proposed development site is designated solely for hen harrier. The SPA comprises an extensive area.

Potential direct effects

- 9.29. The hen harrier favoured habitat would not include grassland habitats of the type found on the proposed development site. I accept the statements made by the applicant and agree that the small-scale alteration in habitat proposed would not result in removal of foraging or breeding habitat. As such there are no direct impacts.

Potential indirect effects

- 9.30. In the wider area there is mature coniferous plantation, which is not suitable for nesting and would not be a favoured area for foraging. However, as is pointed out in the NIS the species may be found occasionally in the area and would be engaged in foraging. Noise and disturbance impacts from the proposed development could result in temporary effects on birds if they were present.

9.31. Taking into account the limited area of the proposed development site and its grassland cover, the lack of suitable breeding habitat and relatively unfavourable foraging habitat in the vicinity together with the small scale and the nature of the proposed development, I accept the conclusion presented in the NIS that the proposed development would not have an adverse effect on the conservation condition of hen harrier in the construction or operational phases.

Potential in-combination effects:

9.32. There is no potential for an adverse effects on the special conservation interest hen harrier and no potential for significant in-combination effects.

Mitigation measures:

9.33. None.

In conclusion., I am satisfied that the proposed development individually or in combination with other plans or projects would not adversely affect the integrity of this European site in light of its conservation objectives.

9.34. Appropriate Assessment Conclusion

9.35. Having regard to the nature and scale of the proposed development including the proposals for surface water management, the habitats on site and in the vicinity I consider it 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 Lower River Shannon SAC and Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA, or any other European site, in view of the sites' Conservation Objectives.

10.0 Recommendation

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

Reasons and Considerations

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

- (a) the EU Habitats Directive (92/43/EEC),
- (b) the EU Water Framework Directive (2000/60/EC)
- (c) the European Union (Birds and Natural Habitats) Regulations 2011-2015,
- (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, qualifying interests and special conservation interests for the Lower River Shannon SAC (Site Code 002165) and Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (Site Code 004161),
- (f) the policies and objectives of the Cork County Development Plan 2022-2028,
- (g) the nature and extent of the proposed works as set out in the application for approval as amended by the further information received
- (h) the information submitted in relation to the potential impacts on habitats, flora and fauna, including the Natura Impact Statement, and
- (i) the report and recommendation of the person appointed by the Board to make a report and recommendation on the matter

Appropriate Assessment:

The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report that the Lower River Shannon SAC (site code 002165) and Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (site code 004161), are 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 Sites, namely the Lower River Shannon SAC (site code 002165) and Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (site code 004161), 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/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.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further information received by the Board on 5 September 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 outlined in the plans and particulars relating to the proposed development shall be implemented in full or as may be required in order to comply with the following conditions.

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

3. 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.

4. 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.

Mairead Kenny
Senior Planning Inspector

24 October 2022