



An  
Bord  
Pleanála

## Inspector's Report ABP-314621-22

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<b>Development</b>	Horse racetrack and associated infrastructure, buildings, and associated site development works. The planning application is accompanied by a Natura Impact Statement.
<b>Location</b>	Ballykisteen, Gotinstown, Acraboy
<b>Planning Authority</b>	Tipperary County Council
<b>Planning Authority Reg. Ref.</b>	22456
<b>Applicant(s)</b>	Tipperary Race Company PLC.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant</b>	Mattie and Bernie O'Grady
<b>Observer</b>	None.
<b>Date of Site Inspection</b>	18 <sup>th</sup> April 2023.

**Inspector**

Peter Nelson

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## 1.0 Site Location and Description

- 1.1. The site is adjacent to the Limerick Junction settlement and is accessed off the main Tipperary/Limerick Road (N24). The site is adjacent to the Limerick Junction Railway Station. The site is approximately 5km from Tipperary Town.
- 1.2. The stated site size is c.61.9 hectares and includes the existing racetrack, stable blocks, stadium, parking areas, restaurant and associated racecourse facilities. The existing racecourse buildings are in the southeastern corner of the site. The racecourse is accessed by four entrances off the main Tipperary/Limerick Road (N24) which runs along the site's southern boundary.
- 1.3. A line of railway cottages back onto the southern and southeastern boundaries of the site. A smaller line of cottages facing onto the N24 is located northwest of the site. A dormer bungalow facing the N24 is adjacent to the racecourse over flow car park entrance. There are agricultural lands to the north and northwest of the site. The Ballykisteen Hotel and Golf Course is located west of the site on N24.
- 1.4. The grassland site comprises the racetrack and maintained areas around the stands and buildings. A row of tall poplar trees is along the edge of the racetrack to the south of the site. There are several other mature trees within the site. The boundaries of the majority of the site are made up of hedgerows and native tree lines.

## 2.0 Proposed Development

- 2.1. The development consists of the following:
  - An All-Weather Horse Racetrack integrated around the existing turf track to include a new 2.2km long sand-based track and a 3-furlong sprint chute extension, a 3.2m wide Gallop including all associated site infrastructure such as railings, start locations and other ancillary infrastructure,
  - A new Underpass to All Weather and Turf Track,

- Surface water drainage system to new track inc. storm water attenuation pond and stormwater retention pond located inside the existing turf track,
- An attenuation pond to the northwest of the new all-weather track, modifications to the existing turf track to facilitate the new track,
- A dedicated 3.0 to 3.5m wide circulation track to the perimeter of the new track for emergency and service vehicles,
- A new underpass for movement of vehicles from outer to inner track areas, treatment and upgrade to existing site boundaries,
- Demolition of existing stable block (60 stables) and erection of new stable blocks comprising 82 stables and assoc. works,
- Demolition of Ancillary Building of 18m<sup>2</sup>,
- Removal of existing parade ring (1,265m<sup>2</sup>) and construction of new parade ring (1,565m<sup>2</sup>) and assoc. works,
- Demolition of maintenance shed of 180m<sup>2</sup> and construction of new maintenance shed of 360m<sup>2</sup>,
- The provision of a 1no. permanently fixed steel tower of 10m in height together with 7 no. of vehicle hardstands to facilitate televisions and communications requirements,
- New LED floodlighting ranging in height from 12 to 34m to the entire perimeter of the new track and assoc. cabling/ducting,
- New LED lighting to the proposed stable block and adjacent areas,
- New ESB infrastructure inc. MV / LV Substation, MV Switch Room, Transformer Room and LV Switch room,
- Consolidation of existing 4no. vehicular access points from the N24 into 3No. access points and internal modifications to carpark and internal circulation routes,
- Proposed surface water drainage to new All-Weather Track, including culverting and/or diverting of the existing watercourses, water ring main

and assoc. hydrants to facilitate watering of the existing turf track served by the proposed new well, including the submersible pump chamber and above-ground control kiosk,

- Landscaping, including hedgerow and tree removal,
- Decommissioning of the existing foul treatment system and a new connection to Irish Water infrastructure,
- New signage at the site boundary along the N24 and all associated site works, including security offices, fencing, embankments, ducting and site services,
- A Natura Impact Statement accompanies the planning application.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

On 19th August 2022, Tipperary County Council granted permission for the proposed development subject to 16no. conditions.

Conditions of note include No.2, which requires the implementation of the recommendations contained in the Road Safety Audit, condition No. 5, which states that the proposed floodlighting cannot operate between the hours of 22.00 and 0.700, condition no.6, which relates to landscaping, condition no.8 which relates to proposed finishes and conditions no.10 and 11 which relate to construction works.

#### **3.2. Planning Authority Reports**

##### **3.2.1. Planning Reports**

The planner's report dated 19<sup>th</sup> August 2022 reflects the decision to grant. The application was assessed under the South Tipperary County Development Plan 2009 as varied. The main points can be summarised as follows:

- Having regard to the 'Open space/Amenity' and the 'Village Centre' zoning, the high degree of accessibility and the established use, the development is considered acceptable in principle.

