



An  
Bord  
Pleanála

**Board Direction**  
**BD-013849-23**  
**ABP-313757-22**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 21/09/2023.

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**

It is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of the landscape character and visual amenities of the area, would not seriously injure the amenities of property in the vicinity, would not significantly impact on biodiversity or the archaeological resource, would be acceptable in terms of traffic safety and convenience and would, therefore, be in accordance with the relevant objectives of the Kildare County Development Plan 2023-2029 and the proper planning and sustainable development of the area.

### **Appropriate Assessment:**

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the Rye Water Valley/Cartron SAC (Site code 001398) is a European sites for which there is a possibility of significant effects and must therefore be subject to Appropriate Assessment. The Board considered the Natura Impact Statement and all other relevant submissions and carried out an appropriate assessment of the implications of the proposed development for European Sites in view of the site's Conservation Objectives (Rye Water Valley/Cartron SAC (Site code 001398)).

The Board considered that the information before it was sufficient to undertake a complete assessment of all aspects of the proposed development in relation to the sites' conservation

objectives using the best available scientific knowledge in the field. In completing the AA, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the implications 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 would not adversely affect the integrity of European site in view of the site's Conservation Objectives and there is no reasonable scientific doubt as to the absence of such effects.

This conclusion is based on:

- the limited scale of the works proposed.
- avoidance of direct impacts on qualifying habitats and species of the European site.
- the weak hydrological connection between the development site and the SAC and the prevention of potential indirect effects on the qualifying habitats and species of the European site by the implementation of standard best practice and proven mitigation measures.

### **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 submitted on the 21<sup>st</sup> day of April, 2022, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The mitigation measures identified in the Planning and Environmental Report and other plans and particulars submitted with the application shall be implemented in full.

**Reason:** In the interest of clarity and the protection of the environment.

3. The mitigation measures contained in the Natura Impact Statement shall be implemented in full.

**Reason:** In the interest of clarity and to ensure the protection of European sites.

4. The period during which the proposed development hereby permitted may be constructed shall be ten years from the date of this Order.

**Reason:** In the interest of clarity.

5. The construction of the development shall be managed in accordance with a Construction Environmental Management Plan (CEMP), which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including
  - (a) location of the construction compound including the area identified for the storage of waste,
  - (b) location of areas for construction of site office and staff facilities,
  - (c) details of on-site parking facilities for site works during the course of construction,
  - (d) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network,
  - (e) 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, and
  - (f) invasive species management plan.

A record of daily checks that the works are being undertaken in accordance with the Construction and Environmental Management Plan shall be kept for inspection by the planning authority.

**Reason:** In the interest of protecting the environment.



6. Prior to commencement of development, a traffic management plan for the construction phase shall be submitted to, and agreed in writing with, the planning authority. The traffic plan shall incorporate the following:
- (a) details of the road network/haulage routes and the vehicle type to be used to transport materials to and from the site and a schedule of control measures for exceptionally wide and heavy delivery loads,
  - (b) a condition survey of the roads and bridges along the haul routes shall be carried out at the developer's expense by a suitably qualified person both before and after the construction of the proposed development. This survey shall include a schedule of required works to cater for construction related traffic. The extent and scope of the survey and the schedule of works shall be agreed with the planning authority prior to commencement of development.
  - (c) detailed arrangements whereby the recertification of any construction damage which arises shall be completed to the satisfaction of the planning authority.
  - (d) Details of construction related directional and road safety signage, and
  - (e) Measures to obviate queuing of construction traffic on the adjoining road network.

All works arising from the aforementioned arrangements shall be completed at the developer's expense.

**Reason:** To protect the public road network.

7. Construction works shall be confined to between 0700 and 1800 hours Monday to Friday inclusive and between 0800 hours and 1600 hours on Saturdays and not at all on Sundays or Bank Holidays.

**Reason:** To safeguard the amenities of property in the vicinity.

8. Details of the materials, colours and textures of all the external finishes to the proposed structures and enclosing fencing shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of the visual amenities of the area.

9. The landscaped scheme shown on drawing number LD.TGD\_SYNC 1.1 as submitted to the planning authority on the 21<sup>st</sup> day of April, 2022 shall be carried out within the first planting season following substantial completion of external construction works. Prior to commencement of development, the developer shall submit for the written agreement of the planning authority, a plan to a scale of not less than 1:500 showing details of the species, variety, number, size and locations of all proposed trees and shrubs. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the commissioning of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In order to screen the proposed development in the interest of visual amenity.

10. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works in respect of both the construction and operation phases of the development.

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

11. The developer shall retain the services of a suitably qualified and experienced bat specialist to survey the site for the presence of bat roosts, prior to commencement of development. In the event that any roosts are identified, the National Parks and Wildlife Service shall be consulted regarding how best to deal with such roosts. The removal of any roosts identified shall be carried out only under licence from the National Parks and Wildlife Service

**Reason:** In the interest of protecting ecology and wildlife in the area.



12. The developer shall retain the services of a suitably qualified and experienced ecologist to survey the site for the presence of badger, prior to commencement of development. In the event that any setts are identified, the National Parks and Wildlife Service shall be consulted regarding how best to deal with such setts. The removal of any setts identified shall be carried out only under licence from the National Parks and Wildlife Service

**Reason:** In the interest of protecting ecology and wildlife in the area.

13. (a) During the operational phase of the proposed development, the noise level arising from the development, as measured at the nearest noise sensitive location shall not exceed:-
- (i) An LAeqT value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday inclusive. The T value shall be one hour.
  - (ii) An LAeqT value of 45 dB(A) at any other time. The T value shall be 15 minutes. The noise at such time shall not contain a tonal component.

At no time shall the noise generated on site result in an increase in noise level of more than 10 dB(A) above background levels at the boundary of the site.

- (b) All sound measurement shall be carried out in accordance with ISO Recommendation R 199 "Assessment of Noise with respect to Community Response" as amended by ISO Recommendations R 1996 1, 2 or 3 "Description and Measurement of Environmental Noise", as applicable.
- (c) Within three months of the commissioning into use of the proposed development, a noise survey and assessment, including a tonal assessment and any mitigation measures required shall be submitted to the planning authority for written agreement.

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

14. The developer shall ensure that all plant and machinery used during the works should be thoroughly cleaned and washed before delivery to and exit from the site to prevent the spread of hazardous invasive species and pathogens.

**Reason:** In the interest of the proper planning and sustainable development and to prevent the spread of hazardous invasive species and pathogens.

15. The developer shall facilitate the preservation, recording and protection of archaeological materials or features which may exist on the site. In this regard, the developer shall:
- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
  - (b) employ a suitably qualified archaeologist who shall monitor all site investigations and other excavation works, and
  - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority 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.

16. All lighting within the site shall be cowled to prevent overspill outside the site.

**Reason:** To reduce impacts on local biodiversity.

17. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such as may be acceptable to the planning authority, to secure the reinstatement of public roads which may be damaged during the transport of materials to the site, coupled with an agreement empowering the planning authority to apply such security or part thereof to such reinstatement. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory reinstatement of the delivery routes.

18. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Board Member

  
Mick Long

Date: 22/09/2023