



An
Bord
Pleanála

Board Direction
BD-016713-24
ABP-310286-21

The submissions on this file and the Inspector's report were considered at a Board meetings held on 28/05/2024 and 26/06/2024.

The Board decided that the application for a Railway Order be granted 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:

- (a) the nature, scale and extent of the proposed development,
- (b) the characteristics of the sites and of the general vicinity,
- (c) national, regional and local policy support for improvements to railway and road safety and regional accessibility and connectivity, including:
 - National Planning Framework, 2018,
 - National Development Plan 2021 – 2030,
 - National Investment Framework for Transport in Ireland,
 - Smarter Travel – A Sustainable Transport Future: A New Transport Policy for Ireland 2009 – 2020,
 - Climate Action Plan, 2023 and Climate Action Plan 2024
 - All Island Strategic Rail Review 2023
 - Regional Spatial and Economic Strategy for the Southern Region
 - Limerick City and County Development Plan, 2022 – 2028,

- Cork County Development Plan 2022 – 2028,
- (d) The Draft Railway Order and supporting documents and drawings submitted with the application, including the Environmental Impact Assessment Report and the Natura Impact Statement, and the documentation submitted at the oral hearing,
- (e) the submissions on file including those from prescribed bodies, the relevant local authorities, the observers and persons affected by the proposed land acquisition, and the submissions made at the oral hearing,
- (f) the report of the Inspector.

Environmental Impact Assessment

The Board completed an Environmental Impact Assessment of the proposed development taking into account:

- (i) the nature, scale and extent of the proposed development,
- (ii) the Environmental Impact Assessment Report and associated documentation submitted in support of the application,
- (iii) the submissions made in the course of the application and at the oral hearing; and
- (iv) the Inspector's report.

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, adequately considers alternatives to the proposed development and identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

The Board agreed with the examination, set out in the Inspector's report, of the information contained in the Environmental Impact Assessment Report and associated documentation submitted by the applicant and submissions made in the course of the application.

The Board considered, and agreed with the Inspector's reasoned conclusions, that the main significant direct and indirect effects of the proposed development on the environment are as follows:

- **Population and Human Health:** Potential significant construction phase noise and traffic effects on human health will be mitigated through compliance with a Construction Environmental Management Plan, Construction Traffic Management Plan and best practice construction methods.
- **Biodiversity:** Potential significant effects during the construction phase on mammals, amphibians, birds, bats, aquatic species and habitats (including Annex I habitat at XC212 Ballycoskery and XC219 Buttevant) due, primarily, to disturbance, displacement, loss of foraging/commuting/roosting/breeding habitats, surface water pollution, introduction of disease or spread of invasive species. Potential continued significant effects on birds and bats during the operational phase due to loss of foraging and commuting habitats and permanent loss of Annex I habitats. These potential effects will be mitigated through standard good practice construction measures, timing of vegetation removal, water pollution prevention measures, provision of bird nest boxes, replacement habitat planting, translocation of Annex I habitats, biosecurity measures and the implementation of a Construction Environmental Management Plan overseen by an Ecological Clerk of Works. Further pre-commencement otter, badger and bat surveys are also proposed and in the operational phase, a SuDS drainage system is proposed to mitigate potential water pollution impacts.
- **Land, Soils, Water, Air and Climate:** Potential significant effects on soils, private groundwater-fed water supplies and groundwater due to accidental spillages of pollutants or excavation of existing contaminated land. Potential significant effects on water due to increased sediment loading of watercourses, surface water pollution due to accidental spillages, geomorphological impacts, increased run-off and requirement for in-stream works. Potential significant noise effects on a number of receptors during certain phases of construction. These effects will be mitigated by a series of best practice construction management, waste management and pollution prevention measures, noise management and other specific measures outlined in the EIAR and Construction Environmental Management Plan.
- **Material Assets, Cultural Heritage and the Landscape:** Potential temporary significant effects on traffic and transportation during the construction phase

