

An
Bord
Pleanála

Board Direction
BD-017409-24
ABP-319078-24

The submissions on this file and the Inspector's report were considered at a Board meeting held on 05/09/2024.

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 National Biodiversity Action Plan 2023-2030,
- (d) 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,
- (e) the conservation objectives, qualifying interests and special conservation interests for the Killarney National Park, Macgillicuddy's Reeks and Caragh River Catchment SAC (000365), Castlemaine Harbour SAC (000343), and Castlemaine Harbour SPA (004029).
- (f) the policies and objectives of the Kerry County Development Plan 2022-2028,
- (g) the nature and extent of the proposed works as set out in the application for approval,

- (h) the information submitted in relation to the potential impacts on habitats, flora and fauna, including the revised Natura Impact Statement,
- (i) the submissions received in relation to the proposed development, and
- (j) 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 Killarney National Park, Macgillicuddy's Reeks and Caragh River Catchment SAC (000365), Castlemaine Harbour SAC (000343), and Castlemaine Harbour SPA (004029) are European sites for which there is a likelihood of significant effects.

The Board considered the revised Natura Impact Statement, all relevant submissions and carried out an appropriate assessment of the implications of the proposal for the Killarney National Park, Macgillicuddy's Reeks and Caragh River Catchment SAC (000365), Castlemaine Harbour SAC (000343), and Castlemaine Harbour SPA (004029) 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 assessment, the Board considered, in particular, the

- (i) Likely direct and indirect impacts arising from the proposal both individually or in combination with other plans or projects, specifically upon Killarney National Park, Macgillicuddy's Reeks and Caragh River Catchment SAC (000365), Castlemaine Harbour SAC (000343), and Castlemaine Harbour SPA (004029).
- (ii) Mitigation measures which are included as part of the current proposal, and
- (iii) Conservation Objective for this 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 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 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, would not interfere with the existing land uses in the area and would be acceptable in terms of traffic safety and convenience. 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, and additional plans and particulars submitted on 16th July 2024, 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. 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. The ecologist shall be present during repair and remediation 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 and the protection of biodiversity.

4. Prior to the commencement of development, the local authority, or any agent acting on its behalf, shall prepare in consultation with the project ecologist and relevant statutory agencies, a detailed Construction Environmental Management Plan (CEMP), incorporating all mitigation measures indicated in the Natura Impact Statement. The CEMP shall include:
 - a) all mitigation measures indicated in the Natura Impact Statement, CEMP, EIA and correspondence to the Board (dated 16th July 2024) whereby all the water extracted/pumped from the proposed closed off areas (dry cells) of the River shall be pumped into an appropriately designed settlement tank prior to discharge. The settlement tank shall be located with the proposed compound or a suitable alternative location on the public road;
 - b) Specific proposals as to how the measures outlined in the CEMP will be measured and monitored for effectiveness.
 - c) Location of the site and materials compounds including areas identified for the storage of construction waste,
 - d) Location of areas for construction site offices and staff facilities,
 - e) Intended construction practice for the development, including hours of working,

- f) 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,
- g) Containment of all construction related fuel and oil within specifically constructed bunds to ensure that fuel spillages are fully contained,
- h) The management of construction traffic and off-site disposal of construction waste,
- i) 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,
- j) 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.

5. The following nature conservation requirements shall be complied with:
 - (a) The works shall be carried out in compliance with the Inland Fisheries Ireland document "Guidelines on protection of fisheries during construction works in and adjacent to waters."
 - (b) No in-stream works shall be undertaken without prior consultation with Inland Fisheries Ireland, and the works shall only be undertaken between August to September (inclusive), as set out in the Construction and Environmental Management Plan dated July 2024,
 - (c) The free passage of fish shall be fully accommodated.
 - (d) In-stream works, and the use of concrete shall take place during periods of low water flows.
 - (e) No riparian vegetation removal shall take place during the period 1st March to 31st August (inclusive).
 - (f) Access to the river shall be restricted to the existing path upstream of the bridge (on the right hand side of the bridge).
 - (g) Any riparian zones damaged by machinery or equipment shall be fully re-instated.

(h) A pre-construction otter survey by a suitably qualified ecologist shall be carried out before works commence, any destruction of otter holts or relocation of otter species shall be carried out by a suitably qualified ecologist under a Derogation Licence granted by the Minister for Housing, Local Government and Heritage.

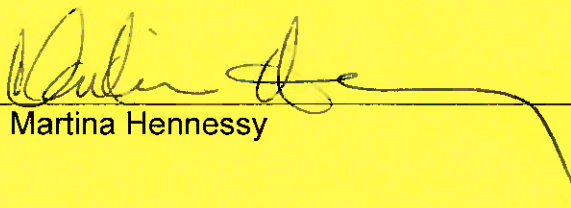
(i) A pre-construction bat survey shall be carried out by a suitably qualified ecologist during the active bat season; any destruction of bat roosting sites or relocation of bat species shall be carried out by a suitably qualified ecologist under a Derogation Licence granted by the Minister for Housing, Local Government and Heritage; and the works shall be undertaken in accordance with the Bat Conservation of Ireland document "Bats and Lighting, Guidance Notes for: Planners, engineers, architects and developers 2010".

Reason: In the interest of biodiversity and nature conservation.

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.

Board Member


Martina Hennessy

Date: 05/09/2024