



An
Bord
Pleanála

Inspector's Report ABP-318285-23

Development	Provision of a pathway for pedestrians and cyclists
Location	Between River Nore Linear Park (Bishops Meadows) and Riverside Garden (Abbey Quarter) at the townland of Gardens, Kilkenny City, Co. Kilkenny
Local Authority	Kilkenny County Council
Type of Application	Application for approval made under Section 177(AE) of the Planning and Development Act, 2000 (local authority development requiring appropriate assessment)
Prescribed Bodies	An Taisce Arts Council of Ireland The Commission for the Regulation of Utilities (CRU) Failte Ireland Inland Fisheries Ireland (IFI) Irish Water Kilkenny County Council

Department of Environment, Climate and
Communications
Department of Housing, Local Government and
Heritage
Department of Tourism, Culture, Arts, Gaeltacht,
Sport and Media
The Heritage Council
Transport Infrastructure Ireland (TII)
Health Service Executive
Southern Regional Assembly
Health and Safety authority (HAS)
Waterways Ireland
National Transport Authority (NTA)
Office of Public Works Environmental Protection
Agency (EPA)
Development Applications Unit (DAU)

Observer(s)

Cllr Maria Dollard
Dennis Brennen & Associates Civil/Structural
Engineers on behalf of Heather Purcell of 18-19
Green Street, Kilkenny
Vision Ireland

Date of Site Inspection

13th March 2024

Inspector

Rachel Gleave O'Connor

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1.0 Introduction

- 1.1. Kilkenny County Council is seeking approval from An Bord Pleanála to undertake a pedestrian and cycle link between River Nore Linear Park (Bishops Meadows) and Riverside Garden (Abbey Quarter) within the River Nore SPA (site code: 004233) and adjacent to the River Barrow and River Nore SAC (side code: 002162) which is are designated European sites. A Natura Impact Statement (NIS) and application under Section 177AE was lodged by the Local Authority on the basis of the proposed development's likely significant effect on a European site.
- 1.2. Section 177AE of the Planning and Development act 2000 (as amended) requires that where an appropriate assessment is required in respect of development by a local authority, the authority shall prepare an NIS and the development shall not be carried out unless the Board has approved the development with or without modifications. Furthermore, Section 177V of the Planning and Development Act 2000 (as amended) requires that the appropriate assessment shall include a determination by the Board as to whether or not the proposed development would adversely affect the integrity of a European site and the appropriate assessment shall be carried out by the Board before consent is given for the proposed development.

2.0 Proposed Development

- 2.1. The River Nore Liner Park runs through Kilkenny along the west bank of the Nore. There is a gap in the infrastructure for the route between Bishops Meadow and Riverside Gardens. This gap results in users having to leave the bank of the Nore and travel on-road via Riverside Drive, the R693 (Troy's Gate) and the R886 (New Road).
- 2.2. The proposed development comprises the provision of a pathway for pedestrians and cyclists between Riverside Gardens and Bishops Meadow Riverside Park.
- 2.3. A section of the pathway will be constructed as an elevated boardwalk running parallel to the flood defence wall constructed under the auspices of the Office of Public Works (OPW) in early 2000s.

- 2.4. The pathway will be 3m wide at its minimum. The longitudinal gradient of the pathway will not exceed 1 in 25 (4%). At its northern end, the pathway will cross over existing headwalls adjacent to the Nore. To achieve a gradient at or below 1:25 at this location it will be necessary to reduce the height of the existing headwalls by up to 300mm, with approval for this reduction granted by the OPW.
- 2.5. The pathway will cross beneath the R886 (New Road) through an existing arch which forms part of the western approach to Green's Bridge. Works through the arch are limited to constructing an appropriate surface for the pathway at ground level and do not involve works to the structure of the arch.
- 2.6. Lighting of the footpath link from Bishops Meadows to The Riverside Gardens is proposed to be agreed at design stage and will be formed of additional lamp standards. The boardwalk section is proposed to be lit with LED lighting incorporated into the parapet top rail.
- 2.7. The proposed boardwalk section requires side parapets to provide for fall protection. A parapet height of 1.4m is the minimum required to cater for cyclists and pedestrians. Painted mild steel vertical uprights are proposed to support horizontal mild steel rails which will support vertical recycled plastic battens.
- 2.8. The boardwalk is proposed to widen at the southern end, to create a platform for viewing Green's Bridge and the remains of the abutments of the original Green's Bridge which was destroyed in the 'Great Flood' of 1763. The proposed platform responds to recommendations of the Architectural Heritage Impact Assessment for the project.
- 2.9. The proposed boardwalk structure is comprised of 200mm bottom driven tubular steel mini piles infilled in concrete in pairs at 2m centres laterally and 6m centres longitudinally. Steel beams span between the pile heads to support the boardwalk decking. The deck surface is proposed to be manufactured from recycled plastic.
- 2.10. The proposed works will require the diversion of 2 no. Eir services.
- 2.11. **Accompanying documents:**
- **Copy of cover letter to An Bord Pleanála, including copy of newspaper notice, and letters to prescribed bodies.**
 - **177AE Planning Application Report:**

- **Appendix A Drawings;**
 - **Appendix B Construction Methodology;**
 - **Appendix C Site-Specific Flood Risk Assessment;**
 - **Appendix D Ecological Impact Assessment Report;**
 - **Appendix E Screening for EIA;**
 - **Appendix F AA Screening Reports and NIS;**
 - **Appendix G Tree Survey Report;**
 - **Appendix H Archaeological Impact Assessment Report;**
 - **Appendix I Architectural Heritage Impact Assessment;**
 - **Appendix J Correspondence Records;**
 - **Appendix K OPW Flood Alleviation Scheme Drawings – March 2006.**
- **Appropriate Assessment Screening and Natura Impact Statement (NIS).**
 - **Screening for Environmental Impact Assessment (EIA).**
 - **Maps and drawings.**

3.0 Site and Location

- 3.1. The site is located to the west of the River Nore in Kilkenny, between Riverside Gardens and Bishops Meadows and passing under Green's Bridge as it connects to New Road.
- 3.2. Riverside Gardens and Bishops Meadows are amenity lands. Bishop Meadows is west of Riverside Drive, adjoining the west bank of the River Nore and inclusive of the River Nore Linear Park to the north. Riverside Gardens are situated to the south of Wolfe Tone Street adjacent to the western bank of the River Nore.
- 3.3. The site is characterised by amenity lands adjacent to the River Nore, with residential and commercial properties proximate to the site.

4.0 Planning History

- 4.1. There is no planning history of relevance for the site red line area itself.
- 4.2. In terms of the wider context, the River Nore Linear Park comprising 2.6km of walk/cycleway in Bishops Meadows, was constructed in 2006. The Riverside Gardens project was constructed in 2020 and forms part of the Abbey Quarter Masterplan.
- 4.3. ABP-307796-20: Application under section 175 and 177AE of the Planning and Development Act 2000 (as amended) for Local Authority Development for the construction of a proposed urban park and urban street – a pedestrian and cyclists dominated street, including ancillary site works at the Abbey Quarter (former Smithwick’s Brewery Site), Kilkenny City. Approved with conditions 22/02/2021.

