



An  
Bord  
Pleanála

## Inspector's Report ABP-313867-22

<b>Development</b>	Removal of silt/gravel deposits using mini-excavator and vacuum excavator at N80 Bridge
<b>Location</b>	N80 Bridge, Stradbally River, Stradbally, Co. Laois.
<b>Planning Authority</b>	Laois County Council
<b>Applicant(s)</b>	Laois County Council
<b>Type of Application</b>	Application for approval made under Section 177(AE) of the Planning and Development Act, 2000 (local authority development requiring appropriate assessment)
<b>Prescribed Bodies</b>	Department of Housing, Local Government and Heritage
<b>Observers</b>	None
<b>Date of Site Inspection</b>	9 <sup>th</sup> August 2022
<b>Inspector</b>	Una Crosse

## **1.0 Introduction**

- 1.1. Laois County Council is seeking approval from An Bord Pleanála to undertake works related to the removal of silt/gravel deposits using a mini-excavator and vacuum excavator at the N80 Bridge in Stradbally which is located within/adjacent to the River Nore and River Barrow SAC which is a designated European site. 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/s.
- 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 Site and Location**

- 2.1. The subject site is located in the centre of Stradbally in County Laois and comprises an area of 530sq.m of the river bed under the bridge over the N80 and the riverbed to the downstream (NE) of the bridge for approximately 40m. Within the centre of the river and on the banks of the channel there are large accumulations of gravel deposits which have become vegetated predominately by reed canary grass. It is stated that the riverbed either side of the vegetated deposits consists of gravel and cobble with silt present along the fringes of the channel.
- 2.2. The Stradbally River is described as a 4<sup>th</sup> order river that flows in a north-easterly direction until it joins the River Barrow. It is categorised as having 'moderate' water quality in the WFD.

- 2.3. Stradbally Bridge (NIAH 12900429) comprises a three-arched limestone structure, built c. 1807, that spans the river channel and accommodates the N80, a roadway which runs southeast-northwest through the centre of Stradbally. There are historic structures, associated with a nineteenth-century brewing/milling activity, on the north side of the river, both upstream and downstream of Stradbally Bridge (NIAH numbers 12900430 and 12900402 respectively).

### **3.0 Proposed Development**

#### **3.1. Context**

The need and justification for the proposal relates to the threat of flooding on the property immediately adjacent (south), the owners of which, have been seeking to have these works carried out as their home has been flooded by river water on several occasions. The proposed works will remove barriers to the flow of the river.

#### **3.2. Proposed Works**

I note that the drawings submitted facilitate defining the extent of the scheme. The proposed development which comprises the removal of gravel deposits is outlined in detail in the NIS is as follows:

- Prior to the commencement of works, sedimats are proposed to be placed immediately downstream of the works area with a second and third set of sedimats placed a further 50m downstream of the works area.
- It is proposed that the excavator tracks along the top of the silt deposits on the left hand side of the river to maximum 50m from the river bridge with an operative setting up 225mm plastic pipes and laying them on top of the silt deposits with this plastic pipe used to feed the material back to the suction hose from the vacuum excavator parked on the bridge.
- Prior to the removal of silts, it is proposed that the vegetation on the silt deposit will be cut back and removed with the vegetated silt and gravel deposits within the channel then reduced to riverbed level at the time the proposed works are carried out with no excavation of the riverbed proposed.
- The material is proposed to be scraped down using a 1t excavator and placed at the end of the 225mm pipe from where it will be sucked back to the truck.

- It is proposed that works will take place when flows are low within the river to allow for the riverbed / river level to be clearly identifiable relative to the silt / gravel deposits.
- It is proposed that works are carried out during daytime hours only from the period 1st July to 30th September, inclusive.

### **3.3. Documents Accompanying Application**

The application as received included the following:

- Cover letter
- Copy of public notices
- 1 x A3 drawing showing site location, site layout and one elevation of existing bridge.
- Natura Impact Statement
- Copies of letters sent to the Prescribed bodies.

### **3.4. Further Information**

Following a request for further information a report was received which includes the following documents:

- Cover letter outlining the response to the Further Information
- Drawing
- Underwater Archaeological Impact Assessment (UAIA) Report

## **4.0 Planning History**

### **4.1. None of Note**

## **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, as amended**

5.3. 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.

**5.4. 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.

5.5. European sites located within or in close proximity to the subject site include:

- River Nore and River Barrow SAC – Site code 002162
- Ballyprior Grassland SAC – Site code 002256

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

Part XAB of the Planning and Development Act 2000, as amended sets out the requirements for the appropriate assessment of developments which could have an effect on a European site or its conservation objectives.

- 177(AE) sets out the requirements for the appropriate assessment of developments carried out by or on behalf of local authorities.
- Section 177(AE) (1) requires a local authority to prepare, or cause to be prepared, a Natura impact statement in respect of the proposed development.
- Section 177(AE) (2) states that a proposed development in respect of which an appropriate assessment is required shall not be carried out unless the Board has approved it with or without modifications.

