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**Planning and Development Acts 2000 to 2018**

**Planning Authority: Carlow County Council**

**Planning Register Reference Number: 17/18**

**APPEAL** by Save the Barrow Line care of Olivia O’Leary of Tinnaslee, Saint Mullins Road, Tinnehinch, County Carlow, by Waterways Ireland care of McCarty Keville O’Sullivan of Block 1, G.F.S.C., Moneenageisha Road, Galway and by Others against the decision made on the 21<sup>st</sup> day of February, 2018 by Carlow County Council to refuse permission to Waterways Ireland.

**Proposed Development:** Development of a multi-use shared leisure route (Blueway), approximately 115 Kilometres (KM) in length, on the existing navigation towpath, which is a National Waymarked Way. This will include tailored surface finishes, information, directional and safety signage, and all other associated ancillary works. The route traverses parts of Counties Kildare, Laois and Carlow. The route commences in Lowtown, County Kildare, passes through County Laois and finishes in Saint Mullins, County Carlow. Approximately 52 kilometres of the route is in County Carlow, 16 kilometres in County Laois and 47 kilometres in County Kildare.

The proposal will involve works to or within the curtilage of the following protected structures:

Bella Vista, Athy Road, (RPS CW409), Lock number 4, Barrow Navigation, Bestfield (RPS CW177), Wellington Bridge (RPS CT113), Bridge Stores, Graiguecullen (RPS CT62), Clogrennan Entrance Arch, Clogrennan (RPS CW247A), Saint John's Church of Ireland Church, Cloydagh (RPS CW339), Cloydagh Glebe House, (Rectory), Clogrennan (RPS CW340), Canal Bridge, Milford (RPS CW128), Lifting Bridge, Barrow Navigation, Milford (RPS CW129), Lock number 7, Barrow Navigation, Milford (RPS CW130), Lock Keeper's House, Lock number 7, Barrow Navigation, Milford (RPS CW133), Lock number 8 (Rathvinden Lock), Barrow Navigation, Leighlinbridge (RPS CW467), Barrow Bridge, Leighlinbridge (RPS CW33), E. Cullen and Son's, Milford Street, Leighlinbridge (RPS CW32), Garrison House, Main Street, Leighlinbridge (RPS CW362), Lock number 9, Rathellin (RPS CW455), Minch Norton and Company Malt House, Dunleckney, Bagenalstown (RPS CW274), Rudkin's Mill, Bagenalstown (RPS CW65), Lodge Mills, Bagenalstown (RPS CW392), Lock number 10, Barrow Navigation, Bagenalstown (RPS CW390), Lifting Bridge, Lock number 10, Barrow Navigation, Bagenalstown (RPS CW391), Lock Keeper's House, Lock number 10, Barrow Navigation, Bagenalstown (RPS CW379), Lock number 11, (Fenniscourt Lock), Barrow Navigation, Sliguff (RPS CW477), Lock number 12, Barrow Navigation, Sliguff (RPS CW478), Lock number 13, Barrow Navigation, Ballyellin Upper (RPS CW120), Barrow Bridge, Goresbridge (RPS CW6), Mill Building, Goresbridge (RPS CW124), Lock number 14, Barrow Navigation, Ballyellin Upper (RPS CW121), Lock Keeper's cottage, Ballyellin Lock number 14, (RPS CW122), Lock number 15, Barrow Navigation, Ballyteigelea (RPS CW171), Ballyteigelea Bridge (RPS CW34), Lock number 16, Barrow Navigation, Borris (RPS CW192), Lock Keeper's House, Lock number 16, Barrow Navigation, Borris (RPS CW205), Bunnahown Bridge, Borris (RPS CW179), Lock number 17, Barrow Navigation, Ballynagrane (RPS CW161), Lock number 18, Barrow Navigation, Clashganny (RPS CW265), Lock Keeper's House, Lock number 18, Barrow Navigation, Clashganny (RPS CW140), Lock number 19, Barrow Navigation, Ballykeenán (RPS CW141), Lock Keeper's House, Lock number 19, Barrow Navigation, Ballykeenán (RPS CW139), Graiguenamanagh Bridge (RPS CW496), The Cottage, Tinnahinch (RPS CW501), Lock number 20, Barrow Navigation, Tinnahinch (RPS