5.0 Legislative and Policy Context

- 5.1. **The EU Habitats Directive (92/43/EEC):** This Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) and 6(4) require an appropriate assessment of the likely significant effects of a proposed development on its own and in combination with other plans and projects which may have an effect on a European Site (SAC or SPA).
- 5.2. **European Communities (Birds and Natural Habitats) Regulations 2011:** These Regulations consolidate the European Communities (Natural Habitats) Regulations 1997 to 2005 and the European Communities (Birds and Natural Habitats) (Control of Recreational Activities) Regulations 2010, as well as addressing transposition failures identified in CJEU judgements. The Regulations in particular require in Reg 42(21) that where an appropriate assessment has already been carried out by a ‘first’ public authority for the same project (under a separate code of legislation) then a ‘second’ public authority considering that project for appropriate assessment under its own code of legislation is required to take account of the appropriate assessment of the first authority.
- 5.3. **National nature conservation designations:** The Department of Culture, Heritage and the Gaeltacht and the National Parks and Wildlife Service are responsible for the designation of conservation sites throughout the country. The three main types of

designation are Natural Heritage Areas (NHA), Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) and the latter two form part of the European Natura 2000 Network.

5.4. European sites located in proximity to the subject site include:

- River Nore SPA (004233); and
- River Barrow and River Nore SAC (002162).

5.5. **Planning and Development Acts 2000 (as amended):** Part XAB of the Planning and Development Acts 2000-2017 sets out the requirements for the appropriate assessment of developments which could have an effect on a European site or its conservation objectives.

- 177(AE) sets out the requirements for the appropriate assessment of developments carried out by or on behalf of local authorities.
- Section 177(AE) (1) requires a local authority to prepare, or cause to be prepared, a Natura impact statement in respect of the proposed development.
- Section 177(AE) (2) states that a proposed development in respect of which an appropriate assessment is required shall not be carried out unless the Board has approved it with or without modifications.
- Section 177(AE) (3) states that where a Natura impact assessment has been prepared pursuant to subsection (1), the local authority shall apply to the Board for approval and the provisions of Part XAB shall apply to the carrying out of the appropriate assessment.
- Section 177(V) (3) states that a competent authority shall give consent for a proposed development only after having determined that the proposed development shall not adversely affect the integrity of a European site.
- Section 177AE (6) (a) states that before making a decision in respect of a proposed development the Board shall consider the NIS, any submissions or observations received and any other information relating to:

The likely effects on the environment.

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

The likely significant effects on a European site.

- 5.6. **National Planning Framework:** Project Ireland 2040 outlines the obligations upon public authorities to take appropriate steps to avoid the deterioration of natural habitats and the requirements relating to appropriate assessment. (Page 154).
- 5.7. **Regional Planning Guidelines:** The Regional Spatial and Economic Strategy for the Northern and Western Regions 2020-2032 includes RPO 5.5 requiring the conservation and protection of designated areas and natural heritage areas, European sites and their integrity.
- 5.8. **County Development Plan:** The Kilkenny Development Plan 2021-2027 includes the following sections, policies/objectives of relevance:
- The site is primarily zoned Amenity/Green Links/Biodiversity Conservation/Open Space/Recreation under the Kilkenny City and County Development Plan 2021-2027. There is marginal overlap with lands zoned General Business and Existing Residential. The site is situated within the St. Canice's Kilkenny City Architectural Conservation Area (ACA).
 - Objective 1A concerns the implementation of Articles 6(3) and (4) of the EU Habitats Directive and to ensure that plans and projects are subject to appropriate assessment in accordance with guidelines.
 - Chapter 9 'Heritage, culture and arts' sets out the following Development Management Requirements concerning Appropriate Assessment (AA) for Recreation Projects: 'AAs for recreational projects that have the potential to affect the integrity of any European site shall demonstrate that potential direct, indirect and cumulative effects including in relation to the following issues, have been adequately mitigated, where they exist:
 - Hard infrastructure in riparian zones;
 - Increased recreational access;
 - Species and populations of conservation concern, such as Kingfisher and Otter where relevant; and

- Water quality.’
- Chapter 9 Heritage, Culture and the Arts sets out Development Management Requirements in relation to Protected Structures on page 147, including that regard be had to the Architectural Heritage Protection Guidelines when assessing proposals affecting protected structures and buildings listed in the NIAH. Development Management Guidance with respect to Architectural Conservation Areas is set out on page 148.
- Section 4.5.3 of Vol.2 addresses St. Canice’s ACA with Development Management Requirements set out on page 56.
- MSACA 6: To provide for the conservation of Green’s Bridge, a protected structure of National importance, and to ensure where works are proposed that they do not impact on the bridge, either directly or indirectly.
- Objective C3B ‘Develop an urban street through the Abbey Quarter linking Bateman Quay and St. Francis Bridge and an urban park and public plaza around St. Francis’ Abbey (linking to the Riverside Linear Park) in accordance with the Abbey Quarter Masterplan.’
- Objective C3C ‘Improve Trails, Greenways and Walkways, including the construction of a boardwalk at Green’s Bridge to link the River Nore Riverside Walk with the new Riverside Linear Park in the Abbey Quarter and onwards to the Canal Walk, and new urban park in Abbey Quarter.’
- Objective C5O ‘To progress plans for the provision of a pedestrian bridge at Talbotsinch, including the provision of access along the eastern bank of the river up from Green’s Bridge to the proposed bio-diversity park at Dunmore as part of the River Nore Linear Park.’
- Objective C5P ‘Construct a Boardwalk at Green’s Bridge to link the River Nore Riverside Walk with the new Riverside Linear Park in the Abbey Quarter and onwards to the Canal Walk.’
- Objective C6N ‘To construct a boardwalk at Green’s Bridge to link the River Nore Riverside Walk at Riverside Drive with the new Riverside Linear Park in the Abbey Quarter and onwards to the Canal Walk.’

- Section 4.2 'Natural Heritage' of Vol.2 Kilkenny City of the Development Plan addresses Appropriate Assessment, linking back to Vol.1 of the Plan.
- Section 12.10 'Universal Design' and associated development management requirement that works adhere to Universal design standard for public realm.

6.0 The Natura Impact Statement

- 6.1. Kilkenny County Council's application for the proposed development was accompanied by an Appropriate Assessment Screening and Natural Impact Statement (NIS) which scientifically examined the proposed development and the European sites. The AA Screening and NIS identified and characterised the possible implications of the proposed development on the European sites, in view of the site's conservation objectives, and provided information to enable the Board to carry out an appropriate assessment of the proposed works.
- 6.2. The submitted report set out an Appropriate Assessment Screening and Natura Impact Statement for the project. In summary, this concluded the following:
- The proposed project is inside the River Nore SPA and adjacent to the River Barrow and River Nore SAC with a hydrological link to the Estuary.
 - The proposed construction of a pedestrian link between the River Nore Linear Park and the Riverside Gardens, individually or in combination with other plans or projects, will not have an adverse effect or pose a risk of likely significant effects on the River Nore SPA or Barrow and River Nore SAC Natura 2000 sites.

7.0 Consultations

- 7.1. The application was circulated to the following bodies:
- An Taisce
 - Arts Council of Ireland
 - The Commission for the Regulation of Utilities (CRU)
 - Failte Ireland
 - Inland Fisheries Ireland (IFI)

- Uisce Éireann (Irish Water)
- Kilkenny County Council
- Department of Environment, Climate and Communications
- Department of Housing, Local Government and Heritage
- Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media
- The Heritage Council
- Transport Infrastructure Ireland (TII)
- Health Service Executive
- Southern Regional Assembly
- Health and Safety authority (HAS)
- Waterways Ireland
- National Transport Authority (NTA)
- Office of Public Works Environmental Protection Agency (EPA)
- Development Applications Unit (DAU)

7.2. Responses were received from Uisce Éireann, Inland Fisheries Ireland, Transport Infrastructure Ireland and the Health and Safety Authority which are summarised below. Three submissions from the public were also received and are summarised below.

