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**Planning and Development Acts 2000 to 2019**

**Planning Authority: Kerry County Council**

**Planning Register Reference Number: 19/41**

**APPEAL** by Edward and Mary Corkery of Sliabh Glas, Brandon, Tralee, County Kerry against the decision made on the 8<sup>th</sup> day of July, 2019 by Kerry County Council to grant subject to conditions a permission to Dan Twomey of Carrigeen, Banteer, County Cork.

**Proposed Development:** Retention of the construction of a flow measuring weir. The development consists of a flow measuring device to access available flows in the river and to facilitate further development of a hydro electric station further downstream on the Owennafeana River, all at Slieveglass and Cloonsharragh, Brandon, Tralee, County Kerry.

**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**

Having regard to the nature of the development proposed to be retained, which comprises the construction of a flow measuring weir on the River Owennafeana, to the Habitats Directive Screening for Appropriate Assessment Report submitted by the applicant, and to the Appropriate Assessment Screening exercise undertaken by Kerry County Council, the Board is not satisfied, on the basis of the submissions made in connection with the application and the appeal and in the absence of a Natura impact statement, that the development proposed to be retained, individually or in combination with other plans or projects in the vicinity, would not adversely affect the integrity of Mount Brandon Special Area of Conservation (Site Code: 000375) or any other European site in view of the site's conservation objectives. In such circumstances, the Board is precluded from granting permission for this development for which retention is sought.

In deciding not to accept the Inspector's recommendation to grant permission, the Board is not satisfied, on the basis of the submissions made in connection with the planning application and the appeal, particularly in relation to the potential likely direct and indirect impacts arising from the construction phase, that the proposed retention of the flow measuring weir, either individually or in combination with other plans or projects, would not be likely to have a significant effect on the Mount Brandon Special Area of Conservation (Site Code: 000375) or any other European site in view of the site's Conservation Objectives. Furthermore, the Board noted proposed conditions to implement

restoration and the removal of the weir and having regard to the absence of an Natura impact statement and of information on the proposed methodology for these activities, the Board could not be satisfied that these activities would not adversely affect the integrity of the Mount Brandon Special Area of Conservation (Site Code: 000375) or any other European site, in view of the site's conservation objectives. In such circumstances, the Board is precluded from granting permission for this development for which retention is sought.

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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.**