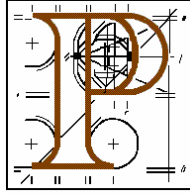


An Bord Pleanála



Inspector's Report

Development: Installation of hydrometric station on the River Slaney at Rathvilly, Co. Carlow.

Planning Application

Planning Authority: Carlow County Council

Applicant: Carlow County Council.

Type of Application: Section 177AE, Part XAB (Appropriate Assessment) Planning and Development Act, 2000, as inserted by the Planning and Development Act, 2010.

Observers: Department of Arts, Heritage and the Gaeltacht.

Date of Site Inspection: 22nd January 2014

Inspector: **Kenneth Moloney**

1.0 INTRODUCTION

The North Carlow Regional Water Supply Scheme which supplies water to much of north county Carlow and south county Kildare currently abstracts water from the River Slaney at the Rathvilly Water Treatment Plant. This plant is located approximately 300m upstream of Rathvilly Bridge.

The abstraction order (dated 5th June 1980) in relation to this Water Treatment Plant sets out several conditions including the requirement that *‘proper and satisfactory monitoring devices shall at all times be used for the purpose of measuring the daily rate of flow of the River Slaney and proper records of such monitoring shall be kept by the Carlow County Council’*. Therefore Carlow County Council installed a hydrometric station upstream of the Rathvilly Water Treatment Plant.

The current hydrometric station is no longer capable of supplying accurate measurements of flow in the River Slaney and therefore a new hydrometric station is required in order to be in compliance with the Court Order for Abstraction at Rathvilly WTP.

2.0 LEGISLATIVE REQUIREMENTS

Section 177 AE (1) of the Act states that *‘where an Appropriate Assessment is required in respect of a development by a local authority that is within the local authority’s functional area, the local authority shall prepare or cause to be prepared a Natura Impact Statement’*.

In accordance with subsection (3), where a Natura Impact Statement 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 AE (6) states that before making a decision in respect of the proposed development, the Board shall consider the NIS submitted by the local authority and any observations associated with it. The Board shall consider

- (i) The likely effects on the environment of the proposed development.
- (ii) The likely consequence for the proper planning and sustainable development of the area.
- (iii) The likely significant effects of the proposed development on a European site.

3.0 SITE DESCRIPTION

The site of the proposed development is situated approximately 80 metres south (downstream) of Rathvilly Bridge. The river bank, at the point of the proposed works, is adjoined by agricultural fields on either side.

There is an agricultural field adjoining the eastern bank of the River and this field is poorly drained. The gradient of the field slopes gradually upwards away from the river. There is an agricultural lane adjoining the eastern boundary of this field and this lane has access onto the N81. There is a power line running adjacent to the eastern river bank.

The field on the opposite side of the river is also an agricultural field and the gradient of this field undulates. There is a raised natural embankment along the river bank. There are trees and vegetation on both sides of the river bank.

There is a mill race immediately north of the proposed development works. This mill race originates from a former water mill which is located immediately north of Rathvilly Bridge and on the eastern bank. The mill race effectively forms an island immediately north of Rathvilly Bridge and south of the site of the proposed development works. The island is small in size and is heavily vegetated including a single mature tree.

The river flow, at the time of my site inspection, was well contained within the river bank.

4.0 NATURA 2000 DESIGNATION

The River Slaney SAC (Site Code 000781) comprises of the freshwater stretches of the Slaney from the Wicklow Mountains to estuary at Ferrycarrig and Wexford Harbour. The qualifying interests include the following;

- Freshwater pearl mussel (*Margaritifera margaritifera*) [1029]
- Sea lamprey (*Petromyzon marinus*) [1095]
- Brook lamprey (*Lampetra planeri*) [1096]
- River lamprey (*Lampetra fluviatilis*) [1099]
- Allis shad (*Alosa alosa*) [1102]
- Twaite shad (*Alosa fallax fallax*) [1103]
- Salmon (*Salmo salar*) [1106]
- Estuaries [1130]
- Mudflats and sandflats not covered by seawater at low tide [1140]
- Otter (*Lutra lutra*) [1355]
- Water courses of plain to montane levels with the *Ranunculus fluitantis* and *Callitriche-Batrachion* vegetation [3260]
- Old sessile oak woods with *Ilex* and *Blechnum* in British Isles [91A0]
- Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*) [91E0]