7.3. **Department of Housing, Local Government and Heritage:** Archaeology – the proposed development is situated within the zone of archaeological protection for the recorded monument KK019-026 Historic Town, as defined in the Urban Archaeology Survey of Kilkenny. The Department recommends that an Archaeological Impact Assessment, to include pre-development archaeological testing, be carried out in advance of construction works. A report containing results should be submitted to the National Monuments Service and Planning Authority. Recommend archaeological conditions.

7.4. **Uisce Éireann:** No objection to the principle of the proposal, however records indicate the presence of water services infrastructure which may be impacted by the proposed development. Request that the applicant liaise with Uisce Éireann during the final design stage of the proposed development works in order to ascertain the

impact on the existing Uisce Éireann network infrastructure so that protection works or replacement works can be agreed and carried out as appropriate.

- 7.4.1. Request that prior to any works, the location of any / all watermain(s) / sewer(s) and any associated fittings be confirmed on the ground with the local water curator.
- 7.4.2. The new concrete footpath-lines should be set out on site so that the local water curator can assess where the concrete footpath-lines may be constructed on top of the existing water main and wastewater sewer line as the concrete footpath-lines appear in close proximity to this infrastructure.
- 7.4.3. Request that the integrity of the infrastructure be protected during works.
- 7.4.4. Recommend conditions with regards to the above, as well as separation distances and compliance with Uisce Éireann standards.
- 7.5. **Inland Fisheries Ireland:** The proposed development and grid connection route is within the Nore_170 surface water body. The Nore_190 has an Ecological Status of Good. Among the significant pressures on this waterbody are diffuse urban run-off. The Nore_170 is also categorised as a Heavily Modified Water Body. The Nore_170 is also part of the Barrow-Nore SAC, whose qualifying interests include Atlantic Salmon and Lamprey species. It also contains populations of European Eel, listed by the IUCN as a critically endangered species.
 - 7.5.1. Recommend mitigation in order to ensure that no deleterious matter reaches surface water systems either directly or indirectly. Works to comply with IFI's Guidelines on Protection of Fisheries during Construction Works in and adjacent to Waters.
 - 7.5.2. There should be no interference with the bed, gradient, profile or alignment of watercourses without prior notification and agreement with IFI. Any instream works, especially piling, to be done in dry. Dewatering may require electro-fishing in advance. Instream works, or bankside works should only take place during 1st July to 30th September.
 - 7.5.3. Request a specific method statement for the proposed riparian / instream works before they commence. During the construction phase, buffer zones should be applied. Silt curtains should be in place prior to commencement of works, with setback distances applied for storage of materials etc.

7.5.4. Where it is intended to assemble prefabricated boardwalk deck boards above the existing bank level, a net or some other suitable barrier should be in place below the works area to prevent cuttings or shavings entering the river.

7.5.5. Routes of roads, tracks and turning areas should be planned to minimise the potential for environmental disturbance.

7.5.6. Records of water monitoring to be kept for inspection.

7.6. **Transport Infrastructure Ireland:** Confirm no observations to make.

7.7. **Health and Safety Authority (HSA):** Confirm no observations to make.

7.8. **Public Submissions:**

- Vision Ireland: Welcome the development as it has the potential to provide access to this area for all of Kilkenny's residents and visitors. Have the following specific observations to make:
 - Reference to condition no.6 of ABP reg. ref. 307796-20 for the urban park and route for the Abbey Quarter, which requires an access statement for that development. It is imperative for accessibility and consistency that this area is developed with the same design principles, ensuring a whole journey / movement approach.
 - In terms of the proposed boardwalk shared space, consideration needs to be given to people who do not feel safe using a shared space. Design measures that promote and encourage good cyclist and scooter use behaviour need to be implemented and consideration given to the use of materials that will provide audible indication to pedestrians of the presence of cyclists and e-scooters.
 - Essential that the recycled plastic boards achieve the highest available slip resistance in the interest of pedestrian safety with drainage gaps kept to a minimum so as not to impede access. It appears from some drawings of the boardwalk that the parapet does not extend fully to the deck surface, recommend the installation of a tapping rail along each edge of the parapet to provide guidance and assist with way finding for vision impaired/blind people who are using a long cane. Request that the tapping rails are in a contrasting colour to the parapet, to a

minimum 30 points difference in LRVs in all lighting and weather conditions.

- Recommend installation of tactile tiles at the entrance to the viewing area, navigational tiles would also be of benefit. Tactile tiles should contrast in colour to the deck for ease of identification. Recommend a sensory interpretation of the view on the viewing platform positioned to allow access to as many people as possible. Recommend that there are no free standing signs at head height. Request LED lighting to be incorporated into the rail for the boardwalk.
 - Recommend use of the 'braille trail' guidance paving provided in the Abbey Quarter to allow continuation of the 'braille trail' on all pathways.
 - Imperative that the Lighting Strategy developed for the Abbey Quarter be extended to the River Nore Boardwalk and all pathways accessing it.
- Dennis Brennen & Associates Civil/Structural Engineers on behalf of Heather Purcell of 18-19 Green Street, Kilkenny: 18-19 Green Street is situated adjacent to the west section of the proposed development and is a protected and listed building as per Ref. No. 12004011 on the NIAH website. Make the following observations:
 - Query if KCC Architectural Conservation Officer has examined the proposed works and if parties such as the Heritage Council or Kilkenny Archaeological Society examined the area.
 - The number of piles proposed adjacent to 18-19 Green Street needs to be confirmed and the proximity to the piles explained. Query the process, whether hammered or drilled, as noise and dust should be kept to a minimum. Query if piling process will weaken or disrupt the existing riverside buildings. Request a property condition survey and report of the property to be undertaken by independent consultants retained by KCC to establish no adverse effect will result.
 - There are existing surface water drains, with anti flood non return valve outlets, on the riverside edge. Needs to be confirmed that these drains

will be cleaned prior to the walkway being installed and that the works do not affect these drains. There is a large surface water drain to the rear of 18-19 Green Street that has not been cleaned in a lengthy period of time and is full of debris, it requires cleaning prior to works commencing and on a regular basis.

- Query if the proposed route will have lighting, in order to make it safe. Lighting would be welcomed, however confirmation required as to their location and duration, to prevent impact on 18-19 Green Street.
- Query the commencement date of the construction works, the duration of the works and the planned completion date. Works should be undertaken in a manner respectful to the area. Reimbursement will be sought for any needed decorative rectification from KCC if required.
- Cllr Maria Dollard: The development is welcomed as an amenity, specific observations to make:
 - Serious safety issues. The proposed development will alleviate current unsafe crossing conditions and allow pedestrians to cross under Greensbridge safely and emerge at the other site. However pedestrians wishing to cross Greensbridge must again walk about 20m in the opposite direction to Greensbridge and then turn back in the opposite direction, to cross the bridge. There is an existing path that leads directly up to the bridge and propose that this path be extended and a small gap created in the concrete block wall that will allow quick access and egress to and from Greensbridge to the new development on the linear walk. This small addition would respond to the line of desire for pedestrians in a planned manner, rather than having them scramble up the bank to access the quickest way onto the bridge.