- Section 177(AE) (3) states that where a Natura impact assessment has been prepared pursuant to subsection (1), the local authority shall apply to the Board for approval and the provisions of Part XAB shall apply to the carrying out of the appropriate assessment.
- Section 177(V) (3) states that a competent authority shall give consent for a proposed development only after having determined that the proposed development shall not adversely affect the integrity of a European site.
- Section 177AE (6) (a) states that before making a decision in respect of a proposed development the Board shall consider the NIS, any submissions or observations received and any other information relating to:
  - The likely effects on the environment.
  - The likely consequences for the proper planning and sustainable development of the area.
  - The likely significant effects on a European site.

## **6.0 Consultations**

### **6.1. Prescribed Bodies Consulted**

The application was circulated to the following bodies with the references as stated in the correspondence received from the applicant:

- Department of Environment
- Department of Agriculture
- National Parks and Wildlife Services
- Inland Fisheries Ireland
- The Office of Public Works
- Environmental Protection Agency
- Waterways Ireland

- The Heritage Council
- The Arts Council
- Fáilte Ireland
- An Taisce

A response was received from the following which I have summarised:

## 6.2. **Development Applications Units (Department of Housing, Local Government & Heritage)**

The submission is summarised as follows:

### Archaeology

Noted that proposed silt removal works are located within the environs of a number of protected structures. The existing bridge dates from the early 19<sup>th</sup> century with an historic brewery building abutting the northern side of the riverbank of similar date. Likelihood that riverbed and river-banks within proposed development area could contain previously unknown underwater archaeology materials.

Department recommends that an Underwater Archaeological Impact Assessment (UAIA) be carried out and submitted to the Department to facilitate the formulation of appropriate archaeological recommendations.

The following is requested:

- Desktop assessment addressing riverine, underwater, archaeological and built (including industrial) heritage of the proposed development area.
- Include a full inventory and mapping of the sites of all identified archaeological/cultural heritage features and structures (including those identified underwater) and include mapping/drawings that clearly indicated any proposed impacts on these assets/areas of archaeological potential arising from the proposal.
- UAIA to assess site investigation impacts and potential secondary or indirect impacts such as construction works to facilitate access to the river and areas of scouring as a result of potential changes in hydrology.

- UAIA to include a licenced dive/wade assessment accompanied by a hand-held metal detection survey undertaken by suitably licenced and experienced underwater archaeologist.
- Diving should comply with relevant regulations.
- Dive licence and detection device consent required.
- Include bank and foreshore visual survey accompanied by hand held metal detector survey (Licence as required)
- Submit a report to the Department outlining the results which includes a comprehensive Archaeological Impact Statement that comments on the degree to which the extent, location and levels of all proposal works required will affect any archaeological materials identified/areas of archaeological potential illustrated with appropriate plans, sections and photographs. Mitigation measures proposed as required and recommendations to be agreed with the Department.

### 6.3. **Public Submissions:**

No submissions received from members of the public.

## 7.0 **Further Information**

### 7.1. **Request & Response**

#### **Request 1 - Information to Address Section 177AE(6)(a) & (b)**

Section 177AE of the Planning and Development Act 2000, as amended requires at subsection (6) that the Board in their consideration of the application for approval, take the following into account:

*(a) The likely effects on the environment,*

*(b) The likely consequences for the proper planning and sustainable development of the area, and*

*(c) The likely significant effects of the proposed development on any European sites.*

The application documentation submitted to the Board fails to address parts (a) & (b) above and you are requested to provide information to facilitate the Board in its consideration of this requirement of the approval application.



You are advised to consult the An Bord Pleanála Guidelines for Local Authorities on Applications for approval for Local Authority Developments made to An Bord Pleanála under Section 177AE of the Planning and Development Act 2000, as amended which are available on the An Bord Pleanála website (copy attached).

### **Response 1**

The cover letter outlines the need and justification for the proposal.

### **Request 2 -Drawings**

Please provide the following drawings at an appropriate scale:

- Site location plan
- Scaled site layout plans which show all structures which adjoin the site.
- Plans, elevations and sections as appropriate of the bridge and its arches indicating which elevation of the bridge is represented on the drawings.

### **Response 2**

An A3 drawing including a layout, location, photo of proposed works and the downstream elevation of the existing bridge is provided.

### **Request 3 - Submissions**

You are invited to respond to the submission received by the Board from the Department of Housing, Local Government and Heritage.

### **Response 3**

An Underwater Archaeological Impact Assessment report has been submitted.

## **7.2. Further Consultation**

It was determined that the further information received was not significant (Memo dated 7 December 2022) and therefore did not need to be readvertised. It was proposed to send the Underwater Archaeology Report to the DAU for their comment, but no further submission was received.

