

An
Bord
Pleanála

Board Order ABP-310657-21

Planning and Development Acts, 2000 to 2020

Planning Authority: Donegal County Council

Application by Donegal 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 25th day of June, 2021.

Proposed Development: Construction of two new manholes and two pump hardstands on the existing storm water lines out falling to the River Finn and located behind the ALDI Supermarket in Ballybofey, which will allow for overpumping of storm water runoff when the level of the River Finn is such that the existing outlets are no longer operational. The works will involve excavation, concrete works, manhole construction, backfilling and associated works. The development will be located in Ballybofey, County Donegal.

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 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 Finn Special Area of Conservation (Site Code: 002301), and the Foyle and Tributaries Special Area of Conservation (Site Code: UK0030320),
- (e) the policies and objectives of the County Donegal Development Plan, 2018-2024, and the Seven Strategic Towns 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, and
- (h) 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 River Finn Special Area of Conservation (Site Code: 002301), and the Foyle and Tributaries Special Area of Conservation (Site Code: UK0030320), are the only European Sites 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 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 River Finn Special Area of Conservation (Site Code: 002301), and the Foyle and Tributaries Special Area of Conservation (Site Code: UK0030320), 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 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 site's conservation objectives and there is no reasonable scientific doubt 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 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. 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 interests of clarity and the proper planning and sustainable development of the area and to ensure the protection of the environment.

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 interests of development control, public information and clarity.



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. The CEMP shall include:
- (a) The location of the site and materials compound including the area identified for the storage of construction refuse,
 - (b) details of site security fencing and hoardings,
 - (c) details of on-site car parking facilities for site workers during the course of construction,
 - (d) measures to obviate queuing of construction traffic on the adjoining road network,
 - (e) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network,
 - (f) containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained; such bunds shall be roofed to exclude rainwater,
 - (g) off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil,
 - (h) details of on-site re-fuelling arrangements, including use of drip trays,
 - (i) details of how it is proposed to manage excavated soil,
 - (j) means to ensure that surface water run-off is controlled such that no deleterious levels of silt or other pollutants enter local surface water drains or watercourses.

Reason: In the interests of environmental protection, amenities, public health and safety.

4. 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.

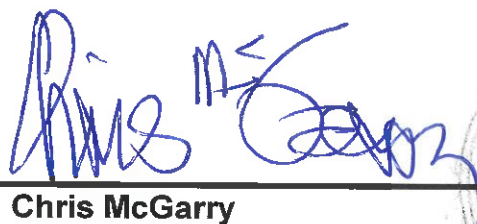
Reason: In the interest of the protecting of receiving water quality, fisheries and aquatic habitats.

5. A pre-construction survey shall be carried out to determine the presence of any invasive plant species. In the event that invasive plant species are found prior to or during works at the development site, the applicant shall submit an Invasive Management Species Action Plan to be put on the file of the local authority which shall include full details of the eradication of such invasive species from the development site as soon as is practicably possible.

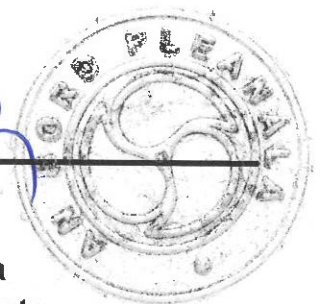
Reason: In the interests of nature conservation and mitigating ecological damage associated with the development.

6. The local authority and 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 interests of the proper planning and sustainable development of the area and to ensure the protection of the European Sites.


Chris McGarry

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



Dated this ^{6th} day of ^{December} 2021