

An
Bord
Pleanála

Board Direction
BD-009597-21
ABP-310427-21

The submissions on this file and the Inspector's report were considered at Board meetings held on 20/10/2021 and 07/12/2021.

At the meeting of the 20/10/2021, the Board decided to defer consideration of this case and to issue a Section 132 notice to the planning authority. A submission was received from the applicant dated 19th day of November 2021.

At the meeting of the 07/12/2021, the Board considered the submission received from the applicant in response to the section 132 request and the other submissions on the file and decided to grant permission 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 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 River Barrow and River Nore Special Area of Conservation (Site code: 002162),
- (e) the policies and objectives of the Laois County Development Plan, 2017-2023,
- (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: Stage 1

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 Special Area of Conservation (Site code: 002162) is the only European Site 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, the mitigation measures contained therein, the submissions and observations on the file including the submission from the applicant dated 18/11/2021 in response to the section 132 request for further information, 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 River Barrow and River Nore SAC (Site code: 002162), 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 Site.

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 Site, in view of the site's conservation objectives and there is no reasonable scientific doubt remaining as to the absence of such effects.

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, and 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 and by the further plans and particulars received by An Bord Pleanála on the 18th day of November 2021, except as may otherwise be required in order 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 submitted with the application (and detailed in the submission from the applicant dated 19th day of November 2021) shall be implemented in full.

Reason: In the interest of protecting the environment, the protection of European Sites and in the interest of public health.

3. No works shall take place at or in the river between the 1st day of October and 30th day of June in any one year.

Reason: In the interests of nature conservation and to ensure the protection of the European site.

4. Prior to the commencement of development, the local authority, or any agent acting on its behalf, shall prepare in consultation with Inland Fisheries Ireland, a works Method Statement, incorporating all mitigation measures indicated in the Natura Impact Statement and in the submission from the applicant dated 19th day of November 2021 and demonstration of proposals to adhere to best practice and protocols. The Method Statement shall include a record of daily checks that the works are being undertaken in accordance with the Method Statement shall be maintained on file as part of the public record.

Reason: In the interests of protecting the environment and the European Site

5. Prior to the commencement of development, details of measures to protect fisheries and water quality of the river system shall be outlined and placed on file. Full regard shall be had 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 protecting the receiving water quality, fisheries and aquatic habitats.

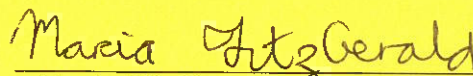
6. The County Council and any agent acting on its behalf shall ensure that all plant and machinery used during the works should be thoroughly cleaned and washed before delivery to the site to prevent the spread of hazardous invasive species and pathogens.

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

7. 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 NIS (or detailed in the submission from the applicant dated 19th day of November 2021). 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.

Board Member



Maria FitzGerald

Date: 07/12/2021