CW498), Canal Agent's House , Barrow Navigation, Tinnahinch (RPS CW497), Lock number 21, Barrow Navigation, Tinnahinch (RPS CW499), Lock Keeper's House, Lock number 21, Barrow Navigation, Lower Tinnahinch (RPS CW358), Lock number 22, Barrow Navigation, Carriglead (RPS CW235A), Lock Keeper's House, Lock number 22, Barrow Navigation, Carriglead (RPS CW236), Lock number 23, Barrow Navigation, Saint Mullin's (RPS CW482), Lock Keeper's house, Lock number 23, Barrow Navigation, Saint Mullin's (RPS CW481), Saint Mullin's, Mill Saint Mullin's (RPS CW485),

all located on the Barrow Navigation (The River Barrow) through the townlands of: Newacre, Newgarden, Bestfield or Dunganstown, Strawhall, Carlow, Graigue, Clogrenan, Killeeshal, Ballinabrannagh, Ballygowan, part of Tomard Upper (Ed Rathornan), Tomard Upper (Ed Rathornan), part of Tomard Lower (Ed Clogrenan), Rathornan, Rathvinden, Ballyknockan (Idrone West By), Leighlinbridge, Rathellin, Dunleckny, Moneybeg, Kilree, Sliguff, Kilgraney (Idrone East By), Clomoney (Idrone East By), Ballyellin and Tomdarragh, Ballyteigelea (Idrone East By) , Borris, Ballynagrane, Cournellan, Ballykeenan (Saint Mullin's Lower By), Harristown, Tinnahinch, Knockeen, Carriglead, Bahana, Saint Mullin's.

**The proposed development was revised by further public notices received by the planning authority on the 19<sup>th</sup> day of December, 2017.**

The significant further information included:

- (a) Wellington Road Bridge Crossing: Zebra crossing (originally located at mid-point of Wellington Road Bridge) changed to a toucan crossing located at junction with Maryborough Street/Castleview Quay;
- (b) Castleview Quay (Carlow Town): New on road cycle advisory line;
- (c) Millford car park: New ramped access from the existing car park to the Barrow Trail;
- (d) Milford: Localised bank repair/widening changed from rock armour to a soft engineering solution;

- (e) Chainage 75,000 to 77,000 (Upstream of Rathfinden Lock): Surface changes from unbound to concrete;
- (f) Leighlinbridge By-Pass: New ramped access to/from the bypass to the Barrow Trail;
- (g) Bagenalstown: Additional zebra crossing included and on road cycle advisory lane added along access road leading to Bagenalstown Lock;
- (h) Bagenalstown: Additional safety features included at Bagenalstown Lock;
- (i) Saint Mullin's: Additional concrete passing bays included on access road leading to Saint Mullin's Lock;
- (j) Minor revisions to site boundary to take account of the improved mapping from the topographical survey;
- (k) Revisions/additions to the Environmental Impact Statement and the Natura impact statement to take account of the above and the further information requests.

## **Decision**

**REFUSE permission for the above proposed development in accordance with the reasons and considerations 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**

