



An  
Bord  
Pleanála

**Board Direction**  
**BD-006650-20**  
**ABP-302450-18**

At a meeting held on 17/06/2020 and at a subsequent meeting held on 07/10/2020, the Board decided to approve the proposed greenway development with modifications for the following reasons and considerations, and subject to the conditions set out below.

### **Reasons and Considerations**

- In coming to its decision, the Board had regard to the following:
  - - a. Directive 2014/52/EU amending Directive 2011/92/EU (EIA Directive) on the assessment of the effects of certain public and private projects on the environment,
    - b. Directive 92/43/EEC (Habitats Directive) and Directive 79/409/EEC as amended by 2009/147/EC (Birds Directives) which set out the requirements for Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union.
    - c. the National Planning Framework Plan, 2018-2040,
    - d. South West Regional Planning Guidelines, 2010 to 2022,
    - e. the National Cycle Policy Framework, 2009-2020,
    - f. the Strategy for the Development of National and Regional Greenways, 2018,
    - g. Rural Cycle Design (Offline) DN-GEO-03047, TII, 2017,
    - h. the policies of the planning authority as set out in the Kerry County Development Plan 2015-2021 and the West Iveragh Local Area Plan 2019-2025,

- i. the distance to dwellings or other sensitive receptors,
- j. the nature, scale and design of the proposed works as set out in the application for approval
- k. 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 European Sites,
- l. the documentation and submissions of the Local Authority, including the environmental impact assessment report, NIS and associated documentation submitted with the application and further information, and the range of mitigation and monitoring measures proposed,
- m. the submissions and observations made to An Bord Pleanála in connection with the application, including those submitted at the Oral Hearing
- n. the report and recommendation of the inspector including the examination, analysis and evaluation undertaken in relation to appropriate assessment (and associated Report of the ecologist) and environmental impact assessment.

### **Appropriate Assessment Stage 1**

The Board completed an Appropriate Assessment screening exercise in light of the assessment requirements of Section 177U of the Planning and Development Act 2000, as amended, in relation to the potential effects of the proposed development on designated European Sites, taking into account the nature, scale and location of the proposed development, the information for Screening for Appropriate Assessment document submitted with the application, the Inspector's and Ecologist's reports, and submissions on file. In completing the screening exercise, the Board adopted the reports of the Inspector and Ecologist and it was concluded that the proposed South Kerry Greenway project may give rise to significant effects on the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment Special Area of Conservation (Site Code: 000365), the Iveragh Peninsula Special Protection Area (Site Code: 004154), the Valencia Harbour/Portmagee Channel Special Area of

Conservation (Site Code: 002262), the Castlemaine Harbour Special Protection Area (Site Code: 004029) and the Castlemaine Harbour Special Area of Conservation (Site Code: 000343).

## **Appropriate Assessment Stage 2**

The Board completed an Appropriate Assessment in relation to these European Sites in light of the assessment requirements of Section 177V of the Planning and Development Act 2000, as amended, taking into account the Natura Impact Statement submitted with the application, the documentation and submissions on file and adopted the reports of the Inspector and the Ecologist and concluded that the proposed development, individually or in combination with other plans or projects, would not adversely affect the integrity of the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment Special Area of Conservation (Site Code: 000365), the Iveragh Peninsula Special Protection Area (Site Code: 004154), the Valencia Harbour/Portmagee Channel Special Area of Conservation (Site Code: 002262), the Castlemaine Harbour Special Protection Area (Site Code: 004029) or the Castlemaine Harbour Special Area of Conservation (Site Code: 000343) in view of the Conservation Objectives of those European Sites. No reasonable scientific doubt remains as to the absence of such effects.

## **Environmental Impact Assessment:**

The Board completed an environmental impact assessment of the proposed development, taking into account:

- the nature, scale, location, and extent of the proposed development;
- the Environmental Impact Assessment Report and associated documentation submitted with the application and in response to a further information request;
- the submissions from the applicant and the prescribed bodies and third-party observers in the course of the application, including during the Oral Hearing,
- the Planning Inspector's report and;

- the Board's Ecologist's report

The Board considered that the environmental impact assessment report, supported by the documentation submitted by the applicant provided information which was reasonable and sufficient to allow the Board to carry out an environmental impact assessment and to reach a reasoned conclusion on the significant effects of the proposed development on the environment taking into account current knowledge and methods of assessment and the results of the examination set out in the Inspector's Report . The Board is satisfied that the information and data available and the reasoned conclusion is up to date at the time of taking the decision.

