



An
Bord
Pleanála

**Board Direction
PL02.JP0047**

At a meeting held on 19th February 2019, the Board considered

- the submissions made in relation to the proposed development,
- the report of the Inspector, and
- the documents and submissions on file.

The Board decided to approve the proposed development in accordance with the following reasons, considerations and conditions.

Reasons and Considerations

In coming to its decision, the Board had regard to the following:

- (a) Directive 92/43/EEC (Habitats Directive) and Directive 79/409/EEC as amended by 2009/147/EC (Birds Directives) which set the requirements for Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union,
- (b) Directive 2000/60/EC (Water Framework Directive),
- (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 Lough Oughter and Associated Lakes SAC (site code: 000007) and the Lough Oughter Complex SPA (site code: 004049),
- (e) the policies and objectives of the Cavan County Development Plan, 2014-2020,
- (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,
- (i) the submissions and observations made at the Oral Hearing held on the 4th December 2018, and
- (j) the Inspector's report and recommendation dated 26th October 2017 and the subsequent addendum report and recommendation dated 21st January 2019.

Appropriate Assessment:

The Board considered the Screening Report for Appropriate Assessment, the Natura Impact Statement and all the other relevant submissions and carried out both an appropriate assessment screening exercise and an appropriate assessment in relation to the potential effects of the proposed development on designated European Sites. In doing so, the Board also considered the nature, scale and location of the proposed development and the report of the Inspector.

Stage 1

The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report that the Lough Oughter and Associated Lakes SAC (site code: 000007) and the Lough Oughter Complex SPA (site code: 004049) are the only European Sites in respect of which the proposed development has the potential to have a significant effect.

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 Sites, namely the Lough Oughter and Associated Lakes SAC (site code: 000007) and the Lough Oughter Complex SPA (site code: 004049), 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 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 aforementioned European Sites, having regard to the site's conservation objectives.

Conclusion

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 proposed development shall be carried out and completed in accordance with the plans and particulars, including the mitigation measures specified in the Environmental Impact Report and Natura Impact Statement lodged with the application to An Bord Pleanála on the 12th day of May 2017, as amended by the further plans and particulars submitted to the Board at the oral hearing held on the 4th day of December 2018, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be prepared by the local authority, these details shall be placed on file prior to commencement of development 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. All mitigation measures identified in the Environmental Impact Report (EIR) and Natura Impact Statement (NIS) submitted with the application shall be implemented in full as part of the proposed road development or as may be required in order to comply with the following conditions. The local authority or any agent acting on its behalf shall appoint a person with appropriate ecological and construction expertise as an environmental manager to ensure that the mitigation measures identified in the EIR and NIS are implemented in full.

Reason: In the interest of clarity and to protect the environment during the construction and operational phases of the development.

3. Prior to commencement of development, the local authority, or any agent acting on its behalf, shall prepare a Construction Management Plan (CMP)

generally in accordance with the commitments set out in the Environmental Impact Report and Natura Impact Statement which were submitted with the application. The CMP shall include specific proposals as to how the CMP will be measured and monitored for effectiveness, and it shall be on file prior to the commencement of development and retained as part of the public record.

Reason: In the interest of protecting the environment and in the interest of public health.

4. (a) The design and construction of culverts and watercourse/river crossings shall have regard to the provisions of NRA 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'.

(b) No excavation or construction works shall take place in the vicinity of the River Erne during the peak spawning period for salmonids between 1st October and 30th April inclusive.

(c) Detailed measures in relation to the protection of bats, badgers and otters during the construction period shall be determined in consultation with the National Parks and Wildlife Service of the Department of Culture, Heritage and the Gaeltacht. These measures shall be implemented as part of the development by the local authority or any agent acting on its behalf.

(d) A minimum 5 metre wide leave strip shall be maintained on both sides of the River Erne at each bridge crossing point, as described in Section 4.6.4 of the Natura Impact Statement submitted with the application.

Reason: In the interests of clarity, ecological protection and to ensure the protection of the European sites.

5. The scheme shall make provision for traffic calming measures at the entrances from the realigned N55 to the village of Killydoon and these shall be put in place as part of the overall contract for the works. These provisions shall be made available for public inspection at the offices of the local authority.

Reason: In the interest of traffic safety.

6. The local authority or any agent acting on its behalf shall facilitate the preservation, recording, protection or removal of archaeological materials or features that may exist within the site. A suitably qualified archaeologist shall be appointed by the local authority to oversee the site set-up and construction of the proposed development and the archaeologist shall be present on site during construction works to ensure that the mitigation measures identified in the EIR are implemented in full.

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

Date: 19th February 2019

John Connolly