- From a siting or design perspective, there are no concerns with the overall layout or design of the all-weather track, new gallop, or ambulance track.
- The TII and Mid-West Road Designs Office raise no concerns with the lighting impact on the existing or planned N24. The submitted lighting assessment of the light spill demonstrates lighting will not impact the amenity of nearby residences.
- The scope and conclusion of the Landscape Visual Impact Assessment are acceptable as the development would not have a significant visual impact from any designated scenic routes, protected views, prospects or features of significance or any feature of architectural/cultural heritage significance in the wider area.
- The number of entrances serving the site from the N24 is reduced from 4 to 3, which is acceptable. The submitted Traffic & Transportation Assessment raised no traffic impact issues or concerns with the development.
- Subject to conditions, the proposed water supply, surface water and wastewater arrangements are considered acceptable.
- There are two archaeological sites within the site boundary. The scope of the submitted Archaeological Assessment is considered acceptable.
- The scope, considerations and conclusions of the submitted Flood Risk Assessment are acceptable.
- Sufficient information has been included with the application to make an informed assessment of the development.
- The operation noise environment will not change significantly due to the development.
- The proposed development complies with the South Tipperary County Development Plan 2009 policies and objectives. It will not adversely impact the area's character or the amenities of the adjoining properties in the vicinity.
- A preliminary examination of the development's nature, size and location concluded that an EIAR is not required.

- The Planning Authority considered that the proposed development, with the implementation of the mitigation measures outlined in the NIS would not give rise to negative effects on the conservation objectives of the Lower River Shannon SAC, Philistown Marsh or any Natura 2000 site.

### 3.2.2. Other Technical Reports

The Mid-West National Road Design Office report dated 19th July 2022 considers no conflict with the proposed development and the N24 Cahir to Limerick Junction Project.

### 3.3. **Prescribed Bodies**

The report received from Iarnrod Eireann dated 29th July 2022 recommends the attachment of conditions.

The report received from Transportation Infrastructure Ireland on 18th July 2022 states that the proposed development would adversely affect the operation and safety of the national road network as the planning application cannot demonstrate that the proposed development will not have a detrimental impact on the capacity, safety or operational efficiency of the national road network in the vicinity of the site. Concerning the control of frontage development on national roads, the proposed development would be at variance with national policy.

An additional report from Transportation Infrastructure Ireland on 5th August 2022 states that the authority will rely on the planning authority to abide by official policy in relation to development on/affecting national roads subject to conditions.

The report received from the Irish Aviation Authority dated 14th July 2022 has no observation on the application.

### 3.4. **Third Party Observations**

3.4.1. There was one observation received on the planning application from the Appellant.

3.4.2. The main points raised in the observation can be summarised as follows:



- Inadequacy of planning application drawings.
- Inadequacy of public notices.
- There is a lack of evidence of confirmation from Irish Water that it is feasible to provide the appropriate services.
- The overall scale of the proposed lighting will seriously injure the enjoyment of the family home and amenities within the curtilage of their site.
- Concern relating to the positioning of the TV tower/hardstand behind their property.
- Insufficient details of the TV tower and associated lighting have been submitted; therefore, it is difficult to ascertain the impact of the structure.
- Objection to the positioning of the parade ring.
- Objection to the Substation/Switch Room's positioning close to their boundary.
- The increase in race meetings from 11 to 30no. per annum will seriously impact the enjoyment of relative privacy in their garden.
- The closure of entrance no.4 will increase traffic to entrance no.1.
- The Roads and Traffic design within the application is premature, pending the TII final design for the N24 upgrade works.
- The application did not have regard to the Draft Tipperary County Development Plan 2022-2028, which includes an objective for a single entrance for the entire site.
- The increased noise pollution due to increased race meetings will cause increased inconvenience.
- The proposed development will represent a towering monstrosity that will be an eyesore day and night.
- Details of the construction phase are required before granting planning permission.

- The proposed development is overly dominant and incongruous in its setting and will result in an unacceptable impact on the enjoyment of their family home.

## 4.0 Planning History

**P.A. Ref:** 18/601387

Permission was granted on 28th February 2019 for the construction of a single-storey extension to the existing canteen, including toilet facilities and all associated site work, subject to 5no. conditions.

**P.A. Ref:** 16/600320

Permission was granted on 8th July 2016 for a "totem" sign to the front of the racecourse and re-alignment/replacement of palisade fencing to allow sight lines to be improved subject to 4no conditions.

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. The Tipperary County Development Plan 2022-2028 is the operative Development Plan for the area. This plan came into effect on 22<sup>nd</sup> August 2022.

### 5.1.2. Zoning

Most of the site is located within the settlement boundary of Limerick Junction. The remainder of the site to the north and northwest are outside the settlement boundary.

The majority of the site within the boundary is on lands zoned 'Amenity'.

### 5.1.3. Designations

There are two National Monuments on the site:

- TS058-037: An Enclosure that has been levelled and is not visible at ground level.
- TS058-037: Field System that has been landscaped and incorporated into the racecourse and is not visible at ground level.

#### 5.1.4. Policies and Objectives

**11 – 12:** In assessing proposals for new development to seek to protect, support and conserve the geological heritage sites of Tipperary and their value as outlined in the Tipperary Audit of Geological Heritage Sites: (GSI/TCC, 2019).

**11 – 18:** Ensure that new development does not result in significant noise disturbance and to ensure that all new developments are designed and constructed to minimise noise disturbance in accordance with the provisions of the Noise Action Plan 2018 and relevant standards and guidance that refer to noise management.

**11 – 19:** Ensure that new development does not result in significant disturbance as a result of light pollution and to ensure that all new developments are designed and constructed to minimise the impact of light pollution on the visual, environmental and residential amenities of surrounding areas.

**12 – 6:** (a) Facilitate a limited level of new accesses, or the intensified use of existing accesses to the national road network, on the approaches to, or exit from urban centres that are subject to a speed limit zone between 50kmph and 60kmph, otherwise known as the transition zone noting the provisions of TII Publication Standard DN-GEO-03084 'The Treatment of Transition Zones to Towns and Villages on National Roads.'

(b) Such accesses will be considered where they facilitate orderly urban development and would not result in a proliferation of such entrances, leading to a diminution in the role of these transitional zones.

