



An
Bord
Pleanála

Inspector's Report

ABP-314589-22

Development	Construction of a replacement bridge and associated works crossing the River Bandon
Location	Townlands of Farnanes and Dromdrasdil, Dunmanway, Co. Cork
Local Authority	Cork County Council
Type of Application	Application for approval made under section 177AE of the Planning & Development Act, 2000 (as amended) (local authority development requiring appropriate assessment)
Prescribed Bodies	None
Observer(s)	None
Date of Site Inspection	7 th February 2023
Inspector	Anthony Kelly

1.0 Introduction

- 1.1. Cork County Council is seeking approval from An Bord Pleanála to undertake the demolition of the existing Farnanes bridge and replace it with a precast concrete portal frame culvert bridge upstream of Bandon River 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.
- 1.2. Section 177AE of the Planning & Development Act, 2000 (as amended), requires that where an appropriate assessment (AA) 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 & Development Act, 2000 (as amended), requires that the AA 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 AA shall be carried out by the Board before consent is given for the proposed development.

2.0 Site and Location

- 2.1. The site is located approx. 6.5km north west of Dunmanway in south west Co. Cork.
- 2.2. The existing single-span bridge across part of the upper reach of the Bandon River is located on a local road. It has a span length of 5.75 metres with a carriageway width of 2.82 metres. The road is typical of a local road in a rural area and the existing bridge is not capable of accommodating two-way traffic. The existing bridge is at gradient with the local road on both approaches. There are limited soft road verges on approach with road boundaries comprising trees and hedgerow vegetation. The river flows in a north easterly direction. The view west of the bridge is quite open with a view of agricultural land with higher ground further to the west. The view to the east of the bridge is enclosed by vegetation.
- 2.3. The site has an area of approx. 0.01 hectares.

3.0 Proposed Development

3.1. It is proposed to:

- demolish the existing Farnanes bridge and replace it with a precast concrete portal frame culvert bridge, and,
- resurface and regrade the approach road along the L4612.

3.2. The precast units are to be founded on reinforced concrete spread foundations. Steel parapets will be added to the bridge with a vehicle restraint system along the local road approach.

3.3. The application is accompanied by:

- an 'Environmental Impact Assessment Screening' (EIA screening) prepared by Mott MacDonald and dated July 2022,
- an 'Ecological Impact Assessment' (EclA) prepared by Mott MacDonald and dated April 2022,
- a 'Screening for Appropriate Assessment' (screening for AA) prepared by Mott MacDonald and dated May 2022,
- a 'Natura Impact Statement' (NIS) prepared by Mott MacDonald and dated May 2022,
- an 'Archaeological Assessment' prepared by Maurice F. Hurley dated March 2022,
- design drawings prepared by Mott MacDonald, and,
- A list of prescribed bodies notified of the proposed development and copies of public notices.

3.4. The proposed works are expected to take two months.

4.0 Planning History

4.1. The Cork Co. Co online planning viewer does not show any planning application at or in the vicinity of the subject site.

5.0 Legislative and Policy Context

5.1. The EU Habitats Directive (92/43/EEC)

5.1.1. This Directive deals with the conservation of natural habitats and of wild fauna and flora throughout the EU. Articles 6(3) and 6(4) require an AA 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)

5.2.1. 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 article 42(21) that where an AA 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 AA under its own code of legislation is required to take account of the AA of the first authority.

5.3. Planning & Development Act, 2000 (as amended)

5.3.1. Part XAB sets out the requirements for the AA of developments which could have an effect on a European site or its conservation objectives.

- Section 177AE sets out the requirements for the AA of certain development carried out by or on behalf of local authorities.
- Section 177AE (1) states where an AA is required in respect of development the local authority shall prepare, or cause to be prepared, a NIS in respect of the proposed development.
- Section 177AE (2) states that a proposed development in respect of which an AA is required shall not be carried out unless the Board has approved it with or without modifications.
- Section 177AE (3) states that where a NIS 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 AA.

- Section 177V (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:
 - (i) the likely effects on the environment,
 - (ii) the likely consequences for the proper planning and sustainable development of the area,
 - (iii) the likely significant effects on a European site.

5.4. Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities (2010)

5.4.1. This guidance is intended to assist and guide planning authorities in the application of articles 6(3) and 6(4) of the Habitats Directive as it relates to their roles, functions, and responsibilities in undertaking Appropriate Assessment of plans and projects. It applies to plans and projects for which public authorities receive an application for consent, and to plans or projects which a public authority wishes to undertake or adopt.

