



An
Bord
Pleanála

Board Direction
BD-005386-20
ABP-304662-19

The submissions on this file and the Inspector's report were considered at a Board meeting held on 11/03/2020.

The Board refused to approve the proposed development works, generally in accordance with the Inspector's recommendation, for the following reasons and considerations set out below.

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 Water Framework Directive (2000/60/EC),
- (c) the European Union (Birds and Natural Habitats) Regulations 2011-2015,
- (d) 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,
- (e) the conservation objectives, qualifying interests and special conservation interests for the River Finn Special Area of Conservation (002301), the Foyle and Tributaries Special Area of Conservation (UK0030320),
- (f) the policies and objectives of the Donegal Development Plan 2013-2019, and the Seven Strategic Towns Local Area Plan 2018-2024,

(g) the nature and extent of the proposed works as set out in the application for approval,

(h) the information submitted in relation to the potential impacts on habitats, flora and fauna, including the Natura Impact Statement,

(i) the submissions and observations received in relation to the proposed development, and

(j) the report and recommendation of the inspector appointed by the Board to make a report and recommendation on the matter.

The Board agreed with and adopted the screening assessment and conclusion carried out in the inspector's report that the River Finn Special Area of Conservation (site code: 002301) and the Foyle and Tributaries Special Area of Conservation (site code: UK0030320) are the European sites for which there is a likelihood of significant effects.

The Board considered the Natura Impact Statement and all other relevant submissions and carried out an appropriate assessment of the implications of the proposed development for the River Finn SAC (site code: 002301) and the Foyle and Tributaries SAC (site code: UK0030320), in view of the sites' Conservation Objectives.

In completing the assessment, the Board considered, in particular:

- i. the likely direct and indirect impacts arising from the proposal both individually or in combination with other plans or projects, specifically upon the River Finn SAC (site code: 002301) and the Foyle and Tributaries SAC (site code: UK0030320),
- ii. the mitigation measures which are included as part of the current proposal,

iii. the Conservation Objectives for these European Sites, and

iv. the views of the Department of Culture, Heritage and the Gaeltacht.

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 these sites' Conservation Objectives.

Taking account of the extensive presence of invasive alien species throughout the proposed works area and in the absence of detailed information on:

- (i) the ability to provide a sufficient buffer around invasive alien species for transport and works purposes and an Invasive Species Management Plan to prevent the spread of such species beyond their current locations,
- (ii) the quantity of gravel to be removed and the locations for the re-use of this material, and the potential consequent impacts on the river flows and velocities,
- (iii) the quantity of silt to be stored in the bunded area which is 20 metres from the riverbank, the quantities and type of chemical treatments to be applied therein and the protection measures to be put in place to protect the bunded area from flooding, and
- (iv) the potential for other developments in the wider area, including projects related to the masterplan areas as identified within the Seven Strategic Towns Local Area Plan 2018-2024,

the Board is not satisfied that the Local Authority has sufficiently demonstrated that the proposed development works would not adversely affect the integrity of the European Sites in view of the sites' Conservation Objective.

Board Member

Date: 12/03/2020

Dave Walsh