1. Article 6(3) of the EU Habitats Directive 92/43/EEC requires that the competent authority shall only agree to a plan or project if it determines that it would not adversely affect the integrity of any European site having regard to the conservation objectives of the site. Having regard to the information submitted by the parties in this case, including the revised Environmental Impact Statement and Natura impact statement, the submissions received from third parties and the applicants response to the appeals, the Board is not satisfied that the applicants' have satisfactorily demonstrated that the proposed development incorporating the use of an unbound surface of compacted stone and dust (Surface Type A) within an identified flood zone along the River Barrow would not significantly impact on the conservation objectives of the River Barrow and River Nore Special Area of Conservation (Site Code: 002162). The Board is also not satisfied that the proposed development would not impact negatively on otter, an Annex I species under the Habitats Directive and a qualifying interest of the River Barrow and River Nore Special Area of Conservation (Site Code: 002162) by virtue of the uncertainty regarding the location of otter holts, the potential loss of holts and the proposed removal of any holts encountered during the development. In view of this, and in accordance with the requirements of Article 6(3) of the Habitats Directive, the Board is not satisfied, beyond reasonable scientific doubt, that the proposed development, either individually or in combination with other plans and projects, would not adversely affect the integrity of the River Barrow and River Nore Special Area of Conservation (Site Code: 002162), in view of the site's conservation objectives.
  
2. The proposed development is located within the River Barrow and River Nore Special Area of Conservation (Site Code: 002162) and where it is an objective of the planning authority under Heritage Objective 5 of the

Carlow County Development Plan, 2015-2021 'to support the protection of habitats and species covered by the Habitats Directive ...'.and policy 'to only authorise development after the competent authority has ascertained, based on scientific evidence, that the plan or project would not give rise to significant adverse direct, indirect or secondary effects on the integrity of any European site' (Heritage Policy 2). On the basis of the information available on file, the Board is not satisfied that it has been adequately demonstrated that the proposed development would not give rise to negative ecological impacts and would not have an adverse effect on the integrity of the River Barrow and River Nore Special Area of Conservation (Site Code: 002162) in the view of the site's conservation objectives. It is considered, therefore, that the proposed development would materially contravene Heritage Objective 5 and Heritage Policy 2 of the Carlow County Development Plan, 2015-2022 and would be contrary to the proper planning and sustainable development of the area.

3. The Board notes the submissions on file regarding existing restrictions on path width along the route, and in particular along the southern sections of the route within County Carlow. Notwithstanding the information submitted as part of the Designers Safety Audit of the Route, included as part of the Preliminary Design Report, the Board considers

that the level of detail submitted regarding the capacity of the route to accommodate the design width of 2.5 metres plus verges is not such as to enable an accurate assessment of the extent of restricted widths along the route. The Board also has concerns with regard to the methodology and projection of likely user numbers and notes that there is potential for the 1,500 users per day threshold between a high and low volume cycleway as per the TII Rural Cycleway Design Standard document to be exceeded at peak periods on the busiest sections of the route. These issues relating to restricted widths and user volumes combined to give rise to concerns relating to potential users conflicts such that it is not possible to state that significant issues of user safety would not arise. On the basis of the information available it is considered that the proposed development would, therefore, endanger public safety by reason of likely user conflicts, would lead to the creation of a potentially hazardous and low quality experience for users of the development and would be contrary to the proper planning and sustainable development of the area.

4. The River Barrow section of the proposed route within County Carlow is characterised by a natural landscape of medium to high landscape sensitivity and views of high value and sensitivity, particularly to the south of Goresbridge where there is a sense of enclosure, remoteness and simplicity to the existing landscape. This high landscape sensitivity is recognised in the Landscape Character Assessment for County

Carlow and the Carlow County Development Plan, 2015-2021 includes Policies that promote the protection of sensitive landscapes (Tourism Objective 1 and Heritage Policy 1) and the restriction of development that would be detrimental to scenic assets, (Tourism Policy 2). It is considered that the nature of the proposed development is such that the landscape impact and magnitude of change on views is more significant than that presented in the revised Environmental Impact Statement, and such that the overall landscape and visual impacts arising are significantly negative particularly in the southern sections of the route within County Carlow. The proposed development would, therefore, interfere with the character of the existing landscape, would be contrary to the policies of the Carlow County Development Plan, 2015-2021 relating to the protection of sensitive landscapes and scenic assets and would be contrary to the proper planning and sustainable development of the area.

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**Stephen Bohan**

**Member of An Bord Pleanála  
duly authorised to authenticate  
the seal of the Board.**

**Dated this            day of            2019.**