

**An
Bord
Pleanála**

**Board Direction
BD-009288-21
ABP-309365-21**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 18/10/2021.

The Board decided to approve the proposed development, based on the reasons and considerations set out below, 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) and Part XAB of the Planning and Development Act 2000, as amended, including Part 177(AE) and 177(V),
- b) the European Union (Birds and Natural Habitats) Regulations 2011, as amended,
- c) the Water Framework Directive (2000/60/EC),
- d) 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,
- e) the conservation objectives, qualifying interests and special conservation interests for the River Barrow and River Nore SAC (Site Code: 002162) and the River Nore SPA (Site Code: 004233),

- f) the policies and objectives of the Laois County Development Plan 2017-2023,
- g) the nature and extent of the proposed works as set out in the application for approval,
- h) the information submitted in relation to the potential impacts on habitats, flora and fauna, including the Natura Impact Statement,
- i) the submissions and observations received in relation to the proposed development, 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 River Barrow and River Nore SAC (Site Code: 002162) and the River Nore SPA (Site Code: 004233) are 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 carried out an appropriate assessment of the implications of the proposed development for the affected European Sites, namely the River Barrow and River Nore SAC (Site Code: 002162) and the River Nore SPA (Site Code: 004233), 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 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 proposed development, 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 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 seriously injure the amenities of property in the vicinity, 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 as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. All mitigation measures 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 protecting the environment, the protection of European Sites and in the interest of public health.

3. A suitably qualified ecologist shall be retained by the local authority to oversee the site set up and construction of the proposed development and implementation of mitigation measures relating to ecology set out in the Natura Impact Statement. 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 the protection of terrestrial and aquatic biodiversity.

4. All planting and landscaping within the public park shall be reinstated following installation of the proposed culvert. Any damaged or removed trees or hedgerows shall be replaced on a like-for-like basis.

Reason: In the interest of visual amenity.

5. 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).

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

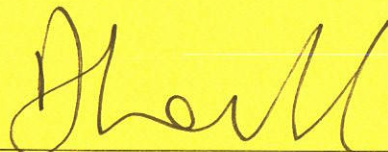
6. The County Council and any agent acting on its behalf shall ensure that any imported materials to the site are thoroughly screened for the presence of invasive species prior to the delivery to the site to prevent the spread of invasive species. The Council shall also ensure that all excavations carried out within the site are monitored for the presence of invasive species and if encountered disposed of in a manner which will not give rise to further spread of the species.

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

7. 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. A suitably qualified archaeologist shall be appointed by the County Council to oversee the site set-up and construction of the proposed development and the archaeologist shall be present on-site during construction works.

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



Dave Walsh

Date: 18/10/2021

