

An
Bord
Pleanála

Board Direction
BD-015343-24
ABP-313274-22

The submissions on this file and the Inspector's report were considered at a Board meeting held on 06/02/2024.

The Board decided to approve the development 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 and qualifying interests for the West of Ardara/Maas Road SAC [European site no. 002301],
- (e) the policies and objectives of the County Donegal Development Plan, 2018-2024,
- (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 West of Ardara/Maas Road SAC [European site no. 002301], is the only European Site 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 completed an appropriate assessment of the implications of the proposed development for the affected European Sites, namely West of Ardara/Maas Road SAC [European site no. 002301] 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 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 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 Sites, in view of the site's 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, as amended by the revised details received on the 11th of January 2023 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 Construction and Environment Management Plan 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 and monitoring measures outlined in the plans and particulars relating to the proposed development, including those set out in the Natura Impact Statement, Construction and Environmental Management Plan, Bat Survey Report and Ecological Report shall be

implemented in full or as may be required in order to comply with the following 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 protecting the environment, the protection of European Sites and in the interest of public health.

- 3 The proposed development shall be carried out in accordance with the Construction Environmental Management Plan (CEMP) received by the Board on the 11th of January 2023.

Reason: In the interest of protecting the environment.

4. (a) Prior to the commencement of development, details of measures to protect fisheries and water quality 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 Inland Fisheries Ireland and the programme shall be implemented thereafter.

(b) Prior to the commencement of any instream works the developer must participate in consultation with Inland Fisheries Ireland and instream works can only be carried out following approval of methodologies and timing from that body.

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

5. 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.

6. 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 submitted Natura Impact Statement, Ecological Report, Bat Survey Report and Construction and Environmental Management Plan and conditions here stated. The ecologist shall be present during site construction works. Upon completion of works, an ecological report of the site works and performance of all mitigation measures 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.

7. The following nature conservation requirements shall be complied with:
 - (a) The permitted works will be phased as set out in the submitted Construction and Environmental Management Plan and will only be carried out in the month of September. Should ornithological surveying by an appropriately qualified individual confirm that there are no nesting birds in the structures (or associated vegetation to be removed) in advance of works in any given year, works can be carried out in the final two weeks of August in that year subject to agreement with the National Parks and Wildlife Service. A record of the relevant ornithological survey shall be placed on file for record.
 - (b) Works will ensure the retention or suitable replacement of the identified dippers nest as well as the provision of cavities/boxes for the dipper on each of the subject structures, subject to approval by the project ecologist.
 - (c) Summer bat surveys shall be undertaken at each of the bridges prior to commencement of development to fully inform construction methodologies and finalise appropriate mitigation measures. All

surveys will be undertaken in the appropriate season immediately prior to works being carried out in each of the structures. If bats are found roosting the mitigation measures and methodology as set out in the submitted Bat Survey Report will at a minimum be put in place. Derogation licenses must be sought if exclusion is required to carry out bridge repair works. Details of the methodology, timing, and extent of the surveys as well as the relevant mitigation measures including the retention of existing and provision of additional/alternative roosting cavities/boxes shall be agreed with the National Parks and Wildlife Service in advance of works.

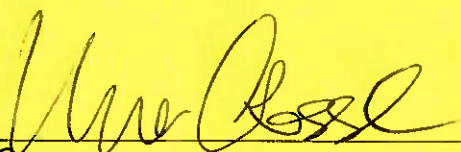
Reason: In the interests of nature conservation, protecting the environment, minimising impacts on protected species and the proper planning and sustainable development of the area.

8. The County Council and any agent acting on its behalf shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -
 - (a) employ a suitably-qualified archaeologist who shall monitor all site investigations and works, and
 - (b) provide arrangements, acceptable to the National Monuments Service, for the recording and for the removal of any archaeological material which the Service considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

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



Una Crosse

Date: 06/02/2024