



An
Bord
Pleanála

Inspector's Report ABP-313916-22

Development	Water Sports Activity Centre
Location	Dromineer, Co. Tipperary
Local Authority	Tipperary 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	Failte Ireland
Observer(s)	None
Date of Site Inspection	3 rd September 2022
Inspector	Karla Mc Bride

1.0 Introduction

- 1.1. Tipperary County Council is seeking approval from An Bord Pleanála to undertake works close to Lough Derg at Dromineer in Co. Tipperary, which forms part of the Lough Derg (Shannon) SPA, and there are several other designated European sites in the wider area. A Stage 2 Natura Impact Statement and application under Section 177AE was lodged by the Local Authority on the basis of the proposed development's likely significant effect on a European site.
- 1.2. Section 177AE of the Planning and Development act 2000 (as amended) requires that where an appropriate assessment is required in respect of development by a local authority the authority shall prepare an NIS and the development shall not be carried out unless the Board has approved the development with or without modifications. Furthermore, Section 177V of the Planning and Development Act 2000 (as amended) requires that the appropriate assessment shall include a determination by the Board as to whether or not the proposed development would adversely affect the integrity of a European site and the appropriate assessment shall be carried out by the Board before consent is given for the proposed development.

2.0 Site and Location

- 2.1. Dromineer Village is located on the E shore of Lough Derg c.10km to the NW of Nenagh in Co. Tipperary. The village is characterised by a mix of commercial, residential, amenity, heritage, port and lake related uses. The site is located opposite the lake shore and it comprises an amenity grassland area which is occupied by an existing single storey WC and shower block. It is bound to the N and W by a footpath and the public road, and to the S and NE by existing single storey houses. There are several young trees located around the perimeter of the site and a larger wooded area to the S, the lake shore contains a small jetty and seated areas, and there is a larger marina to the NW.
- 2.2. The boundary of the Lough Derg (Shannon) SPA is located to the W of the site, the Lough Derg, NE Shore SAC is located c.2.4km to the N and the Lower River Shannon SAC is located c.3.5km to the S. The surrounding area may be important for mobile species from this and other further afield European sites.

- 2.3. There are several features of historic and cultural heritage interest in the area including a 10th century Church and 13th century tower house, a 19th Century Quay and Canal Store building, and two early 20th Century corrugated houses.
- 2.4. Photographs & maps in Appendix 1 describe the site & surroundings in more detail.

3.0 Proposed Development

Tipperary County Council proposes to carry out works close to the W shore of Lough Derg in Dromineer Village. The proposed works on the c.0.15ha site would comprise:

- Demolition of an existing WC & shower block building.
- Construction of a new Facility Centre for Water Sports Activities.
- Associated site works (incl. access ramps & service connections).

3.1. Accompanying documents

The application was accompanied by the following documents:

- Application drawings
- NIS report
- EIA Screening Determination report
- Bat Survey & Assessment report
- Construction & Environmental Management Plan
- Asbestos Survey Report
- List of Prescribed Bodies
- Copies of Public Notices.

4.0 Planning History

- 4.1. Several planning cases in the vicinity, none of which relevant to this case.

5.0 Legislative and Policy Context

- 5.1. **The EU Habitats Directive (92/43/EEC):** This Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Articles 6(3) and 6(4) require an appropriate assessment of the likely significant effects of a proposed development on its own and in combination with other plans and projects which may have an effect on a European Site (SAC or SPA).
- 5.2. **European Communities (Birds and Natural Habitats) Regulations 2011:** 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 within the Zone of Influence of the subject site include:
- Lough Derg (Shannon) SPA (Site code: 004058)
 - Lough Derg, NE Shore SAC (Site code: 002241)
 - Lower River Shannon SAC (Site code: 002165)
- 5.5. **Planning and Development Acts 2000 (as amended):** Part XAB 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. National and Regional Planning policy

National Planning Framework, 2018-2040

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

National Development Plan, 2021-2030

This Plan underpins the National Planning Framework 2018-2040. It contains several priorities which include investment in regional growth potential and enhancing the tourism potential of the region.

