



An
Bord
Pleanála

Board Direction
BD-007795-21
ABP-308488-20

The submissions on this file and the Inspector's report were considered at a Board meeting held on 31/03/2021.

The Board approved the proposed development, having regard to the reasons and considerations set out below and subject to compliance with the conditions, including requiring compliance with the submitted details and the mitigation measures as set out in the Natura Impact Statement.

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 Water Framework Directive (2000/60/EC)
- 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 Mount Brandon Special Area of Conservation (Site code 000375) and the Tralee Bay and Magharees Peninsula, West to Cloghane Special Area of Conservation (site code 002070),

- e) the policies and objectives of the Kerry County Development Plan, 2015-2021,
- 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, and
- i) 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 Mount Brandon Special Area of Conservation (site code 000375) and the Tralee Bay and Magharees Peninsula, West to Cloghane Special Area of Conservation (site code 002070), are the European sites for which there is a likelihood of significant effects.

The Board considered the Natura Impact Statement and all other relevant submissions and carried out an appropriate assessment of the implications of the proposal for the Mount Brandon Special Area of Conservation (site code 000375) and the Tralee Bay and Magharees Peninsula, West to Cloghane Special Area of Conservation (site code 002070), in view of the sites' Conservation Objectives. The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment.

In completing the assessment, the Board considered, in particular, the

- i. Likely direct and indirect impacts arising from the proposal both individually or in combination with other plans or projects, specifically upon the Mount Brandon

SAC (site code 000375) and the Tralee Bay and Magharees Peninsula, West to Cloghane SAC (site code 002070),

ii. Mitigation measures which are included as part of the current proposal,

iii. Conservation Objective for these European Sites, and

iv. Views of the Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media, (DAU) and all other submissions received.

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 Sites, having regard to the Sites' 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 Sites' 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 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 and would not interfere with the existing land uses in the area. 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, except where otherwise may be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. All mitigation and environmental commitments identified in the Natura Impact Statement shall be implemented in full as part of the proposed development.

Reason: In the interest of development control, public information and clarity.

3. Herbicides of the lowest available aquatic toxicity shall only be used within the riparian zone.

Reason: In the interest of safeguarding water quality.

4. All works shall be completed before the 1st day of October in any year.

Reason: To ensure the protection of the European sites.

5. Prior to the commencement of works, the ecological clerk-of-works shall identify areas of dry and wet heath habitat near the Temporary Site Compound. These areas shall be avoided and fenced off from machinery and works infrastructure.

Reason: To ensure the protection of the European sites

6. Kerry 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. All works shall have regard to Inland Fisheries Ireland's published guidelines for construction works near waterways (Guidelines on Protection of Fisheries during Construction Works in and Adjacent to Waters, 2016). A programme of water quality monitoring shall be prepared in consultation with the contractor, the local authority and relevant statutory agencies and the programme shall be implemented thereafter.

Reason: In the interest of the protecting of receiving water quality, fisheries and aquatic habitats.

Board Member:

Date: 31/03/2021

Dave Walsh