



An
Bord
Pleanála

Inspector's Report ABP-315101-22

Development	Warehouse unit with ancillary office and associated site works.
Location	Gurtnafleur, Powerstown, Clonmel, Co. Tipperary
Planning Authority	Tipperary County Council
Planning Authority Reg. Ref.	2236
Applicant(s)	Caoimhin Campbell.
Type of Application	Permission.
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Denis & Noirin Dunne Paul & Helen Lonergan Jimmy and Cel Fennessy Maggie O'Brien Linden Ville Edward & Deirdre Ormond
Observer(s)	None.

Date of Site Inspection

31st July 2023.

Inspector

Peter Nelson

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	4
3.0 Planning Authority Decision	4
3.1. Decision	4
3.2. Planning Authority Reports	6
3.3. Prescribed Bodies	7
3.4. Third Party Observations	8
4.0 Planning History.....	10
5.0 Policy Context.....	10
5.1. Development Plan.....	10
5.2. EIA Screening	11
6.0 The Appeal	12
6.1. Grounds of Appeal	12
6.4. Applicant Response	13
6.5. Planning Authority Response.....	14
6.6. Observations.....	14
7.0 Assessment.....	14
8.0 Recommendation.....	36
9.0 Reasons and Considerations.....	36
10.0 Conditions	36
Form 2.....	44
EIA Preliminary Examination.....	44

1.0 Site Location and Description

- 1.1. The site is located at Gurtnafleur, Clonmel, accessed off the L3619 Local Road. The site is at the edge of Clonmel's built-up area. Industrial and commercial units are directly to the south of the site. To the west of the site and on the opposite side of the L3619 are a single-storey dwelling and a construction company's building and site. To the north of the site is a row of three detached dwellings. The Clonmel to Waterford railway line is to the northeast of the site.
- 1.2. The subject site is relatively flat and grassed. It appears that the site is currently being used for agricultural purposes. Part of the front boundary comprises a stone wall with mature trees, and part includes an open post and rail fencing. The other site boundaries are made up of fencing and significant hedging. There are no trees or additional planting within the site. There are two existing agricultural entrances. Electricity cables are crossing the site. The stated site size is 3.8 hectares.

2.0 Proposed Development

- 2.1. Permission is sought for an industrial unit with a floor area of 4910 sqm, 13 car parking spaces and all associated services.
- 2.2. The proposed industrial measures 108m long by 44m wide and has an A-shaped room with a ridge height of 10.6m.

3.0 Planning Authority Decision

3.1. Decision

Tipperary County Council requested the applicant to submit further information on the 7th April 2022 relating to the following:

- Clarity on the nature of the development and staff/traffic numbers.
- Clarity on what is applied for and how the development may be phased.
- Concern with the development location and potential for negative impacts on adjoining residential properties to the north.
- Traffic and Transportation Assessment and Road Safety Audit.

- Surface water drainage and flood risk.
- Accommodation works to ESB stay wire.
- Foul Water pipe crossing private lands.
- Lighting.
- Site Entrance.
- Raising of levels with infill construction material.
- Cycle provision
- Footpath provision on site.

A Natura Impact Statement was also sought pursuant to Section 177T(5) of the Planning and Development Act 2000, as amended.

On the 21st June 2022, Tipperary County Council requested revised public notices and again requested the submission of a Natura Impact Statement.

On the 24th August, Tipperary County Council requested revised public notices stating that a Natura Impact Statement was submitted.

Tipperary County Council granted permission for the proposed development on the 19th October 2022, subject to 13no. conditions.

Conditions of noted include:

- Condition No.1c) requires that the mitigation measures outlined in the Natura Impact Statement, submitted on 29/08/2022, be fully implemented.
- Condition No. 3b) requires that except for the tree at the proposed entrance, all other trees along the site frontage shall be retained and protected from damage during construction and operation of the development.
- Condition No.11 requires, before the commencement of development, that details of the location and level (depth) of the site area subject to previous infilling shall be submitted for written agreement. It also requires that all unauthorised fill material previously imported onto the site be removed and

disposed of to an authorised facility and not reused in the landscaping or reinstatement of the site.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Report dated the 18th October 2022 recommended a grant of permission. The main points raised can be summarised as follows:

- The significant further information reply shows the amended application site boundary and the proposed building position at the site's southern end.
- The building is to be used for warehouse/storage purposes.
- The site occupancy is identified as a maximum of six.
- The development will generate 12 HGV visits per day.
- The revised location mitigates concerns about the impact on the residential amenity of the dwellings north of the site.
- The TIA and RSA demonstrate that the road has adequate capacity to accommodate the development.
- The entrance proposed is acceptable and will ensure the retention of all but one boundary tree.
- The Further Information advises that the site was subject to infilling in 2001/2, which was exempt under Article 8. The infill levels were not more than 1 meter.
- However, a condition is required as no exemption may have been available, applied for, or confirmed.
- After a preliminary examination of the development, the planner concludes that an EIA is not required.
- After AA., the planner concluded that, with the implementation of the mitigation measures identified in the NIS, the development will not

significantly impact the conservation objectives of the Lower River Suir or any Natura 2000 site.

3.2.2. Other Technical Reports

Senior Executive Engineer Borough District

The main points of the report dated the 1st March 2022 can be summarised as follows:

- To achieve adequate sightlines, the existing front stone wall needs to be reduced in height, and all vegetation except the trees needs to be removed.
- The entrance should be relocated to protect an existing line tree.
- The applicant needs to submit revised proposals to address concerns relating to the surface water proposals.

