



An
Bord
Pleanála

Board Order ABP-305226-19

Planning and Development Acts, 2000 to 2019

Planning Authority: Kilkenny County Council

Application by Kilkenny County Council for approval under section 177AE of the Planning and Development Act 2000, as amended, in accordance with plans and particulars, including a Natura Impact Statement, lodged with An Bord Pleanála on the 8th August, 2019.

Proposed Development:

- Construction of a two-span footbridge over the River Dinin adjacent to the existing N78 Castlecomer Bridge.
- Alterations to existing stone masonry walls to facilitate the footpath approaches to the proposed footbridge and other associated works.

All in the townlands of Drumgoole, Castlecomer and Ardra, County Kilkenny.

Decision

Approve the above proposed development 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

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

- (a) the European Union Habitats Directive (92/43/EEC),
- (b) the European Union (Birds and Natural Habitats) Regulations 2011-2015,
- (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 River Barrow and River Nore Special Area of Conservation (Site Code: 002162), the River Nore Special Protection Area (Site Code: 004233) and the Lower River Suir Special Area of Conservation (Site Code: 002137),
- (e) the policies and objectives of the Castlecomer Local Area Plan 2018-2024.
- (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, including the oral hearing,
- (i) the Inspectorate Ecologist's assessment, and
- (j) the report and recommendation of the person appointed by the Board to make a report and recommendation on the matter.

Appropriate Assessment: Stage 1

The Board agreed with and adopted the screening assessment and conclusion reached in the Inspector report that the River Barrow and River Nore Special Area of Conservation (Site Code: 002162), the River Nore Special Protection Area (Site Code: 004233) and the Lower River Suir Special Area of Conservation (Site Code: 002137), are the only European Sites in respect of which the proposed development has the potential to have a significant effect.

Appropriate Assessment: 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 including those made to the oral hearing and the Inspectorate Ecologist's assessment. The Board completed an appropriate assessment of the implications of the proposed development for three European Sites, namely the River Barrow and River Nore Special Area of Conservation (Site Code: 002162), the River Nore Special Protection Area (Site Code: 004233) and 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 for a complete assessment of all aspects of the proposed development and enable them reach complete, precise and definitive conclusions for 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 integrity of the aforementioned European Sites, having regard to the sites' conservation objectives.

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 sites' conservation objectives and there is no reasonable scientific doubt remaining as to the absence of such effects.

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 footbridge 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 is in accordance with the stated objectives of the Castlecomer Local Area Plan 2018-2024 to improve pedestrian links across the River Dinin. It would constitute a significant improvement in terms of pedestrian comfort and safety and would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and the information contained in the Natura Impact Statement (NIS), as amended by the further details submitted at the oral hearing, except as may otherwise be required in order to comply with the following conditions. Where any mitigation measures or any conditions of approval require further details to be prepared by or on behalf of the local authority, these details shall be placed on the file 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. The creation of a dry working environment and all works within it shall be conducted from the 1st July to the 30th September inclusive.

Reason: In the interests of protecting the environment, the protection of European Sites and in the interest of public health.

3. Prior to commencement of development, the local authority, or any agent acting on its behalf, shall prepare/update in consultation with the relevant statutory agencies, the Construction Environmental Management Plan (CEMP), incorporating all mitigation measures indicated in the Natura Impact Statement and in the submissions made to the oral hearing and demonstration of proposals to best practice and protocols.

Reason: In the interests of protecting the environment, the landscape, European Sites, sensitive receptors and in the interest of public health.

4. No site investigation, excavation or construction shall take place between October 1st and June 30th in any year.

Reason: In the interest of nature conservation and to ensure the protection of the European sites.

5. Prior to commencement of development, details of measures to protect fisheries and water quality of the river systems shall be outlined and placed on the file as part of the public record. In channel works shall adhere to the timing restrictions to avoid damage to spawning and juvenile fish. Full regard shall be had to Inland Fisheries Ireland's published guidelines for construction works near waterways (Guidelines on Protection of Fisheries during construction works in and adjacent to waters, 2016). A programme of water quality monitoring shall be prepared in consultation with the contractor, and relevant

statutory agencies and the programme shall be implemented thereafter. Details of such monitoring shall be maintained on file as part of the public record.

Reason: In the interests of the protecting of receiving water quality, fisheries and aquatic habitat.

6. A suitably qualified ecologist shall be retained by the local authority to oversee the site set up and construction of the proposed development and implementation of mitigation measures relating to ecology set out in NIS, CEMP and submissions made to the oral hearing. The ecologist shall be present during site construction works. Upon completion of works, an ecological report of the site works shall be prepared by the appointed ecologist to be kept on file as part of the public record.

Reason: In the interests of nature conservation and the protection of terrestrial and aquatic biodiversity.

7. The local authority and 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.

In this regard, the County Council shall:

- (a) employ a suitably qualified archaeologist prior to commencement of the development who shall assess the site and monitor all site investigations and other excavation works, and
- (b) undertake an Underwater Archaeological Impact Assessment in advance of any works. The assessment shall be carried out in accordance with the requirements of the Department of Culture, Heritage and the Gaeltacht and shall include the following: detailed desktop study and archaeological assessment to include intra-riverine assessment and if necessary, a dive survey. The assessment shall include survey and recording of the area of the river that will be impacted and adjacent areas,

- i. a metal detection survey,
- ii. the nature and location of any archaeological material on the site,
- iii. the impact of the proposed development on such archaeological material

A report containing the results of the assessment and any recommendations to mitigate any negative impacts shall be submitted to the Underwater Archaeological Unit for consideration in advance of any works commencing on the site.

- (c) provide arrangements, acceptable to the Department of Culture Heritage and the Gaeltacht for the recording and removal of any archaeological material which it is considered appropriate to remove.

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.

8. (a) A conservation expert shall be employed to manage, monitor and implement the works on the site and to ensure adequate protection of the retained and historic fabric during the works. In this regard, all permitted works shall be designed to cause minimum interference to the existing masonry bridge and masonry walls.
- (b) All repair work shall be carried out in accordance with best conservation practice as detailed in the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of Arts, Heritage and the Gaeltacht in 2011. The repair works shall retain the maximum amount of historic fabric in situ and shall be designed to cause minimum interference to the bridge and masonry walls. Items that have to be removed for repair shall be recorded prior to removal, catalogued and numbered to allow for authentic re-instatement.

(c) The replacement of any masonry stone or any works of re-pointing shall be undertaken so that it matches the original existing bridge and wall finish and shall be in accordance with current Conservation Guidelines issued by the Department of Arts, Heritage and the Gaeltacht.

Reason: To ensure that the integrity of the bridge and associated masonry walls is maintained, that the structures are protected from unnecessary damage or loss of fabric and to ensure an appropriate standard of restoration works for the protected structure.

9. The construction of the development shall be managed in accordance with a Construction and Traffic Management Plan, which shall be placed on the file and retained as part of the public record. The plan shall provide details of the intended construction practice for the development, including: -
- (a) Location of the site and materials compounds(s) including area(s) identified for the storage of construction waste;
 - (b) Location of areas for construction site offices and staff facilities;
 - (c) Details of security fencing and hoardings;
 - (d) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
 - (e) Measures to obviate queuing of construction traffic on the adjoining road network;
 - (f) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
 - (g) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of the public road or footpath during the course of site development works;
 - (h) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;