5.5. Cork County Development Plan 2022-2028

5.5.1. The relevant provisions of the plan are set out below.

5.5.2. Objective TM 12-8 (Traffic/Mobility Management and Road Safety) (e) – Improve the standards and safety of public roads and to protect the investment of public resources in the provision, improvement and maintenance of the public road network.

5.5.3. Section 12.16 (Strategic Road Infrastructure Investment) states ‘The County’s road network facilitates movement of goods, services and people and maintaining, improving and protecting its strategic function is therefore crucial for the County’s economy and society’.

5.5.4. Objective TM 12-13 (National, Regional and Local Road Network) (l) – Ensure that all route upgrades are planned, designed and constructed to be compliant with EU environmental directives and to minimise impacts on biodiversity, built heritage and landscape.

6.0 Consultations / Observations

6.1. The application was circulated to the following prescribed bodies by Cork Co. Co.:

- Minister for Housing, Local Government and Heritage
- Inland Fisheries Ireland
- Irish Water
- An Taisce
- An Chomhairle Ealaíon (Arts Council)
- The Heritage Council

6.2. No observations or submissions have been received by the Board, either from the consultees outlined above, or from any other third party on foot of the public notices.

7.0 Assessment

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

7.1.1. The proposed development is for the replacement of an existing bridge over the Bandon River along a local road in a rural area. The planning authority initially intended to repair the bridge, but a load assessment concluded that the bridge had insufficient structural capacity and a replacement was required. Temporary acrow supports (a vertical support system which is used to support overhead loads) support the sagging steel girders which support the concrete slab infill of the bridge.

7.1.2. The planning framework relevant to the proposed development is limited. Objective ZU 18-4 of the Cork County Development Plan 2022-2028 states 'Where lands have not been explicitly zoned, in the Plan the specific zoning shall be deemed to be that of the existing use of the lands ...' The site area, given its rural location, has not been explicitly zoned, and therefore the existing land use i.e. public road/bridge, is the relevant land use.

7.1.3. Objective TM 12-8 of the plan refers to improving the standards and safety of public roads and protecting the investment of public resources in the improvement and

maintenance of the public road network. Given the current insufficient infrastructural capacity of Farnanes Bridge, and the necessity to use acrow supports, I consider the proposed development would improve and maintain the road network at this location. As set out in detail in section 7.3 of this inspector's report the proposed development would also be consistent with objective TM 12-13 in that the proposed upgrade is compliant with EU environmental directives i.e. the AA process is addressed in detail.

7.1.4. Having regard to the foregoing, I consider that the proposed development would be consistent with the relevant planning framework and would accord with the proper planning and sustainable development of the area.

7.2. The likely effects on the environment

7.2.1. An EIA screening report was submitted with the application. It states that the proposed development does not fall under any category in schedule 5 of the Planning & Development Regulations, 2001 (as amended) or section 50(1)(a) of the Roads Act, 1993 (as amended) for a mandatory EIA report (EIAR) and the applicant does not consider that a sub-threshold EIAR is required.

7.2.2. I agree with the applicant that there is no applicable class or threshold in schedule 5 of the Regulations. However, section 50 (1)(a) of the Roads Act does set out mandatory thresholds for EIA for roads. The most relevant threshold is subsection (iv) which refers to 'any prescribed type of road development consisting of the construction of a proposed public road or the improvement of an existing public road'. Prescribed roads, as set out in article 8 of the Roads Regulations, 1994 are:

- the construction of a new road of four or more lanes, or the realignment or widening of an existing road so as to provide four or more lanes, where such new, realigned or widened road would be eight kilometres or more in length in a rural area, or 500 metres or more in length in an urban area; or,
- the construction of a new bridge or tunnel which would be 100 metres or more in length.

7.2.3. The proposed development does not involve the construction of a new road of four or more lanes, or the realignment or widening of an existing road so as to provide four or

more lanes. However, it does involve the construction of a new bridge, albeit substantially below the 100 metres threshold.