Climate Action Plan, 2021

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

National Biodiversity Action Plan, 2022

The Plan sets out actions through which a range of government, civil and private sectors will undertake to achieve Ireland's 'Vision for Biodiversity', and follows on from the work of the first and second National Biodiversity Action Plans. It contains 119 x targeted actions which are underpinned by 7 x strategic objectives which lay out a clear framework for Ireland's national approach to biodiversity, ensuring that efforts and achievements of the past are built upon, while looking ahead to what can be achieved over the next five years and beyond.

The Planning System and Flood Risk Management, 2009:

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

Southern Regional Economic & Spatial Strategy 2020:

The RSES supports the delivery of the programme for change set out in the National Planning Framework and the National Development Plan. It sets out a strategic vision and policy objectives for climate change, sustainable development, renewable energy, urban and rural areas, the economy, the environment, connectivity, amenities and utilities. Several policy objectives seek to promote tourism and recreation, protect water quality, enhance biodiversity, and ensure the protection of sensitive sites and habitats.

Tourism Masterplan for Shannon 2020-2030:

This Masterplan has been developed by Fáilte Ireland, Waterways Ireland and the relevant riparian local authorities. It seeks to develop the tourism potential of the Shannon region and to achieve a better regional spread of tourism and visitor activity that will allow coordinated development and maximise beneficial outcomes which will harness the economic and social potential of the Shannon's natural and cultural assets in an environmentally sustainable way.

5.7. Local Planning policy

Tipperary County Development Plan 2022 - 2028

General Policies & Objectives:

Pol 9-1: seeks to encourage and support tourism development.

Pol 9-2(c): seek to ensure that tourism development is compatible with the protection of the environment, including lakeshore and riparian habitats.

Obj. 9-A: seeks to collaborate with Fáilte Ireland, OPW and other tourism stakeholders in the development and delivery of Regional Tourism Plans & DEDPs.

Obj. 9-C: seeks to support the implementation various tourism strategies including the Lough Derg Visitor Destination Plan 2020.

Obj. 9E: seeks to continue to enhance and re-imagine the towns and villages as visitor-led tourism destinations.

Obj. 9F: seeks to co-operate with Fáilte Ireland, Waterways Ireland and other relevant bodies and agencies, in promoting the county's waterways and Lough Derg Lakelands as part of an overall tourism development and marketing strategy.

Obj. 9H: seeks to support, encourage & promote sports tourism within the county.

Obj. 9I: seeks to support the provision of accessible tourism.

Pol 11-1 & 2: seek to protect the network of European sites.

Pol 11-3: seeks protect p/NHA sites.

Pol 11-4: seeks to protect the ecological status of watercourses & riparian zones.

Dromineer Settlement Plan - Specific Objectives

Zoning: the lands are zoned for Open Space & Amenity uses.

SO1: seeks to promote the village as a key tourism destination on Lough Derg.

SO8: promote the village as a centre of excellence for water based leisure activities.

SO14: seeks to maintain the integrity of Natura 2000 sites.

Tipperary Tourism Plan 2016 - 2021

The Strategic Tourism Marketing, Experience & Destination Development Plan seeks to promote the tourist potential of the entire county (N & S), it identifies Neagh as a Priority Level 1 Gateway Town & Dromineer as a village with strategic potential.

Lough Derg Visitor Experience Development Plan 2020-2024

This Plan seeks to provide a steer to development & investment in the area.

6.0 Consultations

6.1. Prescribed Bodies:

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

- Dept. of Housing, Local Government & Heritage.
- Dept. of Environment, Climate & Communications.
- NPWS & Inland Fisheries Ireland
- Waterways Ireland & Irish Water
- Failte Ireland & An Taisce
- Heritage Council & An Chomhairle Ealaíon

One submission was received from Failte Ireland in support of the project.

No other submissions were received from Prescribed Bodies

Public Submissions:

No public submissions received.