8.0 Assessment

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

- 8.1.1. The proposed development concerns the creation of a pedestrian and cycle link between two existing amenity areas adjacent to the River Nore. Through the creation of this new route, it would allow pedestrians and cyclists to connect between these amenity edges to the river without being diverted into vehicular dominated areas.
- 8.1.2. The site is primarily zoned 'Amenity / Green Links / Biodiversity Conservation / Open space / Recreation' with the objective 'To allow for green links and biodiversity conservation to preserve, provide and improve recreational open space'. The proposed development is an open space link and therefore permissible under the main zoning for the site. Marginal parts of the site are also zoned General Business and Residential where open space is also permitted.
- 8.1.3. The principle of the proposed connection is founded upon a number of objectives in the Kilkenny Development Plan 2021-2027, including Objectives C3B, C3C, C5P and C6N, concerning the construction of a link to the Riverside Linear Park, specifically as a boardwalk at Green's Bridge linking to the River Nore Riverside Walk.
- 8.1.4. As such, the principle of the proposed pedestrian and cycle link from the Riverside Walk at Bishops Meadows / Riverside Drive connecting to the Riverside Linear Park is established under the Development Plan.

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

- 8.2.1. From a review of the application documentation and consultation responses, I am satisfied that the main potential environmental effects (other than issues addressed in appropriate assessment) can be addressed under the following headings:

- Amenity;
- Architectural heritage;
- Archaeology;
- Water; and
- Biodiversity.

8.2.2. Amenity

- 8.2.3. Three public submissions were received with respect to the application each outlining varying amenity matters which I will address in turn in this section of my report.
- 8.2.4. I note the consultation response from Vision Ireland which raises a number of matters with respect to ensuring consistent accessibility through the area on and around the site and the two amenity areas that the proposal would link, as well as technical design points from an accessibility perspective.
- 8.2.5. Vision Ireland make reference to condition no.6 of ABP reg. ref. 307796-20. That permission relates to the amenity open space to the south of the site as part of the Abbey Quarter. The proposal would link the Abbey Quarter amenity area to the River Nore Linear Park to the north. Condition no.6 of that consent required an Access Statement for the development which was to incorporate measures to assist in navigation and movement through spaces for visually impaired users.
- 8.2.6. Section 12.10 'Universal Design' and the associated development management requirement in the Development Plan, requires that in the assessment of proposals to the public realm, works are required to adhere to Universal design standard for public realm. Reference is made to the NDA publication 'Building for Everyone: A Universal Design Approach, External Environment and Approach' with section 1.5 of that document specifically addressing pedestrian environments.
- 8.2.7. To ensure that the proposed route will be delivered in a manner that reflects the accessibility needs of the broadest range of users in line with the Universal design standard required under the Development Plan, I consider it appropriate to attach a similar condition to that included for the Abbey Quarter amenity space. I also agree with Vision Ireland that the approach to access along the proposed route should be consistent with the approach for the Abbey Quarter amenity space and this can be specifically set out in the condition. While I note Vision Ireland's specific concerns with respect to the shared nature of the proposed link (i.e. use by both cyclists and pedestrians) and potential conflicts that could arise as a result, application of the Universal design standard will ensure consideration of design approaches to facilitate safe shared access to the space for all users.
- 8.2.8. I note an observation that raises concern regarding the connection between the route and access/egress to Greensbridge. The submission suggests that an existing

path that leads directly to the bridge, but which currently terminates abruptly, could be extended to meet the proposed path with a gap in the wall to facilitate this connection. It is suggested in the submission that this would respond to the pedestrian desire line for those wishing to access/egress the bridge to/from the proposed path. In my view, as the proposal does not include this element within its scope, it is unclear what the practicality would be of this addition to the project or any consequential impact upon the delivery of the project. Matters of land ownership, structural and technical considerations, including gradients etc. would all require consideration for such an addition. The addition is also not necessary in order to make the proposal acceptable. The proposal does include linkages to the bridge, albeit, not at the exact location or route suggested by the observer. The proposed linkages to the bridge would also respond to the broadest range of users with a gradient that is more accessible for wheelchair users, prams, and cyclists, than would be facilitated with the direct route suggested. For these reasons, I am satisfied that this additional connection is not required.

- 8.2.9. I note concern raised in a consultation response received with respect to potential impact upon 18-19 Green Street which is a Protected Structure NIAH Ref. No. 12004011. The submission queries the intended approach to the proposed piles in context with 18-19 Green Street which I address as part of potential heritage impact below. The submission also queries consequential construction impact, particularly with respect to noise and dust. Proposed lighting is also queried.
- 8.2.10. With respect to the proposed construction works and potential impact, there will be short-term disturbance as a result of the proposed works. However, this will be on a temporary basis and can be mitigated through measures in a construction and environmental management plan for the project. This type of disturbance is an inevitable and typical consequence of any development, and I am satisfied that impact will be within acceptable parameters. With the application of mitigation measures through a detailed Construction and Environmental Management Plan for the project which can be secured by condition, I have no concerns regarding construction impacts resulting from the proposed development.
- 8.2.11. With respect to proposed lighting, the submitted 177AE Planning Application Report confirms in section 5.3 that the proposed link will be lit with additional lamp standards, with the location of these to be finalised at a later stage. It is proposed to

light the boardwalk section with LED lighting incorporated into the parapet top rail. The submitted Architectural Heritage Impact Assessment appended to the report also confirms the intention to use Dark Skies Association rated downlighters on black columns with directional hoods to minimise light spillage, with the operation of the lighting to align with the current timings in use along Bishop's Meadows Linear walk and photo sensors to ensure that lighting only operated when natural daylight is inadequate. It is possible to include a condition which will ensure lighting will be sensitive to the surroundings, particularly in consideration of the proximity of the link to 18-19 Green Street. Lighting can also be required to be directed downwards, with the use of hoods as set out in the application.

8.2.12. Architectural Heritage

8.2.13. I note concern raised in a consultation response received with respect to potential impact upon 18-19 Green Street which is a Protected Structure NIAH Ref. No. 12004011. The submission queries the number and proximity of piles in context with 18-19 Green Street and whether piles will have structural impact on that property. The submission also queries if KCC Architectural Conservation Officer has examined the proposed works and if parties such as the Heritage Council or Kilkenny Archaeological Society examined the area. With respect to the latter query, I can confirm that The Heritage Council and Kilkenny Council were consulted on the application however no responses were received. In addition, the Department of Housing, Local Government and Heritage have provided a consultation response with respect to Archaeology which I address in the relevant section of this report below.

8.2.14. The proposed works are proximate to Protected Structures at 18-19 Green Street and Green Bridge. The site is also situated within the St. Canice's Kilkenny City Architectural Conservation Area (ACA), and I address potential impact upon each of these heritage assets in turn below.

8.2.15. The National Inventory of Architectural Heritage (NIAH) listing for 18-19 Green Street details that the property is formed of a detached six-bay two storey farmhouse with dormer attic, c.1875, incorporating fabric of an earlier Inn, c.1800, with shopfront to the centre of the ground floor. The appraisal for the property states that the property is believed to incorporate the fabric of an earlier Ford Inn and represents the

continuation of a long-standing occupation of the site, reputed to have operated as a self-sufficient farmhouse until the mid-twentieth century. The building bears the unusual distinction of having agricultural associations in an urban setting. The building is noted as being well maintained with most of the historic fabric surviving intact, with a rating of 'Regional' importance.