- 7.2.4. Section 50 (1)(b) permits the Board to require an EIAR should it consider that any other public road development would be likely to have significant effects on the environment. In this regard I have taken into consideration the documentation submitted with the application. In relation to criteria outlined in schedule 7 of the Planning & Development Regulations, the characteristics of the proposed development are a straightforward, stand-alone, minor road/bridge project with an uncomplicated design. It would not result in any pollution, waste, or emissions, or any nuisances other than standard unavoidable nuisance during the construction phase. There is no use of natural resources and no undue risk of major accidents or disasters. The site location is on the local road network in a rural area and the proposed use would be the same as the current use i.e. a 5.75 metres long public road/bridge. The site is not in an environmentally sensitive area, notwithstanding the submission of the NIS. The submitted Archaeological Assessment has indicated no issue with the proposed development. Finally, there would be no likely significant effects on the environment. The development is for a replacement bridge which would replicate existing conditions, it would not attract any additional vehicular traffic, and it would improve safety for all users.
- 7.2.5. Having regard to the foregoing, the proposed development is substantially below any relevant EIA threshold. I am satisfied that the proposed development would not result in such significant effects on the environment that would warrant sub-threshold EIA under the Roads Act, and I do not consider preparation of an EIAR is required. The need for EIA can therefore be screened out.
- 7.2.6. A construction programme is set out in section 2.2 of the applicant's EIA screening report. This includes closure of the road, demolition of bridge deck and abutments, excavation of the riverbank to foundation formation level and pouring of the concrete foundation first on one bank then on the other, reinstatement of riverbed, installation of portal culvert and wingwalls, reinstatement of riverbanks, installation of drainage, backfilling of the culvert and wingwalls, installation of parapet, regrading of approach roads to tie in to the finished bridge deck level, resurfacing of the road, and installation of the steel barrier for the approach vehicle restraint system.

7.2.7. Aspects of the proposed development that could have effects on the environment are addressed in this section of the inspector's report. The impact of the proposed development on European site(s) is specifically considered in section 7.3. Documentation submitted with the application, the site inspection etc. all inform the assessment of likely environmental effects.

1. Demolition of existing bridge, architectural heritage, and archaeology

7.2.8. The applicant's EIA screening report states a load assessment of the existing bridge concluded that it had insufficient structural capacity, and a replacement was required. The bridge is currently supported with acrow props. It is a single-span bridge comprising a steel beam structure with concrete infill slab and reinforced concrete abutments. The bridge is in a relatively low-lying area and is only visible when in close proximity to it. The western parapet is a concrete wall while the eastern side largely has horizontal steel railings. It is the type of bridge typical of a rural local road network.

7.2.9. An Archaeological Assessment has been submitted with the application. It includes a riverine survey. The survey only detected signs relating to modern construction and repair of the bridge. The existing bridge appears to be of 1920s/1930s construction and likely replaced an earlier bridge. There is no trace of earlier structures. 'The structural issues with the bridge are not in doubt and repair/replacement is essential'. The assessment notes that the bridge is not a recorded monument, nor is it listed in the National Inventory of Architectural Heritage. I also note that it is not contained within the record of protected structures in the Cork County Development Plan 2022-2028. There are two recorded monuments 55 metres (standing stone) and 73 metres (fulacht fiadh) upstream on the northern bank of the river. The assessment considers that there will be no impact on the archaeological resource of the site or its environs, and considers the existing bridge to be a modern structure. The assessment concludes that no mitigation further to the survey is required and 'There is no reason ... the works should not proceed as proposed without further restriction relating to archaeology'

7.2.10. I note, from the documentation submitted, that the applicant originally intended to repair the bridge, rather than construct a replacement. However, it has been concluded that a replacement is required. Having regard to this, and to the detail contained in the submitted Archaeological Assessment, I consider that the principle of the replacement

of the bridge is acceptable, and its loss would not have any undue impact on the archaeological or historic fabric of the area.

2. Proposed design and vehicular traffic

7.2.11. The proposed bridge would have concrete foundations, comprise a precast concrete portal frame culvert bridge, and have steel parapets. A vehicle restraint system would be provided on both road approaches and both approaches would be regraded and resurfaced.

7.2.12. The proposed replacement bridge is relatively similar in character and scale to the existing bridge and, like the existing bridge, it would not be a visually prominent structure. The road width across the proposed bridge is similar to both approaches to it. There is approximately 1.8 metres between the base of the proposed bridge and the riverbed with a 6 metres span across the underside of the proposed bridge. The existing and proposed road levels are shown on the 'Elevations and Sections' drawing submitted with the application. At the bridge location the proposed road is approx. 121mm higher than the current road. The parapets are 1.25 metres high comprising six vertical and four horizontal steel beams with mesh infill. There are grassed areas either side of the bridge parapet on top of the portal frame structure. Another feature of the design is the provision of a vegetated mammal ledge beneath the bridge to accommodate the passage of mammals. The vehicle restraint systems are 30 metres long on the driver's side approach to the bridge and 15 metres long on the driver's side exit of the bridge.