(c) A Road Safety Audit, prepared in accordance with the Design Manual for Roads

and Bridges (TII, 2010) shall be submitted, where appropriate.

**13 – 4:** Safeguard sites, features and objects of archaeological interest, including Recorded Monuments, National Monuments and Monuments on the Register of Historic Monuments, and archaeological remains found within Zones of Archaeological Potential located in historic towns and other urban and rural areas. In safeguarding such features of archaeological interest, the Council will seek to secure their preservation (i.e., in situ or in exceptional circumstances preservation by record) and will have regard to the advice and recommendation of the Department of Arts, Heritage and the Gaeltacht.

Limerick Junction Settlement Strategy

**SO4:** To support the delivery of a Masterplan to redevelop the Limerick Junction racecourse complex to provide for a range of public amenities and services.

**SO7:** To facilitate the future development of the Tipperary Racecourse lands in accordance with the following principles:

- a) A plan-led and evidence-based strategy is agreed in accordance with the Section 28 guidelines 'Spatial Planning and National Roads: Guidelines for Planning Authorities' (2012), prior to the submission of any subsequent planning application.
- b) A single access point shall be provided from the N24 and shall cater for the entire area. A traffic impact assessment and road safety audit will be required to demonstrate that the proposed development is acceptable in the context of impact on the carrying capacity of the National Route.
- c) The design and layout of development proposals for the site shall consider the village's character and the area's visual amenity.
- d) Proposals shall include a comprehensive phasing plan for the overall development of the lands.
- e) The development of the lands shall be subject to a Flood Risk Assessment and flood risk management measures shall be incorporated into the design of the proposed scheme.

## 5.2. Natural Heritage Designations

The following two Natura Sites are significant:

- Philipstown March SAC (001847) c.7.25km
- Lower River Shannon SAC (002165) c.12.69km

## 5.3. EIA Screening

I considered that the proposed development is not 'Urban Development and does not fall under Class 10 (b)(iv) Part 2, Schedule 5 of the Planning and Development Regulations. As the ambulance track is an integral part of the proposed racetrack, I do not consider it a 'Private Road' and therefore does not come under Class 10(dd).

It is noted that the applicant has submitted Section 7 information and carried out a sub-threshold assessment. I consider this erroneous as the proposed development does not fall within a class of development set out in Part 1 and Part 2, Schedule of the Planning and Development Regulations. Therefore a sub-threshold Assessment is not required.

In conclusion, as the proposed development does not fall within a class of development set in out in Part 1 and Part 2, Schedule 5 of the Planning and Development Regulations, the need for environmental impact assessment can be excluded at preliminary examination, and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The main points of appeal can be summarised as follows:

- Insufficient information has been included with the application, so the application should be deemed invalid.
- Inadequate information and drawings of the light poles have been submitted, and the Appellant's concerns have been ignored.
- The impact of the TV Tower has not been adequately detailed.

- The Lighting Impact Assessment report did identify light overspill on the Appellant's property.
- The proposed sub-station appears to be located on the Appellant's percolation area.
- It has not been demonstrated that the proposed development will not be at variance with the official policy for National Roads.
- The planning authority has ignored the proposed increased noise impact of the proposed development.
- The visual impact of the proposed development on the Appellant's property has not been adequately addressed.
- Concern relating to a post-planning condition relating to Construction Management.

## 6.2. Applicant Response

The applicant has submitted a response to the appeal. The main points can be summarised as follows:

- As the Planning Authority allowed five weeks to elapse following the lodging of the application, the decision was made within the requisite timeframe allowed.
- It is maintained that the proposed lighting scheme will not adversely impact the residential amenity of the Appellant's property.
- The applicant accepts the condition relating to reducing light scatter outside the boundaries and limiting the lighting operation hours as attached to the notification of grant of permission.
- The closest lighting columns to the rear of the Appellant's property are located over 20m from their rear boundary.
- The lighting is focused towards the track and away from the Appellant's dwelling and boundary.

- The lighting fixtures are fitted with cowls to prevent light spill, and there is no opportunity for light spill into the Appellant's property or dwelling.
- The lighting has been designed in accordance with the *Chartered Institute of Building Services Engineers (CIBSE) Lighting Guide 4: Sports Lighting*.
- The proposed planning drawings depict the TV tower's height and design.
- The TV camera located to the rear of the appellant's boundary is devoid of any permanent vertical structure. On some race days, a camera would be erected in this location via the roof of a transporter van (or similar).
- It is proposed to reorientate the parade ring in an oval shape in the general area of the existing parade ring. The graphic highlighted by the Appellant was for illustrative purposes only.
- An ESB transformer currently exists at the racecourse.
- The proposed substation is c.18m from the Appellant's property boundary.
- Issues relating to the Appellant's percolation area are a civil matter.
- There will be no operational impact on properties as the ICNIRP guidelines will not be exceeded at the Appellant's property.
- The access adjacent to the Appellant's property is to serve an overflow car park which can accommodate approximately 1200no. cars.
- The Traffic and Transport Assessment junction analysis indicates that Junction will operate within capacity under all scenarios.
- Regarding the impact on the N24, based on pre-planning engagement, the absence of formal objections from statutory consultees and the conclusions of the Planning Authority, the proposed development can be successfully implemented.
- A Baseline Noise Monitoring & Assessment Report has been carried out, which concludes that the racecourse noise emissions are insignificant and therefore are considered negligible on a noise impact bases.
- The application site is not located within an area of landscape or amenity designation.

- A supplementary Landscape and Visual Impact Assessment has been lodged.
- The assessment concludes that the impacts of the Proposed Development, including the vertical elements, are acceptable in landscape and visual terms.
- A comprehensive Construction and Environmental Management Plan (CEMP) was lodged with the application.
- Condition no.6 of the planning permission taken with the CEMP and specified mitigation measures will ensure the development can take place without adversely impacting the Appellants' property.
- The proposed development is considered to be in accordance with national, regional and local planning policies.