- 8.2.16. The main house for 18-19 Green Street fronts onto the street, while a detached flank structure is situated to the side and rear of the property adjacent to the bank for the River Nore. The arrangement of structures for 18-19 Green Street reflecting its historic agricultural involvement alongside more urban fabric. The proposed boardwalk is located between the existing detached flank/rear structure for 18-19 Green Street and the river, effectively straddling the riverbank.
- 8.2.17. The proposed pedestrian/cycle link is formed of a boardwalk as it passes adjacent to the property at 18-19 Green Street. Drawing no.21038-102 depicts sections of the boardwalk. Section A demonstrates the position of the proposed boardwalk adjacent to the property and approximately 1m away from the boundary wall / rear flank structure to 18-19 Green Street. It appears that there are at least 5 pile pairs (one to each side) located along the section of proposed boardwalk adjacent to the existing property at Green Street. The piles are described as 200mm diameter tubular steel mini piles located in pairs typically at 6m centres. At their closest, the piles are approximately 1.5m away from 18-19 Green Street. The intended Construction Methodology is described in Appendix B of the 177AE Planning Application Report.
- 8.2.18. An Architectural Heritage Impact Assessment is included in Appendix I of the submitted 177AE Planning Application Report. The report recognises the close proximity of the proposed boardwalk to the outbuilding structure at 18-19 Green Street. The report acknowledges that this structure, while not formed of the main fabric for the Protected Structure with the principle heritage significance being formed by the main building to Green Street, is nonetheless protected by virtue of being within the curtilage of the main structure. The report describes on page 12 a number engineering design options considered for the proposed boardwalk in light of the conservation and aesthetic issues, with options discounted that would have an unpredictable impact upon the structural integrity of the masonry wall, have visually incongruous impact in the context of the ACA and Protected Structure, or require

works/underpinning or structural reliance upon the boundary wall to 18-19 Green Street.

- 8.2.19. The final design selected ensures the proposed boardwalk is set approximately 1m off the boundary wall for 18-19 Green Street, with the deck supported by piles, being structurally independent of the boundary wall to 18-19 Green Street and using small bottom-driven piles, with small plant and machinery and without entering the water. Page 13 of the report confirms that the selected engineering approach results in minimal vibration and noise compared to conventional top-driven piles and that as a precautionary measure, 2 test piles were successfully driven on the riverbank demonstrating the approach is feasible. Recommendations are set out on page 15 of the report with respect to 18-19 Green Street and comprise the use of vibration monitors and movement tell-tales that would be attached to the Protected Structure and if vibration exceeds agreed limits or if cracks or settlement are detected, works should be suspended pending expert advice on how to proceed. Appendix B of the 177AE Planning Application Report sets out the Construction Methodology for the project and reflects the details set out in the Architectural Heritage Impact Assessment.
- 8.2.20. I am satisfied that the approach described in the application has been considered with respect to potential impact upon 18-19 Green Street and seeks to minimise and monitor effects, with procedure outlined to suspend works if adverse impact is observed. These measures can be secured by condition, and I am satisfied that with this mitigation in place potential negative impact upon the fabric Protected Structure will be prevented, and a structural survey as requested by the observer would not be necessary.
- 8.2.21. With respect to visual impact upon Protected Structures, the submitted Architectural Heritage Impact Assessment identifies there are 3 Protected Structures in the vicinity of the site including Green's Bridge (RPS Ref.D4, NIAH Ref.12004007), the round-arched tunnel approach to Green's Bridge and considered part of the bridge (RPS Ref.B37) and no.18-19 Green Street (RPS Ref.B35, NIAH Ref.12004011).
- 8.2.22. Green's Bridge dates from 1764-66 and is considered to be a near-perfect copy of Palladio's Ponte de Tiberio in Italy rated of national importance in the National Inventory of Architectural Heritage. The proposed works do not include any

alterations to the bridge, and the submitted impact assessment identifies the opportunity that the project presents to explain and interpret the heritage significance of the bridge which is not currently apparent to the general public. It is proposed that the link continue through a modern underpass of relatively recent concrete construction that is currently situated under the bridge.

8.2.23. No heritage impact is identified with respect to Green's Bridge, with the project highlighting the opportunity for beneficial impact with respect to the inclusion of a suitably composed interpretive panel on the boardwalk overlooking the abutments to the bridge and articulating the historic and architectural significance of the structure. With respect to 18-19 Green Street, impact on the setting of the structure is identified as being modest, and the boardwalk guardrails will end in line with the rear river-facing elevation of the yard outbuilding ensuring that the setting of the front elevation will not be affected, that being the elevation of primary significance to the Protected Structure. I am satisfied that there is no significant harm to the setting of Protected Structures as a result of the proposed works, and that impact upon the setting of 18-19 Green Street will be acceptable.

8.2.24. The subject site is also situated within St. Canice's Kilkenny City Architectural Conservation Area (ACA). The submitted Architectural Heritage Impact Assessment identifies that the main impact upon the ACA as a result of the works arises from trees, scrub and vegetation clearance along the river bank to accommodate the proposed boardwalk. Compensatory planting of new trees in Bishop's Meadows is proposed to an equivalent amount of woodland and scrub habitat to be lost as part of the works. Beneficial heritage impact is also anticipated, with the submitted impact assessment outlining that the project will highlight the river and bridge that are key characteristics to the ACA, as well as with a design to the proposed boardwalk which will enhance the character of the riverbank.

8.2.25. Overall, I am satisfied that with mitigation in place as intended as part of the proposed works as set out above, the proposed works will not harm any Protected Structures or their setting, or the character of the ACA.

8.2.26. Archaeology

8.2.27. The subject site is situated within the Zone of Protection of archaeological site RMP No.KK019-026 identified as the historic town of Kilkenny. It will also take place in the

vicinity of several other known and legally protected archaeological sites. The application includes an Archaeological Impact Assessment Report at Appendix H to the 177AE Planning Application Report, this identifies the archaeological sites surrounding the subject site on pages 20-22.

- 8.2.28. The principle potential impact related to the proposed works relates to ground disturbance associated with the mini piles to support the proposed boardwalk. However, the submitted impact assessment highlights that the mini piles would be installed at the location of the temporary works of the Kilkenny Flood Relief Scheme and subsequently most of the underlying original ground material at the location of the mini piles has been removed during previous construction activities. Overall, it is anticipated that the proposed works would have a slight impact on archaeological heritage and will not directly impact on any known archaeology. Archaeological mitigation measures are recommended to manage and reduce the risk of impact.
- 8.2.29. The Department of Housing, Local Government and Heritage have provided a consultation response with respect to archaeology. The Department recommends that an Archaeological Impact Assessment, to include pre-development archaeological testing, be carried out in advance of construction works and that a report containing results should be submitted to the National Monuments Service, archaeological conditions are outlined in the response.
- 8.2.30. I am satisfied that the recommended mitigation can be secured by condition, and that with this in place the proposed works will be acceptable with respect to archaeological heritage.
- 8.2.31. Water
- 8.2.32. In terms of water networks, Uisce Éireann has confirmed they have no objection to the proposals subject to conditions that protect Uisce Éireann network infrastructure. I have included a condition to reflect Uisce Éireann's recommendations that the Board can rely upon in this respect should they determine to grant consent.
- 8.2.33. In terms of flood risk, I note concerns in a public consultation response with respect to the management of surface water drainage. Appendix C of the submitted 177AE Planning Application Report is a Site Specific Flood Risk Assessment for the proposal. This identifies that the subject site is situated in Flood Zone A with a high risk of flooding. The proposal is however a water-compatible development and

therefore acceptable in Flood Zone A according to the Department of Housing, Local Government Planning and Heritage Planning and Flood Risk Management Guidelines. The submitted assessment also sets out analysis of scenarios to test the impact of the proposed boardwalk upon flooding in the area. This demonstrates that the boardwalk does not present increased risk of flooding to the surrounding area. While I note the concerns with respect to management of surface water drains raised in the public consultation response, the proposed development has demonstrated that it is acceptable from a flood risk perspective and will not increase the risk of flooding to surrounding areas.