The main points of the response to Further Information dated the 5th July 2022 include the following:

- The entrance should be located 5m further north to avoid a mature tree and protect the remaining trees.
- Revised and additional drawings relating to surface water attenuation tank, hydro-brake, manholes, etc., to be submitted.
- Potential issues with the invert levels of the proposed foul piperun.

In response to Clarification of Further Information, the report dated the 1st September 2022 stated that the proposed car parking figure in the NIS is incorrect.

Senior Executive Engineer: Tramore House Regional Design Office

Reports dated 24th January 2022 and 30th June 2022 state that they see no direct conflict with the proposed development and the development of any options for the N24 Waterford to Cahir Project.

3.3. Prescribed Bodies

Transport Infrastructure Ireland

A report dated 25th January 2022 recommended that a Traffic and Transport Assessment and a Road Safety Audit be carried out. It also noted that the development may generate traffic at peak times at the local junction with the N24 National Road.

A report in response to Further Information dated 21st June 2022 has no objection to the proposed development subject to the attachment of a condition.

3.4. Third Party Observations

Observations were received on the original application, the further information submitted, and the NIS. The main points raised can be summarised as follows:

- Lack of information in the planning application.
- Inadequate details of the management of surface water drainage have been submitted.
- Given the poor percolation characteristics of the site and the unknown composition of the landfill on site, the proposed attenuation could have serious ecological consequences and negatively impact the River Suir SAC.
- The intended use has not been clarified.
- The existing road is unsuitable for the nature and volume of traffic that the site's overall development will generate.
- No development should be considered until the Gurtnafleur Road is upgraded to allow for pedestrian and cycle traffic.
- No Traffic Impact Assessment or Road Safety Assessment has been submitted.
- The development is premature considering the current review of the Draft Clonmel Local Area Plan 2024-2030
- The sequence of the development on site is flawed.
- The proposed development will have an adverse impact on the existing houses to the north.
- The proposed development will appear overbearing and create light pollution.

- The industrial building should be positioned to the south of the site adjacent to the existing industrial complex.
- The proposed development will disturb the animals on the neighbouring farm.
- Potential damage to trees and hedgerows will cause a reduction in biodiversity.
- Loss of trees is contrary to Policy AH9 of the Clonmel and Environs Development Plan 2013.
- The development is not sympathetic to the rural character of the area.
- The proposed entrance does not meet development plan standards.
- Ground levels on site were elevated from soil derived from commercial development to the east of the site.
- A Section 5 declaration should be sought for the land infill.
- No evidence of the type of material used for the infill has been submitted.
- The proposed development is potentially being built on an unauthorised development.
- The submitted TIA does not reference Medite and does not deal with traffic from Medite or the junction impacts this will have.
- The RSA does not address the possible need to assess the entire traffic route.
- The relocation of the proposed building to the southern end of the site is welcomed.
- The applicant has not stated the intention for the rest of the landholding.
- The NIS refers to the proposed use being industrial and not warehousing, as outlined in the cover letter.
- The submitted Natura Impact Statement provided no assessment of infill material to determine the impact on the lower River Suir SAC.

- The proposed outfall pipe and internal underground piped infrastructure create a hydraulic connectivity between the infill material and the adjacent water course via the pipe trenching.

4.0 Planning History

P.A. Reg: PA504 Permission refused on the 27th February 2004 for the construction of an 11,150 sq.m. warehouse with office for industrial and warehousing usage in 6 number of buildings with access road and associated site works including car parking, drainage, and site entrance.

The reason for refusal stated:

"At this time a Local Area Plan is being prepared for Clonmel East by the Planning Authority, therefore it would be premature to grant permission to this development pending the adoption of this Local Area Plan in accordance with the current Clonmel Development Plan, 2022."

5.0 Policy Context

5.1. Development Plan

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

I note that the Planning Authority dealt with the application under the Clonmel and Environs Town Development Plan 2013 (as extended), which was the current plan at the time of the planning decision. I will assess the application under the Clonmel Local Area Plan 2024-2030.

Clonmel Local Area Plan 2024-2030

The Clonmel Local Area Plan was adopted on the 12th February 2024 and came into effect on the 25th March 2024.

In the Clonmel Local Area Plan 2024-2030, the site is zoned 'Employment'. The objective of this zoning is: 'To provide, improve and encourage general enterprise, business development and employment activity, including start up enterprises and tourism. Provide for distribution, warehouse, storage, and logistics facilities where appropriate access to a major road network is available.'

Policies

- Policy 4.1** Support and direct new development proposals that generate high densities of employment towards lands zoned 'Urban Core', 'Mixed Use' and 'Regeneration'.
- Policy 6.4** Support the sequential development of lands zoned for development, and to ensure that provision is made for the orderly expansion into areas that may be zoned in the future. In assessing new planning applications, and on a case-by-case basis, the Council may require the maintenance of a corridor to provide for future connectivity with adjoining un-zoned lands.
- Policy 7.2** Protect and conserve the integrity and ecological and biodiversity value of the River Suir as it runs through the town. Ensure that any development proposals within or adjacent to the river are appropriately assessed to ensure the protection of water quality and river access.

Natural Heritage Designations.

The nearest Natura 2000 site is the Lower River Suir SAC (Site Code 002137) located c. 0.7km south of the site.