## **8.0 Assessment**

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

This matter was not addressed in the documentation received by the Board and therefore was included in the further information request. While the response is not very detailed or comprehensive, I consider that there is sufficient detail to facilitate this assessment. I would also note that the need and justification for the proposal in respect of addressing the threat of flooding on the property of homeowners immediately adjacent (south) who have been seeking to have these works carried out as their home has been flooded by river water on several occasions. The proposed works will remove barriers to the flow of the river. I note that the drawings submitted also facilitate defining the extent of the scheme. While it may have been appropriate to address policy considerations and the recreational use of the river and potential implications of the existing gravel or proposed development on same but having regard to the overriding need to address the threat of flooding, I consider the response received can be accepted.

### **8.2. The likely effects on the environment**

While the response to the further information request references the NIS, which is included in the next subsection of the Act in respect of Section 177AE and is addressed in the next section of this report, there is little by way of consideration of ecology. I do note that the applicant does refer to bats and states that no structures that could support roosting bats will be impacted. It is outlined that the adjoining walls are low and subject to flooding, the stonework on the bridge facing the works is of high-quality masonry and joinery work with no crevices available for roosting bats. The applicants also outline that by restoring the river bed to its natural level through the removal of the accumulated gravels this will create instream habitat in places that have become overgrown resulting in a positive impact locally on habitat quality for fish and aquatic invertebrates.

Notwithstanding, the brevity of the response to this matter, the most pressing likely environmental effect relates to underwater archaeology given the nature of the proposal and the location of the site and I address this matter below.

### Underwater Archaeology

In response to the submission from the Department, an Underwater Archaeological Impact Assessment has been undertaken. The report outlines that in addition to the historic bridge and the structures to the north of the river bank both upstream and downstream, there are recorded archaeological sites also located nearby, situated 70m-80m to the north-northeast of the project boundary comprising the site of O'Mores Castle (RMP LA014-039001-); a Franciscan Monastery (LA014-039002-), founded in 1447; a Bawn (LA14-039003), associated with O'Mores Castle; and a fortified house (RMP LA014- 039004-). It is stated that the proposed silt removal works lie within the Zone of Notification associated with these sites, increasing the archaeological sensitivity of river area under assessment.

It is outlined that the on-site work was completed on 27th September 2022, under licence from the DHLGH; licence numbers 22D0083, and 22R0323.

The assessment undertaken comprised a systematic visual inspection of Stradbally River, extending 20m upstream and 87m downstream of Stradbally Bridge which the author states seeks to provide a detailed account of the existing river environment; recording riverbed topography, assessing the potential of the riverbed deposits to retain archaeological material, and identifying any additional features/structures of archaeological or historic significance that may be present. It is stated that a number of nineteenth-century features were recorded which include: Stradbally Bridge and associated components, masonry drain, 64m length of rubble-stone (limestone fabric) of boundary wall, 2.5m length of rubble-stone boundary wall (foundation element) associated with the downstream brewery/mill complex.

Targeted metal-detection was also employed to help assess the riverbed and highlight any metallic concentrations present and the survey did not observe any elements associated with the adjacent RMP sites but three (3) finds of archaeological/historic interest were recovered as part of the metal-detection survey, which include a forged iron pot-hanger (Edwardian), foot piece (decorated, lead fabric) from a small pot (Edwardian) and horse stirrup (iron fabric) (late Victorian).

The report outlines that the retrieval of these objects confirmed a good archaeological holding-content for the riverbed deposits present and coupled with a concentration of industrial period activity surrounding the watercourse, lends increased archaeological potential to the section of riverbed under assessment.

It is outlined that based on the current level of information available further on-site archaeological assessment of the river area, in advance of the in-river works taking place, would not be required. However, it is recommended that archaeological monitoring of the proposed silt removal works be undertaken, by a suitably qualified and experienced maritime/riverine archaeologist, with the proviso to resolve fully any archaeological material observed at that point. It is also proposed that the recommendations in the report are subject to the approval of the National Monuments Service at the Department. I would recommend that if the Board are minded to grant permission that a condition is attached which provides for such monitoring.

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

- Compliance with Articles 6(3) of the EU Habitats Directive
- The Natura Impact Statement and revised Natura Impact Statement
- Appropriate Assessment Screening
- Appropriate Assessment of Relevant Site/s

**8.3.1. 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.

### 8.3.2. The Natura Impact Statement

The application for approval was accompanied by an NIS (dated June 2022). The NIS, in addition to providing a detailed scope of works, outlines the methodologies employed in the study, the legislative context and the existing environment. Section 5 contains the Stage 1 Screening Assessment which concluded that a Stage 2 Appropriate Assessment was required for the River Nore and Barrow SAC. I note that a number of the QI's which are significantly remote from the subject site are screened out at Stage 1. While I acknowledge the rationale for doing this I propose to address the QI's within the appropriate assessment itself.