5.0 PROPOSED DEVELOPMENT

The proposed works include the following;

- a. Excavation of a diverted channel into field on east bank of river
- b. Damming of river upstream and diversion of river into temporary channel
- c. Placing concrete plug to prevent egress of water to weir
- d. Placing concrete base in river
- e. Placing of pre-cast weir sections
- f. Construction of side walls
- g. Installation of monitoring and telemetry equipment
- h. Removal of temporary dam in river
- i. Reinstatement of diverted channel

The diverted channel will be 6m wide and 2m in depth with an embankment slope of 3%. The excavated material will be stockpiled in the field for reuse. The channel bed and sides will then be lined with a suitable low density polyethylene liner to prevent scouring of materials from the channel bed and sides.

The temporary dam will be constructed using Kelly Blocks which are mass concrete. The face of the Kelly Blocks will be lined with neoprene liner. A mobile crane will drop the Kelly Blocks into position to form a temporary dam.

The weir will be pre-cast and will be delivered to the site in two sections that will be 8.6m long with a width of 3.5m. A reinforced concrete base with a depth of 300mm will be poured with starter bars protruding. Following this the precast weir structure will be positioned on this base and concrete poured to infill under the weir. The foundations for the side walls will be cast on each bank and brought above water level. The telemetry equipment will be placed on the western river bank.

The proposed development will also include temporary works to the field immediately west of the river. These temporary works will include the installation of a temporary road from the existing field gate at the north eastern end of the field adjacent to the N81. A temporary hard standing area of approximately 600 sq. metres laid out in the field immediately west of the river. A 6m long container, a portacabin and a portaloos will be placed in position to provide on site facilities.

6.0 APPLICATION SUBMITTED

The application for approval was submitted on 4th October 2013 under the provisions of Section 177A(E) of the Planning and Development Act, 2000 – 2010, as amended. The application was accompanied by a report which sets out details of the nature and extent of the proposed development and the description of the potential impacts. The application was also accompanied by;

- Description of the Proposed Development
- Drawings
- Screening Statement for Appropriate Assessment

- A Natura Impact Statement (including appendices)
- A Preliminary Hydrological Assessment

Natura Impact Statement

The River Slaney is a designated SAC (site code 000781) and the submitted NIS considers the following qualifying habitat relevant in the context of the proposed development;

- Floating River Vegetation

The following qualifying species are present in the SAC and the NIS considers them relevant in the context of the proposed development;

- Atlantic Salmon
- Sea Lamprey
- Brook Lamprey
- Otter
- Twaite Shad
- Freshwater Peral Mussel

Other relevant protected species include

- Kingfisher (EU Birds Directive Annex 1)

The submitted Screening Report for Appropriate Assessment concluded that during construction phase there is the possibility for fine particulate matter to be released at the development site and deposited further downstream. There is also the potential that dewatering of the river could negatively impact on any fish species present and works on the tail race could also directly impact on juvenile lamprey. The construction of the proposed development therefore could impact on floating river vegetation, freshwater pearl mussel, Atlantic salmon, river lamprey and brook lamprey. As there is the potential for a significant impact on the fish species both the otter and kingfisher are at risk given that these species prey on fish.

During the operational phase the Screening Report considers that the potential exits for the weir to act as an impediment for upstream migration of salmon and lamprey species. This may have consequences on available spawning and nearby nursery habitat. Accordingly the screening exercise concluded that there is the possibility of significant impacts on Atlantic salmon, river lamprey and brook lamprey arising at operational stage. A negative impact on salmon would have implications for freshwater pearl mussel reproduction. There is potential for negative impacts on the otter and the kingfisher given the potential for adverse impacts on the fish species outlined above.