5.2. EIA Screening

The proposed warehouse development is located within an urban area on zoned and serviced land. Having regard to the nature, size, and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations, I have concluded at preliminary examination that there is no real likelihood of significant

effects on the environment arising from the proposed development. EIA, therefore, is not required. See Forms 1 & 2 in Appendix 1.

6.0 The Appeal

6.1. Grounds of Appeal

While there is overlap between the grounds of appeal the appellants raised, I shall set them out separately below for clarity.

6.2. Appeal No.1: Denis & Noirin Dunne, Paul & Helen Lonergan, Jimmy & Cel Fennessy and Maggie O'Brien Linden Ville

The main grounds of appeal can be summarised as follows:

- Condition No.11 of the notification of decision references unauthorised fill that was previously imported onto the site and requires removal.
- The site is, therefore, subject to unauthorised development, which the Planning Authority seeks to regulate with this permission.
- The Planning Authority had no jurisdiction to determine the planning application as the application includes a Stage 2 Natura Impact Statement.
- An application for Leave to apply for Substitute Consent should have been sought in advance of any application for permission.
- The development of an industrial warehouse at the scale proposed should be refused on the grounds of traffic and road safety as the local infrastructure is substandard.
- The proposed development would be premature pending a review of the Clonmel and Environs Development Plan 2013.
- The site is not sequentially preferable to other sites relative to the centre of Clonmel.

6.3. Appeal No.2 Eddie Ormond & Deirdre Ormond

The main grounds of appeal can be summarised as follows:

- Section 5.7 of the Development Management Statement of the Tipperary County Development Plan 2022-28 requires a comprehensive landscape plan to be provided as part of the planning application; this was not submitted.
- Given the location, the proposed landscaping should have been assessed as part of the application.
- Limited landscape mitigation measures are proposed, and the development will detract from the area's rural character.
- Under Article 6(3) of the Habitats directive, removing the proposed infill volume would be deemed a plan or project with a significant effect on a European site and subject to an assessment.
- The submitted NIS does not provide an assessment or screening of the works required under condition No.11.
- The infill material is likely to be subject to case C215/06 of the European Court of Justice, and an application for planning retention or exempted status would be unlikely to be successful.
- The proposed development will generate up to 20 HGV movements per day over short distances, contrary to the objectives of the National Sustainable Mobility Policy and National Climate Action to promote modal shifts in transport and national targets for reduction in GHG.

6.4. Applicant Response

The main points of the applicant's response can be summarised as follows:

- All items raised by the appellants in their objections and the Council in their request for further information were comprehensively addressed.
- The issues raised in the appeal are almost identical to the observation submitted on the planning application.
- The proposed development is fully in accordance with National Policy and Tipperary County Council Policy and with the specific zoning objective pertaining to the site.

- The Planning Authority has addressed the previous infilling of the site, which will be agreed upon through compliance.
- Notwithstanding the above, the infill is exempted development and does not need a Section 5 to confirm this.
- The proposed developments will not give rise to any adverse traffic impacts.
- The planning application was accompanied by a comprehensive list of supporting material prepared to a very high standard and contained all the information required/sought by the planning authority.

6.5. **Planning Authority Response**

The main points of the Planning Authority's response can be summarised as follows:

- Condition 11 seeks to remove previously undertaken infilling of part of the site. The application does not seek permission for retention for this development, and the requirement to apply for substitute consent does not arise.
- The Planning Authority considers the roads serving the lands to have the capacity for a development of the nature and scale proposed.
- The application is not considered premature.

6.6. **Observations**

None

7.0 **Assessment**

7.1. 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:

- Infilling of Land
- Location Suitability.

- Traffic and Road Safety
- Landscaping
- Appropriate Assessment.

7.2. Infilling of Land

- 7.2.1. The appellant raised the issue of the infill material on site and states that the NIS does not provide any assessment or screening of condition No. 11. This condition requires the removal of all unauthorised fill material previously imported onto the site and its disposal to an authorised facility. The appellant suggests that the infill material is likely to be subject to case C215/06 of the European Court of Justice and would, therefore, require a substitute consent application.
- 7.2.2. As part of the further information submitted on file, the applicant states that a low-lying area of the field was subject to infilling in 2001/2 by the previous owner and undertaken under a planning exemption under Article 8C of the Planning and Development Regulations 2001, as amended which allows for '*Land reclamation works (other than reclamation of wetlands) consisting of re-contouring of land, including infilling of soil (but not waste material) within a farm holding, shall be exempted development.*' It is stated that the material used was from the same farm holding.
- 7.2.3. I note that in the Planning and Development Regulations 2001 under class 11 of Part 3 Rual, Schedule 2 Land reclamation for the purposes of agriculture was exempted development.
- 7.2.4. I consider that from the information supplied with the appeal, the infill of the land in 2001/2 was exempted development. Therefore, as retention permission is not required for the infill of the land, an application for leave to apply for substitute consent is not required. A condition requiring that all previously imported material into the site be removed to an authorised facility, save where its reuse on site is confirmed by an exemption or separate grant of permission, is not required.

