



An
Bord
Pleanála

Board Order
ABP-311957-21

Planning and Development Acts 2000 to 2022

Planning Authority: Offaly County Council

Planning Register Reference Number: PL2/21/526

APPEAL by Aidan Brady care of CLW Environmental Planners Limited of The Mews, 23 Farnham Street, Cavan, County Cavan against the decision made on the 19th day of October, 2021 by Offaly County Council to refuse permission to Aidan Brady.

Proposed Development A pig finishing unit, two number meal bins and associated site works. An Environmental Impact Assessment Report (EIAR) and Natura Impact Statement (NIS) relating to this proposed development will be submitted with this planning application, all at Ballykean, Geashill, Tullamore, County Offaly.

Decision

REFUSE permission for the above proposed development in accordance with the reasons and considerations set out below.

Reasons and Considerations

1. On the basis of the information provided with the application and the appeal, including the revised Natura Impact Statement received by the Board, and noting the presence of a stream (Kilcooney Stream) running through the development site that is hydrologically connected with the River Barrow and Nore Special Area of Conservation (Site Code: 002162) and is proposed to be realigned and piped with a 1.2 metre diameter concrete pipe, the Board was not satisfied that the site works and the site-specific mitigation measures have been adequately set out or addressed in the submitted revised Natura Impact Statement and supporting documentation. Accordingly, the Board concluded that there was insufficient information on file to exclude adverse effects on the integrity of the River Barrow and River Nore Special Area of Conservation (Site Code: 002162) with scientific certainty, having regard to the site's conservation objectives arising from the potential for deterioration of the water quality.
2. Having considered the submitted Environmental Impact Assessment Report (EIAR) in support of the application for the proposed development, by reference to Section 172 of the Planning and Development Act, 2000, as amended, and Article 94 and Schedule 6 of the Planning and Development Regulations 2001, as amended, the Board considers that it does not adequately identify, describe or assess the direct and indirect significant effects on the environment of the proposed development in accordance with Section 172 (1D) (a) of the Planning and Development Act 2000, as amended. Accordingly, the Board was unable to carry out a complete environmental impact assessment in respect of the proposed development, including, as part of the assessment, reaching a reasoned conclusion on the significant effects on the environment of the proposed development and the integration of the reasoned conclusion into its decision as required under Section 172 of the Planning and Development Act 2000, as amended.

The following was of particular note:

- The requirements of Article 94 of the Planning and Development Regulations 2001, as amended, are not fulfilled in the submitted EIAR in that the requirement to outline experts who contributed to the preparation of the report or of the experts' level of competence and experience, including relevant qualifications, if any, in relation to such parts and information in relation to the experts' individual expertise such as would demonstrate the experts' competence, has not been fulfilled in the submitted EIAR.
- The information on alternatives presented does not provide a sufficient description of the reasonable alternatives studied by the person or persons who prepared the EIAR, which are relevant to the proposed development and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the proposed development on the environment, as required under Article 94 and Schedule 6 of the Planning and Development Regulations 2001, as amended.
- The EIAR does not provide an adequate description of the baseline environment or provide a systematic analysis and assessment of the potential effects of the proposed project on the receiving environment as required under Article 94 and Schedule 6 of the Planning and Development Regulations 2001, as amended. The detail presented in the EIAR is, in places unsupported, unclear, ambiguous and lacking in scientific evidence. This is particularly relevant in relation to the information presented on the water environment.

P.C.

While it was open to the Board to seek further information under Section 177 of the Planning and Development Act 2000, as amended, to remedy the defects identified, having regard to the fundamental nature of the information that would be required to allow the Board to carry out a complete environmental impact assessment, and taking into consideration the Board's other reason for refusal on the grounds of appropriate assessment (Reason Number one), the Board did not pursue this option.

In deciding not to accept the Inspector's recommendation to grant permission, the Board did not agree with the inspector's assessment that the EIAR contained information that is reasonable and sufficient to allow the Board to reach a reasoned conclusion on the significant effects of the project on the environment, taking into account current knowledge and methods of assessment as following the carrying out of a review of the EIAR. The Board was not satisfied that the EIAR adequately identifies, describes or assesses the direct and indirect significant effects on the environment of the proposed development in accordance with Section 172 (1D) (a) of the Planning and Development Act 2000, as amended, for reasons outlined in the Board's decision above.

In carrying out appropriate assessment (Stage 1 - Screening), the Board agreed with the Inspector's conclusion that the River Barrow and River Nore Special Area of Conservation (Site Code: 002162) should be the subject of Appropriate Assessment.

P.C.

However, in carrying out appropriate assessment (Stage 2), the Board did not share the view of the Inspector that the proposed development, either individually or in combination with other plans or projects, would not adversely affect the integrity of the River Barrow and Nore Special Area of Conservation (Site Code 002162), in view of the site's Conservation Objectives, on the basis that the site works and the site-specific mitigation measures have not been adequately set out or addressed in the submitted revised Natura Impact Statement or supporting documentation. Accordingly, the Board reached a conclusion that there is insufficient information on file to exclude adverse effects on the integrity with scientific certainty on the River Barrow and River Nore Special Area of Conservation (Site Code: 002162), in view of the site's conservation objectives on the basis that the site works and the site-specific mitigation measures have not been adequately set out or addressed in the submitted revised Natura Impact Statement or supporting documentation. Accordingly, the Board reached a conclusion that there was insufficient information on file to exclude adverse effects on the integrity of the River Barrow and River Nore Special Area of Conservation (Site code: 002162) with scientific certainty, having regard to the site's conservation objectives arising from the potential for deterioration of the water quality.



Patricia Calleary

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board

Dated this *04* day of *August* 2023