due to HGV traffic and associated severance, delay and safety issues which will be mitigated through the use of best practice construction traffic management measures, including the implementation of a Construction Traffic Management Plan. Moderate to significant effects on features of local cultural heritage importance associated with the railway and potential unknown impacts on possible subsurface archaeological remains. This will be mitigated through archaeological testing and monitoring during the construction phase and detailed recording of features to be removed. Potential significant visual impacts which will be mitigated through landscaping planting and use of appropriate materials.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures set out in the Environmental Impact Assessment Report, and subject to compliance with the conditions set out below, the effects on the environment of the proposed development, by itself and in combination with other development in the vicinity, would be acceptable. In doing so, the Board adopted the report and conclusions of the Inspector.

Appropriate Assessment - Stage 1

The Board considered the Natura Impact Statement and all the other relevant submissions and carried out both an Appropriate Assessment screening exercise and an Appropriate Assessment in relation to the potential effects of the proposed development on designated European Sites. The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report that the only European sites in respect of which the proposed development has the potential to have a significant effect are the Blackwater River (Cork/Waterford) SAC (Site Code 002170) and the Kilcolman Bog SPA (Site Code 004095).

Appropriate Assessment – Stage 2

The Board considered the Natura Impact Statement and associated documentation submitted with the application, the mitigation measures contained therein, the submissions on file, and the Inspector's assessment. The Board completed an Appropriate Assessment of the implications of the proposed development for the two

European Sites, namely, the Blackwater River (Cork/Waterford) SAC (Site Code 002170) and the Kilcolman Bog SPA (Site Code 004095), 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 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 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

It is considered that, subject to compliance with the conditions set out below, the proposed development would accord with national, regional and local planning and related transport policy, would not have an unacceptable impact on the landscape or biodiversity of the area, would not seriously injure the visual or residential amenities of the area or of property in the vicinity, and would result in improvements to road traffic and railway safety, reliability and efficiency. 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, as amended by the further plans and particulars received by An Bord Pleanála on the 31st day of March

2022, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. The following modifications are made to the Railway Order:

- (i) The agreements reached between Iarnród Éireann and Limerick City and County Council and between Iarnród Éireann and Cork County Council, which were submitted at the oral hearing on the 27th September 2022 and on the 28th September 2022, respectively, shall be included in the Seventh Schedule of the Railway Order.
- (ii) The Book of Reference and the Second and Third Schedules of the Railway Order shall be updated to reflect the changes in the corrigenda list contained in Appendix 1 of the submission entitled 'Property Referencing' which was submitted at the oral hearing on the 27th September 2022.
- (iii) An Eighth Schedule, entitled 'Conditions, Modifications, Restrictions and Requirements' shall be added to the Railway Order and shall consist of the Board's reasoned conclusion and the conditions hereby attached to the grant of the Railway Order.

Reason: In the interests of clarity and the proper planning and sustainable of the area.

3. All of the environmental, construction and ecological mitigation and monitoring measures set out in the Environmental Impact Assessment Report, the Natura Impact Statement and other particulars submitted with the application, as amended by the revised Schedule of Mitigation submitted at the oral hearing on the 28th September 2022, shall be implemented by the developer in conjunction with the timelines set out therein, except as may otherwise be required in order to comply with the conditions of this order.

Reason: In the interest of clarity and the protection of the environment during the construction and operational phases of the development.

4. The proposed retaining wall facing Ballyhea National School and the parapets to the proposed overbridge at XC212 Ballycoskery shall be finished with

natural stone cladding following consultation with the relevant planning authority.

Reason: In the interest of visual amenity.

5. Road surfacing works associated with the proposed development at XC212 Ballycoskery shall take place during school holidays.

Reason: In the interest of traffic safety and amenity of the school.

6. The proposed development at XC212 Ballycoskery, including corner radii and pedestrian infrastructure, shall be compliant with the relevant provisions of the Design Manual for Urban Roads and Streets (DMURS). A report and drawings demonstrating compliance shall be placed on the file and retained as part of the public record.