Section 5.2 of the NIS outlines the potential unmitigated impacts at construction stage and the causes of these impacts would relate to;

- Timing of works (spawning period)
- Construction of Diversion Channel

- Dewatering
- Weir Construction
- Flood Event
- Invasive Plants

The mitigation measures are set out in Section 5.6 of the NIS and I have summarised the mitigation measures relevant for the construction phase in the table below;

<u>Construction Phase</u>	
Threat	Recommended Mitigation
Impacts on Tail Race & impact of Dewatering	Relocate fish by means of electrofish from (a) tail race and (b) area to be dewatered. In the event of flood the diverted channel will be electrofished and all fish relocated to original course of river.
Fish Reproduction	Works timed to avoid salmonid spawning periods. Works will take place outside the period October to June inclusive.
Suspended Solids and Siltation	(a) The freshwater pearl mussel will be trans-located. (b) The base of the temporary divert channel will be lined with low density polyethylene liner and this will prevent the movement of sub-soil materials. (c) Provision of settlement ponds during weir construction. (d) The carrying out of works during low flow conditions and dry weather conditions. (e) Monitoring concentrations of suspended solids.
Hydrocarbon Impacts	Careful handling of fuels, lubricants and hydraulic fluids. Immediate removal of contaminated soils. Storing of fuels in bunded area. Waste-oils and hydraulic oils collected in leaf proof containers.
Cement Impacts	No cement disposed within 30m of river. Wash down water will be retained on site to allow sediment settle.
Flood Event	Works to be carried out during summer months when the flow in the River Slaney does not exceed the maximum hydraulic capacity of the divert channel. A flood response plan is prepared.
Invasive Species	Cleaning of all onsite machinery prior to arrival and on leaving the site

Following a request by An Bord Pleanala on the 21st October 2013 the applicant furnished the following documentation;

- Additional Drawings
- Archaeological Assessment Report
- Method Statement for Proposed Works
- Brochure of monitoring and telemetry equipment

7.0 SUBMISSIONS IN RELATION TO THE APPLICATION FOR APPROVAL

In accordance with the provisions of Section 177 AE (4) (b) a number of prescribed bodies were notified of the proposal and a copy of the application in the NIS was circulated to same. The submission received in relation to the application is summarised below.

7.1 Submission from the Department of Arts Heritage and the Gaeltacht

The following is a summary of their submission;

Archaeology

- Rathvilly Bridge is a protected monument under the National Monuments Act.
- The bridge marks a previous fording point and has the potential to retain previously unknown or unidentified archaeology within the immediate area.
- The works has the potential to impact negatively on earlier structures that maybe associated with the bridge or the fording point.
- The proposed works are due to encroach on a mill race.
- It is recommended that both the river and its banks, adjoining the subject site, are the subject of a terrestrial and underwater archaeological impact assessment in advance of any grant of permission.

Nature Conservation

- Sediment release or chemical pollutant release from the proposed works is a concern.
- Water quality shall not be compromised in the event of a flood event.
- Additional sediment could adversely impact on freshwater pearl mussel.
- The relocation of the identified freshwater pearl mussel requires a licence. The Board should satisfy itself that a licence has been or will be issued prior to the grant of any permission.
- It is recommended that an ecologist is on site while works are carried out.
- A construction environmental plan (CMP) shall be submitted and consideration given to a potential flood event in the diverted channel. For such an instance an emergency response plan shall be prepared.
- The CMP shall make provision for works carried out in wet conditions (i.e. quick drying concrete).
- Inland Fisheries Ireland is responsible for all fish species.
- Clarification is sought for the implications of the proposed development on floating river vegetation.
- Clarification is sought on the implications of the proposed works on the otter habitat. The Conservation Objectives note that a 10m buffer area either side of the river is critical offer habitat.

8.0 AN BORD PLEANALA'S REQUEST FOR ADDITIONAL INFORMATION

In a letter dated 27th January 2014 An Bord Pleanála requested the following additional information in relation to the scheme:-

- An underwater archaeological impact assessment.
- Details of floating river vegetation and implications for this Annex 1 habitat having regard to the proposed development works.
- Details of any implications that the proposed development works will have on the local otter population.
- Revised construction management plan.

The local authority submitted a further information response on the 19th February 2014. The local authority responded to points 2, 3 & 4 of the additional information request however the applicant did not respond to item no. 1 as they are awaiting approval for the project from Irish Water.

9.0 PLANNING HISTORY

East River Bank

No recent relevant planning history.