### 6.3. Planning Authority Response

Observations on the appeal were received from Tipperary County Council and can be summarised as follows:

- The points made in the 3<sup>rd</sup> Party submission were fully considered in the assessment of PI Ref: 22/456 and in the making of the decision to grant permission under the same.
- The Planning Authority considered adequate information was provided on which to make an informed assessment as to the nature, extent, appearance, scale of development and its proximity to and relationship with 3<sup>rd</sup> Party properties.
- The Planning Authority does not accept that the level of information provided in the application was lacking and rejects point no.2 made in the submission that the application should be deemed invalid.
- The Planning Authority request An Bord Pleanála to uphold the decision to grant permission for the development.

### 6.4. Observations

- None



## 7.0 **Assessment**

7.1. The Planning Authority considered this proposal under the South Tipperary County Development Plan 2009 as varied. As noted in section 5. the Tipperary County Development Plan 2022-2028 is the operative Development Plan for the area. This plan came into effect on 22nd August 2022.

7.2. Having examined the application details and all other documentation on file, carried out a site inspection, and having regard to the relevant local/regional/national policies and guidance, I consider that the key issues on this appeal are as follows:

- Content of the Planning Application
- Impact on Residential Amenity
- Impact on the Visual Amenity of the area.
- ESB Sub Station
- Traffic Impact
- Construction Management
- Appropriate Assessment

### 7.3. **Content of Planning Application**

7.3.1. I am satisfied that there are adequate details and drawings, especially regarding the proposed lighting, on this appeal to make an informed recommendation. I note that the planning application's content was considered acceptable by the planning authority and that the planning application was considered valid in accordance with the Planning and Development Regulations.

### 7.4. **Impact on Residential Amenity**

7.4.1. A significant aspect of the development is the proposed use of flood lighting to illuminate the all-weather track. I note that high-efficiency LED floodlights are to be used, and a support assessment and technical documentation have been provided. I

note the comments raised in the appeal regarding light overspill on the appellant's property. I consider Drawing number D2202-IN2-SW-00-DR-E-0018 "Electrical Services Installation Race Course Layout Isolines Lux Levels", prepared by IN2 Dublin, to be the most important piece of supporting documentation. The drawings show that at the rear boundary of the appellant's dwelling, the lux range from the proposed floodlighting is 9.2-16.9 lux. It is noted that there are no windows to the rear of the appellant's dwelling save for a small Velux window on the rear roof slope. The Institute of Lighting Professionals Guidance Notes for the Reduction of Obtrusive Light applies a maximum value for vertical illuminance of 5 lux in a rural area to nearby dwellings, specifically windows. In response to the appeal, it is stated that a 4.9 Lux will be achieved at the appellant's rear façade. I note that the amenity area of the appellant's dwelling is to the side and will come under the influence of the light spill from the existing public road lighting. I consider that the proposed lighting is acceptable and will not result in significant disturbance due to light pollution on the residential amenity of the appellant's dwelling or other dwellings in the area.

- 7.4.2. To protect residential amenity, if the Board is minded to grant permission, I recommend that a condition be attached to ensure that the floodlight shall not operate between 22.00 and 07.00.
- 7.4.3. The issue of increased noise due to the proposed increased number of race meetings has been raised in the appeal. I note that a Tipperary Racecourse Baseline Noise and Monitoring & Assessment Report has been submitted as part of the applicant's response to the appeal. The report concluded that the noise level in the vicinity of the appellant's dwelling was dominated by the traffic noise emissions from the N24 national road and that the noise level emissions from the racecourse during periods of a race day were mostly inaudible above the ambient noise levels in the vicinity of the appellant's dwelling and were not statistically different from periods of inactivity. While it is proposed to increase the number of race meetings, the report states that the noise emission from race meetings would remain at the same level. I consider that the proposed development will not result in significant noise disturbance and, therefore, will not result in a significant loss of residential amenity to the appellant's dwelling.

## 7.5. Impact on the Visual Amenity of the Area.

- 7.5.1. The appellant raises concerns about the impact on the visual amenity of the proposed development, especially the floodlighting, the TV tower, and switch room. The floodlighting columns adjacent to the appellant's property: A20 and A21, are 30.48m and 33.53m and are located over 24m and 20m, respectively. I note the submission of a supplementary Landscape and Visual Impact Assessment. As stated above, the appellant's dwelling does not contain windows along the northeastern façade facing the racecourse. I note that in Volume 3 Landscape Character Assessment & Schedule of View and Routes of the Tipperary Development Plan, the site is located in the River Suir Central Plan landscape area, of which the stated guideline for development is to *'facilitate development that continues established patterns of use and settlement'*. While I recognise that the proposed floodlighting will have a visual impact, the structures are slim and have no significant overbearing impact. Regarding the above and considering the existing racecourse use, I consider that the visual impact of the floodlights will not be significant and will not, therefore, be seriously injurious to the residential amenity of the property.
- 7.5.2. The appellant raises concerns about the lack of information on the TV hardstand area adjacent to their dwelling. The hardstand area is approximately 35 meters from the boundary with the appellant's property. The hardstand comprises of an 8m by 4m stone base and a compacted layer. On race days only, a camera mounted on the roof of a transporter van fitted with a camera mount will be parked on the hardstand area. The vehicle is approximately 2m high, and the camera an additional 1m. Given the current use and the visual nature of the site, I consider that the proposed hardstand area will not cause a significant negative impact on the visual amenity of the area or the appellant's property.
- 7.5.3. Drawing no.11318-2028P02 details the permanent TV tower on the racecourse's northern boundary. The steel beam and column structure has a height of 9.1m. Given the tower's location and distance from the appellant's dwelling, I consider that the proposed TV tower will not negatively impact the visual amenity of the appellant's dwelling.

