

An
Bord
Pleanála

Board Direction
BD-015844-24
ABP-315197-22

The submissions on this file and the Inspector's report were considered at a Board meeting held on 15/03/2024.

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, qualifying interests and special conservation interests for the Lower River Suir Special Area of Conservation (Site Code: 002137),
- (e) Project Ireland 2040 National Planning Framework,
- (f) Climate Action Plan 2023 – Changing Ireland for the Better,
- (g) Design Manual for Urban Roads and Streets (2019) (DMURS),

- (h) Regional Spatial and Economic Strategy for the Southern Region (RSES),
- (i) the policies and objectives of the Kilkenny City & County Development Plan 2021-2027,
- (j) the nature and extent of the proposed works as set out in the application for approval,
- (k) the information submitted in relation to the potential impacts on habitats, flora and fauna, including the Natura Impact Statement,
- (l) 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 Lower River Suir Special Area of Conservation (Site Code: 002137), 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 file, 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 Lower River Suir Special Area of Conservation (Site Code: 002137), 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 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 Site, 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 improve road safety on this section of the N24 national road and result in an improved environment for residents of Mooncoin village. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The proposed road development shall be carried out and completed in accordance with the plans and particulars, including the Natura Impact Statement, lodged with the application for approval, 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 interests of clarity and the proper planning and sustainable development of the area and to ensure the protection of the environment.

2. The proposals, mitigation measures, commitments, and recommendations set out in the Natura Impact Statement shall be implemented in full as part of the proposed road development. Any proposals, mitigation measures, commitments, and recommendations stating 'should' or 'may' etc. shall be read as 'shall' or 'will' etc:

Reason: In the interest of clarity, to mitigate the environmental effects of the proposed road development, and to protect the amenities of the area and of properties in the vicinity.

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 finalised 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. These details shall be placed on file and retained as part of the public record.

Reason: In the interest of protecting the environment.

4. 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 Natura Impact Statement and the Ecological Impact Assessment Report. 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, to prevent adverse impacts on the European Site and to ensure the protection of the Annex I habitats and Annex II species and their Qualifying Interests for which the site was designated.

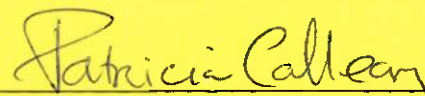
5. The design and construction of culverts shall have regard to the provisions of National Roads Authority publication 'Guidelines for the Crossing of Watercourses during the Construction of National Road Schemes' and the Eastern Regional Fisheries Board publication 'Requirements for the Protection of Fisheries Habitat during Construction and Development Work at River Sites'.

Reason: In the interest of ecological protection.

6. The preservation, recording, and protection of archaeological materials or features that may exist within the site shall be facilitated. In this regard, a suitably qualified archaeologist shall be retained to monitor all site investigations and other excavation works and provide arrangements for the recording and for the removal of any archaeological material considered appropriate to remove.

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


Patricia Calleary

Date: 15/03/2024