7.2.13. It is stated in the EIA screening report that the proposed bridge design is in accordance with Transport Infrastructure Ireland (TII) guidance. The proposed bridge is a replacement bridge. I note that it would not, in itself, generate any additional traffic and its purpose is to allow the safe continuation of access on this part of the local road network.

7.2.14. I consider that the modest design proposed is appropriate to this rural location and I consider it to be acceptable in terms of traffic safety.

3. Biodiversity

7.2.15. An EclA has been submitted with the application. Direct impacts of the proposed works include vegetation clearance along the banks, possible debris from demolition works falling into the watercourse, temporary noise and vibration impact (anticipated noise

levels at various distances are set out), dust (generation is considered to be of small scale with a zone of impact within 50 metres), lighting (potential for temporary lighting during construction but no permanent lighting at operational stage), and surface water runoff.

- 7.2.16. The EclA 'was informed by a detailed desk and field survey...' though surveys were carried out outside of the optimal season for vegetation survey and outside the bird breeding season, on 21st March 2019 and 25th February 2022. A freshwater pearl mussel survey was carried out on 14th June 2019. Apart from the road and river habitat the immediate vicinity comprises improved agricultural grassland (local importance, lower value) generally south of the river to the west and wet grassland (local importance, higher value) to the north. To the east of the bridge was oak-ash-hazel woodland (county importance). Strips of scrub and hedgerow along the roadside are of local importance, higher value. Aquatic habitat identified in the aquatic survey is outlined.
- 7.2.17. Table 4.3 of the EclA outlines ecological valuation and identification of key ecological receptors (KER). The ecological value of each KER is assigned. These related to designated sites (Bandon River SAC being the most important, of international importance), habitats and flora (the watercourse the most important, being of national importance), and fauna (freshwater pearl mussel, salmonids, and lamprey being the most important, of national importance). One invasive species was noted; rhododendron, though it was outside the footprint of the proposed works.
- 7.2.18. In a do-nothing scenario the bridge would collapse into the river, potentially damaging species and habitats downstream due to debris, and blocking fish passage upstream.
- 7.2.19. Should works proceed, at the construction phase and in the absence of mitigation, there would be potential for permanent significant negative effect to the Bandon Valley South of Dunmanway pNHA, a designated site hydrologically linked downstream by way of the Bandon River, and which overlaps partially with Bandon River SAC. Tables 5.1 and 5.2 in the EclA tabulate the impacts to both KER habitats and species of local importance, higher value and higher, where it may affect that particular habitat or species. This excludes wet grassland as no works are proposed within that habitat, and frogs as frogspawn was recorded in wet grassland outside the works footprint. Impacts include habitat removal (minor area of woodland, scrub, and hedgerow),

instream works, surface water emissions/pollutants, disturbance, and loss of bat roosts, squirrel dreys, or breeding bird nesting habitat. No operational phase effects are anticipated as the road would return to use as before.

7.2.20. Relatively standard and well-proven construction mitigation measures are set out in some detail in section 6 of the EclA. Mitigation is set out related to vegetation clearance, aquatic species and instream habitat protection, pollution control, turbidity monitoring, silt fencing, silt traps, stockpiling, dewatering, concrete, temporary decking and sheeting, water level monitoring, hydrocarbons, and measures for protecting otters, badgers, bats, red squirrel, breeding birds, and Kerry slug. I note that, among the numerous mitigation measures set out, there is reference to an ecological clerk of works, and works being carried during particular time periods. The mitigation measures set out also use definitive language i.e. the terminology used is 'shall' and 'will' etc. rather than 'should' and 'could' etc.

7.2.21. Having regard to the EclA submitted and to the extensive mitigation measures proposed to be utilised on site, I am satisfied that the impact of the proposed demolition and bridge rebuild has been appropriately considered by the applicant, and I am satisfied that the mitigation measures are capable of being successfully implemented. This is a relatively common construction project. I do not consider that the proposed development would have an undue adverse impact on the biodiversity of the area.

4. Overall conclusion

7.2.22. Having regard to the foregoing, I consider that the demolition of the existing bridge is acceptable in principle, and it would not have any undue adverse impact on the architectural or archaeological heritage of the area. The scale and design of the proposed bridge is appropriate to its function as a local road bridge as part of the local road network in a rural area. It would not generate any additional traffic. The mitigation measures proposed as part of the construction phase would not result in any undue adverse impact to the biodiversity of the area. I consider that the proposed development would not have any significant likely effects on the environment.

