



An
Bord
Pleanála

Board Direction
BD-006809-20
ABP-306704-20

The submissions on this file and the Inspector's report were considered at a Board meeting held on 29/10/2020.

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

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 Lower River Suir SAC (site code:002137)
- (e) the policies and objectives of the Tipperary Town and Environs Development Plan, 2013-2019,
- (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 Inspectorate's Ecologist's assessment, and
- (j) 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 Lower River Suir SAC (site code: 002137) is 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 Site, namely the Lower River Suir (site code: 002137), 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 Site, 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 Site, 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 adversely impact on the cultural, archaeological and built heritage of the area would not impact negatively on the visual or landscape amenities of the area, and would not interfere with the existing land uses in the area. The proposed development is in accordance with the stated objectives of the Tipperary Town and Environs Development Plan 2013-2019, which seeks to improve the pedestrian environment and the provision of an amenity walk along the River Ara. 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 and the information contained in the Natura Impact Statement (NIS), as amended by the further details submitted on the 26th day of August, 2020, except as may otherwise be required in order to comply with the following conditions. Where any mitigation measures or any conditions of approval require further details to be prepared by or on behalf of the local authority, these details shall be placed on the file and retained as part of the public record.

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. No construction works at or in the river shall take place on the site between October 1st and June 30th in any year.

Reason: In the interest of nature conservation and to ensure the protection of European sites.

3. Prior to the commencement of development, the County Council, or any agent acting on its behalf, shall prepare in consultation with Inland Fisheries Ireland (IFI), a Construction Environmental Management Plan (CEMP), incorporating all mitigation measures indicated in the Natura Impact Statement and demonstration of proposals to best practice and protocols.

The CEMP shall include:

- a. Method statements for each phase of the work including sequencing and timing,
- b. Details of sediment features/barriers required to protect water quality during each phase of the development,
- c. Location of the site materials compound including the area identified for the storage of waste,
- d. Details of point of access/egress from the site,
- e. Containment of all construction related fuel and oil within a specifically constructed bund to ensure that fuel spillages are fully contained.
- f. Details of how it is proposed to manage any excavated material.
- g. Specific proposals as to how the measures outlined in the CEMP will be measured and monitored for effectiveness.

A record of daily check that the works are being undertaken in accordance with the Construction and Environmental Management Plan shall be maintained on file as part of the public record.

Reason: In the interest of protecting the environment, the amenities of the area and public health.

4. The location of deflectors/rubble mats in the river channel shall be agreed with Inland Fisheries Ireland prior to construction.

Reason: In the interests of protecting the environment.

5. A suitably qualified ecologist shall be retained by the County Council to oversee the site set up and construction of the proposed development and the implementation of mitigation measures to protect water quality and ecology set out in the NIS. 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 to ensure the protection of water quality and ecology.

6. 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.

7. Prior to commencement of development, details of measures to protect fisheries and water quality of river systems shall be outlined and placed on file as part of the public record. Full regard shall be had to Inland Fisheries Ireland's published guidelines for construction works near waterways (Guidelines on Protection of Fisheries during construction work in and adjacent to waters, 2016). A programme of water quality monitoring shall be prepared in consultation with the contractor, and relevant statutory agencies and the programme shall be implemented thereafter. Details of such monitoring shall be maintained on file as part of the public record.

Reason: In the interests of the protection of receiving waters, fisheries and aquatic habitat.

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.

In this regard, the County Council shall:

- (a) employ a suitably qualified archaeologist prior to commencement of development who shall assess the site and monitor all site investigations and other excavation works
- (b) provide suitable arrangements acceptable to the Department of Culture, Heritage and the Gaeltacht for the recording and removal of any archaeological materials which is 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.

- 9. The site shall be landscaped in accordance with the landscaping plan submitted to the Board on 26th day of August, 2020. All plants shall be adequately protected until stabilised.

Reason: To enhance the visual amenity of the riverside walk.

Board Member

Date: 29/10/2020

Maria FitzGerald