8.2.34. In relation to water quality, potential effects upon water quality and potential pathways to European sites are considered as part of an Appropriate Assessment below.

8.2.35. Biodiversity

8.2.36. An Ecological Impact Assessment Report (EclAR) is included at appendix D to the 177AE Planning Application Report. This describes the baseline ecological conditions of the site, potential effects of the proposed works and mitigation measures to minimise residual impact. The report notes the location of the site within, and potential pathways from the site to, the River Nore SPA (00433) and River Barrow and River Nore SAC (002161), as well as the proximity to the Newpark Marsh pNHA (000845) and Lough Macask pNHA (001914). An Appropriate Assessment is set out below with respect to potential effect on European sites. Other important ecological features identified include the Rive Nore, scrub, treelines, common frog, bats, kingfisher, birds, fish, hedgehog, white-clawed crayfish, otter and pygmy shrew. Bats are a protected species under legislation and high levels of bat foraging activity was observed along the riparian treelines and the river as well as underneath Green's Bridge. No bats were identified using the archway underneath Green's Bridge. Otter is also a protected species under EU Habitats Directive and the Wildlife Act and was observed foraging in the area of the site on the river. No other rare/protected species were observed on the site.

8.2.37. Potential impacts include habitat loss, disturbance during construction and use of the boardwalk and reduction in water quality, however with the application of mitigation, including implementation of best practise construction methods, minimising

vegetation removal and removal outside of nesting season, as well as following guidelines with respect to lighting sensitive to bats, no significant residual effects are anticipated as a result of the proposed works. A Tree Survey Report is included at Appendix G of the 177AE Planning Application Report and describes the removal of a large number of trees to facilitate the works. Compensatory planting of new trees in Bishop's Meadows is proposed to an equivalent amount of woodland and scrub habitat to be lost as part of the works and can be secured by condition.

8.2.38. I am satisfied that with the implementation of mitigation, no significant negative residual effects are expected to arise as a result of the proposed work on important ecological features on and around the site. This section of my report should be read alongside the Appropriate Assessment set out below.

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

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

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

8.5. **The Natura Impact Statement:** The application was accompanied by an AA Screening and NIS at Appendix F of the submitted 177AE Planning Application Report, which described the proposed development, the project site and the surrounding area. The Appropriate Assessment Screening and NIS contained a Stage 1 Screening Assessment which concluded that a Stage 2 Appropriate

Assessment was required. The Appropriate Assessment Screening and NIS outlined the methodology used for assessing potential impacts on the habitats and species within several European Sites that have the potential to be affected by the proposed development. It predicted the potential impacts for these sites and their conservation objectives, it suggested mitigation measures, assessed in-combination effects with other plans and projects and it identified any residual effects on the European sites and their conservation objectives.

8.6. The NIS was informed by the following studies, surveys and consultations:

- Ecological Desk study;
- Habitat Survey;
- Article 17 and Article 12 reports completed by the NPWS;
- Site Synopses, Conservation Objectives and Standard Data Forms for the Natura 2000 sites;
- EPA Maps; and
- National Biodiversity Data Centre Maps.

8.7. The report concluded that, subject to the implementation of the recommended mitigation measures, the proposed development would not adversely affect the integrity of European sites.

8.8. Having reviewed the Appropriate Assessment Screening and NIS and the supporting documentation, I am satisfied that it provides adequate information in respect of the baseline conditions, does clearly identify the potential impacts, and does use best scientific information and knowledge. Details of mitigation measures are provided and they are summarised in page 33 of the Appropriate Assessment Screening and NIS. I am satisfied that the information is sufficient to allow for appropriate assessment of the proposed development (see further analysis below).

8.9. **Appropriate Assessment**

8.9.1. I consider that the proposed development of a pedestrian and cycle pathway link is not directly connected with or necessary to the management of any European site.

8.9.2. Having regard to the information and submissions available, nature, size and location of the proposed development and its likely direct, indirect and cumulative

effects, the source pathway receptor principle and sensitivities of the ecological receptors the following European Sites are considered relevant to include for the purposes of initial screening for the requirement for Stage 2 appropriate assessment on the basis of likely significant effects.

Table 1: European sites considered for Stage 1 screening:

European site (SAC/SPA)	Qualifying Interests	Distance
River Nore SPA (004233)	Kingfisher (<i>Alcedo atthis</i>) [A229]	Site overlaps.
River Barrow and River Nore SAC (002162)	<p>Estuaries [1130]</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Reefs [1170]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glaucopuccinellietalia maritimae</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitricho-Batrachion</i> vegetation [3260]</p> <p>European dry heaths [4030]</p> <p>Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels [6430]</p> <p>Petrifying springs with tufa formation (<i>Cratoneurion</i>) [7220]</p> <p>Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0]</p>	Site adjoins/overlaps.

European site (SAC/SPA)	Qualifying Interests	Distance
	<p>Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, <i>Alnion incanae</i>, <i>Salicion albae</i>) [91E0]</p> <p><i>Vertigo moulinsiana</i> (Desmoulin's Whorl Snail) [1016]</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> <p><i>Salmo salar</i> (Salmon) [1106]</p> <p><i>Lutra lutra</i> (Otter) [1355]</p> <p><i>Trichomanes speciosum</i> (Killarney Fern) [1421]</p> <p><i>Margaritifera durrovensis</i> (Nore Pearl Mussel) [1990]</p>	

8.10. Based on my examination of the NIS report and supporting information, the NPWS website, aerial and satellite imagery, the scale of the proposed development and likely effects, separation distance and functional relationship between the proposed works and the European sites, their conservation objectives and taken in conjunction with my assessment of the subject site and the surrounding area, I would conclude

that a Stage 2 Appropriate Assessment is required for River Nore SPA and River Barrow and River Nore SAC European sites referred to above.

- 8.11. There are no other European sites requiring assessment due to the separation distances and the lack of a substantive linkage between the proposed works and any other European sites.
- 8.12. **Relevant European sites:** The Conservation Objectives and Qualifying Interests, including any relevant attributes and targets for River Nore SPA and River Barrow and River Nore SAC, are set out below and in table 1 above.

1. River Nore SPA (004233):

The River Nore SPA is a long linear site of river sections. It is of high ornithological importance as it supports a nationally important population of Kingfisher, a species that is listed on Annex 1 of the EU Birds Directive.

Conservation Objectives

To maintain or restore the favourable conservation condition of Kingfisher listed as a Special Conservation interest for this SPA.

Potential direct effects:

- Disturbance to foraging activity during construction, including from noise and vibration.
- Disturbance to foraging activity during operation associated with use of the boardwalk.

Potential indirect effects:

- Risk of impact upon food source due to changes in water quality because of suspended solid pollution during construction and decommissioning of the project.