7.0 Assessment

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

The proposed development would comply with national, regional and local policy in respect of climate change, the environment, tourism, cultural and natural heritage, and residential amenity. The Council states that the works are justified as they would provide for improved and accessible water activity facilities. Failte Ireland supports the proposed development, and no other submissions were received from Prescribed Bodies or members of the public.

Design and layout:

The location and design of the proposed development within Dromineer Village are described in sections 2.0 and 3.0 above. The c.0.15ha site, which comprises an area of amenity open space is located on the E side of Lough Derg, is occupied by an existing single storey WC and shower block. The proposed development would comprise a replacement single storey Water Sports Activities building (c.12m x 5m x 4m) which would have a green roof. The works would entail some minor tree and vegetation removal, associated construction works (incl. access ramps) and ancillary works (incl. service connections). There are two existing public car parks located nearby to the S and NE of the site.

Given that the project would provide improved support facilities for water-based activities on Lough Derg and enhance the tourism and recreational amenities of the village in line with several Development Plan policies and objectives in respect of Dromineer Village, the design and layout of the proposed works are considered acceptable. It is noted that the project would serve to achieve several key objectives and policies for the village environs which seek to promote it as a key tourism destination on Lough Derg and the provision of accessible and water-based tourism infrastructure.

Residential & visual amenity:

The proposed development would be located alongside the E shore of Lough Derg and within the village centre of Dromineer. The surrounding area is characterised by a mix of commercial, residential, recreational, tourism, water and riparian uses.

There are several heritage features in the vicinity including a c.10th century Church, the ruins of the c.13th-century Kennedy tower house, the intact 19th-Century Quay and Canal Store, and two 1920s corrugated iron roofed houses summer houses which overlook the lake, most of which are Protected Structures, and Lough Derg is a designated European site. There is a marina to the NW of the site, a small jetty to the W with footpaths along the lakeshore, and several of the neighbouring houses run parallel to the lakeshore footpath and road.

The site and environs are defined by a small, grassed area of open space with several trees of mixed species around the perimeter, which contribute to the overall character of the area. Although the proposed development could result in the removal of some of the trees, the project would serve to achieve several other key objectives for the village which seek to promote Dromineer as a key tourism destination and the development of new tourism infrastructure and activities, as outlined above (Design and Layout).

In terms of general residential amenity, the proposed single storey building would have an adequate set back from the site boundaries with neighbouring houses and it would not overlook, overshadow, result in a loss of privacy, or otherwise adversely affect the amenity of any properties. However, any localised removal of trees could have a minor adverse impact on the visual amenities and character of the area in the short term. Notwithstanding these concerns, the proposed works will not give rise to an adverse visual impact on the character of the area or the amenities of nearby houses in the long term.

Biodiversity:

The lake side site is located within Dromineer Village, and it mainly comprises an area of amenity grassland with several young trees around the perimeter. It is located to the immediate E of the Lough Derg (Shannon) SPA which is designated for wide variety of waterbird species, and Lough Derg pNHA. It is located to the S of the Lough Derg, North East Shore SAC which is designated for a range of mainly terrestrial habitats, and N of the Lower River Shannon SAC (to the S of Ballina & Killaloe) which is designated for wide variety of riparian, terrestrial, estuarine and coastal habitats and species. Appropriate Assessment issues will be addressed below in section 7.3.

The adjacent lakeshore to the W and nearby wooded area to the S may provide a habitat, refuge, foraging area or resting place for a variety of terrestrial and aquatic animal species (incl. otters, birds, bats, fish & aquatic invertebrates) which have been described in the submitted documents. This includes a Natura Impact Statement (NIS) which contains a Stage 1 Appropriate Assessment Screening and Stage 2 Appropriate Assessment which examined the relationship between the proposed development and several European sites. These reports were informed by desk top studies and site surveys which described the ecological characteristics of the receiving environment and identified the potential impacts on European Sites and biodiversity. The NIS report contains mitigation measures which will be incorporated into the CEMP.