7.3. The likely significant effects on a European site

7.3.1. The areas addressed in this section are as follows:

- Compliance with article 6(3) of the EU Habitats Directive
- The Natura impact statement (NIS)
- Appropriate Assessment (AA)

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

7.3.2. The Habitats Directive deals with the conservation of natural habitats and of wild fauna and flora throughout the EU. 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 AA 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.

7.3.3. The proposed development is not directly connected to or necessary to the management of any European site and is therefore subject to the provisions of article 6(3).

The Natura impact statement (NIS)

7.3.4. The application documentation includes a NIS which describes the proposed development, the project site, and the surrounding area. The NIS was accompanied by a screening for AA which concluded that a Stage 2 AA was required. The NIS outlines the methodology used for assessing potential impacts on the habitats and species of the European site (Bandon River SAC) that has the potential to be affected by the proposed development. It predicts the potential impacts for the site, it suggests mitigation measures, and assesses in-combination effects with other plans and projects.

7.3.5. The NIS was informed by ecological surveys carried out on site on 21st March 2019 and 25th February 2022, an on-site pearl mussel survey, and a desk top study. I note that an EIA screening report and an EclA were also submitted with the application.

- 7.3.6. The NIS concludes that 'Based on the assessment of the proposed development alone and in combination with other projects and plans, including the implementation of mitigation measures, it can be concluded that no adverse effects on the integrity of any European sites will arise, in view of the site's conservation objectives'.
- 7.3.7. Having reviewed the NIS and the supporting documentation, I am satisfied that it provides adequate information in respect of the baseline conditions and does clearly identify the potential impacts. In relation to the use of best scientific information and knowledge I note that the applicant has not used the conservation objectives series document prepared for the affected European site i.e. Bandon River SAC. I expand on this issue in paragraphs 7.3.19-7.3.21. Details of mitigation measures are summarised in section 7 of the NIS. I am satisfied that the information is sufficient to allow for AA of the proposed development.

Appropriate Assessment (AA)

Stage 1 Screening

- 7.3.8. Section 177AE of the Planning & Development Act, 2000 (as amended), sets out the requirements for AA of development carried out by or on behalf of a local authority. Section 177AE(3) states that where a NIS 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 AA. There is no requirement for the Board to undertake screening in these cases as it is presupposed that the local authority has established the need for AA through its own screening process (unless issues arise as to the adequacy or otherwise of the screening determination by the applicant). Nonetheless, it is considered prudent to review the screening process to ensure alignment with the site(s) brought forward for AA and to ensure that all site(s) that may be affected by the development have been considered.
- 7.3.9. Notwithstanding, having regard to the information available, the nature, size, and location of the proposed development, its likely direct, indirect, and cumulative effects, the source-pathway-receptor principle, and sensitivities of the ecological receptors, the only European site that I considered relevant for inclusion for the purpose of initial screening for the requirement for Stage 2 AA on the basis of likely significant effects,

is Bandon River SAC. Bandon River SAC is located approx. 6.2km north east of the subject site at its nearest point as the crow flies, and approx. 7.7km hydrologically.

7.3.10. There are no other European sites that the site has a hydrological pathway to. The next closest European site is Derryclogher (Knockboy) Bog SAC (site code 001873), which is approximately 14.6km to the north west and which has the qualifying interest of blanket bog. I agree with the applicant’s screening report that there is no other European site within the zone of influence of the proposed development.

7.3.11. Table 1 – European sites considered for stage 1 screening.

European site	Qualifying interests (QI)	Distance
Bandon River SAC (site code 002171)	<p>Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation [3260]</p> <p>Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, Alnion incanae, Salicion albae) [91E0]</p> <p>Freshwater pearl mussel [1029]</p> <p>Brook lamprey [1096]</p>	Approx. 7.7km hydrologically downstream

7.3.12. Based on my examination of the NIS report, supporting information such as the EIA screening report and EclA, the National Parks & Wildlife Service (NPWS) website, aerial and satellite imagery, the scale of the proposed development and likely effects, the separation distance and functional relationship between the proposed works and the European site, the site’s conservation objectives, and taken in conjunction with my assessment of the subject site and the surrounding area, I conclude that stage 2 AA is required for Bandon River SAC.