The NIS predicts the potential impacts for the site and its conservation objectives and suggests mitigation measures and assesses in-combination effects/cumulative assessment) with other plans and projects.

The NIS was informed by the following studies and surveys:

- A desk top study undertaken.
- A number of walkover surveys of the site and upstream and downstream of the bridge were undertaken.

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 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 (see further analysis below).

### 8.3.3. Appropriate Assessment Screening

I consider that the proposed development comprising the removal of gravel is not directly connected with or necessary to the management of any European site.

Having regard to the information and submissions available, nature, size and location of the proposed development and its likely direct, indirect and cumulative effects, the source pathway receptor principle and sensitivities of the ecological receptors the following European Sites are considered relevant to include for the

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

### European sites considered for Stage 1 Screening

European site (SAC/SPA)	Qualifying Interests/Special Conservation Interests
<b>River Barrow and River Nore SAC – Site Code 002162</b>	<ul style="list-style-type: none"> <li>• Estuaries [1130]</li> <li>• Mudflats and sandflats not covered by seawater at low tide [1140]</li> <li>• Reefs [1170]</li> <li>• Salicornia and other annuals colonising mud and sand [1310]</li> <li>• Atlantic salt meadows (<i>Glaucopuccinellietalia maritima</i>) [1330]</li> <li>• Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</li> <li>• Water courses of plain to montane levels with the <i>Ranunculus fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation [3260]</li> <li>• European dry heaths [4030]</li> <li>• Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels [6430]</li> <li>• Petrifying springs with tufa formation (<i>Cratoneurion</i>) [7220]</li> <li>• Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0]</li> <li>• Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i>, <i>Alnion incanae</i>, <i>Salicion albae</i>) [91E0]</li> <li>• <i>Vertigo moulinsiana</i> (Desmoulin's Whorl Snail) [1016]</li> <li>• <i>Margaritifera margaritifera</i> (Freshwater Pearl Mussel) [1029]</li> <li>• <i>Austropotamobius pallipes</i> (White-clawed Crayfish) [1092]</li> <li>• <i>Petromyzon marinus</i> (Sea Lamprey) [1095]</li> <li>• <i>Lampetra planeri</i> (Brook Lamprey) [1096]</li> <li>• <i>Lampetra fluviatilis</i> (River Lamprey) [1099]</li> <li>• <i>Alosa fallax fallax</i> (Twait Shad) [1103]</li> <li>• <i>Salmo salar</i> (Salmon) [1106]</li> <li>• <i>Lutra lutra</i> (Otter) [1355]</li> <li>• <i>Trichomanes speciosum</i> (Killarney Fern) [1421]</li> <li>• <i>Margaritifera durrovensis</i> (Nore Pearl Mussel) [1990]</li> </ul>

<b>European site (SAC/SPA)</b>	<b>Qualifying Interests/Special Conservation Interests</b>
<b>Ballyprior Grassland SAC – site code - 002256</b>	<ul style="list-style-type: none"> <li>Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites) [6210]</li> </ul>

The following table examines the proximity of the proposed development to the sites and the presence or not of a hydrological link or pathway.

<b>Site Name</b>	<b>Distance</b>	<b>Hydrological Link/Pathway</b>
River Barrow and River Nore SAC – Site Code 002162	0m	Yes – proposed development within the site
Ballyprior Grassland SAC – site code - 002256	4km (SW)	No hydrological link or connectivity.

Based on my examination of the NIS report and supporting information, the NPWS website, aerial and satellite imagery, the scale of the proposed development and likely effects, separation distance and functional relationship between the proposed works and the European sites, their conservation objectives and taken in conjunction with my assessment of the subject site and the surrounding area, I would conclude that a Stage 2 Appropriate Assessment is required for one of the two European sites referred to above. This is the River Barrow and River Nore SAC – Site Code 002162.

The remaining site can be screened out from further assessment because of the lack of a substantive hydrological link or ecological connectivity between the proposed works and the European site. It is therefore reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with

other plans or projects would not be likely to have a significant effect on European Site No(s) Ballyprior Grassland SAC – site code – 002256 in view of the site(s) conservation objectives and a Stage 2 Appropriate Assessment is not therefore required for this site.

#### 8.3.4. Appropriate Assessment of Relevant European sites

The Conservation Objectives and Qualifying Interests, including any relevant attributes and targets for these sites, are considered in the following sections.

##### River Barrow and River Nore SAC – Site Code 002162

The qualifying interests for this site are as follows and I have grouped them into QI's that are outside the zone of influence of the site and those which are within the zone of influence in the following tables. It should also be noted that the Stradbally River is a tributary of the River Barrow with the River Nore an entirely different catchment until the confluence of both rivers north of New Ross.