7.3. Location Suitability

- 7.3.1. One of the appellants states that the decision is premature as, at the time of the decision, the draft Clonmel and Environs Local Area Plan was not yet on display. This appeal is being assessed under the now-adopted Clonmel and Environs Local Area Plan 2024-2030. As stated in section 5.1 in the Clonmel Local Area Plan, the site is zoned 'Employment' and warehouse use is 'permitted in principle.'
- 7.3.2. It is also stated that the site is outside a 15-minute cycle zone from the centre of the town, as suggested. Policy 4.1 of the Local Area Plan is to 'Support and direct new development proposals that generate high densities of employment towards lands zoned 'Urban Core', 'Mixed Use' and 'Regeneration'.' The proposal is for a low-intensity development with a proposed staff of six. It is considered that the location of the proposed warehouse outside lands zoned 'Urban Core', 'Mixed Use' and 'Regeneration' will allow for a more efficient use of the lands in these central areas.
- 7.3.3. The site is located next to existing employment and residential areas, c.1.5km from supermarkets and c.2km from the town centre and I, therefore, consider there is adequate opportunity for the use of sustainable forms of transport.
- 7.3.4. The other appellant raises concerns that, as stated in the planning application, the proposed building is for the warehousing/storage of material relating to the Mediate facility, which is 2-3km away, and states that the warehouse unit should be located adjacent to the Mediate facility in general industrial zoned lands.
- 7.3.5. The proposed development, which was relocated as part of a reply to the Further Information to the site's southern section, adjoins the existing industrial site. I consider this a sequential development of these lands zoned 'Light Industry and Employment'. Given its central location, the development will be consistent with Tipperary County Council's strategic objective to integrate land-use and transport planning.
- 7.3.6. I note that a master plan for the entirety of the site was submitted with the planning application. As stated above, the location of the warehouse unit was relocated to the south of the site, which supersedes the master plan. Any further development of these and would be subject to a separate planning application.

7.4. **Traffic and Road Safety**

- 7.4.1. The appellant states that the local road infrastructure is substandard and incapable of handling the type and volume of traffic without significant upgrade works.
- 7.4.2. The site is on a local road accessed off the N24 National Road. There are no dedicated pedestrian or cycle facilities on this road. Currently, the local road serves a business park and several industrial units close to the junction with the N24. The remainder of the road serves a single dwelling unit and a construction company's premises.
- 7.4.3. A Traffic and Transport Assessment and a Stage 1 Road Safety Audit were submitted with the planning application. The expected trip generation of the commercial development was estimated to be 9 trips inbound, 5 trips outbound in the morning peak hour, 5 inbound, and 7 trips outbound in the evening peak hour.
- 7.4.4. The TTA concludes that the proposed development will have minimal impact on the surrounding junctions due to the low volumes of traffic resulting from the proposed development and that the proposed development does not pose any significant residual risks.
- 7.4.5. The existing traffic volume along this road is low, and the additional traffic created by the proposed development is not significant. While I recognise that there are no cycle lanes or footpaths along this local road, given the proposed low level of traffic and staff and the sequential nature of the proposed development on 'Light Industry and Employment' zoned lands, I consider that the existing road network can accommodate the proposed development and it will not be prejudicial to traffic and pedestrian safety. Given the proposed development's proximity to the N24, I also consider that it will be connected to the strategic road network as required in the Clonmel Local Area Plan 2024.

7.5. **Landscaping**

- 7.5.1. One of the appellants claims that the development proposed very little landscaping and would detract from the area's rural character with no buffering between the different land zonings.
- 7.5.2. The area surrounding the site is in transition, and the lands surrounding the site, on both sides of the road, are all zoned 'Light Industry and Employment' in the current Clonmel and Environs Development Plan.

- 7.5.3. I considered that the area's character will ultimately change with the building out of these zoned lands. Save at the entrance; the significant existing road trees are to be retained, which, along with agreed boundary treatments, will help to maintain some of the existing characters of the Powerstown Road.
- 7.5.4. Concerns are also made regarding the lack of public participation resulting from the attachment of condition 10 (Appeal states condition No.11), in which the boundary treatment is to be agreed with the planning authority.
- 7.5.5. It is normal planning practice and allowed for in legalisation to attach conditions for matters to be agreed post decision. I consider that requiring details of the boundary treatment to be agreed upon is a detailed matter that will not be prejudicial to public participation in the planning process.

7.6. **Appropriate Assessment**

7.6.1. Appropriate Assessment Screening

Compliance with Article 6(3) of the Habitats Directive

The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.

Background on the Application

The applicant has submitted a screening report for Appropriate Assessment / Natura Impact Statement as part of the planning application. This report, dated 5th August 2022, was prepared by AXIS Environmental Services.

The applicant's Stage 1 A.A. Screening Report was prepared in line with current best practice guidance and provides a description of the proposed development and identifies European Sites within a possible zone of influence of the development.

The applicant's A.A. Screening Report concluded that given the project site's proximity to the Lower River Suir SAC, an Appropriate Assessment was required to

ensure there were no adverse effects on the ecological integrity of the site or its qualifying interest.

Having reviewed the documents, submissions [and consultations with the NPWS, etc], I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone or in combination with other plans and projects on European sites.

Screening for Appropriate Assessment- Test of likely significant effects

The project is not directly connected with or necessary to the management of a European Site, and therefore, it needs to be determined if the development is likely to have significant effects on a European site(s).

The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site.