Several SPA SCI bird species were recorded in the vicinity of the proposed development, on the lakeshore, in the lake, at the wooded area to the S, and flying overhead. None of the upstream or downstream Lower River Shannon or Lough Derg NE SAC QI species or habitats were recorded in the surrounding area. Notwithstanding this, Lough Derg and the River Shannon may provide suitable support habitat for several fish species (incl. River & Brooke Lampreys and Salmon). Otter may commute or forage along the river and lake and their tributaries. The riparian vegetation along the small, wooded area to the S of the site may contain suitable nesting and/or foraging habitat for birds and bats. The existing building which is proposed for demolition may contain suitable roosting habitat for bats.

Although the lake shore is frequented by a wide variety of waterbirds and passerines, there was no significant evidence of nesting **birds** in the vicinity of the proposed works or the in the surrounding area, possibly related to the proximity to the site to the village centre, car parks and marina. Notwithstanding this, a condition should be attached to ensure that the site clearance, demolition and construction works take place outside of the bird nesting season.

The existing building and surrounding lakeshore lands, hedgerows and trees may provide suitable roosting, nesting or foraging habitat for **bats** although no evidence of bats was detected during the site surveys. Notwithstanding this, a planning condition should be attached which would require the applicant to carry out a pre-construction survey of the existing building for bats, and to seek a Derogation Licence in the event that any species is present, to enable their safe and humane

relocation to another suitable nearby habitat, as required. It is noted that there will be minimal artificial light so as to avoid disturbance to bats.

The adjacent Lough Derg and its tributaries, and the River Shannon and its downstream tributaries, may provide suitable habitat for several species of **fish** (incl. Lampreys, Salmon, Brown trout, Irish Pollan, European eel & several different coarse fish species) along with suitable habitat for several prey species of **aquatic invertebrate** and macrophytes which form part of the food supply for fish species in the lake and river. There are records of a landlocked population of Sea lamprey in Lough Derg but none of River or Brook lampreys, Salmon or Brown trout in the vicinity. The site drainage has the potential to convey deleterious construction materials downstream in the absence of appropriate safeguards which could adversely affect water quality and fisheries (incl. riverbed smothering, changes to pH, clogging fish gills & habitat degradation). The proposed works have the potential to affect water quality along with general noise and disturbance. However, the mitigation measures contained in the NIS report would ensure that appropriate protection measures are put in place during the construction works (incl. no concrete mixing or vehicle washing on site, and protection from silt & chemical contamination).

Otter has been recorded in the lower reaches of the River Shannon and its downstream tributaries may provide suitable habitat for foraging. No evidence of otter was detected during the surveys of the site and environs, although there is an historic record of its presence further downstream of Ballina and Killaloe along the River Shannon. Notwithstanding this, a planning condition should be attached which would require the applicant to carry out a pre-construction survey of the site and surrounding area for this species before works commence.

The proposed works may require the removal of the small number of **trees** along the perimeter of the site with no significant adverse impacts on biodiversity anticipated. However, there could be some localised disturbance to foraging areas, resting places and refuges for birds and possibly bats. The removal of vegetation during the bird nesting season should be prohibited and a pre-construction surveys for bats required.

The proposed works would not require the removal of any **riparian or lakeshore vegetation** with no adverse impacts on biodiversity during the works anticipated, however there could be some localised disturbance to foraging areas, resting places and refuges for birds and possibly otter. The works should be conducted in accordance IFI guidance, the removal of vegetation during the bird nesting season should be prohibited, and per-construction surveys for otters and bats should be required.

No **Invasive plant species** were recorded in the vicinity of the proposed development however a biosecurity condition should be attached to ensure that the works (and vehicles) do not introduce invasive species to the lake and environs.

An **Ecological Clerk of Works** should be appointed to oversee the works and the implementation of the mitigation measures contained in the NIS report, which would also protect sensitive species (incl. otter, birds, bats & fish).

Conclusion: Having regard to all of the above, the predicted impacts on biodiversity would be temporary and short term as most species will return to the area after the works are complete. The proposed development would be located within an amenity area which is already accessible to the public, and a Visitor Management Plan would be prepared. It is noted that NPWS and IFI did not submit any observations. No significant adverse impacts on biodiversity are anticipated, subject to pre-construction otter and bat surveys, the avoidance of works during the bird nesting season, and the implementation of water quality protection measures during the construction and operational phases.