##### Outside Zone of Influence

Qualifying Interest	Map Ref **	Rationale
Estuaries [1130]	2	Coastal habitat of the SAC in vicinity of and south of New Ross and therefore a significant distance from this inland site.
Mudflats and sandflats not covered by seawater at low tide [1140]	3	Coastal habitat of the SAC south of New Ross and therefore a significant distance from this inland site.
<i>Salicornia</i> and other annuals colonizing mud and sand [1310]	5	Coastal habitat of the SAC south of New Ross and therefore a significant distance from this inland site.
Atlantic salt meadows [1330]	5	Coastal habitat of the SAC south of New Ross and therefore a significant distance from this inland site.
Mediterranean salt meadows [1410]	5	Coastal habitat of the SAC south of New Ross and therefore a significant distance from this inland site.
Twaite shad [1103]		The main spawning ground on the River Barrow is immediately upstream of St. Mullins. Young fish then drop down to the estuary of the River Nore/Barrow to grow on and given location



		of the spawning ground in the lower reaches of the Barrow, this species is not considered to be within the Zol of the proposal.
Killarney Fern [1421]	7	Not recorded within the site area with nearest location within environs of Graiguenamanagh and south of Inistioge and therefore outside zone of influence.
European Dry Heaths [4030]		This is a dry heath habitat which is confined to steep valley sides of the River Barrow and its tributaries, and the foothills of the Blackstairs Mountains. This habitat is not present in the vicinity of the proposed development.
Petrifying springs with <i>tufa</i> formation [7220]*	6	This habitat has been recorded south of Thomastown, Co. Kilkenny in the River Nore catchment (see map 6) and therefore no impact likely given that it is not in same catchment.
Old sessile oak woods with <i>ilex</i> and <i>Blechnum</i> in the British Isles [91A0]	6	Not present in the vicinity of Garran's Bridge, as determined by the site visit with Old oak woodlands not present in the vicinity of the Stradbally River.
Desmoulin's whorl snail [1016]	7	This habitat has been recorded a very significant distance downstream of the site (see map 7) and therefore no impact likely given distance.
Freshwater Pearl Mussel [1029]		Status of the freshwater pearl mussel ( <i>Margaritifera margaritifera</i> ) as a qualifying Annex II species is currently under review. Outcome of review will determine whether a site-specific conservation objective is set for species. The species remains a QI. This species has not been recorded in the Stradbally River and while they are present on the main channel of the River Barrow at Goresbridge, Co. Kilkenny this is a significant distance from the proposed development.
Nore Freshwater Pearl Mussel [1990]	7	This species is within the River Nore catchment and not the River Barrow so outside of catchment and zone of influence.
Alluvial Forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> [91E0]*	6	Not present in the vicinity of subject site. As per the Conservation objectives it is present upstream of Athy (1021) and upstream and downstream of Carlow town in the vicinity of Newacre and Mildford bridge respectively (287 and 10) however these are at a significant remove from the subject site.
^Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels [6430]		Habitat is not present in the vicinity of the site as confirmed by the survey. It is associated with riverside woodlands, unmanaged river islands and in narrow bands along the

		floodplain of slow-flowing stretches of the river and may be present along the Stradbally River downstream of Garran's Bridge but is not present in the vicinity of the site.
^Sea Lamprey [1095]		This species has been recorded in the vicinity of Carlow Town but not in the upper reaches of the River Barrow or within the Stradbally River with their presence not considered to be likely.

\*\* not all QI's are mapped.

^ this QI is mentioned in Section 6 – the appropriate assessment – of the NIS but is clearly considered to be outside of the zone of influence and therefore I have included it in the table above.

Having regard to the rationale outlined above, it is considered that the qualifying interests outlined in the table above do not require further assessment.

### **Qualifying Interests within Zone of Influence**

The following section of this assessment provides an assessment of the remaining qualifying interests as follows which it is proposed to consider further:

<b>Qualifying Interest</b>	<b>Map Ref **</b>	<b>Conservation Objective</b>	<b>Rationale for Further Assessment</b>
White-clawed crayfish [1092]	7	Maintain favourable condition	There are records of white-clawed crayfish on the Stradbally River at numerous EPA sampling sites on the NBDC database and by the NPWS. The species is dependent on water quality and substrate heterogeneity within the river channel. It is noted that although crayfish plague has had a negative impact on the crayfish population of the Barrow, in the absence of data from a crayfish survey, their presence should still be presumed and this QI is considered in the assessment.
Brook Lamprey [1096]		Restore favourable condition	This species has been recorded by the IFI in the Stradbally River, as well as the main channel of the River Barrow.
River Lamprey [1099]		Restore favourable condition	This species has been recorded by the IFI in the Stradbally River, as well as the main channel of the River Barrow.

