



An
Bord
Pleanála

Board Order ABP-309721-21

Planning and Development Acts, 2000 to 2021

Planning Authority: Waterford City and County Council

Application by Waterford City and 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 18th day of March, 2021, and the further information received by An Bord Pleanála on the 26th day of November, 2021.

Proposed Development: Development to extend and resurface an existing car park to facilitate an additional 46 car parking spaces and to provide additional road lay-bys and modification of existing lay-bys to allow for safe passing. This development is located along the L3047 local primary road at Mahon Falls in the townland of Comeraghmountain, Co. Waterford.

The proposed development will consist of the following:

- Site clearance and earthworks.
- Pavement surface.
- Grass verges, pathway, recreational area and embankments.
- Reuse of existing upland grassland vegetation for new earth berm embankment as boundary treatment.
- Drainage surface water run off control.
- New road lay-bys and modification of existing lay-bys area.

- All associated ancillary accommodation works.

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 European Union (Birds and Natural Habitats) Regulations 2011-2015,
- (c) the Government of Ireland Climate Action Plan, 2021,
- (d) the Southern Regional Economic & Spatial Strategy, 2019-2031,
- (e) 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,
- (f) the conservation objectives and qualifying interests for the Comeragh Mountains Special Area of Conservation (Site Code: 001952),
- (g) the policies and objectives of the Waterford City and County Development Plan 2011 to 2017 (as extended),

- (h) the nature and extent of the proposed works as set out in the application for approval,
- (i) the information submitted in relation to the potential impacts on habitats, flora and fauna, including the Natura Impact Statement, and
- (j) 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 Comeragh Mountains Special Area of Conservation (Site code: 001952), is the only European Site in respect of which the proposed development has the potential to have a significant effect.

The Board considered the Natura Impact Statement and associated documentation submitted with the application for approval, the mitigation measures contained therein, the response to the further information request received on the 30th day of November 2021, the submissions and observations on file, and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed development for the affected European Sites, namely the Comeragh Mountains Special Area of Conservation (Site code: 001952), in view of the Site's conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an 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 Site.

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 Site, having regard to the Site's 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 Site, in view of the site's 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 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 would, therefore, be in accordance with the proper planning and sustainable development of the area and it would not give rise to likely effects on the environment.

CONDITIONS

1. The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application, including the further information received by the Board on 26th day of November 2021, and the information contained in the Natura Impact Statement, except as may otherwise

be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. The mitigation and monitoring measures outlined in the plans and particulars relating to the proposed development or as may be required in order to comply with the following conditions shall be implemented. Prior to the commencement of development, details of a time schedule for the implementation of mitigation measures and associated monitoring shall be prepared by the local authority and placed on file and retained as part of the public record.

Reason: In the interest of protecting the environment and the European Site.

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

Reason: In the interest of protecting the European Site and biodiversity.

4. The following nature conservation requirements shall be complied with:
 - (a) The works shall be carried out in compliance with the Inland Fisheries Ireland document "Guidelines on protection of fisheries during construction works in and adjacent to waters".
 - (b) No riparian vegetation removal shall take place during the period 1st day of March to 31st day of August (inclusive).

Reason: In the interest of biodiversity and nature conservation.

5. 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. The ecologist shall be present during repair and remediation works. Upon completion of works, an ecological report of the site works shall be prepared by the appointed ecologist to be retained on file as part of the public record.

Reason: In the interest of nature conservation and the protection of biodiversity.

6. The local authority and any agent acting on its behalf shall ensure that all plant and machinery used during the works should 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 Site.

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. A suitably qualified archaeologist shall be appointed by the local authority to oversee the site set-up and construction of the proposed development and the archaeologist shall be present on-site during construction works.

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.



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

Dated this 8th day of February 2022