West River Bank

- L.A. Ref. 03/836 – Permission sought for 26 no. 3 bedroom bungalows and 16 no. serviced sites. Permission **refused** for the following reason; *'The proposed development would be premature pending the adoption of a Local Area Plan for the village of Rathvilly in accordance with a stated objective of the Carlow County Development Plan, 2003, and would therefore be contrary to the proper planning and sustainable development of the area'*.
- L.A. Ref. 02/744 – Outline permission sought for 35 no. serviced sites. Application **withdrawn**.

10. POLICY CONTEXT

10.1 Development Plan Provisions

The operational development plan is the Carlow County Development Plan, 2009 – 2015. Chapter 6 sets out policies in relation to Infrastructure, Environment and Energy. The following policies are relevant;

Surface Water

- To protect, maintain, improve and enhance the quality of watercourses and rivers in the county.

Water Quality

- To protect and to ensure an adequate supply of clean water

Chapter 8 sets out policies in relation to Heritage and Culture. The following policies are relevant;

Designated Natural Heritage Sites

- Protect natural heritage sites designated in National and European legislation

Protected Species

- Protect, and where possible, enhance the plant and animal species and their habitats that have been identified under EU Habitats Directive, EU Birds Directive, the Wildlife Act and the Flora Protection Order.
- Protect freshwater pearl mussel and salmon

Nature Conservation Outside of Designated Areas

- Protect and enhance wildlife habitats and landscape features which form part of habitat networks such as river corridors and associated habitats.

Inland Waters, Rivers, Streams and Wetlands

- Protect and enhance the natural heritage and landscape character of waterway corridors and wetlands and to maintain them free from inappropriate development and provide for public access.

Underwater Archaeology

- Protect archaeological sites, monuments (including their setting), underwater archaeology, and objects within the jurisdiction of Carlow County Council, including those that are listed in the Record of Monuments and Places, and in the Urban Archaeological Survey of County Carlow or newly discovered sub-surface archaeological remains.

10.2 Rathvilly Local Area Plan, 2010 – 2016

The eastern river bank is zoned ‘amenity and open space’ and the objective of this zoning provision is ‘*to preserve and provide for open space and recreational amenities*’.

A linear strip on the western river is also zoned ‘*amenity and open space*’. The land immediately west of this linear strip is zoned Residential – Low Density where the zoning objective is ‘*to protect, improve and provide for residential development and amenity at a gross density of not greater than 12 dwellings per hectare*’.

11. APPROPRIATE ASSESSMENT

This is an application made under section 177AE of the Planning & Development Act 2000, as amended. The site lies within a Special Area of Conservation (Site No. 000781). The proposed development, which is not connected with or necessary for the management of a Natura 2000 site, was screened (in accordance with Article 6(3) of the Habitats Directive) and it was concluded that it could have a negative effect on qualifying interests. I agree with this screening conclusion having regard to the nature of the development and its associated constructions works.

The application is accompanied by a Natura Impact Statement. I consider this NIS to be well structured, comprehensive and robust. I have summarised important facts, mitigating measures and conclusions reached in this statement in Section 6.0 of this report. The NIS, in its conclusive section considers that if all the mitigation measures detailed above are implemented in full, the impact of the proposed development on protected habitats and species within, adjacent to and downstream of the site of the proposed development will be, at most, minor and temporary.

I would consider that potentially the more significant impacts on the River Slaney SAC may occur at the construction phase. These impacts, although temporary in nature, have the potential to adversely impact on qualifying habitats and species and in summary include;

- Direct impacts on the existing river due to construction works
- Timing of the works in relation to spawning season
- Construction impacts on water quality
- Impacts associated with flood event
- Spread of invasive plants.

There are potential significant impacts associated with the dewatering of the existing river channel and also there maybe potential significant impacts caused by the proposed diversion channel as this will cut through the existing channel of the tail race. These actions could directly impact on any fish present resulting in mortalities. I would note that the qualifying interests that could be potentially impacted upon include Atlantic salmon, river lamprey, brook lamprey and twaite shad. However I would consider that the mitigation measure which involves electrofishing would provide a satisfactory response to the potential threat that the construction works would have on the river.

The timing of the proposed works is relevant as the period October – June represents the time for migratory and spawning salmon in the River Slaney. A mitigation measure will prohibit in-stream works during the period October – June (inclusive). I note from the information on the file that it is intended the construction phase will take approximately 3 weeks and it is planned to take place in the summer period coinciding with dry weather conditions. I would therefore consider that the threat to migratory and spawning salmon is adequately dealt with by this proposed mitigation measure.