Atlantic Salmon [1106]		Restore favourable condition	The Stradbally River contains suitable salmon spawning and nursery habitat and the IFI have recorded salmon in the Stradbally River with salmonids observed during the ecological site walkover.
Otter [1355]		Restore favourable condition	Otter are stated to be widely distributed across freshwater habitats and are well documented along the River Barrow and its tributaries with the Stradbally River providing potential foraging, commuting and holting habitat for otter. It is noted that Otter activity signs were recorded during the ecological walkover of the Stradbally River.
Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation [3260]		Maintain favourable condition	Potential to support this habitat with water crowfoots and other aquatic macrophytes recorded immediately upstream of the N80 Stradbally Bridge (see Plate 4.3 in NIS). This habitat is dependent on water quality parameters such as suspended solids and nutrients in the water column being sufficiently low to prevent changes in vegetation composition.

\*\* not all QI's are mapped.

## Types of Impacts which could lead to Adverse Affects

### Potential Direct Impacts

No direct impacts are predicted to the relevant QI's above as there are no resting places for otter within the site boundary and no habitat suitable for the mobile QI's and the habitat QI is not present.

### Potential Indirect Impacts during Construction

Given the nature and scale of the proposed project – that being the removal of a small area of vegetated gravel and silt deposits over a maximum of 3 days, the potential for the generation of silt laden runoff is limited. The works area is urban in

character (see Plates 4.1-4.4) and built up along both river banks close to the bridge. However, it cannot be completely discounted. Therefore, while the risk of negative impacts to water quality are low mitigation measures to prevent the escape of silt laden waters downstream are considered necessary. There is the potential for the accidental release of polluting matter, e.g. hydrocarbons and oils, from equipment and machinery. However, it is proposed that only the 1t excavator will work within the footprint of the river. All other machinery and equipment will be located on the riverbank and therefore any potential accidental release of pollutants is limited. However, to remove any risk to the river appropriate mitigation measures are set out below.

There are no otter holts in the immediate environs of Stradbally River Bridge but the river does, however, provide suitable holting, commuting and foraging habitat for otter along its length and so it is considered likely that Otter to use the river. There is potential for indirect disturbance to otter that may forage or commute along this section of the river due to the presence of personnel and machinery. However, given the scale of the works and their localised nature, this potential impact is anticipated to be temporary and minor in nature and likely significant effects on Otter are not anticipated.

The areas to be removed do not support suitable spawning habitat for salmonids or lamprey and it is outlined in the NIS that the works comprising the removal of vegetated banks of silt and gravel will have a positive impact by increasing the available area for floating river vegetation habitat, as well as the river area suitable for use by fish and aquatic invertebrates. The latter will also benefit Grey wagtail (*Motacilla cinerea*) and Dipper (*Cinclus cinclus*), both of which were recorded in the environs of the bridge.

The stone wall bounding the river upstream of the bridge includes crevices between the stonework, which it is considered may provide suitable refuges for White-clawed crayfish but it is stated that no works are to be undertaken in this area upstream of the bridge. The habitats to be removed downstream of this area are areas of silt/gravel banks vegetated with reed canary grass which are considered to be very unlikely to support crayfish refuges, while walls immediately downstream of the bridge (i.e. adjoining the works area) are concrete or do not include suitable gaps that crayfish might use as refuges.

### 8.3.5. Mitigation Measures

#### **Qualifying Interests where Mitigation Required**

The NIS acknowledges in its consideration of the potential for adverse affects that there is the potential for adverse affects on a number of the qualifying interests in the absence of mitigation, these are as follows:

- White-clawed crayfish [1092]
- Brook Lamprey [1096]
- River Lamprey [1099]
- Atlantic Salmon [1106]
- Otter [1355]
- Water courses of plain to montane levels with the Ranunculus fluitans and Callitriche-Batrachium vegetation [3260]

Sea Lamprey is mentioned in Table 6.1 but as noted above, it is not a QI which has been recorded in the upper reaches of the Barrow. Notwithstanding, the mitigation measures proposed in respect of the other lamprey species would apply to the sea lamprey species.

The mitigation measures proposed can be broken into two areas. Firstly the protection of water quality and secondly biosecurity proposals which prevent the introduction of invasive species which I address in turn.

#### **Water Quality**

Timing and Duration of Works - during the Fisheries Open season i.e. during the period 1st July to 30th September, inclusive. It is outlined that consultation has already been undertaken with Inland Fisheries Ireland (IFI) who have indicated that they have no objection to the proposed works. It is proposed that the works will not take place during high river flows or prior to forecasts of heavy rainfall with the works proposed to be undertaken during a period of low flow within the river and the 10-day forecast monitored. It is proposed that the works will be carried out during day-time hours only and would take 1 day to complete.

Notification of Works - Both NPWS and IFI are to be informed in advance of works commencing.

Supervision of Works - An Ecological Clerk of Works is proposed to be appointed by Laois County Council to supervise proposed works. It is proposed that all site staff will be informed of work methods to be employed on site, as well as the sensitivity of the River Barrow and River Nore SAC via the dissemination of a tool-box talk including the requirement for protection of aquatic and riverside habitats. It is also proposed that a project ecologist is appointed, who in addition to supervising the work, is required to ensure that no areas of river habitat outside the silt / gravel banks are negatively impacted. While it is not clear if the Ecological Clerk of Works and Project Ecologist comprise the same role, I would recommend that a condition is attached to require a Project Ecologist supervise the works.