Cultural heritage:

The site is located within the historic village of Dromineer on the E side of the Lough Derg and there are several heritage features in the vicinity including the c.10th Century Domineer Church, the ruins of the c.13th-century Kennedy tower house, the intact 19th-Century Quay and Canal Store, and two 1920s corrugated iron roofed houses summer houses that overlook the lake, most of which are all Protected Structures and/or included in the NIAH. Lough Derg and the River Shannon were

historically used for commercial barge navigation during the late an 19th and early 20th Centuries.

The proposed development would not adversely affect the character or setting of any cultural heritage features in the village and environs. It is also possible that as yet undiscovered artefacts may be uncovered during the works, and archaeological monitoring should be required by way of a planning condition. It noted that Policy LH16 of the Development Plan seeks to safeguard sites and features of archaeological interest and the proposed development would comply with this policy, subject to the attachment of the aforementioned condition.

Need, effectiveness & alternatives:

I am satisfied that the applicant has provided adequate background information to justify the need for the proposed Water Sports Activity centre which enhance the recreation and tourism potential of Lough Derg and Dromineer Village. I am also satisfied, on the basis of my examination of the submitted documents and assessment of the site and environs, that the proposed works, which will take c.10 months to complete, constitute an appropriate and proportionate response to the need provide lakes side amenities.

Conclusions:

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

7.2. The likely effects on the environment

The applicant's Environmental Impact Assessment Screening Determination Report concluded that the proposed development does not need to be subject to EIA and that no EIAR report is required for the proposed development. I note that there is no specific provision under Section 177AE of the Act to require EIA or to carry out a formal EIA Screening Determination for a local authority project submitted under this section of the Act. Nonetheless, the Board, in making its decision, is required to consider the likely effects on the environment in respect of the proposed development. The project is not of a type included in Schedule 5 Part 1 or Part 2 of the Planning and Development Regulations 2001 (as amended). Furthermore, it

does not meet any of the criteria set out in Schedule 7 of the Regulations for determining whether a sub-threshold development would be likely to have significant effects on the environment, with regard to the characteristics of the works, its location and the characteristics of potential impacts.

Having regard to the nature and scale of the proposed development, which would comprise the demolition of an existing WC and shower block building and the construction of a new Facility Centre for Water Sports building along with associated and ancillary works, and the characteristics of the receiving environment which is not densely developed, albeit proximate to areas covered by sensitive ecological and heritage designations, I am satisfied that the proposed works would not have any significant adverse effects on population and human health, biodiversity, land, soil or water, air and climate, material assets, cultural heritage or the landscape, and the need for environmental impact assessment can, therefore, be excluded.

Notwithstanding this conclusion, it is noted that the surrounding area has a rich cultural heritage related to the historical use of the lake for commercial navigation, and the woodland/riparian habitats to the S provide a refuge and foraging opportunities for a range of species (incl. mammals, fish, birds & possibly bats). As such the Council should ensure that the ecological mitigation measures contained in the NIS report are fully implemented, that a pre-construction bat and otter surveys are undertaken before works commence, and that the works do not take place during the bird nesting season.

7.3. The likely significant effects on a European site:

The areas addressed in this section are as follows:

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

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

The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site.

7.5. **The Natura Impact Statement**

The application was accompanied by a Natura Impact Statement which contained a Stage 1 Appropriate Assessment Screening report and a Stage 2 Appropriate Assessment report. The reports scientifically examined the proposed works and their relationship with European sites in the surrounding area and they were informed by desk top studies and a site survey which included a detailed Bat survey.

The desk top studies and site survey described the site and surrounding area. This included details of potential connections between the proposed works and several European sites (incl. Lough Derg (Shannon) SPA, Lough Derg NE Shore SAC & Lower River Shannon SAC). The reports assessed the surrounding watercourses and environs for aquatic and mobile species of Special Conservation Interest and Qualifying Interest and for the European sites. The ecological characteristics of the site were described, EPA water quality data was provided, and the European sites within the Zone of Influence (15km) were identified. No European site SCI or QI species or habitats were recorded on the site, although several species were recorded in the vicinity and flying overhead.

