



An
Bord
Pleanála

Board Order
PL 93.248132

Planning and Development Acts 2000 to 2018

Planning Authority: Waterford City and County Council

Planning Register Reference Number: 16/623

Appeal by Patrick and Maura Derivan and others care of Peter Thomson Planning Solutions of 4 Priory Grove, Kells, County Kilkenny against the decision made on the 7th day of February, 2017 by Waterford City and County Council to grant subject to conditions a permission to Hydrocity Limited care of Malone O'Regan of Saint Catherine's House, Catherine Street, Waterford in accordance with plans and particulars lodged with the said Council.

Proposed Development: Amendments to the Hydro-Electric Scheme on the Glasha River permitted by the permissions granted under planning register reference numbers PD11/314 and PD13/261. The amendments comprise rerouting the pipeline from the water abstraction weir for a distance of 550 metres and alterations to the turbine house to accommodate the generating equipment, an extension to the turbine house for a transformer room and Electricity Supply Board substation and all associated site works at Toor, Glen Upper and Glen Lower, County Waterford. Further public notices were submitted to the planning authority on the 20th day of January, 2017 and to An Bord Pleanála on the 23rd day of October, 2018.

Decision

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Reasons and Considerations

Having regard to:

- (a) national policy with regard to the development of sustainable energy sources,
- (b) the planning history on the site, in particular the grants of permission under planning register reference numbers PD11/314 and PD13/261,
- (c) the character of the landscape in the area and the topography surrounding the site,
- (d) the provisions as set out in the Waterford County Development Plan 2011-2017, including those regarding renewable energy development, and
- (e) the submissions made in connection with the planning application and the appeal,

it is considered that, subject to compliance with the conditions set out below, the proposed development would not adversely affect the landscape, would not seriously injure the visual or residential amenities of the area and would not give rise to any significant impacts on the natural heritage of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Screening

In completing the screening for Appropriate Assessment, the Board accepted and adopted the screening assessment and conclusion carried out in the Inspector's Report dated the 6th day of November, 2017 in respect of European Sites other than the Lower River Suir Special Area of Conservation (Site Code: 002137). In relation to the Lower River Suir Special Area of Conservation (Site Code: 002137), the Board accepted and adopted the screening assessment and conclusion carried out in the Inspector's Supplementary Report dated the 9th day of January, 2019 in respect of the identification of that site as a European Site which could potentially be affected, and the identification and assessment of the potential likely significant effects of the proposed development.

Having regard to the presence of part of the pipeline route, part of the turbine house and the electrical substation within the Lower River Suir Special Area of Conservation (Site Code: 002137) and that instream works (pipeline crossing) will be required within the Lower River Suir Special Area of Conservation (Site Code: 002137) boundary, the Board concluded that the proposed development would be likely to have a significant effect on the site's conservation objectives.

The Board was satisfied that the proposed development, either individually or in combination with other plans or projects, would be likely to have a significant effect on the Lower River Suir Special Area of Conservation (Site Code: 002137), in view of the site's conservation objectives.

Stage 2 Appropriate Assessment.

The Board considered the Natura impact statement as submitted to An Bord Pleanála on the 12th day of September, 2018 and all other relevant submissions and carried out an Appropriate Assessment of the implications of the proposed development for 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 assessment, the Board considered, in particular, the:

- (i) likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (ii) 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 aforementioned European Site,

The Board identified that the main likely impact arising from the proposed development would be the in-water quality via generation of silt and minor spills of hydrocarbons and distribution to aquatic habitats during instream works and potential impact on Atlantic Salmon and other aquatic species and impact on otter via increased noise and disturbance.

It is a conservation objective of the Lower River Suir Special Area of Conservation (Site Code: 002137) to maintain or restore the favourable conservation status of habitats and species of community interest.

Having regard to the mitigation measures proposed, the Board concluded that the impact on aquatic qualifying interests and conservation objectives for the Lower River Suir Special Area of Conservation (Site Code: 002137) within the Glasha River and main Channel of the River Suir will be negligible.

In the overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of the Lower River Suir Special Area of Conservation (Site Code: 02137), or any other site in view of the sites' conservation objectives.

Environmental Impact Assessment

Having regard to the nature, scale and context of the works proposed and to the planning history of the site, the Board was satisfied that the proposed development would not be likely to have significant effects on the environment. The Board generally adopted the report of the Inspector in this regard.

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 to the planning authority on the 12th day of January, 2017 and by the further information received by An Bord Pleanála on the 12th day of September, 2018, 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. Apart from the departures specifically authorised by this permission, the development shall be carried out and completed in accordance with the terms and conditions of the permissions granted under planning register reference numbers PD11/314 and PD13/261 and any agreements entered into thereunder.

Reason: In the interest of clarity and to ensure the overall development is carried out in accordance with the previous permissions.

3. The stream crossing shall provide for a 300 millimetres layer of rounded stone placed on top of the concrete base encasing the pipe.

Reason: To ensure the preservation and protection of flora and fauna within the site.

4. No instream works shall be carried out during the months of August and September inclusive.

Reason: To ensure the preservation and protection of flora and fauna within the site.

5. An accurate tree survey which shall be carried out by an arborist or landscape architect, shall be submitted to the planning authority prior to the commencement of development. The survey shall show the location and species of trees to be removed and detail mitigation by replacement planting.

Reason: In the interests of visual and rural amenity.

6. A landscaping scheme in respect of the turbine house shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In order to screen the development and assimilate it into the surrounding rural landscape in the interest of visual amenity.

7. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:
 - (a) notify the planning authority in writing at least four weeks prior to commencement of any site operation relating to the proposed development, and
 - (b) employ a suitably qualified archaeologist, with experience in riverine archaeology, prior to commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) The nature and location of archaeological material on the site.
- (ii) The impact of the proposed development on such archaeological material.

A report containing the results of the assessment shall be submitted to the planning authority and arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement of 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 area and to secure the preservation (in situ or by record) and protection of any archaeological remains that may exist within the site.

8. A method statement of works developed in consultation with the National Parks and Wildlife Service of the Department of Culture, Heritage and the Gaeltacht and Inland Fisheries Ireland and in compliance with Guidelines on the Construction and Operation of Small Scale Hydro-Electric Schemes and Fisheries shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason To ensure the preservation and protection of flora and fauna within the site.