Potential in-combination effects:

- Potential to exacerbate effects of changes to water quality by acting in-combination with other projects.

Mitigation measures:

- Water Quality Control Measures:

- Standard best practices as laid out by Inland Fisheries Ireland (IFI) will be used during construction of the proposed project.
- Habitat Control Measures:
 - Pruning instead of clearing vegetation where possible.
- Noise and Vibration Control Measures:
 - Use of screw piling.

Residual effects/Further analysis:

- The site survey confirmed that the subject site is not suitable as a nest site for Kingfisher due to the existing retaining wall running the length of the route to the west and the bank is shallow and prone to flooding. While Kingfisher is at risk of disturbance while foraging during construction, operation and decommissioning, the species is relatively tolerant of human activity, being found commonly on urban rivers with footpaths alongside provided water quality is high enough. With the application of mitigation measures, there will be no adverse effects on the integrity of the River Nore SPA.

Conclusion: I am satisfied that the proposed development individually or in combination with other plans or projects would not adversely affect the integrity of this European site in light of its conservation objectives (subject to the implementation of mitigation measures outlined above).

2. River Barrow and River Nore SAC (002162):

The site consists of freshwater stretches of the Barrow and Nore River catchments as far upstream as the Slieve Bloom Mountains, and it also includes the tidal elements and estuary as far downstream as Creadun Head in Waterford. The site supports species listed in the Irish Red Data Book include Daubenton's Bat, Badger, Irish Hare and Common Frog. The rare Red Data Book fish species Smelt occurs in estuarine stretches of the site. The site is very important for the presence of a number of E.U. Habitat Directive Annex II animal species including Freshwater Pearl Mussell, White-clawed Crayfish, Salmon, Twaite Shad, three Lamprey species, the tiny whorl snail and Otter. Three rare invertebrates have been recorded in alluvial woodland at Murphy's of the River. The site is also of ornithological importance for a number of E.U. Birds Directive Annex I species, including Greenland White-fronted Goose, Whooper Swan, Bewick's Swan, Bar-tailed Godwit, Peregrine and Kingfisher.

The main threats to the site and current damaging activities include high inputs of nutrients into the river system from agricultural run-off and several sewage plants,

over-grazing within the woodland areas, and invasion by non-native species, for example Cherry Laurel (*Prunus laurocerasus*) and Rhododendron (*Rhododendron ponticum*). The water quality of the site remains vulnerable. Good quality water is necessary to maintain the populations of the Annex II animal species listed above.

Conservation Objectives

To maintain the favourable conservation condition of Desmoulin's whorl snail, White-clawed Crayfish, Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels, Water courses of plain to montane levels with the ranunculus fluitantis and callitriche-Batrachion vegetation, Estuaries, Mudflats and sandflats not covered by seawater at low tide, Sailcornia and other annuals colonizing mud and sand, Killarney Fern, European Dry Heaths, Petrifying Springs with Tufa Formation.

To restore the favourable conservation condition of Otter, Atlantic Salmon, Twait Shad, River Lamprey, Brook Lamprey, Sea Lamprey, Atlantic Salt Meadows, Mediterranean Salt Meadows, Nore Freshwater Pearl Mussel, Old sessile oak woods with Ilex and Blechnum in the British Isles, Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior*.

Margaritifera margaritifera (Freshwater Pearl Mussel) is under review.

Potential direct effects:

- Potential for accidental silt run off during construction could affect hydrophilous tall herb fringe communities of plains and of the montane to alpine levels and water course of plain to montane levels with the ranunculus fluitantis and callitriche-batrachion vegetation that may occur downstream of the site.

Potential indirect effects:

- Potential for indirect impact during construction by accidental run off of silt into the River Nore, leading to indirect impact upon species of Lamprey, Salmon, Otter, White-clawed Crayfish and Twait Shad, causing an increase in suspended solids and can cause increased sedimentation in spawning sites. White-claw Crayfish are very sensitive to changes in water quality. Otter may be affected by changes in water quality due to the effects of silt runoff on fish biomass.

Potential in-combination effects:

- Potential to exacerbate effects of changes in water quality by acting in-combination with other projects.

Mitigation measures:

- Water Quality Control measures:
 - Standard best practices as laid out by Inland Fisheries Ireland (IFI) will be used during construction of the proposed project.
- Lighting Control Measures:
 - Minimise light spills using shields, masking and louvres.
 - Restrict lights to ensure that there are dark hours.
- Noise and Vibration Control:
 - Use of screw piling.
- Pre-construction survey for otter holts to be carried out as water levels were high during the site survey.

Residual effects/Further analysis:

- With the application of mitigation measures, there will be no adverse effects on the integrity of the River Nore SPA.

Conclusion: I am satisfied/not satisfied that the proposed development individually or in combination with other plans or projects would not adversely affect the integrity of this European site in light of its conservation objectives (subject to the implementation of mitigation measures outlined above).

8.13. I note the consultation response from Inland Fisheries Ireland (IFI). This sets out recommended mitigation to ensure that no deleterious matter reaches surface water systems and that works should comply with the IFI Guidelines on Protection of Fisheries during Construction Works in and adjacent to Waters. The submitted Appropriate Assessment Screening and NIS confirms that standard best practices as laid out by IFI will be used during the construction of the project. This can be secured by condition, as can the specific measures set out in the IFI response.

8.14. **Appropriate Assessment Conclusions:**

8.15. Having regard to the above, I consider that it is reasonable to conclude on the basis of the information on the file, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, that the proposed development, individually or in combination with other plans and projects would / would not adversely affect the

integrity of the River Nore SPA (00433) and River Barrow and River Nore SAC (002161), or any other European site, in view of the site's Conservation Objectives.

9.0 EIA Screening

- 9.1. The application includes an Environmental Impact Assessment (EIA) Screening Report at Appendix E of the 177AE Planning Application Report and I have had regard to the same. The report concludes that the proposed development is below the thresholds for mandatory EIA and that a sub threshold Environmental Impact Assessment Report (EIAR) is not required in this instance as the proposed development will not have significant impacts on the environment.
- 9.2. Schedule 5, Part 1 and 2 of the Planning and Development Regulations 2001 (as amended) sets out the classes and associated thresholds of development for which an EIA is mandatory. The proposed works do not fall within a class under which EIA would be mandatory.
 - 9.2.1. Item (15)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that an EIA is required for:

“Any project listed in this part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.”
- 9.3. The submitted EIA Screening Report addresses the criteria under Schedule 7. In addition, the information set out in Schedule 7A of the Regulations has also been addressed in the submitted report. I have had regard to the characteristics of the site, location of the proposed development, and types and characteristics of potential impacts. I have examined the applicants EIA Screening Report and the information set out in response to Schedule 7 (Sections 4-6 of the submitted report), as well as the sub criteria having regard to Schedule 7A, and I have considered all information which accompanied the application.
- 9.4. There are no likely significant negative impacts identified in the EIA Screening Report. While the proposed development for a pedestrian and cycle link will result in a slight negative effect to residential amenity during construction as a result of

potential noise, dust and potential traffic disruption, it is noted that this necessary construction activity is short term and temporary with no lasting negative impacts expected. It is acknowledged that there is potential for the proposed works to have significant effects upon European sites as described in the Appropriate Assessment in section 8 of this report above, however with the implementation of the detailed mitigation measures set out in the submitted NIS it is concluded beyond reasonable scientific doubt that the integrity of the River Nore SPA and River Barrow and Nore SAC, will not be adversely affected. It is anticipated that once operational, the project is not expected to introduce negative impacts. The proximity of the site to designated sites for nature conservation is addressed and mitigation outlined. Potential effects upon protected species and species of conservation interest for designated sites have been identified and mitigation included to reduce effects. Potential impact upon heritage assets and the built historical environment have also been identified and mitigation included to ensure no significant adverse impact arises. No significant adverse impacts are anticipated with the application of mitigation.