## **7.6. ESB Substation**

- 7.6.1. The proposed substation will be approximately 10m from the appellant's boundary. The appellant is concerned that the sub-station is located near or on top of their percolation area. The proposed sub-station is situated within the site in the applicant's ownership. The appellant has not submitted any details of the location of their percolation area. I consider this a civil matter to be resolved between the parties regarding the provisions of s.34(13) of the 2000 Planning and Development Act.
- 7.6.2. Concerns have been raised in the appeal about the possible Electromagnetic Radiation from the substation. It is ESB's policy to comply with the requirements of 1999/519/EC regarding the limitation of exposure of the general public to electromagnetic fields. I, therefore, consider that the ESB substation will meet European Standards and is, therefore, acceptable.

## **7.7. Traffic Impact**

- 7.7.1. I note that there are no new access points to the N24 and that access point No.4, closest to Limerick Junction, is to be closed. Access Point No.2 is to be maintained for emergency vehicles only, with the existing signage removed. The site is located within a 60km default urban speed zone.
- 7.7.2. I note that it is the policy of the Tipperary County Council to ensure that the redevelopment of the racetrack provides a single access point from the N24, which would cater for the entire area. I considered that as the proposed development is for a new track and the replacement of stables, it is not the complete redevelopment of the racetrack. I consider that at this juncture, given the current layout, it would be challenging to create a single entrance serving all parking areas. I therefore, consider that the proposed entrance arrangement to the racetrack is acceptable in principle.
- 7.7.3. A Road Safety Audit and a Traffic and Transport Assessment have been submitted. I note that the conclusion of the Traffic and Transport Assessment indicates that there will be negligible queues and minimal delays during the peak hours for the peak operational hours (Afternoon Peak 15:00 to 16:00 and PM peak 16:00 to 17:00).

- 7.7.4. The appellant has concerns about the overlapping visibility splay of access point no.1 and their property's entrance. Access point no.1 severs the overflow car parking only. This is an existing issue. I note the Road Safety Audit recommends that when required, consideration should be given to the suitable Temporary Traffic Management measure to accompany racing events. I consider that this will help alleviate any potential issues arising from the increased number of race meetings at this entrance.
- 7.7.5. I note the report on the application from the Mid-West National Road Design Office states that part of the site lies within the preferred option corridor for the N24 Cahir to Limerick Junction project. It is noted on the report that the new all-weather track does not add any new constraints, as the existing track is already considered a constraint. I note that the N24 Project Team see no conflict between the proposed development and the project.
- 7.7.6. I note that the original report from TII raised concerns relating to the insufficient data submitted with the application to demonstrate that the proposed development will not have a detrimental impact on the capacity, safety or operational efficiency of the national road network in the vicinity of the site. However, after the submission of the Road Safety Audit, the TII have no objection to the proposed development subject to the attachment of a condition. If the Bord is minded to grant permission, I recommend that a condition be attached to ensure that the recommendations of the Road Safety Audit are implemented.
- 7.7.7. While I recognise the number of race meetings will increase significantly, I consider that the proposed development will not significantly increase the traffic during race meetings. I also consider that closing access point No.4 and maintaining access point No.2 for emergency vehicles only will help to rationalise and improve ingress/egress to the site. Subject to carrying out the recommendations recommended in the Road Safety Audit, I consider that the proposed development will not be prejudicial to traffic safety.

## 7.8. **Construction Management**

The appellant has concerns about post-planning conditions dealing with the potential impact of the construction of the development on their property. I note the contents

of the submitted Construction and Environmental Management Plan. This plan has been expanded upon in the applicant's response to the appeal. I have assessed the Construction and Environmental Management Plan and consider that the plan adequately details the mitigation measures and monitoring proposals that, if adhered to, will ensure no serious negative impacts on the appellant's property.

## 7.9. **Appropriate Assessment**

### 7.9.1. Article 6(3) of the Habitats Directive

The requirements of Article 6(3) as related to appropriate assessment of a project under part XAB are considered fully in this section. The areas addressed in this section are as follows:

- Compliance with Article 6(3) of the EU Habitats Directive
- The Natura Impact Statement
- Screening for appropriate assessment
- Appropriate assessment of implications of the proposed development on the integrity of each European site

### 7.9.2. Compliance with Article 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 before consent can be given.

### 7.9.3. The Natura Impact Statement and Supplemental Information

The planning appeal is accompanied by an AA Screening report and a NIS dated the 29<sup>th</sup> May 2022 by MKO, which describes the proposed development, the project area

and the surrounding area. The construction management plan is also a key document in terms of the implementation of mitigation measures.

All ecology and appropriate assessment related documents have been prepared by staff ecologists from MKO and informed by desk study, including reference material from the NPWS website and database and by field surveys.

A description of the ecological multidisciplinary walkover survey and otter survey is provided.

The receiving environment is described in line with standard methodology (Fossitt 2000), and the results of the field surveys are presented in NIS Section 4.2.

The scientific assessment to inform AA is presented in section 5 of the NIS. The conservation objectives of the various qualifying interest features and special conservation interest species are listed. Impact pathways are identified and the assessment of likely significant effects which could give rise to adverse effects on site integrity presented in Tables 6.1-6.10.

Mitigation measures are presented in the NIS section 5.2.1.3 and detailed in the Construction Management Plan (CMP) and invasive species management plan. An assessment of potential in-combination effects is presented in Section 7 of the NIS.

