

An
Bord
Pleanála

Board Direction
BD-016415-24
ABP-317607-23

The submissions on this file and the Inspector's report were considered at a Board meeting held on 23/05/2024.

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

Having regard to:

- a) the Kerry County Council Development Plan 2022-2028
- b) the 'Code of Practice, Domestic Waste Water Treatment Systems, (Population Equivalent ≤ 10)', Environmental Protection Agency, March, 2021 and 'Integrated Constructed Wetlands, Guidance Document for Farmyard Soiled Water and Domestic Wastewater Applications', Department of the Environment, Heritage and Local Government, 2010
- c) the nature, scale, and extent of the proposed development
- d) the documentation submitted with the application
- e) the submissions and observations from prescribed bodies, the planning authority and third parties.
- f) the separation distances between the proposed development and dwellings or other sensitive receptors.
- g) 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 absence of likely significant effects of the proposed development on European Sites.

It is considered that, subject to compliance with the conditions set out below, the proposed development would accord with European, national, regional and local planning and related policy, it would not have an unacceptable impact on the environment or ecology, it would not seriously injure the residential amenities of the area or of property in the vicinity, and it would be acceptable in terms of water quality, traffic safety and access. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Screening

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European Sites, taking into account the nature, scale and location of the proposed development, zoning of the site, the Screening for Appropriate Assessment and Natura Impact Statement Report submitted with the application, the Inspector's report, and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have an adverse effect on any European site in view of the conservation objectives of such sites, other than Brandon Bay and Tralee Bay and Magharees Peninsula West to Cloghane SAC, which was a European site where the likelihood of adverse effects could not be ruled out.

Appropriate Assessment

The Board considered the Natura Impact Statement and all other relevant submissions on the file and carried out an Appropriate Assessment of the implications of the proposed development on Brandon Bay and Tralee Bay and Magharees Peninsula West to Cloghane SAC, in view of that 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:

- a) the site-specific conservation objectives for the European site,
- b) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects, and in particular the risk of impacts on water quality,
- c) the mitigation measures which are included as part of the current proposal.

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 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. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable scientific doubt as to the absence of adverse effects.

This conclusion is based on the measures identified to control the quality of water discharges which provide for the interception of silt and other contaminants prior to discharge from the site during construction and operation phase, and measures to limit disturbance during construction phase.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, including further information submission received on 28th April 2023, 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, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. The mitigation and monitoring measures outlined in the submitted plans and particulars, including the NIS submitted with this application, shall be carried out in full by the developer.

Reason: In the interest of protecting the environment.

3. The developer shall submit to the planning authority:

- (a) following consultation with Uisce Éireann, a finalised design for the proposed infrastructure project including connections/integration to existing wastewater infrastructure
- (b) Arrangements for the on-going management and maintenance of the proposed infrastructure.

These details shall be agreed in writing with the planning authority prior to the commencement of works and thereafter strictly adhered to in the development.

Reason: In the interests of protecting the environment and of public health.

4. The construction of the development shall be managed in accordance with a Construction and Environmental Management Plan, including Construction Stage Traffic Management Plan, 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) The appointment of a full-time, appropriately qualified environmental manager for the duration of the construction and development phases of the project, responsible for implementation of environmental control measures.
 - b) The appointment of a full-time, appropriately qualified project ecologist to oversee the construction and development phases of the project, including pre-construction surveys.
 - c) Pre-construction surveys for Bats, Kerry Slug and Killarney Fern with any necessary remedial measures to be agreed with the NPWS.
 - d) A Noise Management Plan identifying the potential noise impacts and mitigation of the same.

- e) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains, and a site-specific water management plan providing details of measures to in accordance with the submitted NIS;
- f) A Construction and Demolition Resource Waste Management Plan as set out in the Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for C&D projects (EPA 2021);
- g) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- h) Details of the management of construction traffic accessing the construction site, with Traffic Marshall on Church Road or equivalent management proposals;
- i) In the event that complaints are received regarding noise, measures to facilitate investigation by Kerry County Council and abate the nuisance;
- j) Details for the suppression of dust;
- k) Details of site hoarding;
- l) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained;
- m) 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 amenities, environmental protection and safety.

5. In the event of complaints being received regarding odour nuisance arising from the development to which this permission relates, and upon investigation by the Kerry County Council such complaints are found to be justifiable, the applicant shall upon written advice by the Council, retain the services of a specialist to establish the cause of the odour nuisance and outline remediation to abate the nuisance, to be implemented and maintained at the operators expense.

Reason: In the interest of residential amenity and public health.

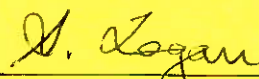
6. Landscaping and retention of boundary screening (hedgerows/treelines) to be carried out in accordance with the details which accompanied the application submitted, unless otherwise agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of residential and visual amenity

7. All fencing within the site shall be dark green in colour.

Reason: To integrate with surroundings.

Board Member


Stewart Logan

Date: 24/05/2024