Reason: In the interest of traffic safety and proper planning and sustainable development.

7. At XC219 Buttevant, a gated agricultural entrance shall be provided for the residual plot of land which is located to the north of the proposed realigned R522 and east of the railway line, which would be severed from the main landholding as a result of the permanent acquisition of plot XC219.P.03 as identified on the Railway Order maps.

Reason: In the interests of orderly development.

8. A condition survey and road safety audit of Ballinscaula Bridge and its approaches shall be undertaken by the developer prior to the commencement of development and the developer shall make a financial contribution to the planning authority towards the costs of any remedial works identified, in accordance with section 44(2)(g) of the Transport (Railway Infrastructure) Act 2001, as amended. In the absence of agreement on any required contribution, the matter shall be referred to An Bord Pleanála to determine. A copy of the condition survey and road safety audit shall be placed on the file and retained as part of the public record.

Reason: In the interest of traffic safety.

9. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authorities for such

works in respect of both the construction and operation phases of the proposed development.

Reason: In the interest of environmental protection and public health.

10. The construction of the development shall be managed in accordance with a Construction Environmental Management Plan, which shall be prepared following consultation with Cork County Council, Limerick County Council, National Parks and Wildlife Service, Inland Fisheries Ireland and the Office of Public Works. This plan shall provide details of intended construction practice for the development with measures to reflect mitigation described in the submitted EIAR and NIS for the application, in addition to the following:
- (a) A detailed method statement for the translocation of the Annex I habitats at XC212 Ballycoskery and XC219 Buttevant prepared by a suitably qualified ecologist and hydrologist, to include site investigation, required site preparatory works, translocation methodology, monitoring protocols and on-going site management procedures and shall be implemented.
 - (b) A detailed method statement for culvert installation at XC219 Buttevant to include details of the damming and over pumping arrangement and flow calculations to ensure that the rate of pumping is appropriate and does not result in the mobilisation of sediment in the receiving water.
 - (c) An extended surface water monitoring regime shall be put in place at XC219 Buttevant for a period of 6 months following completion of the works to ensure that the natural re-establishment of the watercourse features is effective.
 - (d) No removal of vegetation shall take place between 1st March and 31st August, inclusive.
 - (e) Biosecurity measures to address the risk of introducing or spreading crayfish plague during construction in line with best practice guidance on this matter.
 - (f) Dust Management Plans, including dust monitoring at Ballyhea National School during the construction phase.

- (g) A communications strategy to keep Cork County Council and Limerick City and County Council appraised of the progression of the project through the submission of quarterly progress updates.
- (h) Location of the site and materials compounds including areas identified for the storage of construction waste, excavated materials, fuels, oils and chemicals;
- (i) Location of access points to the site for any construction related activity;
- (j) Location of areas for construction site offices and staff facilities;
- (k) Details of site security fencing and hoardings;
- (l) Details of on-site car parking facilities for site workers during the course of construction;
- (m) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- (n) Measures to obviate queuing of construction traffic on the adjoining road network;
- (o) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network and for the cleaning of the same;
- (p) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- (q) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (r) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- (s) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (t) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter watercourses, surface water sewers or drains.

(u) A record of daily checks that the works are being undertaken in accordance with the CEMP shall be kept for inspection by the planning authority.

Reason: In the interest of amenities, public health and safety.

11. The site development and construction works shall be carried out such a manner as to ensure that the adjoining roads are kept clear of debris, soil and other material and cleaning works shall be carried on the adjoining public roads by the developer and at the developer's expense on a daily basis.

Reason: To protect the residential amenities of property in the vicinity.

12. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1300 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the amenities of property in the vicinity.

The cost of determining the application was considered at a Board meeting held on 26/06/2024.

In accordance with the provisions of section 47D of the Transport (Railway Infrastructure) Act, 2001, as amended, the Board determined that the amount due to be paid by the applicant is €27,697.

Board Member


Mick Long

Date: 28/06/2024