The NIS concludes that, following an examination, analysis and evaluation of the relevant information, including the nature of the predicted effects from the proposed development and mitigation measures to avoid such effects, the proposed development will not adversely affect the integrity of any European site, either alone or in combination with other plans and projects.

#### 7.9.4. Screening for Appropriate Assessment

I have considered the proposed development in light of the requirements of S177U of the Planning and Development Act 2000 as amended.

The subject site is at Limerick Junction, approximately 7.25km from the closest European Site: Philipston Marsh SAC.

The proposed development comprises a new all-weather track, floodlighting and stable buildings on a c. 62-hectare site containing an existing turf track, stands and associated infrastructure.

Two European Sites are located within a potential zone of influence of the proposed development. These are:

*Table 1 European Sites within a potential zone of Influence.*

European Site	Qualifying Interest	Distance	Connections
<p><b>Philipston Marsh SAC</b> <b>(001847)</b></p>	<p>Transition mires and quaking bogs [7140]</p>	<p>7.25km</p>	<p>No Surface Water Connection.  Site and SAC located within the same groundwater catchment</p>
<p><b>Lower River Shannon SAC</b> <b>(0021650)</b></p>	<p>Sandbanks which are slightly covered by seawater all the time [1110]  Estuaries [1130]  <b>Mudflats and sandflats not covered by seawater at low tide [1140]</b>  Coastal lagoons [1150]  Large shallow inlets and bays [1160]  Reefs [1170]  Perennial vegetation of stony banks [1220]  Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]  Salicornia and other annuals colonising mud and sand [1310]  Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330]</p>	<p>8.31km</p>	<p>Potential hydrological connectivity via small watercourses within the site  (Only freshwater habitats and species likely to be within zone of influence – in bold)</p>



	<p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p><b>Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation [3260]</b></p> <p>Molinia meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>) [6410]</p> <p>Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i>, <i>Alnion incanae</i>, <i>Salicion albae</i>) [91E0]</p> <p><i>Margaritifera margaritifera</i> (Freshwater Pearl Mussel) [1029]</p> <p><b><i>Petromyzon marinus</i> (Sea Lamprey) [1095]</b></p> <p><b><i>Lampetra planeri</i> (Brook Lamprey) [1096]</b></p> <p><b><i>Lampetra fluviatilis</i> (River Lamprey) [1099]</b></p> <p><b><i>Salmo salar</i> (Salmon) [1106]</b></p> <p><i>Tursiops truncatus</i> (Common Bottlenose Dolphin) [1349]</p> <p><b><i>Lutra lutra</i> (Otter) [1355]</b></p>		
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I note that the applicant included more European sites in their initial screening consideration: sites within 15km of the development site. I have only included those sites with any possible ecological connection or pathway in this screening determination.

Potential impacts and effects considered are presented in **Table 2**.

Table 2 Potential impacts arising from the proposed development.

Potential impacts and zone of influence of effects	European sites within Zone of Influence
<p><b>Habitat loss and Fragmentation</b></p> <p>Habitat loss and modification confined to proposed development site only</p>	No
<p><b>Habitat degradation as a result of change in vegetation composition</b></p> <p>Habitat degradation confined to proposed development site only</p>	No
<p><b>Habitat degradation as a result of hydrological pathway and hydrogeological impacts</b></p> <p>Habitats downstream of the proposed development site (release of pollutants and contaminants to adjoining watercourses)</p>	<p>Yes</p> <p>Lower River Shannon SAC</p> <p>Weak connection- same groundwater catchment as Philipston Marsh SAC</p>
<p><b>Adverse effects on species mortality as a result of hydrological pathways impacts.</b></p> <p>Species occurring in habitats downstream of the proposed development site or present within the local watercourse- including Salmon, Lamprey species, Otter (release of pollutants and contaminants to adjoining watercourses)</p>	<p>Yes</p> <p>Lower River Shannon SAC</p>
<p>Habitat degradation as result of introducing/spreading non-native invasive species. e.g. Spreading of Japanese Knotweed during construction.</p>	<p>Yes</p> <p>Lower River Shannon SAC,</p>

7.9.5. Screening Determination

Having regard to the information presented in the AA Screening Report, NIS, submissions, the nature, size and location of the proposed development and its likely direct, indirect and cumulative effects, the source pathway receptor principle and sensitivities of the ecological receptors, I concur with the applicant's screening determination that there is potential for significant effects on Lower Shannon SAC. This European site is ecologically connected to the development site via the local network of streams.

Due to the hydrological connectivity of the site to the SAC and the potential for construction pollutants to enter the system, it is reasonable to conclude that impacts generated at the development site could affect habitats and species reliant on maintenance of water quality. As screening is considered a pre-assessment stage, further analysis is required to determine the significance of such impacts and to apply any mitigation measures to exclude adverse effects. Therefore, Lower Shannon SAC is brought forward for inclusion in the AA.

Regarding the Philipston March SAC, I consider that given the development type and construction requirements, there is a very low possibility of impacts of such magnitude that could result in significant effects on this SAC in view of the site's conservation objectives. As outlined, any potential pollution-related impacts during construction, for example, would exert the greatest effect on the European site with potential hydrological connectivity between watercourses within the development site. Given the nature of the construction work proposed and the distance between the subject site and the SAC and the intervening habitats and land use, I do not consider that the proposed development could pose a risk to groundwater dependant habitats of Transition Mires and Quaking Bogs at such a distance. Therefore, I recommend that Philipston Marsh SAC can be removed from consideration as part of the AA and screened out of the AA process.

#### 7.9.6. Appropriate Assessment

The following is an objective assessment of the implications of the proposal on the relevant conservation objectives of the European site based on the scientific information provided by the applicant. It is based on an examination of all relevant

documentation and submissions, analysis and evaluation of potential impacts, findings conclusions. A final determination will be made by the Board.