The AA Screening report identified several x European sites located within a Zone of Influence (15km radius) of the proposed works, it examined connectivity and characterised the possible effects of the proposed development on these sites. It concluded that significant effects could not be ruled out for 1 of the sites (Lough Derg (Shannon) SPA) and that the preparation of a Stage 2 Appropriate Assessment report was required. It concluded that the works would not have a significant effect

on any other European site (incl. the Lough Derg NE Shore SAC & Lower River Shannon SAC) due to the small scale of the works, the characteristics and/or upstream location of the European sites, and the extent of the separation distances.

The Stage 2 Appropriate Assessment report described the receiving environment and the proposed development. It described the Lough Derg (Shannon) SPA, listed its SCA species for this site and described the nature of the connection between the proposed works and the European site. It characterised the potential effects on the European site including in-combination effects in view of the site's Conservation Objectives. The identified effects related to surface water pollution, discharges resulting in loss/change to habitats and disturbance to commuting/forging territory. The Stage 2 Appropriate Assessment formally concluded that provided the proposed mitigation measures are fully and adequately implemented, there would be no significant direct, indirect or cumulative impacts on the integrity of the Lough Derg (Shannon) SPA or any other European site.

7.6. Having reviewed the NIS report and supporting documentation, I am satisfied that it provides adequate information in respect of the baseline conditions, does clearly identify the potential impacts, and does use best scientific information and knowledge, and details of mitigation measures are provided. I am satisfied that the information is sufficient to allow for appropriate assessment of the proposed development, subject to the further consideration of European sites located within an enlarged Zone of Influence (further analysis below).

7.7. **Appropriate Assessment**

7.8. The proposed development, which would comprise the demolition of an existing single storey WC and shower block, and the construction of a new similar facility close to the Lough Derg (Shannon) SPA, is not directly connected with or necessary to the management of this or any other European sites in the surrounding area.

7.9. 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.

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

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

Stage 1 Screening Assessment.

The European sites within the Zone of Influence (i.e the area over which an impact can have a potential effect in relation to proximity of European sites and the mobility of faunal species from further afield sites) of the proposed works and approximate separation distances are set out below.

European Site	Qualifying Interests / Special Conservation Interests	Distance	Aquatic / Mobile Link	Likely Pathway
Lough Derg (Shannon) SPA (004058)	Cormorant & Tufted Duck Goldeneye & Common Tern Wetland and Waterbirds	Adjacent	Yes	Yes
Lough Derg NE Shore SAC (002241)	Juniperus communis formations on heaths or calcareous grasslands Calcareous fens with Cladium mariscus and species of the Caricion davallianae Alkaline fens & Alluvial forests Limestone pavements Taxus baccata woods of the British Isles	c.2.4km N	Yes	No
Lower River Shannon SAC (002165)	Sandbanks & Estuaries Mudflats & sandflats	c.3.5km S	Yes	No

European Site	Qualifying Interests / Special Conservation Interests	Distance	Aquatic / Mobile Link	Likely Pathway
	Coastal lagoons & Reefs Large shallow inlets and bays Perennial vegetation of stony banks Vegetated sea cliffs Salicornia and other annuals Atlantic & Mediterranean salt meadows Common Bottlenose Dolphin Water courses of plain to montane levels with the Ranunculus fluitans and Callitriche-Batrachium vegetation Molinia meadows & Alluvial forests Freshwater Pearl Mussel Sea, Brook & River Lampreys Salmon & Otter			
Slieve Aughty Mountain SPA (004168)	Merlin & Hen harrier	c.7km NW	No	No
Cloonmoylan Bog (000248)	Active raised bogs Degraded raised bogs Depressions on peat substrates Bog woodland	c.13.2km	No	No
Loughatorick S Bog SAC (000308)	Blanket bog	c.13.4km	No	No
Derrycrag Wood Nature Reserve SAC (000261)	Old sessile oak woods	c.14.5km	No	No
Silvermine Mountains West SAC (002258)	Northern Atlantic wet heaths European dry heaths Calaminarian grasslands	c.14.5km	No	No
Slievefelim to Silvermines Mountains SPA (004165)	Hen Harrier	c.14.5km	No	No

