



An
Bord
Pleanála

Board Direction
BD-002607-19
ABP-301245-18

The submissions on this file and the Inspector's report were considered at a Board meeting held on 14/03/2019.

The Board decided to refuse permission, generally in accordance with the Inspector's recommendation, for the following reasons and considerations.

Reasons and Considerations

1. Article 6(3) of the EU Habitats Directive requires that the competent authority shall only agree to a plan or project if it determines that it would not adversely affect the integrity of any European site having regard to the conservation objectives of the site. Having regard to the information submitted by the parties in this case, including the revised Environmental Impact Statement and Natura Impact Statement, the submissions received from third parties and the first party response to the appeals, the Board is not satisfied that the first party has satisfactorily demonstrated that the proposed development incorporating the use of an unbound surface of compacted stone and dust (Surface Type A) within an identified flood zone along the River Barrow would not significantly impact on the conservation objectives of the River Barrow and River Nore SAC (site code 002162). The Board is also not satisfied that the proposed development would not impact negatively on otter, an Annex I species under the Habitats Directive and a qualifying interest of the River Barrow and River Nore SAC by virtue of the uncertainty regarding the location of otter holts, the potential loss of holts and the proposed removal of any holts encountered during the development. In view of

this, and in accordance with the requirements of Article 6(3) of the Habitats Directive, the Board is not satisfied, beyond reasonable scientific doubt, that the proposed development, either individually or in combination with other plans and projects, would not adversely affect the integrity of the River Barrow and River Nore SAC (site code 002162), in the light of its conservation objectives.

2. The proposed development is located within the River Barrow and River Nore Special Area of Conservation (SAC Site Code 002162) and where it is an objective of the Council under Heritage Objective 5 of the Carlow County Development Plan, 2015-2021 *'to support the protection of habitats and species covered by the Habitats Directive ...'* and policy *'to only authorise development after the competent authority has ascertained, based on scientific evidence, that the plan or project will not give rise to significant adverse direct, indirect or secondary effects on the integrity of any European site'* (Heritage Policy 2). On the basis of the information available on file, the Board is not satisfied that it has been adequately demonstrated that the proposed development would not give rise to negative ecological impacts and would not have an adverse effect on the integrity of the River Barrow and River Nore Special Area of Conservation (Site Code 002162) in the light of its conservation objectives. It is therefore considered that the proposed development would materially contravene Heritage Objective 5 and Heritage Policy 2 of the *Carlow County Development Plan, 2015-2022* and would therefore be contrary to the proper planning and sustainable development of the area.
3. The Board notes the submissions on file regarding existing restrictions on path width along the route, and in particular along the southern sections of the route within County Carlow. Notwithstanding the information submitted as part of the Designers Safety Audit of the Route, included as part of the Preliminary Design Report, the Board considers that the level of detail submitted regarding the capacity of the route to accommodate the design width of 2.5 metres plus verges

is not such as to enable an accurate assessment of the extent of restricted widths along the route. The Board also has concerns with regard to the methodology and projection of likely user numbers and note that there is potential for the 1,500 users per day threshold between a high and low volume cycleway as per the TII Rural Cycleway Design Standard document to be exceeded at peak periods on the busiest sections of the route. These issues relating to restricted widths and user volumes combine to give rise to concerns relating to potential users conflicts such that it is not possible to state that significant issues of user safety would not arise. On the basis of the information available the proposed development is therefore considered likely to endanger public safety by reason of likely user conflicts, to lead to the creation of a potentially hazardous and low quality experience for users of the development and to be contrary to the proper planning and sustainable development of the area.

4. The River Barrow section of the proposed route within County Carlow is characterised by a natural landscape of medium to high landscape sensitivity and views of high value and sensitivity, particularly to the south of Goresbridge where there is a sense of enclosure, remoteness and simplicity to the existing landscape. This high landscape sensitivity is recognised in the Landscape Character Assessment for County Carlow and the *Carlow County Development Plan, 2015-2021* includes Policies that promote the protection of sensitive landscapes (Tourism Objective 1 and Heritage Policy 1) and the restriction of development that would be detrimental to scenic assets, (Tourism Policy 2). It is considered that the nature of the proposed development is such that the landscape impact and magnitude of change on views is more significant than that presented in the revised EIS, and such that the overall landscape and visual impacts arising are significantly negative particularly in the southern sections of the route within County Carlow. The proposed development would therefore interfere with the character of the existing landscape, would be contrary to the policies of the *Carlow County Development Plan, 2015-2021* relating to the protection of sensitive landscapes and scenic assets and would be contrary to the proper planning and sustainable development of the area.

Note: The Board noted the proposal submitted by the first party as part of the First Party Grounds of Appeal for the provision of an alternative Type E ‘tar and chip’ bound surface in place of the originally proposed Type A unbound surface. The Board note the contents of section 4.0 of the first party appeal and the assessment contained therein regarding the potential impacts arising from the proposed alternative Type E surface on the environment. Notwithstanding the content of the first party appeal, the Board considered that the introduction of such an alternative surface would result in additional adverse impacts in terms of landscape and visual impact and would give rise to increased cyclist speeds that, combined with the concerns regarding the level of detail provided regarding projected usage and accommodation of the design path width of 2.5 metres, could potentially increase conflicts between users. It is not considered that these concerns have been adequately addressed in the information submitted. The Board is also not satisfied that, on the basis of the information presented, it can be concluded beyond reasonable scientific doubt, that the proposed alternative Type E surface would not have an adverse effect on the River Barrow and River Nore SAC, having regard to the conservation objectives of the site. Further information is considered required before the Board could reach such a conclusion. In view of these concerns it was decided not to further consider the alternative Type E surface and not to request that the development would be the subject of revised public notices.

Board Member

Date: 15/03/2019

Stephen Bohan