Other potential significant impacts during the construction phase would include impacts associated with suspended solids, siltation impacts, hydrocarbon impacts, raw concrete impacts. Essentially the associated construction impacts have the potential to adversely impact on water quality and in turn species and habitats. I note that a Freshwater Pearl Mussel survey was carried out in preparation of the NIS. The survey identified the presence of a Freshwater Pearl Mussel situated approximately 80 metres downstream from the proposed development. This is a significant find as the effects of any of the above construction impacts on water quality would adversely impact on the Freshwater Pearl Mussel given its downstream proximity to the proposed development works. The mitigation measure to address this potential impact involves prior to any site works, and in consultation with the NPWS, translocating this mussel, under licence, to an

upstream location with suitable habitat. Although the Department of Arts, Heritage and the Gaeltacht in their submission to An Bord Pleanála has stated that *'this mussel should be translocated under licence to an upstream location with suitable habitat and that An Bord Pleanála shall satisfy itself that such a licence has been or will be issued prior to granting any permission for this proposed development'*. I would consider it reasonable that the licence for the translocation can be the subject of a condition of a grant of permission on the basis that no development will proceed without obtaining a translocation licence in accordance with the Wildlife Acts of 1976 – 2010. I would consider this a satisfactory mitigation measure. I have considered the other mitigation measures to prevent suspended solids and siltation impacts and these are summarised in Section 6.0 of this report above and overall I would consider them satisfactory in addressing any potential threats on water quality.

In relation to impacts associated with a potential flood event I would consider that negative impacts such as suspended solids and siltation impacts could be exacerbated by a flood event. However Section 5.6.1.6 of the submitted NIS outlines mitigation measures and I have considered these mitigation measures in more detail in Section 12.0 below. Overall I would consider that these measures would avoid the adverse impacts associated with a flood event.

The NIS submits that all construction machinery will be regularly cleaned to avoid invasive plant species being spread via seeds or plant material and I would consider that this would satisfactorily address the potential threat caused by invasive species.

In relation to the operational phase I would note that a potential significant impact on fish species relates to the weir structure. The weir structure may prevent fish from passing and therefore has the potential to affect fish reaching upstream spawning habitat and also has the potential to increase their vulnerability to prey should fish be unable to pass the weir resulting in an accumulation of fish adjacent to the weir. The design of the weir will allow for safe passage of fish and the local authority has outlined that the details of the weir design will be agreed with Inland Fisheries Ireland.

I conclude that the proposed development, either individually or in combination with other plans or projects, would not adversely affect the integrity of the Special Area of Conservation (Site No. 000781) or any other European site, in light of the sites conservation objectives.

12. PLANNING ASSESSMENT

The issues which the Board is obliged to consider are as follows:-

- (i) The likely effects on the environment of the proposed development
- (ii) The likely consequences for proper planning and sustainable development in the area in which it is proposed to situate the said development

- (iii) The likely effects of the proposed development upon a European site.

I address these in turn as follows:

Likely effects on the environment

Flood Risk

I have examined the flood maps on www.floodmaps.ie and it would appear that there is a history of flooding in Rathvilly with the most recent flood event occurring in the year 2000. I would consider that the submitted preliminary hydrological assessment, which accompanied the NIS, has demonstrated adequately that the divert channel has adequate capacity in relation to annual mean flows. It is proposed to undertake the works during a period of relatively low summer flow in the river channel. During the course of the proposed works the applicant will seek accurate 5 – 10 day rainfall forecasts for the geographical location from Met Eireann. The time of peak of any flood event is estimated at approximately 15 hours. This would allow adequate time to respond to any predicted flood flow in the River Slaney which may exceed the capacity of the proposed divert channel. I note that during the course of construction works that temporary settlement ponds will be provided on the river bank lands adjacent to the works. Any waters which do require settlement during the course of the works will be pumped to the settlement ponds where adequate settlement will be achieved prior to any discharge back to the River Slaney. In terms of implications on water quality due to the flood events I would note Section 5.6.1.3 ‘Measures to Mitigate Against Suspended Solids and Siltation Impacts’ of the Natura Impact Assessment and therefore I would consider that any concerns raised by the Department of Arts, Heritage and Gaeltacht have been adequately addressed. On the basis of the documents on the file I would not consider that a potential flood event associated with the construction works is likely to have adverse environmental impacts.

