



**An
Bord
Pleanála**

**Board Direction
BD-015239-24
ABP-312635-22**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 29/01/2024.

The Board 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 (as amended),
- (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 Castlemaine Harbour SAC (000343), Castlemaine Harbour SPA (004029) and Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (000365),
- (e) the policies and objectives of the Kerry County Development Plan 2022-2028,
- (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 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 Castlemaine Harbour SAC (000343), Castlemaine Harbour SPA (004029) and Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (000365) are the 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 on file, and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed development for the affected European Sites, namely the Castlemaine Harbour SAC (000343), Castlemaine Harbour SPA (004029) and Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (000365) 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, specifically upon the Castlemaine Harbour SAC (000343), Castlemaine Harbour SPA (004029) and Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (000365),
- 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 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 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 pose a risk to water quality, 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, in particular the protected bridge structure or underwater archaeology, would not interfere with the existing land uses in the area and would be acceptable in terms of traffic and pedestrian safety. 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. Where any mitigation measures set out in the Natura Impact Statement 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 and monitoring commitments identified in the Natura Impact Statement, and other plans and particulars submitted with the application shall be carried out in full except as may otherwise be required in order to comply with other conditions. Prior to the commencement of development, details of a time schedule for implementation of mitigation measures and associated monitoring shall be prepared by the local authority and placed on file and retained as part of the public record.

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

3. Prior to the commencement of development, the local authority, or any agent acting on its behalf, shall prepare in consultation with the relevant statutory agencies, a Construction Environmental Management Plan (CEMP), incorporating 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 the site and materials compounds including areas identified for the storage of construction waste,
 - b) Location of areas for construction site offices and staff facilities,
 - c) Intended construction practice for the development, including hours of working,
 - d) Means to ensure that surface water run-off is controlled in line with a Sediment & Erosion Control Plan, such that no deleterious levels of silt or other pollutants enter local surface water drains or watercourses,
 - e) Containment of all construction related fuel and oil within specifically constructed bunds to ensure that fuel spillages are fully contained,
 - f) The management of construction traffic and off-site disposal of construction waste,

- g) Traffic management measures including any alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of the public road during the course of site development works,
- h) Specific proposals as to how the measures outlined in the CEMP will be measured and monitored for effectiveness, and
- i) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;

A record of daily checks that the works are being undertaken in accordance with the CEMP shall be maintained on file as part of the public record.

Reason: In the interest of protecting the environment and adjacent European Sites and in the interest of public health and safety.

4. Prior to the commencement of development, details of measures to protect the fisheries and water quality of the river systems shall be outlined and placed on file. In-channel works shall adhere to the timing restrictions set out in the Natura Impact Statement. 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 the protection of receiving water quality, fisheries and aquatic habitats.

5. The County Council and any agent acting on its behalf shall engage a suitably qualified ecologist to oversee the site set up and construction of the proposed development and implementation of mitigation measures relating to ecology set out in the submitted NIS and any other relevant measures included within submitted documents. 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 the proper planning and sustainable development of the area and to ensure the protection of the European sites.

6. Prior to commencement of works the ecologist shall carry out a survey of the works area to identify the presence of any invasive species and to prepare an Invasive Species Management Plan if required. Details shall be maintained on the file as part of the public record.

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 and upon removal from 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 conservation architect shall be retained by the local authority to oversee the site set up and works in the vicinity of the bridge. Upon completion of works, a conservation report of the site works shall be prepared by the appointed conservation architect to be kept on file as part of the public record.

Reason: In the interest of cultural heritage.

8. 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 underwater archaeologist shall be appointed by the County Council and the archaeologist shall be present on site during the removal works. The requirements of the Department of Housing, Local Government and Housing as set out in their response dated 16th March 2022 shall be complied with and a report on same shall be kept on record.

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

A handwritten signature in black ink, appearing to read 'Una Crosse', written over a horizontal line.

Una Crosse

Date: 29/01/2024