

An
Bord
Pleanála

Board Direction
BD-007951-21
ABP-307941-20

The submissions on this file and the Inspector's report were considered at a Board meeting held on 21/04/2021.

The Board decided to approve the proposed development, based on 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 Iveragh Peninsula Special Protection Area (site code: 004154),
- (e) the policies and objectives of the Kerry County Development Plan 2015-2021, and the West Iveragh Local Area Plan 2019-2025,

(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 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: Screening

The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report that the Iveragh Peninsula SPA (site code: 004154) is the only European Site in respect of which the proposed development has the potential to have a significant effect.

Appropriate Assessment

The Board considered the Natura Impact Statement and associated documentation submitted with the application, 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 Iveragh Peninsula SPA (site code: 004154), 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 Sites, 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 be detrimental to the visual or landscape amenities of the area, would not adversely impact on the cultural, archaeological and built heritage of the area, would be acceptable in terms of pedestrian and traffic safety and would not interfere with the existing land uses in the area. The proposed development is in accordance with the stated objectives of the West Iveragh Local Area Plan which supports the development of Bray Head Tower as a Discovery Point on the Wild Atlantic Way and is, therefore, consistent 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, as amended by the further plans and particulars submitted on the 4th day of December 2020, except as may otherwise be required 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. The mitigation measures contained in the Natura Impact Statement which was submitted with the application shall be implemented in full.

Reason: In the interest of clarity and the proper planning and sustainable development of the area and to ensure the protection of European Sites.

3. The construction of the development shall be managed in accordance with a Construction Environmental Management Plan (CEMP), which shall be placed on the file and retained as part of the public record. The plan shall include all mitigation measures indicated in the Natura Impact Statement and demonstration of proposals to adhere to best practice and protocols. The CEMP shall include:

(a) location of site/materials compound including areas identified for the storage of construction waste;

(b) details for traffic management between the site and the public road including speed limits on the site access track to reduce disturbance to protected species and potential impacts on the surface and sides of the track;

(c) construction sequencing, management and time frames;

(d) details of location of site office/staff facilities;

(e) details of site fencing/hoardings;

- (f) containment of all construction related fuel/oil;
- (g) details of how construction and demolition waste will be managed;
- (h) details of how it is proposed to manage excavated soil;
- (i) proposals to prevent the spread of invasive species;
- (j) specific proposals as to how the measures outlined in the CEMP will be measured and monitored for effectiveness.

Reason: In the interest of protecting the environment and in the interests of protecting amenity, public health and safety and the integrity of European sites.

4. 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 qualified archaeologist prior to commencement of development who shall assess the site and monitor all construction activity.

- (b) provide suitable arrangements acceptable to the Department of Tourism, Culture, Arts, Gaeltacht, Sports and Media 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.

5. Information panels shall be provided at the exit from the car park, the location of the stile and at the location of the tower enclosure. The panels shall incorporate the following:

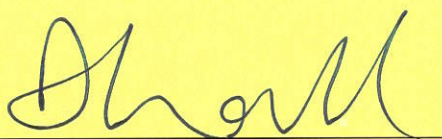
- (a) information on the ecological importance and sensitivity of the site;
- (b) clearly identified pathways for visitor use;
- (c) prohibition on the use of drones /kites;
- (d) prohibition on food litter;
- (e) instruction on dog control.

An additional sign shall be placed within the enclosure to the west and south of the tower discouraging visitors from walking to the tip of the Head.

The information signs shall be cleaned and maintained annually to maintain legibility and shall be replaced when required. Details of the design, dimensions and materials for each of the panels/signs shall be placed on the file as part of the public record.

Reason: To protect the integrity of the European site.

Board Member:



Dave Walsh

Date: 21/04/2021