Stage 2 AA

Bandon River SAC (site code 002171)

Description of site

- 7.3.13. Bandon River SAC consists of relatively short adjoining stretches of the Bandon and Caha rivers. They flow in a southerly direction to the east of Dunmanway. The site contains good examples of two habitats listed on annex I of the E.U. Habitats Directive i.e. alluvial forest and floating river vegetation, and supports populations of four annex II species i.e. otter, salmon, brook lamprey and freshwater pearl mussel. Only the latter two are species for which the site has been specifically designated.
- 7.3.14. Though the Bandon River rises a few kilometres from the subject site and is approx. 72km in length, entering the sea at Kinsale Harbour, the only SAC relevant to its river length or marine reach comprises an approx. 8km stretch to the east of Dunmanway. An approx. 3.5km stretch of the Caha River is also included within the SAC boundary before it flows into the Bandon in the northern area of the SAC.

Conservation objectives for the site

- 7.3.15. The conservation objectives are set out in the 'Conservation Objectives Series Bandon River SAC 002171' document published by the NPWS. Site specific attributes, measures, and targets for each QI are set out. The overall aim of the Habitats Directive is to maintain or restore the favourable conservation status of habitats and species of community interest. Of the four QIs of the SAC, the conservation objectives are to maintain the favourable conservation condition of brook lamprey, and to restore the favourable conservation conditions of the other three QIs.
- 7.3.16. Table 5.1 of the applicant's NIS contains a list of the QIs and an assessment of whether or not there are potential pathways for significant effect on the QIs from the proposed development. The NIS considers that there are potential pathways to affect:
- Watercourses of plain to montane levels ... - The site synopsis for the SAC notes that floating river vegetation is found along the length of the river. Table 5.1 considered that a short-term degradation in water quality may cause indirect effects to floating river vegetation which occurs downstream. However, further to this, an assessment of the potential for adverse effects on this species set out in table 6.1 of the NIS indicates that there is no potential for adverse effects

on the site integrity. It is somewhat unclear as to why it was considered there was a potential effect on this QI in table 5.1, but subsequently discounted. Given the presence of this species adjacent to the bridge I consider that this QI should be further considered, despite the fact that I do not think this species within the SAC itself would be affected given the hydrological distance.

- Freshwater pearl mussel – This QI is found upstream and downstream of the works area, but not within the direct footprint of works. There is potential that this local population forms part of the population within the SAC. There is potential for impacts through degradation in water quality.
- Brook lamprey – Though no suitable spawning habitat was recorded within the works footprint there is potential for adult lamprey associated with the SAC to migrate through at least on occasion and for spawning habitat to be located downstream. There is potential for impacts caused by surface water run-off.

7.3.17. Table 5.1 of the applicant's NIS excludes alluvial forests with ... from being potentially affected. The section of the river where the habitat is found, according to the site synopsis, is approx. 13km away, hydrologically. An effect is excluded because of the distance. I consider that, although a hydrological connection does exist, having regard to the relatively limited extent and temporary duration of the works proposed, the nature of the QI, the distance involved and the potential for dilution of any pollution event that may occur, I agree that this QI can be excluded from further consideration. Notwithstanding, proposed mitigation measures associated with the QIs that do have potential for impacts would also indirectly apply to this qualifying habitat.

7.3.18. Apart from the 'watercourses of plain to the montane levels ...' I agree with the applicant's NIS in terms of the QI habitats and species that could be affected by the proposed development or that can be excluded from further consideration.

7.3.19. Notwithstanding the foregoing, page 17 of the applicant's NIS states 'Site-specific conservation objectives have not yet been developed for the Bandon River SAC. Reference was therefore made (in the NIS) to site-specific conservation objectives available for other European sites with corresponding qualifying interests. An assessment of the potential impacts identified ... to adversely affect the integrity of the SAC was undertaken in relation to the attributes, measures and targets that would be

expected to define the favourable conservation condition of the qualifying interests of the Bandon River SAC’.

7.3.20. I am unclear as to the applicant’s NIS in this regard as the Conservation Objectives Series document for the SAC, which is dated 6th August 2019, outlines specific attributes, measures, and targets, for all four QIs of Bandon River SAC. In relation to differences between the conservation objectives series document for Bandon River SAC and the information submitted in the applicant’s NIS relating to the three relevant QI species I note the following:

- *Watercourses of plain to montane levels* ... (table 6.1 in the NIS). There are nine attributes in the conservation objective series document –
 - The measures and targets cited in the NIS are the same as those for Bandon River SAC for the attributes habitat area, habitat distribution, and typical species.
 - The targets cited in the NIS are broadly similar, though not identical, to those for Bandon River SAC for the attributes hydrological regime: river flow, hydrological regime: groundwater discharge, substratum composition: particle size range, and floodplain activity.
 - The target for the attribute riparian habitat is different between the conservation objectives series document and the NIS.
 - An attribute cited in the conservation objective series document that is not contained in the NIS is water quality.
 - Attributes cited in the NIS that are not contained in the conservation objectives series document are hydrological regime: tidal influence, and water quality: nutrients.
- *Freshwater pearl mussel* (table 6.2 in the NIS). There are thirteen attributes in the conservation objectives series document –
 - The measures and targets cited in the NIS are the same as those for Bandon River SAC for the attributes population structure: recruitment, population structure: adult mortality, substratum quality: oxygen availability, hydrological regime: flow variability, and host fish.