### **Reasoned Conclusion on the Significant Effects**

The Board considered that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated, as follows:

- The risk to the longevity of the proposed infrastructure during the operational phase, resulting from the natural processes of coastal and estuarine erosion, would be mitigated by the omission of certain sections of the Greenway located in close proximity to Valentia Estuary, pending further investigations.
- The risk of slope instability and peat erosion during the construction and operational phases which would be mitigated by the implementation of measures set out in the Environmental Impact Assessment Report (EIAR) and the outline Construction and Environment Management Plan and Addendum (oCEMP), and Peat Risk Stability Assessment Report.
- The risk of pollution of ground and surface waters during the construction phase which would be mitigated by the implementation of measures set out in the Environmental Impact Assessment Report (EIAR) and the outline Construction and Environment Management Plan (oCEMP) which include specific provisions relating to groundwater, surface water and drainage.

- Noise, vibration and dust during the construction and/or the operational phases would be avoided by the implementation of the measures set out in the Environmental Impact Assessment Report (EIAR) and the outline Construction and Environment Management Plan (oCEMP) which include specific provisions relating to the control of dust and noise.
- Biodiversity impacts, including on habitats, flora and fauna (including terrestrial and aquatic wildlife), would be mitigated by the implementation of specific mitigation to protect such habitats, flora and fauna (including Lesser horseshoe bat, Kerry slug, Freshwater pearl mussel, St Patrick's cabbage and Camomile), during the construction and operational phases.
- The increase in vehicle movements and resulting traffic during the construction phase would be mitigated by the preparation of a Construction Traffic Management Plan and a Mobility Management Plan.
- Landscape and visual impacts would arise during the operational phase from the insertion of the c.32km long roadway into the rural and coastal landscape, however, the linear design and layout of the project would assist in assimilating the works into the landscape.
- The impacts on residential amenity and farming practices during the construction and operational phases would be avoided by the implementation of the measures set out in the Environmental Impact Assessment Report (EIAR) and the outline Construction and Environment Management Plan (oCEMP) which include specific provisions relating to the control and management of dust, noise, water quality and traffic movement.
- The impact on cultural heritage would be mitigated by archaeological monitoring with provision made for resolution of any archaeological features or deposits that may be identified.
- Positive environmental impacts would arise during the operational phase from the reduced reliance on motorised vehicles and the provision of a public amenity area.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures proposed, and subject to compliance with the conditions set out below, the effects of the proposed development on the environment, by itself and in combination with other plans and projects in the vicinity, would be acceptable. In doing so, the Board adopted the report and conclusions of the Inspector.

### **Conclusions on Proper Planning and Sustainable Development**

The Board considered that subject to compliance with the conditions set out below the proposed development would accord with European, national, regional and local planning and related policy, it would not have an unacceptable impact on the landscape or ecology, it would not seriously injure the visual or residential amenities of the area or of property in the vicinity, and it would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **Conditions**

1. The developer shall ensure that all construction methods and environmental mitigation measures set out in the Environmental Impact Statement, Natura Impact Statement and associated documentation are implemented in full, save as may be required by conditions set out below.

**Reason:** In the interest of protection of the environment.

2. Having regard to the provisions, policies and objectives contained in the following documents in relation to climate change and coastal protection: -

1. Project Ireland 2040 – the National Planning Framework,
2. Government of Ireland Climate Action Plan 2019,
3. Regional Spatial and Economic Strategy for the Southern Region, and

#### 4. Kerry County Development Plan 2015,

(and in particular Objective NE-57 of the Development Plan which seeks to prohibit development in those parts of the Coastal Development Zone where such development could not be adequately safeguarded over the lifetime of the development without the construction of coastal defences, and Objective NE-58 which seeks to prohibit development in areas of the Coastal Development Zone where the natural erosion process is likely to threaten the viability of such development.)

the Board is not satisfied on the basis of the plans and particulars submitted with this application that the section of the proposed South Kerry Greenway infrastructure located along the SW and NE sides of Valentia Estuary would not be adversely affected by the natural processes of erosion and the pattern of spring tides that occur within the estuary, or that the potential future impacts of climate change on estuarine dynamics (including rising sea levels and storm surges) and thus the proposed infrastructure, have been adequately addressed.