Noise & Air

The construction period is likely to result in environmental impacts in terms noise and generation of dust from the actual construction works including machinery. I would consider that the noise and dust impacts will be localised to the subject site. There will also be additional traffic generation in the immediate area at the time of the construction period. However these impacts will be temporary in nature and I would not consider them significant.

Water Quality

I would acknowledge from Appendix 8 of the NIS that biological water quality assessment was carried out and the results of this assessment concluded that the water quality for the River Slaney is Q4 which represents good ecological status. This result is consistent with EPA Q-values for the River Slaney as indicated in Appendix 9 of the NIS. I would consider that provided the mitigation measures referred to above are fully implemented then the good ecological status will be

maintained. I would conclude that the proposed development is not likely to have significant impacts on water quality.

The likely consequences for proper planning and sustainable development in the area in which it is proposed to situate the said development

Cultural Heritage

In relation to cultural heritage I would note that the local authority, subsequent to an additional information request by An Bord Pleanala, submitted an Archaeological Assessment Report. This report notes that the proposed development is c. 10m west of the zone of archaeological potential for the stone bridge across the Rivers Slaney. The report also notes that there are no recorded archaeological monuments within the boundary of the proposed development site. There are recorded monuments within 800m of the site including a Ogham Stone in Patrickwell. The report notes that the fulacht fiadh at Williamstown, approximately 3 km from the site, is also significant as this indicates human activity in the area since at least the Bronze Age. There is potential for further pre-historic settlement concealed sub-surface. The presence of a fulacht fiadh increases the potential for other such monuments to be located in the immediate area.

The report notes that during the course of a site inspection there were no evidence of above ground archaeological remains and that topographical anomalies, soil or crop discolorations, artefacts or other evidence of possible buried archaeology were also absent from the area. The Archaeological Assessment Report concludes that given the site is in close proximity to pre-historic activity there is potential of encountering sub-surface archaeological remains during construction. The report concludes that the proposed works would have a negative impact on any sub-surface remains should they exist. The report recommends archaeological monitoring.

There is a submission on the file from the Department of Arts, Heritage and the Gaeltacht which was received on the 18th November 2013 and is prior to the submission of the Archaeological Assessment Report by Carlow County Council. The Department's submission considers that given the historic importance of Rathvilly bridge, which was possibly a fording point and also the mill race that a terrestrial and underwater archaeological impact assessment is required in advance of the applicant being granted permission.

The local authority was requested to undertake a terrestrial and underwater archaeological impact assessment. The local authority responded to this request by stating that they have written to Irish water requesting them to confirm whether the proposed development will proceed. In the event of Irish Water deciding not to proceed with the application it is unlikely that Carlow County Council will proceed with the application. Therefore the local authority is currently not in a position to undertake an underwater archaeological impact assessment.

Although I would accept that An Bord Pleanála sought additional information in relation to archaeology I would acknowledge that the Department have not reviewed the submitted Archaeological Assessment Report and although this Archaeological Assessment Report has not undertaken an underwater archaeological impact assessment it provides an understanding of the archaeological potential of the immediate area.

I would recommend to the Board that given that the Appropriate Assessment and other environmental issues are acceptable that these archaeology requirements are conditioned to any grant of permission and is carried out prior to the commencement of works.

The likely effects of the proposed development upon a European site

I have already considered the likely effects of the proposed development upon a European site in the section on Appropriate Assessment. I have concluded that the proposed development, as addressed in the submitted Natura Impact Statement, including mitigation measures, would not individually, or in combination with other plans or projects, adversely affect the integrity of the Special Area of Conservation (Site No. 000781) or any other European site, in light of the sites conservation objectives.

13. RECOMMENDATION

Approve, subject to conditions, the proposed development based on the reasons and considerations set out below.