- 7.11. Based on my examination of the NIS report and supporting information (incl. the desktop studies & field surveys), NPWS website, aerial and satellite imagery, the scale of the proposed works and nature of the likely effects, the substantial separation distance and functional relationship between the proposed works and the European sites and their conservation objectives, the site specific characteristics and requirements, and the absence of an aquatic connection or suitable foraging habitat, taken in conjunction with my assessment of the subject site and surrounding area, I conclude that a Stage 2 Appropriate Assessment is required for 1 of the European sites referred to above which I consider to be within the Zone of Influence by reason of aquatic and/or mobile connections (Lough Derg (Shannon) SPA).
- 7.12. In coming to this conclusion, I am satisfied that the Lough Derg, NE Shore SAC and the Lower River Shannon SAC can be screened out from any further assessment, notwithstanding the aquatic connection, having regard to the small scale of the proposed works, the nature of the QI habitats and species upstream and downstream of the site, and the separation distances between the proposed development and these European sites.

7.13. **Stage 2 Appropriate assessment:**

Lough Derg (Shannon) SPA:

This European site lies within the Zone of Influence of the proposed works as it has a direct aquatic and/or mobile connection to the site of the proposed works. The SPA site boundary is located adjacent to site of the proposed works.

European site description:

Lough Derg lies within counties Tipperary, Galway and Clare and is the largest of the River Shannon Lakes. Most of the lower part of the lake is enclosed by hills on both sides, with the Slieve Aughty Mountains to the W and the Arra Mountains to the E, and the lake has been classified as a mesotrophic system. The lake has many small islands, especially on its W and N sides and the shoreline is often fringed with swamp vegetation. Lough Derg is of importance for both breeding and wintering birds. Lough Derg (Shannon) SPA is of high ornithological importance as it supports nationally important breeding populations of Cormorant and Common Tern. In winter, it has nationally important populations of Tufted Duck and Goldeneye, as well as a

range of other species including Whooper Swan. The presence of Whooper Swan, Greenland White-fronted Goose, Hen Harrier and Common Tern is of particular note and parts of Lough Derg (Shannon) SPA are a Wildfowl Sanctuary.

Special Conservation Interest species: Cormorant, Tufted Duck, Goldeneye, Common Tern, and Wetland & Waterbirds.

Conservation Objectives: To maintain or restore the favourable conservation condition of the wetland habitat at Lough Derg (Shannon) SPA as a resource for the regularly-occurring migratory waterbirds that utilise it.

Attributes & targets: None specified.

Potential direct effects: The proposed development would not be located within this European site, it is not relevant to the maintenance of any European site there would be no potential for direct effects, given the separation distance.

Potential indirect effects: The construction works associated with the proposed development and its future operational use will take place entirely within the boundaries of the development site which is located to the E of Lough Derg. During the ***construction phase*** the proposed drainage arrangements and mitigation measures would ensure that no deleterious materials (incl. fine sediments, accidental chemical or fuel spills & other pollutants) would discharge to the lake. The small scale and design of the project would ensure that the project would not introduce any additional barriers to bird mobility or a collision risk. Further potential indirect effects relate to the uncontrolled introduction of invasive species from works vehicles which could give rise to the colonisation of habitats by invasive species, with possible resultant impacts on SCI waterbirds and their prey species, in the absence of mitigation. There is no potential for any additional significant indirect adverse effects during the ***operational phase*** as the project would comprise a small-scale replacement building on amenity lands that are already accessible to the public, and a Visitor Management Plan would be prepared.