All aspects of the project which could result in significant effects are assessed, and mitigation measures designed to avoid or reduce any adverse effects on site integrity are examined and evaluated for effectiveness.

#### 7.9.7. Relevant European sites:

In the absence of mitigation or further detailed analysis, the potential for significant effects could not be excluded for:

- Lower River Shannon SAC (002165)

A description of the site and its Conservation Objectives and Qualifying Interests/Special Conservation Interests, including relevant attributes and targets for this site, are set out in the NIS section 4.2.1.2.

I have also examined this site's Conservation Objectives Supporting Documents, available through the NPWS website ([www.npws.ie](http://www.npws.ie)).

The ecological survey recorded otter spraints and a single specimen of an adult brook lamprey along the unnamed stream within the site. Therefore the watercourse is host to species that are associated with the SAC.

As there is potential hydrological connectivity via the small watercourses within the site only those Qualify Interests associated with freshwater habitats of the SAC and mobile freshwater species that may occur outside of the SAC are at any risk from the proposed development. Therefore the AA is confined to the Qualifying Interests listed in Table 3 below. The remainder of the Qualifying Interests have been excluded from the assessment as they are outside the zone of influence of the proposed development.

**Table 3: AA summary matrix for – Lower River Shannon SAC (002165)**

<b>Lower River Shannon SAC (002165)</b>			
Detailed Conservation Objectives available: <a href="https://www.npws.ie/protected-sites/sac/002165">https://www.npws.ie/protected-sites/sac/002165</a>			
		<b>Summary of Appropriate Assessment</b>	
<b>Qualifying Interest</b>	<b>Conservation Objectives</b>	<b>Potential adverse effects</b>	<b>Mitigation measures</b>
<b>Otter</b>	To restore the favourable conservation condition of Otter in the Lower River Shannon SAC	Deterioration of water quality arising from the construction and operational phases of the proposal.	Detailed pollution control measures to protect water quality during construction and operational phases
<b>River Lamprey</b>	To maintain the favourable conservation condition of River Lamprey in the Lower River Shannon SAC	Deterioration of water quality arising from the construction and operational phases of the proposal.	Detailed pollution control measures to protect water quality during construction and operational phases
<b>Brook Lamprey</b>	To maintain the favourable conservation condition of Brook Lamprey in the Lower River Shannon SAC,	Deterioration of water quality arising from the construction and operational phases of the proposal.	Detailed pollution control measures to protect water quality during construction and operational phases

<b>Sea Lamprey</b>	To restore the favourable conservation condition of Sea Lamprey in the Lower River Shannon SAC	Deterioration of water quality arising from the construction and operational phases of the proposal.	Detailed pollution control measures to protect water quality during construction and operational phases
<b>Salmon</b>	To restore the favourable conservation condition of Salmon in the Lower River Shannon SAC	Deterioration of water quality arising from the construction and operational phases of the proposal.	Detailed pollution control measures to protect water quality during construction and operational phases
<b>Water Courses of plain to montane levels with the <i>Ranunculion Fluitantis</i> and <i>Callitricho-Batrachion</i> vegetation</b>	To maintain the favourable conservation condition of Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitricho-Batrachion</i> vegetation in the Lower River Shannon SAC	Deterioration of water quality arising from the construction and operational phases of the proposal.	Detailed pollution control measures to protect water quality during construction and operational phases
<b>Mudflats and sandflats not covered by seawater at low tide</b>	To maintain the favourable conservation condition of Mudflats and sandflats not covered by seawater at low tide in the Lower River Shannon SAC	Deterioration of water quality arising from the construction and operational phases of the proposal.	Detailed pollution control measures to protect water quality during construction and operational phases
<b>Estuaries</b>	To maintain the favourable conservation condition of Estuaries in the Lower River Shannon SAC	Deterioration of water quality arising from the construction and operational phases of the proposal.	Detailed pollution control measures to protect water quality during construction and

			operational phases
<b>Alluvial Forest with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i></b>	To restore the favourable conservation condition of Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> ( <i>Alno-Padion</i> , <i>Alnion incanae</i> , <i>Salicion albae</i> ) in the Lower River Shannon SAC	Deterioration of water quality arising from the construction and operational phases of the proposal.	Detailed pollution control measures to protect water quality during construction and operational phases

Overall conclusion: Integrity test

The applicant determined that following the implementation of mitigation, the construction and operation of this proposed development alone or in combination with other plans and projects will not adversely affect the integrity of this European site.

Based on the information provided, I am satisfied that adverse effects can be excluded for Lower River Shannon SAC. The only ecological connection is via the minor watercourse on the racecourse site. There is a possibility that pollutants arising from the proposed development, if occurring at a sufficient magnitude, could give rise to adverse effects downstream within the freshwater reaches of the Lower River Shannon SAC.

Adverse effects on qualifying interest features from contamination and water quality degradation can be effectively prevented by applying mitigation measures ensuring the protection of the Gortdrum Stream, which connects the site with the Lower River Shannon SAC. I am satisfied that the proposed mitigation measures will prevent adverse effects and ensure site integrity is unaffected.

The proposed development would not delay or prevent the attainment of the Conservation objectives of the Lower River Shannon SAC.

7.9.77. Mitigation Measures and Monitoring

A summary of mitigation measures is presented in the tables above. Full details are provided in the NIS and Construction Management Plan and summarised below. I consider that all measures proposed are implementable and will be effective in their stated aims. Furthermore, an Ecological Clerk of Works will be employed to ensure that measures are implemented as prescribed. A summary of mitigation measures is presented in Table 4 below.