9.5. I concur with the conclusions set out in the submitted EIA Screening Report and I am satisfied that with the incorporation of mitigation, the proposed development would not be likely to have significant effects on the environment.

9.6. **EIA Screening Conclusion:**

9.7. It is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not therefore be required. I recommend that a screening determination be issued accordingly, confirming that no EIAR is required.

10.0 Recommendation

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

11.0 Reasons and Considerations

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

- (a) the EU Habitats Directive (92/43/EEC),
- (b) the European Union (Birds and Natural Habitats) Regulations 2011-2015,
- (c) the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the likely significant effects of the proposed development on a European Site,
- (d) the conservation objectives, qualifying interests and special conservation interests for the River Nore SPA (00433) and River Barrow and River Nore SAC (002161),
- (e) the policies and objectives of The Kilkenny Development Plan 2021-2027,
- (f) the nature and extent of the proposed works as set out in the application for approval,
- (g) the information submitted in relation to the potential impacts on habitats, flora and fauna, including the Natura Impact Statement,
- (h) the submissions and observations received in relation to the proposed development,
- (i) the report and recommendation of the person appointed by the Board to make a report and recommendation on the matter.

Appropriate Assessment:

The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report that the River Nore SPA (00433) and River Barrow and River Nore SAC (002161), are the only European Sites in respect of which the proposed development has the potential to have a significant effect.

The Board considered the Natura Impact Statement and associated documentation submitted with the application for approval, the mitigation measures contained therein, the submissions and observations on file, and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed development for the affected European Sites, namely the River Nore SPA (00433) and River Barrow and River Nore SAC (002161), in view of the site's conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment. In completing the appropriate assessment, the Board considered, in particular, the following:

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

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

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

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

It is considered that, subject to compliance with the conditions set out below, the proposed development would not have significant negative effects on the environment or the community in the vicinity, would not give rise to a risk of pollution, would not be detrimental to the visual or landscape amenities of the area, would not seriously injure the amenities of property in the vicinity, would not adversely impact

on the cultural, archaeological and built heritage of the area and would not interfere with the existing land uses in the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

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

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

2. The mitigation and monitoring measures outlined in the plans and particulars relating to the proposed development, including those set out in table 4.1 of the Appropriate Assessment Report and Natura Impact Statement, shall be implemented in full or as may be required in order to comply with the following conditions. Prior to the commencement of development, details of a time schedule for implementation of mitigation measures and associated monitoring shall be prepared by the local authority and placed on file and retained as part of the public record.

Reason: In the interest of protecting the environment, the protection of European Sites and in the interest of public health.

3. Prior to the commencement of development, the local authority, or any agent acting on its behalf, shall prepare in consultation with the relevant statutory agencies, a Construction Environmental Management Plan (CEMP), incorporating all mitigation measures indicated in the Natura Impact Statement and demonstration of proposals to adhere to best practice and protocols. The CEMP shall also include:
 - a. Measures to monitor vibration and movement to the protected structures at 18-19 Green Street as it is situated adjacent to the proposed boardwalk. If vibration exceeds agreed limits or cracks or

settlement is detected, works should be suspended pending expert advice on how best to proceed, and

- b. Specific proposals as to how the measures outlined in the CEMP will be measured and monitored for effectiveness.

Reason: In the interest of protecting the environment.

4. Prior to the commencement of development, details of measures to protect fisheries and water quality of the river systems shall be outlined and placed on file. Works shall comply with Inland Fisheries Ireland's published guidelines for construction works near waterways (Guidelines on Protection of Fisheries during Construction Works in and Adjacent to Waters, 2016). A programme of water quality monitoring shall be prepared in consultation with the contractor, the local authority and relevant statutory agencies and the programme shall be implemented thereafter. The following specific requirements of Inland Fisheries Ireland to be complied with:

- No interference with the bed, gradient, profile or alignment of watercourses without consultation with IFI.
- Instream works to be done in dry. Instream or bankside works should take place during 1st July to 30th September.
- A method statement for the riparian / instream works to be prepared in consultation with IFI and placed on file.
- During the construction phase, buffer zones should be applied and silt curtains should be in place prior to commencement of works.
- A net or similar barrier to be placed below any assembly of prefabricated boardwalk deck boards if taking place above the existing bank level, to prevent cuttings or shavings entering the river.
- Routes of roads, tracks and turning areas should be planned to minimise the potential for environmental disturbance.
- Records of water monitoring to be kept for inspection.

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

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

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

6. A suitably qualified ecologist shall be retained by the local authority to oversee the site set up and construction of the proposed development and implementation of mitigation measures relating to ecology set out in Table 4-1 of the Ecological Impact Assessment Report. The ecologist shall be present during site construction works. Upon completion of works, an ecological report of the site works shall be prepared by the appointed ecologist to be kept on file as part of the public record.

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

7. A report describing measures for compensatory planting of new trees in Bishop's Meadows, to an equivalent amount of woodland and scrub habitat to be lost as part of the works, shall be prepared, placed on file, and retained as part of the public record.

Reason: In the interest of protecting ecology and the environment.

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

carried out in advance of construction works. A report containing results should be submitted to the National Monuments Service and kept on file.

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.

9. The County Council and any agent acting on its behalf shall liaise with Uisce Éireann regarding existing water services infrastructure in the vicinity of the proposal prior to and during construction to ensure that the integrity of Uisce Éireann's infrastructure shall be protected both during and after the completion of the works. Works to be in accordance with the Uisce Éireann Codes of Practice and Standard Details insofar as they may interact with Uisce Éireann infrastructure or assets.

Reason: To ensure protection of water and wastewater facilities.

10. Within three months of the date of this Order, an Access Statement for the proposed development shall be prepared, placed on file, and retained as part of the public record. The statement shall align with that prepared for the Abbey Quarter (former Smithwicks Brewery site) in the Townlands of Gardens, Kilkenny City (ABP Reg. Ref. 307796-20 under condition 6). The statement shall describe measures that will assist in the navigation and movement along the proposed pathway/link for visually impaired users, including use of materials to assist safety, such as audible indication of cyclists/scooters, and slip resistance. Assisting wayfinding through tapping rails or similar, consideration of the installation of tactile and navigational tiles as well as sensory interpretation of the view at the viewing platform and continuation of the 'braille trail' provided in the Abbey Quarter. Avoidance of free standing signs at head height and a lighting strategy to be informed by the Abbey Quarter.

Reason: To provide for universal access and in the interest of pedestrian safety.

11. Comprehensive details of the proposed public lighting system to serve the development shall be prepared, placed on file, and retained as part of the

public record, and prior to commencement of development/installation of the lighting. Lighting shall be 'bat sensitive' and incorporate Dark Skies Association rated downlighters with directional hoods to minimise light spillage. Placement of lighting should be sensitive to the amenity of adjacent residents.

Reason: In the interest of ecology, public safety and visual amenity.

Rachel Gleave O'Connor
Senior Planning Inspector

21st March 2024