Brief description of the development

The applicant provides a description of the project on pages 15 to 16 of the A.A. screening report. In summary, the development comprises:

- Construction of an industrial unit,
- Provision of car parking and all ancillary works

The construction will be completed in three phases. Phase 1 includes the setting up of the compound and welfare facilities, removal of topsoil, construction of foundations, erection of structural steel, pouring of concrete floor, cladding, and internal fit-out. The second phase includes construction of sewerage/foul water, surface water, watermains/hydrants, and M&E. The third phase includes the construction of road/footpaths, boundary walls and landscaping. The operational phase will result in the maximum employment of six people, and an expected trip generation of the commercial development was estimated to be 9 trips inbound and 5 trips outbound in the morning peak hour and 5 inbound and 7 trips outbound in the evening peak hour.

A storm attenuation tank is proposed to be discharged into a local watercourse at the green field runoff rate.

The development site is described in pages 6 to 11 of the Appropriate Assessment Screening & Natura Impact Statement. It is described as comprising agricultural grasslands with a mosaic of hedgerows and scrub dominant along the northern, eastern, and southern boundaries of the site, with the odd mature tree notable. The site's western boundary is delineated by a stone wall and a treeline dominated by lime streets with occasional chestnut.

Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European sites:

- Construction Related:
 - Dust nuisance
 - Noise nuisance
 - Runoff of sediment to ground
 - Runoff of concrete residue to ground.
 - Spillages of fuel/other chemicals to ground
- Operational
 - Uncontrolled surface water

Submission and Observations

Submissions have been received relating to the previous infilling of a section of the site and its examination in the Natura Impact Statement.

European Sites

The closest European site is within 0.7 km of the proposed development.

A summary of European Sites that occur within 15 km/ within a possible zone of influence of the proposed development is presented in the table below. Where a potential connection between the development and a European site has been identified, these sites are examined in more detail.

Table 1. Summary Table of European Sites within a possible zone of influence of the proposed development.

European Site	List of Qualifying Interest/Special Conservation Interest	Distance from proposed development (km)	Connections (source, pathways receptor)	Considered further in screening. Y/N
(Code) Lower River Suir SAC (002137)	<p>Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330]</p> <p>Water courses of plain to montane levels with the <i>Ranunculus fluitans</i> and <i>Callitriche-Batrachion</i> vegetation [3260]</p> <p>Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels [6430]</p> <p>Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0]</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>Taxus baccata</i> woods of the British Isles [91J0]</p> <p><i>Margaritifera margaritifera</i> (Freshwater Pearl Mussel) [1029]</p> <p><i>Austropotamobius pallipes</i> (White-clawed Crayfish) [1092]</p> <p><i>Petromyzon marinus</i> (Sea Lamprey) [1095]</p> <p><i>Lampetra planeri</i> (Brook Lamprey) [1096]</p> <p><i>Lampetra fluviatilis</i> (River Lamprey) [1099]</p> <p><i>Alosa fallax fallax</i> (Twaite Shad) [1103]</p>	0.7	Y	Y

	Salmo salar (Salmon) [1106]			
	Lutra lutra (Otter) [1355]			
Nier Valley Woodlands SAC (00668)	Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]	9.3	N	Y
Comeragh Mountains SAC (001952)	<p>Oligotrophic waters containing very few minerals of sandy plains (Littorelletalia uniflorae) [3110]</p> <p>Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation [3260]</p> <p>Northern Atlantic wet heaths with Erica tetralix [4010]</p> <p>European dry heaths [4030]</p> <p>Alpine and Boreal heaths [4060]</p> <p>Blanket bogs (* if active bog) [7130]</p> <p>Siliceous scree of the montane to snow levels (Androsacetalia alpinae and Galeopsietalia ladani) [8110]</p> <p>Calcareous rocky slopes with chasmophytic vegetation [8210]</p> <p>Siliceous rocky slopes with chasmophytic vegetation [8220]</p> <p>Hamatocaulis vernicosus (Slender Green Feather-moss) [6216]</p>	10.3	N	Y

Identification of likely effects

A summary of the outcomes of the screening process is provided in the screening matrix Table 2.

Table 2: Identification of likely effects

European Site (Code)	List of Qualifying Interest/Special Conservation Interest	Distance from the proposed development (km)	Likely effects alone	In combination effects	Screening Conclusions
Lower River Suir SAC (002137)	<p>Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330]</p> <p>Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation [3260]</p> <p>Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels [6430]</p> <p>Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</p>	0.7	<p>The site is within the hydrological catchment of the Lower River Suir. There are no watercourses on the site. Following construction, it is proposed to connect the surface water into a local watercourse. Whether the surface water drains into a combined system directly to the River Suir is unknown. The worst-case scenario is that direct discharge is to be assumed, and the distance from the site to the River Suir discharge point is c.0.5km.</p> <p>The land drain is overgrown and dry.</p>	None	Given the potential for a significant on the qualifying interest of the SAC the site has been screened in for further review.

