



Planning and Development Acts 2000 to 2020

Planning Authority: Kerry County Council

Planning Register Reference Number: 18/1176

Appeal by Tralee Bay Swimming Club and others care of T.B. Kennedy and Company of 43 Ashe Street, Tralee, County Kerry against the decision made on the 20th day of August, 2020 by Kerry County Council to grant subject to conditions a permission to Fenit Development Association care of Malachy Walsh and Partners of Reen Point, Blennerville, Tralee, County Kerry in accordance with plans and particulars lodged with the said Council:

Proposed Development: New diving boards on a site at Fenit Bathing Slips. The development will comprise of the modification of existing concrete structures, construction of new diving boards, access platforms, railings and associated services, all at Fenit Bathing Slips, Fenit Without, Fenit, County Kerry.

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 the relevant provisions of the Kerry County Development Plan 2015 – 2021 and the Tralee Municipal District Local Area Plan 2018 – 2024, including Objective T-18 of the County Development Plan to facilitate the sustainable development of water sports, to the history of the use of the site, and to the nature and extent of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities of the area and would constitute an appropriate form of development at this location. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board agreed with the screening assessment and conclusion carried out in the Inspector's Report dated 16th November 2020, that Askeragh, Banna and Barrow Harbour Special Area of Conservation (Site Code 000332), Tralee Bay and Magharees Peninsula, West to Cloghane Special Area of Conservation (Site Code 002070) and Tralee Bay Complex Special Protected Area (Site Code 004188) are European Sites for which there is a possibility of significant effects and should, therefore, be subject to Appropriate Assessment.

The Board considered the Natura impact statement and all other relevant submissions and carried out an appropriate assessment of the implications of the proposed development for European Sites in view of the Sites' Conservation Objectives for Askeragh, Banna and Barrow Harbour Special Area of Conservation (Site Code 000332), Tralee Bay and Magharees Peninsula, West to Cloghane Special Area of Conservation (Site Code 002070) and Tralee Bay Complex Special Protection Area (Site Code 004188). The Board considered that the information before it was sufficient to undertake a complete assessment of all aspects of the proposed development in relation to the Sites' Conservation Objectives using the best available scientific knowledge in the field.

In completing the appropriate assessment, the Board considered, in particular, the following:

- (i) site-specific Conservation Objectives for these European Sites,
- (ii) the likely direct and indirect impacts arising from the proposed development, both individually or in combination with other plans or projects, and
- (iii) the mitigation measures which are included as part of the current proposal.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's Report in respect of the implications 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 would not adversely affect the integrity of the European Sites, in view of the Sites' Conservation Objectives and there is no reasonable scientific doubt as to the absence of such effects.

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 on the 29th day of January 2019 and the 24th day of July 2019, and by the further plans and particulars received by An Bord Pleanála on the 15th day of October 2019 and the 6th day of April 2020, 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. The proposed development shall be amended as follows:
 - (a) The ramp and the lower pillar/platform/diving board shall be omitted.
 - (b) An additional ladder shall be installed on the eastern side of the retained higher pillar/platform.

- (c) The wall and fence proposed for the western side of the walkway shall be omitted in favour of railings.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of amenity and public safety.

3. The Mitigation Measures, as set out in Chapter 10 of the Natura impact statement, which was submitted to An Bord Pleanála on the 6th day of April 2020, shall be implemented in full.

Reason: In the interest of the protection of the environment.

4. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of the intended construction practice and access arrangements for the development. The Plan shall also state the projected construction period and the tidal ranges that would occur during the days comprised in this period.

Reason: In the interests of clarity, public safety and orderly and well-planned development.

5. Prior to the commencement of use of the diving facility, the railings to the walkway and the ladders to the platform shall be installed and the colour code system to the pillar shall be in place. Thereafter, these items shall be retained in-situ for the duration of the use of this diving facility.

Reason: In the interest of public safety.

Chris McGarry

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board.

Dated this day of 2020.