- The measures and/or targets cited in the NIS are broadly similar, though not identical, to those for Bandon River SAC for the attributes population size, suitable habitat: extent/condition, water quality: macroinvertebrate and phytobenthos (diatoms), and substratum quality: filamentous algae (macroalgae); macrophytes (rooted higher algae)/sediment.
- The target for the attribute distribution is different between the conservation objectives series document and the NIS.
- An attribute cited in the conservation objectives series document that is not contained in the NIS is fringing habitat: area and condition.
- *Brook lamprey* (table 6.3 in the NIS). There are five attributes in the conservation objectives series document –
 - The measures and targets cited in the NIS are the same as those for Bandon River SAC for the attributes distribution, population structure of juveniles, and extent and distribution of spawning habitat.
 - The measure cited in the NIS is broadly similar, though not identical, to that for Bandon River SAC for the attribute availability of juvenile habitat.
 - The target for the attribute juvenile density in fine sediment is different between the conservation objectives series document and the NIS.

7.3.21. The foregoing compares the actual attributes, measures, and targets of the conservation objectives series document for Bandon River SAC, as opposed to that presented in the applicant's NIS. In my view, notwithstanding the non-use of the most up-to-date data available, I consider the following potential direct and indirect impacts have been adequately described in the NIS and using the conservation objectives series document for Bandon River SAC would not alter the conclusion presented.

Potential direct impacts

7.3.22. The NIS considers that given the location of the proposed works outside the SAC boundary there are no potential direct impacts. I concur with the NIS in this assessment having regard to the hydrological distance between the works site and the SAC boundary.

Potential indirect impacts

- 7.3.23. This NIS considers that there is potential for indirect impacts as short-term degradation in water quality during the construction phase may cause indirect effects to downstream watercourses of plain to montane levels ..., freshwater pearl mussel, and brook lamprey.
- 7.3.24. The NIS considers that any deterioration in water quality as a result of the proposed works would be assimilated within the watercourse prior to reaching the SAC boundary. However, ranunculus spp. were recorded immediately adjacent to the proposed works area. In addition there are ex-situ populations of freshwater pearl mussel downstream of the bridge, and surface water runoff could also affect brook lamprey downstream.
- 7.3.25. I consider the potential direct and indirect impacts have been adequately described in the NIS, notwithstanding the non-use of the conservation objectives series document. It is clear that the quality of surface water discharge to the river is the only issue of concern given the nature of the relevant QI species.

Mitigation measures

- 7.3.26. Mitigation measures are set out in section 7 of the applicant's NIS. The mitigation measures relate to mitigation against degradation in water quality and are set out under headings of general, sediment control (including sub-headings of turbidity monitoring, silt fences, silt traps, and reinstatement), stockpiling material, dewatering excavations, concrete, temporary decking and sheeting, water level monitoring, and hydrocarbon control. There is a substantial overlap with the mitigation measures as set out in the EclA. I note that operational phase mitigation is also proposed, which does not currently exist at the bridge. Filter drains will be installed on both carriageway verges on both approaches and connected to a petrol interceptor prior to outfall.
- 7.3.27. The NIS considers these mitigation measures will reduce environmental impact beyond the works footprint and prevent uncontrolled runoff of surface water emissions/pollutants/sediment and demolished materials. These are considered to be proven, best practice mitigation measures by the applicant. Their implementation would be suitably monitored.
- 7.3.28. I consider that the proposed mitigation measures are appropriate and have a high degree of likely success. The proposed development is a relatively routine

construction project and these are relatively standard and well-proven mitigation measures. I also note that the mitigation measures are described with definitive language i.e. the terminology used is 'shall' and 'will' etc. rather than 'should' and 'could' etc.

Residual effects / further analysis

7.3.29. In consideration of the outlined mitigation measures, I am satisfied that no residual impact is anticipated.

Potential in-combination effects

7.3.30. The NIS considers that there are no planning applications of scale in the general works area. Having reviewed the Cork Co. Co. website and the Department of Housing, Local Government and Heritage's EIA map portal I consider this remains the case. The NIS refers to Shehy More windfarm approx. 4km away, which has been constructed. Reference is also made to the Cork County Council Bridge Rehabilitation Project where the closest bridge is approx. 6km away. The NIS considers that the proposed development does not have the capacity to act in-combination with any other plan or project such as to cause likely significant effects.

