

An
Bord
Pleanála

Board Direction
BD-013322-23
ABP-307652-20

The submissions on this file and the Inspector's report were considered at a Board meeting held on 16/08/2023.

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

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 Communities (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 Boyne Coast and Estuary Special Area of Conservation (Site Code: 001957), River Boyne and River Blackwater Special Area of Conservation (Site Code: 002299); Boyne Estuary Special Protection Area (Site Code: 004080),
- (e) the policies and objectives of the Meath County Development Plan 2021 – 2027, the Louth County Development Plan 2021-2027 and the East Meath Local Area Plan 2014-2020,
- (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 report and recommendation of the person appointed by the Board to make a report and recommendation on the matter, including the Inspectorate Ecologist.

Appropriate Assessment: Stage 1:

The Board agreed with the screening assessment and recommendation carried out by the Inspectorate Ecologist and the screening determination set out in the Inspector's report that the Boyne Coast and Estuary Special Area of Conservation (Site Code: 001957), River Boyne and River Blackwater Special Area of Conservation (Site Code: 002299) and the Boyne Estuary Special Protection Area (Site Code: 004080) are the only European Sites in respect of which the proposed development has the potential to have a significant effect.

Appropriate Assessment: Stage 2:

The Board considered the Natura Impact Statement and associated documentation submitted with the application for approval, including further information submitted, the mitigation measures contained therein, the submissions and observations on file, and the Inspectorate Ecologist's assessment.

The Board completed an appropriate assessment of the implications of the proposed development for the affected European Sites, namely the Boyne Coast and Estuary Special Area of Conservation (Site Code: 001957), River Boyne and River Blackwater Special Area of Conservation (Site Code: 002299) and the Boyne Estuary Special Protection Area (Site Code: 004080) in view of the site's conservation objectives.

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

- the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- the mitigation measures which are included as part of the current proposal, and
- the conservation objectives for the European Sites.

The Board accepted and adopted the screening and the appropriate assessment carried out by the Inspectorate Ecologist as set out in the Appendix to 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 the sites' conservation objectives.

Thus, the Board is not satisfied that the local authority has demonstrated beyond reasonable scientific doubt that the proposed development would not adversely affect the integrity of these sites, namely the Boyne Coast and Estuary Special Area of Conservation (Site Code: 001957), River Boyne and River Blackwater Special Area of Conservation (Site Code: 002299) and the Boyne Estuary Special Protection Area (Site Code: 004080) in view of the site's conservation objectives.

In the absence of detailed information on the installation of the proposed boardwalk within the Boyne Coast and Estuary Special Area of Conservation (Site Code: 001957), River Boyne and River Blackwater Special Area of Conservation (Site Code: 002299) and the Boyne Estuary Special Protection Area (Site Code: 004080) and any possible changes to Annex I habitats including Atlantic Salt Marsh during the lifetime of the proposed greenway, the Board cannot rule out the possibility of adverse effects on site integrity.

The increased level of usage by pedestrians and cyclists associated with the greenway will increase human activity along this stretch of the Boyne Estuary resulting in potential adverse effects on the wintering waterbirds of the Boyne Estuary Special Protection Area (Site Code: 004080) in terms of their range, timing, and intensity of use of the intertidal. The Board is not satisfied that mitigation measures proposed will be effective in preventing disturbance of the special conservation interest waterbirds and cannot place any reliance of post consent monitoring to identify adverse effects.

The Board is not satisfied that adverse effects on sand dune habitats of the Boyne Coast and Estuary Special Area of Conservation (Site Code: 001957) can be excluded, in particular the priority habitat fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] and the Board can place no reliance on post consent monitoring to identify any further adverse effects or apply additional mitigation measures.

Furthermore, the Board is not satisfied that the long term efficacy of the mitigation measures to protect the aforementioned bird species have been sufficiently demonstrated.

The Board is satisfied that the proposed development would not result in adverse effects to the third site included in the appropriate assessment namely the River Boyne and River Blackwater Special Area of Conservation (Site Code: 002299) in view of the conservation objectives of that site.

In overall conclusion, the Board is not satisfied that the proposed development would not adversely affect the integrity of the European Sites in view of the site's conservation objectives.

Proper Planning and Sustainable Development and Likely effects on the environment:

The Board was satisfied that it has been demonstrated that the proposed development would not have an adverse impact on traffic safety or result in congestion on the local road network. The Board was also satisfied that the landscape mitigation measures, including extensive screening, fencing and security measures, would not have a significant negative effect on the residential properties in the vicinity and visual and landscape amenities of the area.

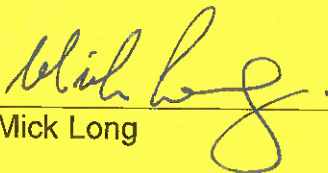
The Board noted the concerns of the Inspector on the potential traffic and parking impacts, the alternative route options for the development and the impact of screening, fencing and security measures on visual and landscape amenity. The Board also noted the further information provided in March 2022 and was satisfied that these areas of concern had been addressed. The Board considered the issues

raised in the Road 1 Safety Audit including and were satisfied that such road safety matters are satisfactorily addressed the Feedback on the Audit Report (January 2022) and also considered the Route Options Assessment (July 2020) which concluded that the preferred route balances the proximity to the SPA/SAC with access and functionality that ensures the amenity can be enjoyed by users of the facility. The Board also noted the Landscape and Visual Impact Assessment (March 2022) and were satisfied the design mitigation measures would not have unacceptable negative effects on the environment and residential amenities of the area.

The Board is not satisfied that the proposed development would not adversely affect the integrity of the European Sites in view of the site's conservation objectives

The proposed development would, therefore, be contrary to proper planning and sustainable development of the area.

Board Member


Mick Long

Date: 21/08/2023

