

An
Bord
Pleanála

Board Order ABP-310574-21

Planning and Development Acts, 2000 to 2020

Planning Authority: Tipperary County Council

Application by Tipperary 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 21st day of June, 2021.

Proposed Development: R503/R497 Knockmaroe Junction Upgrade Scheme consisting of:

- (a) New full depth road construction at junction of R497/R503.
- (b) Earthworks, drainage and road fencing.
- (c) Construction of a cattle underpass.
- (d) Road signage.

All at Knockmaroe and Knocknabansha, Kilcommon, County Tipperary.

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, 2019,
- (d) the Southern Regional Economic & Spatial Strategy, 2020,
- (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 European Sites,
- (f) the Conservation Objectives, qualifying interests and special conservation interests for the Slievefelim to Silvermines Mountains Special Protection Area (Site Code: 004165) and the Lower River Shannon Special Area of Conservation (Site Code: 002165),
- (g) the policies and objectives of the North Tipperary County Development Plan, 2010 (as varied and 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 Slievefelim to Silvermines Mountains Special Protection Area (Site Code: 004165) and the Lower River Shannon Special Area of Conservation (Site Code: 002165) are the only European Sites for which there is a possibility of significant effects and must, therefore, be subject to Appropriate Assessment.

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 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 Slievefelim to Silvermines Mountains Special Protection Area (Site Code: 004165) and the Lower River Shannon Special Area of Conservation (Site Code: 002165) in view of the sites' Conservation Objectives. 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 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 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, 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 as to the absence of such effects.

Proper Planning and Sustainable Development and 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.

Conditions

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

Reason: In the interest of clarity.

2. The mitigation measures outlined in the Natura Impact Statement shall be implemented in full. Prior to the commencement of development, details of a time schedule for the implementation of mitigation measures 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 European Sites.

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 Sites and biodiversity.

4. The following nature conservation requirements shall be complied with:

- (a) No vegetation removal shall take place during the period 1st March to the 31st August (inclusive).

- (b) A pre-construction otter survey shall be carried out prior to the commencement of development.

- (c) A pre-construction bat survey shall be carried out prior to the commencement of development. Any destruction of bat roosting sites or relocation of bat species shall be carried out under a Derogation Licence granted by the Minister for Housing, Local Government and Heritage.

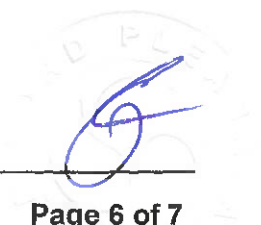
Reason: In the interests of biodiversity and nature conservation.

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 the implementation of mitigation measures relating to ecology. The ecologist shall be present during 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 interest of nature conservation and the protection of biodiversity.

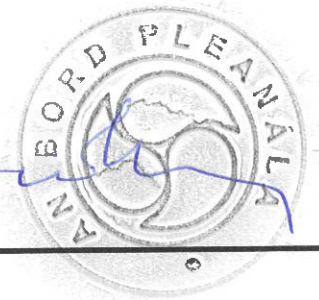
6. The local authority, or any agent acting on its behalf, shall ensure that all plant and machinery used during the works shall be thoroughly cleaned and washed before delivery to the site to prevent the spread of hazardous invasive species and pathogens.

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



7. The local authority, or 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.



John Connolly

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

Dated this 10th day of NOVEMBER 2021