7.3.31. Having regard to the online resources referred to, I concur that the proposed development, which is relatively limited in terms of its nature and scale, in this rural area, would not be likely to have any in-combination effects together with any other project.

NIS omissions

7.3.32. I have referred previously to the inconsistency between the attributes, measures, and targets of the three relevant QI species as contained in the conservation objectives series document and that contained within the applicant's NIS. Notwithstanding, I consider that a robust stage 2 AA can be and has been carried out based on the NPWS data and the information contained within the submitted NIS.

Suggested related conditions

7.3.33. Given the hydrological distance of the proposed works from the SAC, and the relatively limited nature and scale of the proposed development, I do not consider any specific related conditions are necessary in addition to the mitigation measures proposed.

Conclusion

7.3.34. Notwithstanding the applicant's omission from the NIS of what appears to be the most up-to-date and specifically relevant conservation objectives series document I consider that the information contained within the NIS, together with the NPWS's 'Conservation Objectives Series Bandon River SAC 002171' document, have been used to carry out this robust stage 2 AA of the proposed bridge replacement works. The only connection between the works site and the SAC boundary is hydrologically, and there is an approximately 7.7km separation distance between both. Given the relatively limited scale of the proposed works, the relatively short construction period, and the relatively routine nature of the proposed construction works, as well as the likelihood that any unclean surface water runoff would be entirely assimilated by the watercourse prior to reaching the SAC boundary, I am confident that the proposed development would not have any undue impact on the site integrity of Bandon River SAC. I am also satisfied that the mitigation measures proposed would adequately protect ex-situ populations of freshwater pearl mussel, and any migrating brook lamprey in the vicinity of the works site. Species of watercourses of plain to montane levels ... would be similarly protected by the proposed mitigation measures.

Appropriate Assessment (AA) conclusion

7.3.35. Having regard to the foregoing, I consider that it is reasonable to conclude on the basis of the information on the file, and other available information, which I consider adequate in order to carry out a Stage 2 AA, that the proposed development, individually or in combination with other plans and projects, would not adversely affect the integrity of the European site no. 002171, 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 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 Communities (Birds and Natural Habitats) Regulations 2011 (as amended),
- (c) the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the likely significant effects of the proposed development on a European Site,
- (d) the conservation objectives and qualifying interests for Bandon River SAC (site code 002171),
- (e) the policies and objectives of the Cork County Development Plan 2022-2028,
- (f) the nature and extent of the proposed works as set out in the application for approval,
- (g) the information submitted in relation to the potential impacts on habitats, flora, and fauna, including the Natura impact statement, and,
- (h) 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 Bandon River SAC (site code 002171) is the only European site in respect of which the proposed development has the potential to have a significant effect.

The Board considered the Natura impact statement and associated documentation submitted with the application for approval, the mitigation measures contained therein, and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed development for the affected European site, namely Bandon River SAC, in view of the site's conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an appropriate

assessment. In completing the appropriate assessment, the Board considered, in particular, the following:

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

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

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European 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 adversely impact on the cultural, archaeological, and built heritage of the area, would not interfere with the existing land uses in the area, and would improve the standard and safety of the public road. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

9.0 Conditions

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

mitigation measures set out in the Natura impact statement or any conditions of approval require further details to be prepared by or on behalf of the local authority, these details shall be placed on the file and retained as part of the public record.

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

2. The mitigation and monitoring measures outlined in the plans and particulars relating to the proposed development, including those set out in section 7 of the Natura Impact Statement and section 6 of the Ecological Impact Statement, shall be implemented in full or as may be required in order to comply with the following conditions. 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, and in the interest of public health.

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

Reason: In the interest of protecting the environment.

4. Prior to the commencement of development, details of measures to protect fisheries and water quality of the river systems shall be outlined and placed on file. Full regard shall be had to Inland Fisheries Ireland's published guidelines for construction works near waterways (Guidelines on Protection of Fisheries during Construction Works in and Adjacent to Waters, 2016). A

programme of water quality monitoring shall be prepared in consultation with the contractor, the local authority, and relevant statutory agencies and the programme shall be implemented thereafter.

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

5. Plant and machinery used during the works shall 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 site.

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

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

Anthony Kelly

Planning Inspector

2nd October 2023