Table 4: Summary of Mitigation Measures to avoid adverse effects on the Lower River Shannon SAC

<p>Measures to protect surface water quality and groundwater quality during construction:</p>	<p>Use of silt fences, Construction compound to be &gt;30m from watercourse, adherence to Guidelines on Protection of Fisheries During Construction Works, use of silt traps, no direct discharge of construction waters to any watercourse or groundwater, refuelling of vehicles in designated area only, good construction practice, designated environmental officer and works to be periodically supervised by an ecologist.</p>
<p>Measures to protect surface water quality during operation:</p>	<p>Foul water to discharge to the public sewer, use of 2 attenuation/soakaway ponds for surface water, Sustainable Urban drainage system, straw and</p>



	waste from stables stored in a covered dung stead
Measures to eradicate/control the spread of non-native invasive species	Invasive species management plan for Japanese Knotweed on site

7.9.79. Appropriate Assessment Conclusion: Integrity Test

In screening the need for Appropriate Assessment, it was determined that the proposal for an All-Weather Horse Racetrack at Tipperary Racecourse had the potential to result in significant effects on Lower River Shannon SAC and that Appropriate Assessment was required in view of the conservation objectives of those sites.

Following a detailed examination and evaluation of the NIS and all associated material submitted with the appeal as relevant to the Appropriate Assessment process, I am satisfied that based on the design of the proposed development, combined with the proposed mitigation measures, adverse effects on the integrity of Lower River Shannon SAC can be excluded with confidence in view of the conservation objectives of those sites.

My conclusion is based on the following:

- Detailed assessment of all aspects of the proposed development that could result in significant or adverse effects on European Sites within a zone of influence of the development site.
- Consideration of the conservation objectives and conservation status of qualifying interest species and habitats.
- Application of mitigation measures designed to avoid adverse effects on site integrity and likely effectiveness of same.
- The proposed development would not undermine the favourable conservation condition of any qualifying interest feature or delay the attainment of

favourable conservation conditions for any species or habitat qualifying interest for these European sites.

## 8.0 Recommendation

8.1. Having regard to the assessment outlined in the preceding sections, I recommend that permission is GRANTED for the development as proposed for the reasons and considerations and subject to the conditions set out below.

## 9.0 Reasons and Considerations

Having regard to the:

- a) the policies and objectives in the Tipperary County Development Plan 2022-2028.
- b) the established uses and planning history on the site and the pattern of existing and permitted development in the area, and
- c) submissions received,

It is considered that, subject to compliance with the conditions set out below that the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application [as amended by the further plans and particulars submitted on 28th July 2022 and by the further plans and particulars received by An Bord Pleanála on 11th October 2022, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the
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	<p>planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Prior to commencement of development, the developer shall undertake a pre-construction invasive species survey and following same shall update the Invasive Species Management Plan for the development site. The Plan shall be submitted by the developer, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of protecting the environment and in the interest of public health.</p>
3.	<p>The construction of the development shall be managed in accordance with a Final Construction and Environmental Management Plan, which shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This plan shall provide inter alia: details and location of proposed construction compounds, details of intended construction practice for the development, including hours of working, noise management measures, details of arrangements for routes for construction traffic, parking during the construction phase, and off-site disposal of construction/demolition waste and/or by-products.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
4.	<p>The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -</p>

	<p>(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,</p> <p>(b) employ a suitably qualified archaeologist who shall monitor all site investigations and other excavation works, and</p> <p>(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.</p> <p>In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p> <p>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.</p>
5.	<p>The floodlights shall be directed onto the playing surface of the all-weather track and away from adjacent housing and public road. The floodlights shall be directed and cowled such as to reduce, as far as possible, the light scatter over adjacent houses and public road.</p> <p>The floodlighting shall not operate between the hours of 22.00 and 07.00.</p> <p>Reason: In the interest of residential amenity and traffic safety.</p>
6.	<p>The existing entrance (labelled no.4 on the site plan drawings) shall be closed off by the erection of a fixed railing to height, profile and finish that matches the existing in place of the existing gate.</p> <p>Reason: In the interest of traffic safety.</p>
7.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of</p>

	<p>the planning authority for such works and services.</p> <p>Reason: In the interest of public health and to ensure a satisfactory standard of development.</p>
8.	<p>The landscaping scheme shown on drg no. 310, as submitted to the planning authority on 05th June 2022, shall be carried out within the first planting season following substantial completion of external construction works.</p> <p>All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p> <p>Reason: In the interest of residential and visual amenity.</p>
9.	<p>Bat roosts shall be incorporated into the site, and the recommendation of the Ecological Impact Assessment report shall be carried out on the site to the written satisfaction of the planning authority and in accordance with the details submitted to the planning authority on 05th June, 2022</p> <p>Reason: To ensure the protection of the natural heritage on the site.</p>
10.	<p>The recommendations contained in the Road Safety Audit report submitted with the planning application shall be implemented as part of the development. All costs arising from implementation of the recommendations that require works to the public road shall be undertaken at the applicant's expense.</p> <p>A schedule of works to be undertaken arising from the Road Safety Audit and a timescale for implementation shall be submitted for the written agreement of the Planning Authority and Roads Authority prior to the commencement of development.</p>

	<p>A Stage 3 Roads Safety Audit shall be carried out on completion of works and a copy of the same shall be forwarded to the Planning Authority on Completion.</p> <p>Reason: In the interest of traffic safety.</p>
11.	<p>The construction of the development shall be managed in accordance with a Final Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide inter alia: details and location of proposed construction compounds, details of intended construction practice for the development, including hours of working, noise management measures, details of arrangements for routes for construction traffic, parking during the construction phase, and off-site disposal of construction/demolition waste and/or by-products.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
12.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p>

	Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.
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I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Peter Nelson  
Planning Inspector

01st June 2023