Mitigation measures: The Stage 2 Appropriate Assessment report contains a comprehensive list of mitigation measures which would serve to protect the SPA and its SCI species from adverse effects, and these include: -

- Preparation of a CEMP.
- Adherence to best construction practices.
- Surface water management measures to protect water quality.
- Preparation of a Visitor Management Plan.
- Signage & Litter Management

Potential in-combination effects: Potential indirect in-combination effects relate to damage to SCI species because of accidental spillages and sediment run off during the construction works, and the introduction of invasive species from construction vehicles. This could give rise to pollution, contamination and/or colonisation with resultant impacts on water quality and the availability of prey species for SCI species, having regard to the various plans or projects in wider area (incl. agriculture, domestic discharges, fishing & recreation) in the absence of mitigation. However, having regard to the implementation of the aforementioned mitigation measures and suggested conditions (see below) I am satisfied that there would be no adverse cumulative effects on the European site or its SCI species.

Residual effects: None anticipated post mitigation.

NIS Omissions: None noted. The CEMP refers to the project site as being located within this SPA (pg.7) and also adjacent to it (pg. 15). However, having examined the NPWS maps I am satisfied that the project site does not lie within the SPA.

Suggested conditions: All works should take place outside the bird breeding season. A Project Ecologist should be appointed to oversee the works. All plant and machinery used during the works should be thoroughly cleaned and washed before delivery to the site to prevent the spread of hazardous invasive species and pathogens.

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, subject to the implementation of mitigation measures outlined above.

7.14. Appropriate Assessment Conclusions:

Having regard to the foregoing I consider that it is reasonable to conclude on the basis of the information on the file, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, that the proposed development, individually or in combination with other plans and projects would not adversely affect the integrity of the European site no. 004058 or any other European site, in view of the site's Conservation Objectives.

8.0 Recommendation

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

Reasons and Considerations

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

- (a) the EU Habitats Directive (92/43/EEC),
- (b) the European Union (Birds and Natural Habitats) Regulations 2011-2015,
- (c) the Government of Ireland Climate Action Plan, 2021,
- (d) the Southern Regional Economic & Spatial Strategy, 2020,
- (e) 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,
- (f) the conservation objectives, special conservation interests for the Lough Derg (Shannon) SPA (site code: 004058),
- (g) the policies and objectives of the Tipperary County Development Plan, 2022 - 2028,
- (h) the nature and extent of the proposed works as set out in the application for approval,
- (i) the information submitted in relation to the potential impacts on habitats, flora and fauna, including the Stage 2 Appropriate Screening report (NIS), and
- (j) the report and recommendation of the person appointed by the Board to make a report and recommendation on the matter.

Appropriate Assessment:

The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report that Lough Derg (Shannon) SPA (site code: 004058), is the only European Site in respect of which the proposed development has the potential to have a significant effect.

The Board considered the Stage 2 Appropriate Screening report and associated documentation submitted with the application for approval, the mitigation measures contained therein, the submissions and observations on file, and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed development for the affected European Site, namely Lough Derg (Shannon) SPA, in view of the site's conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment. In completing the appropriate assessment, the Board considered, in particular, the following:

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

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

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

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

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

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

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

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

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

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

4. The following nature conservation requirements shall be complied with:
 - (a) The works shall be carried out in compliance with the Inland Fisheries Ireland document “Guidelines on protection of fisheries during construction works in and adjacent to waters.”
 - (b) No vegetation removal shall take place during the period 1st March to 31st August (inclusive).
 - (c) A pre-construction otter survey shall be carried out by a suitably qualified ecologist.
 - (d) A pre-construction bat survey shall be carried out by a suitably qualified ecologist during the active bat season.
 - (e) Any destruction of bat roosting sites or relocation of bat species shall be carried out by a suitably qualified ecologist under a Derogation Licence granted by the Minister for Housing, Local Government and Heritage.

Reason: In the interest of biodiversity and nature conservation.

5. A suitably qualified ecologist shall be retained by the local authority to oversee the site set up and construction of the proposed development and implementation of the mitigation measures relating to ecology. The ecologist shall be present during construction works. Upon completion of works, an ecological report of the site works shall be prepared by the appointed ecologist to be kept on file as part of the public record.

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

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

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

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

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

Karla Mc Bride

Senior Planning Inspector

08th September 2022