Use of Sedimats - Prior to the commencement of works, it is proposed that sedimats are placed immediately downstream of the works area in order to protect water quality locally with a second and third set of sedimats are proposed a further 50m downstream of the works area with the to be supervised by the Project Ecologist.

Use of Machinery on Site – It is proposed that the excavator and vacuum excavator will be come to site fully fuelled up and serviced and there will not be any need for filling of oils or lubricants on site or for storage of fuels or oils on site. The only vehicle to be permitted within the river is the 1t mini excavator which is proposed to be unloaded and lowered down onto a pile of silt from low-loader parked on the N80 bridge. It is proposed that the Vacuum Excavator will park on the N80 footpath and partially on the Carlow bound land tracking along the top of the silt deposits on the left hand side of the river to maximum 50m from the river bridge.

Pre-commencement survey/works - works area to be checked again for any signs of White-clawed crayfish and NPWS to be informed if encountered and relocated a short distance downstream for the duration of works. It is also proposed to cut back and remove vegetation on the silt deposit prior to its removal.

Methodology for Removal of Material – It is proposed to lay 225mm plastic pipes on top of the silt deposits which it is proposed will be used to feed the material back to the suction hose from the vacuum excavator parked on the bridge. It is proposed that the vegetated silt and gravel deposits within the channel will be reduced to riverbed level at the time the proposed works are carried out with no excavation required within the riverbed. The methodology provides that the material is scraped down to riverbed level using the 1t excavator and placed at the end of the 225mm pipe from

where it is sucked back to the truck with this work to be supervised by the Project Ecologist. The silt removal is proposed to start at the furthest point from the truck and work back towards the river bridge with the operator disassembling the 225mm pipe as they progress back towards the start.

Other Measures - No material to be stored on the river bank; emergency spill kits to be available on site and staff trained in their use; the 1t excavator and the vacuum excavator checked immediately after they arrive on site and before starting work to confirm the absence of leakages; Reporting and addressing of any leakages immediately and addressed; Excavator not permitted to enter the river or work if any leaks are identified; and any items of plant machinery found to be defective will be removed from site immediately.

### **Biosecurity Measures**

Biosecurity protocols implemented on site are proposed to follow the 'Clean-Check-Dry' principle to prevent the introduction of invasive species and diseases, such as crayfish plague, to the site via machinery and equipment and the spread of crayfish plague to other aquatic environments post-completion of the works.

While the ecology survey for the proposed project did not record any non-native invasive plant species listed on the 3rd Schedule of the EC (Birds and Natural Habitats) Regulations 2011, as amended a number of specific measures are proposed.

- The excavator will be dry, clean and free from debris prior to being brought to site and have been dried for a minimum of 48 hours prior to being brought onto the site and inspected on arrival by the relevant supervisor.
- On completion of the works it is proposed that the excavator is brought to the Laois Roads Depot in Stradbally.
- The only part of the machine that interface with the water of the Stradbally River, is the bucket and the extended dipper arm which will be washed down using a power washer roads depot by LCC operatives with no power washing of the excavator carried out adjacent to the river channel.
- The excavator will be returned to the LCC yard where it will be left to dry and will not be used for 48 hours.

- Operatives who have entered the Stradbally River to secure the sediments will disinfect their boots and waders using a disinfectant with the disinfection of PPE to be carried out a minimum of 20m from the riverbank and allowed to soak to ground.

### **Mitigation of Potential Adverse Effects.**

As outlined above, the main effects from the proposed development in respect of the qualifying interests relate to the construction phase and the potential for the proposal to negatively effect water quality. I consider that the mitigation measures outlined are comprehensive, appropriately detailed and satisfactory to ensure that the proposed development would not adversely affect the integrity of the River Barrow and River Nore SAC in view of its conservation objectives.

#### **8.3.6. Potential in-combination effects**

Section 6.4 of the NIS addresses in-combination effects with the Laois County Development Plan 2017-2023 which, in respect of Stradbally seeks to avoid encroachment on the SAC with a buffer area to be implemented and no loss of bankside vegetation and also seeks to identify the need for flood defence work or river channel maintenance which are required to be assessed for AA. It is noted that an appropriate assessment of the County Plan was undertaken and no in combination effects with the Plan are envisaged.

It is outlined that farmers and landowners may undertake general agricultural operations which could give rise to an increased risk to water quality. It is noted that many such operations are periodic and short term and qualify as ARC's (Activities Requiring Consent) which require consultation with the NPWS in advance, such as reclamation, infilling or land drainage. It is noted that agricultural operations must comply with specific regulations and in some cases an NIS may be required but in-combination effects are not anticipated and I would tend to agree given the short duration of the proposed works and the limited area within which the works are proposed, in addition to the mitigation measures outlined above.