Alluvial forests with
Alnus glutinosa and
Fraxinus excelsior
(Alno-Padion, Alnion
incanae, Salicion
albae) [91E0]

Taxus baccata woods
of the British Isles
[91J0]

Margaritifera
margaritifera
(Freshwater Pearl
Mussel) [1029]

Austropotamobius
pallipes (White-clawed
Crayfish) [1092]

Petromyzon marinus
(Sea Lamprey) [1095]

Lampetra planeri
(Brook Lamprey)
[1096]

Lampetra fluviatilis
(River Lamprey) [1099]

	Alosa fallax fallax (Twaite Shad) [1103]				
	Salmo salar (Salmon) [1106]				
	Lutra lutra (Otter) [1355]				
Nier Valley Woodlands SAC (00668)	Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]	9.3	Given the distance of the proposed development, there will be a direct/indirect impact on the single Q.I. of the site: the Old sessile oak woods The Nier Valley Woodlands also drain into the River Suir but upstream from the site and proposed discharge point.	None	There is no potential for significant effects in the absence of mitigation. The SAC can be screened out from further review.
Comeragh Mountains SAC (001952)	Oligotrophic waters containing very few minerals of sandy plains (Littorelletalia uniflorae) [3110] Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation [3260]	10.3	Given the distance, the Comeragh Mountains are from the subject site and the lack of direct hydrological connection between the site and the SAC, there is no potential for a significant effect on the QI of the Comeragh Mountain SAC from the proposed project.	None	No potential for significant effects in the absence of mitigation. The SAC can be screened out from further review.

Northern Atlantic wet
heaths with *Erica*
tetralix [4010]

European dry heaths
[4030]

Alpine and Boreal
heaths [4060]

Blanket bogs (* if
active bog) [7130]

Siliceous scree of the
montane to snow
levels (*Androsacetalia*
alpinae and
Galeopsietalia ladani)
[8110]

Calcareous rocky
slopes with
chasmophytic
vegetation [8210]

Siliceous rocky slopes
with chasmophytic
vegetation [8220]

Hamatocaulis
vernicosus (Slender

Green Feather-moss)
[6216]

Mitigation measures

No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise.

Screening Determination.

The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually (or in combination with other plans or projects) could have a significant effect on European Site Lower River Suir (002137), in view of the site's Conservation Objectives, and Appropriate Assessment is therefore required.

7.6.2. **Appropriate Assessment**

The requirements of Article 6(3) as related to appropriate assessment of a project under part XAB, sections 177U and 177V of the Planning and Development Act 2000 (as amended) 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
- Screening the need for appropriate assessment
- The Natura Impact Statement and associated documents
- Appropriate assessment of implications of the proposed development on the integrity of each European site

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.

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

The Natura Impact Statement

The application included a NIS from Axis Environmental Services dated the 5th August 2022, which examines and assesses potential adverse effects of the proposed development on the Lower River Suir European Sites Code 002137.

The applicant's NIS was prepared in line with current best practice guidance and provides a review of the Qualifying Interests Species, a summary of Project Impacts on Qualifying Interests, the Likely Cumulative & In-combination Impacts and the Mitigation Measures.

The applicants NIS concluded that following the completion of a stage 2 Appropriate Assessment and given the mitigation measures proposed are implemented, it can be concluded that beyond reasonable scientific doubt, in view of best scientific knowledge, on the basis of objective information and in light of the conservation objectives of the relevant European sites, that the proposed project, individually or in combination with other plans or projects, would not be likely to have a significant effect on any European sites including that of the Lower River Suir SAC.

Summary of consultations and submissions

One of the submissions on the planning application states that the NIS is incomplete as it does not include the remainder of the lands in the applicant's ownership. This application is for one warehouse unit and as there are no proposals for the remaining of the lands, the NIS could not adequately assess the impact of the remaining lands on the European Site. Proposals for the remainder of the lands would be subject to their own NIS if required.

Having reviewed the documents, submissions, and consultations with the NPWS etc, I am satisfied that the information allows for a complete assessment of any adverse effects of the development on the conservation objectives of the following European sites alone or in combination with other plans and projects:

Lower River Suir Special Area of Conservation (002137)

Appropriate Assessment of implications of the proposed development

The following is a summary of the objective scientific assessment of the implications of the project on the qualifying interest features of the European sites using the best scientific knowledge in the field. All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are considered and assessed.

The following guidance documents were adhered to when assessing the Appropriate Assessment of implications of the proposed development:

DoEHLG (2009). Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities. Department of the Environment, Heritage and Local Government, National Parks, and Wildlife Service. Dublin

EC (2002) Assessment of plans and projects significantly affecting Natura 2000 sites. Methodological guidance on the provisions of Article 6(3) and 6(4) of the Habitats Directive 92/43/EC

EC (2018) Managing Natura 2000 sites. The provisions of Article 6 of the Habitats Directive 92/43/EEC]

OPR Practice Note PN01 Appropriate Assessment Screening for Development Management. (March 2021)

European Sites

The following site is subject to Appropriate Assessment:

- Lower River Suir Special Area of Conservation (002137)

A description of the sites and their Conservation and Qualifying Interests/Special Conservation Interests, including any relevant attributes and targets for these sites, are set out in the NIS. I have also examined this site's Conservation Objectives

supporting documents, which are available through the NPWS website (www.npws.ie).

Aspects of the proposed development.

The main aspects of the proposed development that could adversely affect the conservation objectives of European sites include.

- Direct habitat loss due to water contamination, given the hydrological link between the proposed development during construction and the project's operational phase, with potential negative impacts from Invasive Species during the construction phase.

Mitigation

A range of mitigation measures are provided for in the NIS, and these are noted.

These primarily refer to the construction phase, the operation phase, and the details on the surface water attenuation submitted with the planning application.

These are outlined in Section 5 of the NIS; they include:

Construction Phase

General Site Management:

- Environmental responsibilities to form part of contract negotiations.
- All contractors are to be informed of construction management plan requirements and mitigation measures in relation to environmental protection measures.
- Emergency response procedures are to be implemented for spills, etc., including notification procedures for regulatory authorities.
- Regular site audits and checks implemented by site management.
- A detailed programme of works should be implemented to reduce the amount of exposed surface available.
- Sod removal/ground works will not be undertaken when heavy rainfall is expected or ongoing.

