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**Planning and Development Acts 2000 to 2019**

**Planning Authority: Kildare County Council**

**Planning Register Reference Number: 18/1280**

**APPEAL** by the Minister for the Department of Culture, Heritage and the Gaeltacht care of RPS of Innishmore, Ballincollig, County Cork against the decision made on the 14<sup>th</sup> day of December, 2018 by Kildare County Council to refuse permission.

**Proposed Development:** Turf cutting and peat extraction for domestic peat fuel supply from a raised bog area of 4.6 hectares. The proposed development will include the following enabling and ancillary works: levelling of part of raised bog to create nine number spread grounds; construction of five number floating road entrances from private roadway into spread grounds area including one number turning area; creation of new facebank and facebank drain; provision of new drainage channels around spread grounds to connect to existing central drain; backfilling, cleaning and deepening of existing drains where necessary; construction of piped culverts at drain crossings; provision of a new silt pond of 225 cubic metres with new post and wire fencing and gate; provision of a new outlet pipe to discharge from silt pond to boundary drain; and provision of temporary construction compound of approximately 900 cubic metres. The proposed development will also use a machinery access route from L1019 along access track via/adjacent to Blackwood Feeder to northwest of site. The proposed development will take

place on an overall site of 11.43 hectares. The planning application includes a Natura Impact Statement, at Coolree Bog, in the townlands of Coolree and Blackwood, Robertstown, Naas, County Kildare.

## **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.

### **Stage 1 Appropriate Assessment Screening**

In completing the screening for Appropriate Assessment, the Board considered the identification of the European Sites in the area which could potentially be affected, and the identification and assessment of the potential likely significant effects of turf cutting and peat extraction and all ancillary works at Coolree Bog, County Kildare, either individually or in combination with other plans or projects, would have potential for significant effects upon the European Sites of the Ballynafagh Bog Special Area of Conservation (Site Code: 000391) and the Ballynafagh Lake Special Area of Conservation (Site Code: 001387) in view of the sites' Conservation Objectives and that a Stage 2 Appropriate Assessment was required.

## **Stage 2 Appropriate Assessment**

The Board considered the Natura impact statement and all other relevant submissions including the Bird Survey report and other information submitted with the appeal and carried out an appropriate assessment of the implications of the proposed development for European Sites in view of the sites' Conservation Objectives (Ballynafagh Bog Special Area of Conservation Site Code: 000391 and Ballynafagh Lake Special Area of Conservation Site Code: 001387). 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 hydrological and hydrogeological investigations at Coolree Bog and the likely direct and indirect impacts arising from the proposed turf cutting and peat extraction and all ancillary works including drainage proposals, both individually or in combination with other plans or projects. In considering in-combination impacts at Coolree Bog, the Board noted from the applicant's Natura impact statement (Section 3.4) that turf cutting has not taken place at the adjacent Ballynafagh Bog Special Area of Conservation (Site Code: 000391) since the end of the derogation period introduced for domestic turf cutters (from 2010 for Ballynafagh Bog Special Area of Conservation). The Board considered the mitigation measures which are included as part of the current proposal (including silt control and restricting turf cutting to the south-east part of Coolree Bog and away from the identified geological fault zone) and the Conservation Objectives for these 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 sites' Conservation Objectives. In overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of European Sites in view of the sites' Conservation Objectives.

## Reasons and Considerations

Having regard to:

- the Climate Action and Low Carbon Development Act 2015 (underpinned by the National Mitigation Plan (July 2017) and the National Planning Framework (February 2018) with an overarching national objective to achieve transition to a low-carbon energy system,
- the National Peatlands Strategy (2015) which seeks to guide the Government's approach to peatlands management and conservation and the subsequent National Raised Bog Special Areas of Conservation Management Plan, 2017-2022 which seeks to achieve a sustainably balance between traditional turf-cutting rights and legally binding conservation objectives, and
- the bogland policies of the Kildare County Development Plan, 2017-2023, in particular:
  - BL2 which seeks a balance between the peat extraction potential of the county, whilst ensuring the protection and conservation of bogland habitats. Limiting extraction to those bogland areas currently under development will help minimise impacts by localising effects and thus protect the bog landscape character areas within the county, and
  - BL3 is to take a balanced approach to the redevelopment of cutaway bogs recognising their significant landscape, environmental and heritage value. Future development should seek to conserve cutaway bogs and maximise their potential for wildlife, biodiversity, conservation and amenity in the first instance, whilst the potential for economic uses such as grasslands, forestry and renewable energy in some circumstances is acknowledged subject to the protection of the environment and landscape character,

- legal obligations and commitments arising from the European Union Habitats Directive (Directive on the Conservation of Habitats, Flora and Fauna 92/43/EEC), and
- the report of the Planning Inspector.

The Board was satisfied that turf cutting had ceased on Ballynafagh Bog Special Area of Conservation (Site Code: 000391) in compliance with the legal requirements of Article 6 of the Habitats Directive (92/43/EEC) and that the proposed development, which involves turf cutting and extraction for domestic fuel peat purposes on an inactive cutaway bog at Coolree, was new development that would through the removal and burning of peat, over the lifetime of the project, contribute both directly and indirectly to greenhouse gas emissions. Whilst cognisant that there were conflicting national policies applicable to the proposal, the Board considered that the proposed development was in contravention of the national climate action policy objective to achieve transition to a low-carbon energy system. The Board also considered that the bogland policies of the Kildare County Development Plan 2017-2023, generally supported this objective by seeking to protect and conserve bogland habitats by limiting extraction to those areas currently under development thus curtailing the geographical expansion of peat activities. It is considered that the proposed development would, therefore, contravene national and local policies and would be contrary to the proper planning and sustainable development of the area.

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

**Dated this                      day of                      2019**