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

REASONS AND CONSIDERATIONS

Having regards to;

- (a) the EU Habitats Directive (92/43/EEC),
- (b) the document entitled “Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities issued by the Department of the Environment, Heritage and Local Government (amended 2010),
- (c) the Carlow County Development Plan, 2009-2015,
- (d) Rathvilly Local Area Plan, 2010 – 2016,
- (e) The presence of the existing water treatment works and water abstraction from River Slaney 380m upstream,

- (f) the submissions and observations received in relation to the likely effects on the environment
- (g) 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.

The Board considered the Natura Impact Statement submitted with the application for approval and the mitigation measures contained therein and completed an appropriate assessment of the potential impact on the affected Natura 2000 site, namely the Special Area of Conservation (Site No. 000781) and in doing so took into account the submission on file and the Inspector's assessment. The Board was satisfied that the proposed development would not be likely to have a significant effect individually or in combination with other plans and projects on the environment, on the amenities of the area or on the European site referred to. The Board concluded that the proposed scheme would not have an adverse effect on the integrity of the European site, having regard to its Conservation Objectives.

The Board considered given, the scale and extent of the proposed development, that the new installation will allow for better management of the River Slaney and help to achieve the goals of the Water Framework Directive and will also provide a means of accurately monitoring flows in the River Slaney, the location of the site within the environs of the town where there are a limited number of dwellings in close proximity that subject to compliance with conditions set out below the proposed development would not adversely affect the environment, would not seriously injure the amenities of the area or property in the vicinity, would not be prejudicial to public health and would not constitute a threat of water pollution to River Slaney. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the furthers plans and particulars received by An Bord Pleanála on 11th November 2013, and on the 17th February 2014, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. The local authority and any agent acting on its behalf shall implement in full the mitigation measures contained in the Natura 2000 Statement which was submitted with the application.

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

3. Prior to the commencement of development the applicant is required to obtain a licence to translocate the one live freshwater pearl mussel which was identified in a downstream location of the proposed works in the submitted Nature Impact Statement. Prior to seeking this licence the applicant shall consult with the NPWS and the licence shall be obtained in accordance with the provisions of the Wildlife Acts 1976 – 2010.

Reason: To ensure the protection of designated species during construction.

4. A suitably qualified ecologist shall be appointed by the local authority to oversee the site set-up and construction of the proposed development in accordance with the mitigation measures set out in the Natura Impact Statement. The ecologist shall monitor all construction works. Upon completion of works, an audit report of the site works shall be prepared by the appointed ecologist and submitted to the local authority to be maintained on record.

Reason: To ensure the protection of the designated sites during construction.

5. Prior to the commencement of development the applicant is required to carry out an underwater archaeological impact assessment by a suitably qualified archaeologist with riverine and underwater experience. The full details of this assessment shall be submitted for written agreement to the NPWS and made available for public record. The assessment shall include the following;

- a. A desktop consultation of the relevant sources such as the Shipwreck Inventory of Ireland, Journalistic sources, annalistic sources and other relevant sources.
- b. Carry out a walk over survey to assess the areas to be impacted, to include the riverbanks and underwater/intra-riverine to assess impacts into the river – either directly by the installation of walls or the weir or indirectly via works traffic and compound facilities, etc.
- c. All areas due to be impacted shall be archaeologically assessed.
- d. The archaeological assessment shall be carried out under licence – with a Dive Survey and Detection Device Survey Licence being taken out.
- e. A hand held metal detection survey shall be carried out in tandem with the underwater archaeological survey.
- f. A detailed method statement shall accompany the licence applications.

Reason: In order to conserve the archaeological heritage of the area.

6. During the course of the construction works the developer shall facilitate the preservation recording and protection of archaeological materials or features which exist within the site or adjoining the site. In this regard the developer shall comply with the following
 - (a) Satisfactory arrangements shall be made for the supervision by a suitably qualified archaeologist of all excavations investigations and site development works including within River Slaney.
 - (b) All ground works on the site shall be monitored by the archaeologist who shall advise on measures as maybe necessary to ensure that any damage to

remaining archaeological material is avoided or minimised.

(c) Satisfactory arrangements shall be made for post excavation research and the recording removal and storage of any archaeological remains which may be considered appropriate to remove. In this regard a comprehensive report on the completed archaeological excavation shall be prepared within a period of six months.

Reason: In order to conserve the archaeological heritage of the area.

Kenneth Moloney
Planning Inspector
11th March 2014