Groundwater.

- Area for concrete wash-out to be appointed on-site.

- Specific area for refuelling with relevant controls for groundwater.
- Spill trays to be used under diesel generators.
- Spill procedure and kit to be kept on site.
- Stockpiles and storage on-site are to be kept to a minimum.

Water

- Concrete will be delivered on-site rather than made up on-site.
- Wash-down water from concrete trucks will be collected in a suitable containment structure and taken off-site for appropriate disposal.
- Fuels, lubricants, and hydraulic fluids for equipment used in the construction site will be carefully handled to avoid spillage, adequately secured against unauthorised access or vandalism and provided with spill containment.
- All chemicals, solvents, fuels, oils, and hydrocarbons will be stored in bunded areas.
- Refuelling during construction will be carried out in designated areas, surfaced and within the confines of the oil interceptor.
- Appropriate spill control equipment, including oil booms and soakage pads, will be kept within the construction site to deal with accidental spillage.
- Large amounts of soil are not to be stockpiled on-site; any are to be stored in a designated area away from drains/streams.
- Avoidance of extreme wet weather conditions during all-site works.
- Prior to any work beginning, all construction equipment will be checked to ensure that it is mechanically sound and to avoid leaks of oil, fuel, hydraulic fluids, and grease.

Invasive Species

- Measure outlined in 'Guidelines on the Management of Noxious Weeds and Non-native Invasive Plant Species on National Roads' to be adhered to.
- All incoming site material should be certified as having come from a quarry that is invasive species-free.

Operational Phase:

Surface Water:

- Surface water runoff associated with the roof and hardstanding elements will be collected by a new surface water drainage system to be installed.
- All surface water will be directed to the newly proposed storm-tech system and pass through an interceptor before its release off-site.
- Flows are to be controlled by a hydraulic brake at the site outlet.

Overall, I consider that the proposed mitigation measures are clearly described and precise, and definitive conclusions can be reached in terms of avoidance of adverse effects on the integrity of designated European sites based on the outlined mitigation measures. I consider that the mitigation measures are necessary, having regard to the proximity of the site to the River Suir SAC and the hydrological link. Overall, the measures proposed are effective, reflecting current best practice, and can be secured over the short and medium term and the method of implementation at the construction stage will be through a management plan.

In Combination Effects

Projects planned in the area include the construction of 44no. new houses to the east of the site. No issues of concern are raised subject to the full implementation of mitigation measures outlined in the NIS.

Integrity Test

Following the appropriate assessment and the consideration of mitigation measures, I am able to ascertain with confidence that the project would not adversely affect the integrity of Lower River Suir (002137) in view of the Conservation Objectives of this site.

This conclusion has been based on a complete assessment of all implications of the project alone and in combination with plans and projects.

Appropriate Assessment Conclusion

The proposed warehouse development at Gurtnafleur, Powerstown, Clonmel, Co. Tipperary has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended.

Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on Lower River Suir SPA (site code 002137)

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

Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of Lower River Suir SPA (site code 002137)

This conclusion is based on:

A full and detailed assessment of all aspects of the proposed project, including:

- proposed mitigation measures and monitoring in relation to the Conservation
- Objectives of the Lower River Suir SPA (site code 002137)
- Detailed assessment of in combination effects with other plans and projects
- including historical projects, plans and current proposals.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity
- of Lower River Suir SPA (site code 002137)

I have fully considered the information, assessment, and conclusions contained within the NIS. I have also had full regard to National Guidance and the information available on the National Parks and Wildlife Service (NPWS) website in relation to the identified designated Natura 2000 sites. I consider it reasonable to conclude that on the basis of the information submitted in the NIS report, including the

recommended mitigation measures, and submitted in support of this application, that the proposed development, individually or in combination with other plans or projects, would not be likely to adversely affect the integrity of the Lower River Suir SPA (site code 002137)

8.0 Recommendation

Having regard to the above assessment, I recommend that permission is GRANTED for the Warehouse Development Gurtnafluer, Powerstown, Clonmel, Co. Tipperary as proposed for the reasons and considerations set out below.

9.0 Reasons and Considerations

Having regard to the provisions of the Clonmel Local Area Plan, and the zoning for Light Industry and Employment', the location of the site adjacent to employment uses, the scale of the proposed development, it is considered subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>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 received by the planning authority on the 15th day of June 2022 and 29th day of August, 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 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>
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2.	<p>The mitigation measures outlined in the Natura Impact Statement submitted on the 29th August 2022 shall be implemented in full.</p> <p>Reason In order to protect the conservation objectives of the Lower River Suir SAC.</p>
3.	<p>The development shall be used for the purposes of the warehousing/storage of goods only unless a change of use planning permission has been granted.</p> <p>Reason: In the interest of clarity and in the interest of proper planning and sustainable development.</p>
4.	<p>A detailed layout plan, to a scale not less than 1:500: that delineates all proposed boundary treatments both within and bounding the site in colour shall be submitted for the written agreement of the Planning Authority prior to commencement of development indicating the following:</p> <ul style="list-style-type: none"> a. Detailed proposals for the boundary treatment for the entire site indicating boundaries that are to be retained and new boundaries. b. Details of all trees to be retained. c. Details of locations of any gates into adjoining agriculture lands. <p>Reason: In the interest of visual amenity.</p>
5.	<p>Details of the materials, colours, and textures of all the external finishes and boundary treatments shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
6.	<p>Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.</p> <p>Reason: In the interests of public health.</p>
7.	<p>Prior to the commencement of development, the developer shall submit revised plans, drawings and calculations including for the following details for the written agreement of the Planning Authority:</p>