Furthermore, the Board is not satisfied that the potential in-combination effects of the existing and proposed revetment works along the SW side of Valentia Estuary on estuarine dynamics, biodiversity and designated sites, or the potential consequential impacts of the site specific introduction of hard revetments on other unprotected sections of the estuary shoreline have been adequately addressed, in terms of their future vulnerability to erosion.

The following sections of the South Kerry Greenway shall accordingly be omitted pending further investigations and the consideration of an increased buffer zone between sections of the Greenway infrastructure and its boundary with the Valentia Estuary shoreline:

- (a) Renard Point to Caherciveen water treatment plant (Chainage c.50 to c. 3,700), and
- (b) Cloghanelinaghan (Chainage c.5,975 to c.7,100).

**Reason:** In the interest of the proper planning and sustainable development of the area, to ensure the protection, durability and longevity of the proposed South Kerry Greenway infrastructure, in the interests of coastal protection and biodiversity, and to ensure compliance with the policies and objectives of the Development Plan.

3 Cattle grids should be provided at the intersections of the Greenway with the access road/driveway, the grids should be half the width of the pavement and work in combination with the chicane gates; and signage should be provided to advise cyclists to dismount and cross the junction foot:

**Reason:** To take account of steep gradients at the intersections and in the interest of traffic, cyclist and pedestrian safety.

4. The design and position of the chicanes, and associated signage and road markings along the South Kerry Greenway relative to the private residential driveways and agricultural access roads with direct access off the public road network, shall comply with the details contained in drawing number 318-380 (Rev A) of the further information submission which was received by the Board on the 8th day of April, 2019.

**Reason:** In the interest of clarity and traffic safety.

5. The development shall comply with the following transportation requirements:
1. the section of the South Kerry Greenway that runs parallel to a private road in Caherciveen West (Chainage c.3,850 - c.3,975) shall be separated from the adjacent private road by a low wall.
  2. The connection between landholdings located on either side of the N70 shall be maintained for the duration of the construction works.
  3. the speed limit along the N70 on the approach to Kells Station shall be reduced to 50km per hour for vehicles travelling from the West and the East, and to 30km per hour along the section of the South Kerry Greenway at Kells station that would run parallel to the N70.
  4. the speed limit along the N70 on the approach to Caitlin Beater's public house at Gortiforia shall be reduced to 50km per hour for vehicles



travelling from the South West and the East, and to 30km per hour along the section of the South Kerry Greenway at Caitlin Beaters public house that would run parallel to the N70.

**Reason:** In the interest of clarity and traffic safety.

6. The 1.0m wide verges located on either side of the Greenway pavement should be maintained in a way that allows for the recolonization of these areas by vegetation that is indigenous to the various locations along the Greenway route.

**Reason:** In the interest of biodiversity and visual amenity.

7. 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 prohibit the spread of invasive species.

8. The services of a suitably qualified and experienced Ecologist shall be retained to undertake pre-construction surveys at the various project elements immediately prior to commencing work in order to check for the presence of protected species in the vicinity (including Badger, Otter, Lesser horseshoe bat, Kerry slug, Freshwater pearl mussel, St Patrick's cabbage and Camomile). Any specimens should be removed and relocated to a similar, suitable, undisturbed nearby habitat under the direct supervision of the Ecologist and subject to a Derogation Licence where required.

**Reason:** In the interest of protecting ecology and wildlife in the area.

9. The height of the screening panels to be constructed along sections of the South Kerry Greenway in order to protect the residential amenities of adjacent houses shall be at least 2.0m high when viewed from the edge of the 3m wide pavement, to take account of steep gradients along sections of the route.

**Reason:** To protect the residential amenities of nearby houses.

10. The information panels proposed for the South Kerry Greenway car parks shall contain a notification to alert the users that sections of the Greenway traverse working agricultural landscapes, that seasonal delays may be encountered along the route, to be respectful of farming practices, and to ensure that all dogs are leashed, and the design of the car park sanitary facilities shall reflect the character of the surrounding landscape.

**Reason:** In the interest of the proper planning and sustainable development of the area, to ensure minimal disturbance to farming activities and farm animals, and to protect the visual amenities of the area.

11. The preservation, recording and protection of archaeological materials or features that may exist within the site shall be facilitated. In this regard, a suitably qualified archaeologist shall be retained to monitor all site investigations and other excavation works and provide arrangements for the recording and for the removal of any archaeological material considered appropriate to remove.

**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.

**Board Member**

**Date:** 07/10/2020

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Paul Hyde