



An
Bord
Pleanála

Board Order ABP-308488-20

Planning and Development Acts, 2000 to 2020

Planning Authority: Kerry County Council

Application by Kerry 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 22nd day of October, 2020.

Proposed Development: Remedial works to Boherboy Bridge consisting of the following:

- Vegetation clearance
- Installation of grout bags
- Masonry repointing
- Concrete repair
- Masonry repair
- Installation of rubbing strips
- Resurfacing

All at Boherboy Bridge, Cloghane, County Kerry.

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 EU Habitats Directive (92/43/EEC),
- (b) the Water Framework Directive (2000/60/EC),
- (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 European Sites,
- (d) the conservation objectives, qualifying interests and special conservation interests for the Mount Brandon Special Area of Conservation (Site Code: 000375) and the Tralee Bay and Magharees Peninsula, West to Cloghane Special Area of Conservation (Site Code: 002070),
- (e) the policies and objectives of the Kerry County Development Plan, 2015-2021,

- (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, and
- (i) the report and recommendation of the person appointed by the Board to make a report and recommendation on the matter.

Appropriate Assessment:

The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report that the Mount Brandon Special Area of Conservation (Site Code: 000375) and the Tralee Bay and Magharees Peninsula, West to Cloghane Special Area of Conservation (Site Code: 002070) are the European Sites for which there is a likelihood of significant effects.

The Board considered the Natura impact statement and all other relevant submissions and carried out an Appropriate Assessment of the implications of the proposal for the Mount Brandon Special Area of Conservation (Site Code: 000375) and the Tralee Bay and Magharees Peninsula, West to Cloghane Special Area of Conservation (Site Code: 002070) in view of the Sites' Conservation Objectives. 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:

- i. the likely direct and indirect impacts arising from the proposal both individually or in combination with other plans or projects, specifically upon the Mount Brandon Special Area of Conservation (Site Code: 000375) and the Tralee Bay and Magharees Peninsula, West to Cloghane Special Area of Conservation (Site Code: 002070),

- ii. the mitigation measures which are included as part of the current proposal,
- iii. the Conservation Objective for the European Sites, and
- iv. the views of the Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media (DAU) and all other submissions received.

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.

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 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 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 would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application except where otherwise may be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. All mitigation and environmental commitments identified in the Natura impact statement shall be implemented in full as part of the proposed development.

Reason: In the interest of development control, public information and clarity.

3. Herbicides of the lowest available aquatic toxicity shall only be used within the riparian zone.

Reason: In the interest of safeguarding water quality.

4. All works shall be completed before the 1st day of October in any year.

Reason: To ensure the protection of the European Sites.

5. Prior to commencement of works, the ecological clerk-of-works shall identify areas of dry and wet heath habitat near the temporary site compound. These areas shall be avoided and fenced off from machinery and works infrastructure.

Reason: To ensure the protection of the European Sites.

6. The local authority, or any agent acting on its behalf, shall ensure that all plant and machinery used during the works shall be thoroughly cleaned and washed before delivery to the site to prevent the spread of hazardous invasive species and pathogens.

Reason: In the interest of the proper planning and sustainable development of the area and to ensure the protection of the European Sites.

7. All works shall have regard 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, the local authority and relevant statutory agencies and the programme shall be implemented thereafter.

Reason: In the interest of the protection of receiving water quality, fisheries and aquatic habits.

Dave Walsh

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

Dated this day of 2021