	<ul style="list-style-type: none"> a. The main site roadway and manhole cover levels along same revised such as that there is a minimum 1% longitudinal gradient on the access road. b. The capacity of the proposed attenuation tank informed by a revised by a revised calculation of the area that will be drained to same. Calculations to show that surface water discharge will be limited to greenfield run off rates. c. The location of hydro break manholes and petrol interceptor tanks. d. Longitudinal sections from the proposed storm water network serving the development to the proposed surface water outfall. e. Detailed layout plan and longitudinal section drawings showing the foul line from the F1 to the outfall laid to as not to impact on an existing surface 225mm surface water sewer located in the grass margin. The level of the existing storm sewer to be shown. f. A revised services report that includes all the above changes/requirements and supporting calculations. <p>Reason: In the interest of orderly development.</p>
8.	<p>Prior to commencement of development the developer shall enter into water and wastewater connection agreements with Irish Water</p> <p>Reason: In the interest of public health.</p>
9.	<p>The site entrance to be located as per details received on 15th June 2022 as further information. The adjoining roadside boundary walls within the required sight lines triangle shall be lowered if required and vegetation between the road edge and existing boundary wall such that 90-meter sight lines are available in both directions from the entrance to the nearside road edge from a 2-meter set back at the centre of the entrance. The recommendations of the Road Safety Audit shall be incorporated into the development.</p>

	Reason: In the interest of traffic and pedestrian safety.
10.	<p>No advertisement or advertisement structure, the exhibition or erection of which would otherwise constitute exempted development under the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, shall be displayed, or erected on the building/within the curtilage of the site unless authorised by a further grant of planning permission.</p> <p>Reason: In the interest of visual amenity.</p>
11.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
12.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the [residential] amenities of property in the vicinity.</p>
13.	<p>Noise resulting from operations effecting nearby noise sensitive locations shall not exceed the background level by 10 dB (A) or more or exceed the EPAs NG4 (Guidance Note for Noise: Licence Applications, Surveys and Assessments in relation to Scheduled Activities) limits, whichever is lesser (as measured from the façade of the nearest noise sensitive locations).</p>

	<p>a) Daytime (07:00 to 19:00) – 55 dB LAr,T (rated noise level, equal to LAeq during a specified time interval *EPA NG4)</p> <p>b) Evening (19:00 to 23:00) – 50 dB LAr,T</p> <p>c) Night-time (23:00 to 07:00)- 45 dB LAr,T</p> <p>As measured from the façade of the nearest noise sensitive locations. Clearly audible and impulsive tones at noise sensitive locations during the evening and night shall be avoided irrespective of the noise level.</p> <p>b) There shall be no outbreak of amplified music from any activities, at nearby noise sensitive locations</p> <p>Reasons: In the interest of clarity and in the interest of residential amenities.</p>
14.	<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> <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</p>

	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.

Peter Nelson
Planning Inspector

26th March 2024

Appendix 1 - Form 1
EIA Pre-Screening

An Bord Pleanála Case Reference	315101 -22		
Proposed Development Summary	Warehouse unit with ancillary office and associated site works (1 no. industrial unit with a floor area of 4,910sqm, 13 car parking spaces)		
Development Address	Gurtnafleur, Powerstown, Clonmel, Co. Tipperary		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)	Yes	X	
	No	No further action required	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			EIA Mandatory EIAR required
No		The development is not of a class specified in Part 1 or Part 2, Schedule 5	Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
		N/A	Conclusion
No			No EIAR or Preliminary Examination required
Yes		The development is specified in Class 10. (b) (iv) Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)	Proceed to Q.4

		but does not equal or exceed the relevant quantity.		
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4. Has Schedule 7A information been submitted?		
No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____

Date: 29/1/2024

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	31501-22	
Proposed Development Summary	Warehouse unit with ancillary office and associated site works (1 no. industrial unit with a floor area of 4,910sqm, 13 car parking spaces)	
Development Address	Gurtnafleur, Powerstown, Clonmel, Co. Tipperary	
<p>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</p>		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The proposed development of a warehousing unit is adjacent to existing industrial units in an area zoned for industrial uses.</p> <p>The proposed development is for a warehouse and will not result in the production of any significant waste, emission or pollutants.</p>	No
<p>Size of the Development Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing</p>	<p>The size of the development with a floor area of 4,910sqm in an area with existing industrial units is not exemptional in terms of the existing environment.</p> <p>Given the warehouse nature of the proposed development it is considered that there will not be any significant cumulative considerations having regard to other existing and/or permitted projects.</p>	No

and/or permitted projects?		
<p>Location of the Development</p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>While the site is adjacent to a drain which may lead to the Lower River Suir, as found in the AA, the proposed development does not have the potential to significantly impact on an ecologically sensitive site or location.</p> <p>Having regard to the above, the proposed development does not have the potential to significantly affect other significant environmental sensitivities in the area.</p>	No
Conclusion		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required.</p>		

Inspector: _____

Date: __

DP/ADP: _____

Date: _____