I note that reference is made to a number of applications made to the Planning Authority which are all very minor in nature and in my opinion would not give rise to in-combination effects.



I would therefore conclude that with the implementation of specific environmental protection and control measures to avoid/negate any potential adverse impacts, there will be no cumulative impacts arising in combination with any other plans or projects which would be of significance in respect to impacts affecting the conservation objectives of integrity of the River Nore and River Barrow SAC.

#### **8.3.7. Conclusion on River Nore and River Barrow SAC (002162)**

I consider that the potential direct and indirect effects on the qualifying interests identified as having the potential to be affected have been satisfactorily identified. The mitigation measures outlined are comprehensive and address the potential direct and indirect effects appropriately.

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.

#### **8.4. Appropriate Assessment Conclusions**

Having carried out screening for Appropriate Assessment of the project, it was concluded that the proposed development may have a significant effect on the following European site;

- River Nore and River Barrow SAC (002162);

Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying interests of this site in light of its conservation objectives.

Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the River Nore and River Barrow SAC (002162) or any other European site, in view of the site's Conservation Objectives. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects.

This conclusion is based on:

- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures.

- Detailed assessment of in combination effects with other plans and projects including existing, permitted and proposed projects and plans.
- The lack of reasonable scientific doubt as to the absence of adverse effects on the integrity of the River Nore and River Barrow SAC (002162)

## 9.0 Recommendation

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

### Reasons and Considerations

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

- (a) the EU Habitats Directive (92/43/EEC),
- (b) the European Union (Birds and Natural Habitats) Regulations 2011-2015,
- (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, qualifying interests and special conservation interests for the River Nore and River Barrow SAC (002162)
- (e) the policies and objectives of the Laois County Development Plan 2017-2023,
- (f) the nature and extent of the proposed works as set out in the application for approval,
- (g) the information submitted in relation to the potential impacts on habitats, flora and fauna, including the Natura Impact Statement,
- (h) the submissions received in relation to the proposed development, and
- (i) the report and recommendation of the person appointed by the Board to make a report and recommendation on the matter.

### Appropriate Assessment

The Board agreed with and adopted the screening assessment and conclusion carried out in the inspector's report that the River Nore and River Barrow SAC (002162) is the European site for which there is a likelihood of significant effects.

The Board considered the Natura Impact Statement and the revision to same and all other relevant submissions and carried out an appropriate assessment of the implications of the proposal for the River Nore and River Barrow SAC (002162), in view of the Sites Conservation Objectives. The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment.

In completing the assessment, the Board considered, in particular, the

(i) Likely direct and indirect impacts arising from the proposal both individually or in combination with other plans or projects, specifically upon River Nore and River Barrow SAC (002162).

(ii) Mitigation measures which are included as part of the current proposal, and

(iii) Conservation Objective for these 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 Site, 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, in particular the underwater archaeology 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 proposed development shall be carried out and completed in accordance with the plans and particulars, including the mitigation measures specified in the Natura Impact Statement, submitted with the application to An Bord Pleanála on the 22nd day of June, 2022, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be prepared by the local authority, these details shall be placed on file prior to commencement of development 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 measures and monitoring commitments identified in the Natura Impact Statement, and other plans and particulars submitted with the application shall be carried out in full except as may otherwise be required in order to comply with other conditions.

**Reason:** In the interest of clarity and protection of the environment during the construction and operational phases of the proposed development.

3. Prior to the commencement of development, the local authority shall agree with the relevant statutory agencies a Construction Environmental Management Plan and Method Statement, incorporating:

(a) all mitigation measures indicated in the Natura Impact Statement and revision to same;

(b) Methods to be employed to sterilise the equipment and machinery:

This Construction Environmental Management Plan shall be placed on file prior to commencement of development and retained as part of the public record.

**Reason:** In the interest of protecting the environment.

4. A suitably qualified ecologist shall be appointed by the County Council to oversee the site set-up and works on site. Upon completion of works, an audit report of the site works shall be prepared by the appointed ecologist and submitted to the County Council to be kept on record.

**Reason:** In the interest of nature conservation, to prevent adverse impacts on the European sites and to ensure the protection of the Annex 1 habitats and Annex 11 species and their Qualifying Interests/Special Conservation Interests for which the sites were designated.

5. 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. In-channel works shall adhere to the timing restrictions set out in the Natura Impact Statement. 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).

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

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

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

7. The County Council and any agent acting on its behalf shall facilitate the preservation, recording, protection or removal of archaeological materials or features that may exist within the site. A suitably experienced maritime/riverine archaeologist shall be appointed by the County Council and the archaeologist shall be present on site during the removal works.

A report shall be compiled on same with and a report on same shall be kept on record.

**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.

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Una Crosse  
Senior Planning Inspector

24 February 2023