

An
Bord
Pleanála

Board Order ABP-313623-22

Planning and Development Acts, 2000 to 2022

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 20th day of May, 2022 and further information received by An Bord Pleanála on the 19th day of October, 2022.

Proposed Development: A proposed walking trail comprising:

- A steel platform structure to link Avonmore Bridge with the existing Cappoquin Rowing Club access ramp.
- Refurbishment of the existing Cappoquin Rowing Club access ramp with anti-slip surfacing and new balustrades.
- A new, asphalt surfaced trail route through the grounds of Cappoquin Rowing Club.
- New steps and pathway from Cappoquin Rowing Club to the N72.
- A new pedestrian and vehicular access between Port na h'Abhann and Cappoquin Rowing Club.
- Steps, stone gabions and landscaping between the proposed vehicular access to Cappoquin Rowing Club and the river.

- A paved walking route along the quay wall to the rear of properties on Port na h'Abhann, including new restraint along the river.
- New public realm spaces and a refurbished slipway at Cappoquin Boat Club.
- A woodland embankment trail on the eastern approach to the Old Red Railway Bridge, together with landscaping of the embankment and timber post and wire fence.
- Refurbishment of the masonry and steel sections of the Old Red Railway Bridge to form a new walking route, including asphalt surfacing on the masonry section of the bridge, decking to support composite surfacing on the steel section, balustrades, and planted areas.
- Surface treatment of the existing steel on the Old Red Railway Bridge, including grit blasting and surface coating.
- A new steel access ramp to provide multi-user access to the western landing of the Old Red Railway Bridge, including balustrades.
- Refurbishment of the existing footpath along Tourin Road using asphalt and granite kerbing.
- Refurbishment of the existing footpath along Avonmore bridge using natural stone paving together with a new drainage channel.
- Public lighting along the entire trail route.

All located at Cappoquin and Kilbree East, County Waterford.

Decision

Approve the above proposed development based on the reasons and considerations under and subject to the conditions set out below.

Reasons and Considerations

In coming to its decision, the Board had regard to the following:

- (a) the EU Habitats Directive (92/43/EEC), and Part XAB of the Planning and Development Act 2000, as amended, including section 177(AE) and 177(V),
- (b) the European Communities (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, and qualifying interests for the Blackwater River (Cork/Waterford) Special Area of Conservation (Site Code: 002170),
- (e) the policies and objectives of the Waterford City and County Development Plan 2022-2028,
- (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 revised Natura Impact Statement,
- (h) the submissions received in relation to the proposed development, and
- (i) the report and recommendation of the Inspector.

Appropriate Assessment: Stage 1:

The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report that the Blackwater River (Cork/Waterford) Special Area of Conservation (Site Code: 002170), is the only European Site in respect of which the proposed development has the potential to have a significant effect.

Appropriate Assessment: Stage 2:

The Board considered the revised Natura Impact Statement and associated documentation submitted with the application for approval, the mitigation measures contained therein, the submissions on file, and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed development on the affected European Site, namely the Blackwater River (Cork/Waterford) Special Area of Conservation (Site Code: 002170), 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 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 increase the risk of flooding within the site or in the wider area, 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 and the information contained in the Natura Impact Statement, as amended by the further information, including the bat survey and assessment of associated structures report, received by An Bord Pleanála on the 19th day of October, 2022 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. The mitigation and monitoring measures contained in the revised Natura Impact Statement and the bat survey and assessment of associated structures report received by An Bord Pleanála on the 19th day of October, 2022 shall be implemented in full.

Reason: In the interest of protecting 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 revised Natura Impact Statement and demonstration of proposals to adhere to best practice and protocols. The CEMP shall include:

- (a) a method statement for each phase of the works, including access/egress arrangements, traffic management plan, noise management measures and construction hours,
- (b) details of the location of the sediment features/barriers required to protect water quality during each phase of the development,
- (c) details of the measures proposed to encapsulate scaffolding to be erected on the Old Red Railway Bridge,
- (d) an invasive species management plan,
- (e) location of the construction compound including the area identified for the storage of waste,
- (f) containment for all construction related fuel and oil within a specifically constructed bund to ensure that fuel spillages are fully contained,
- (g) details of how it is proposed to manage any excavated materials,
- (h) an emergency response plan,
- (i) proposals in relation to public information and communication, and
- (j) specific proposals as to how the measures outlined in the CEMP will be measured and monitored for effectiveness.

The CEMP shall be retained on file as part of the public record.

Reason: In the interest of protecting the environment.

4. Prior to the commencement of development, details of measures to protect fisheries and water quality of the river systems shall be outlined and placed on file. Full regard shall be had 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, details of which shall be placed on the file as part of the public record.

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

5. The hours during which the works takes place on the site shall be confined to between 0800 and 1830 hours Monday to Friday inclusive and between 0800 and 1400 hours on Saturday and not at all on Sundays and public holidays. The timing and phasing of the works shall comply with the mitigation measures outlined in the information contained in the Natura Impact Statement, as amended by the further information, including the bat survey and assessment of associated structures report, received by An Bord Pleanála on the 19th day of October, 2022

Reason: To safeguard the amenities of properties in the vicinity and in the interest of nature conservation and to ensure the protection of the European Site.

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. 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 set out in the revised Natura Impact Statement. The ecologist shall be present during site construction 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 interests of nature conservation and the protection of terrestrial and aquatic biodiversity.

8. The local authority, or any agent acting on its behalf shall retain the services of a suitably qualified and experienced bat specialist to survey the Old Red Railway Bridge for bat roosts, prior to commencement of development. In the event that roosts are identified, the National Parks and Wildlife Service shall be consulted regarding how best to deal with such roosts. The removal of any roost identified shall be carried out only under licence from the National Parks and Wildlife Service.

Reason: In the interest of protecting ecology and wildlife in the area.

9. All artificial lighting sources along the walking trail shall be suitably cowled to prevent overspill outside the site. Lights with low/minimal ultra-violet spectrums shall be used on and in the vicinity of the Old Red Railway Bridge. Lighting shall be in accordance with the mitigation measures outlined in the bat survey and assessment of associated structures report and revised Natura Impact Statement, received by An Bord Pleanála on the 19th day of October, 2022

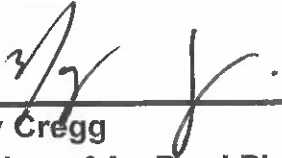
Reason: In order to mitigate impacts on bats in the area.

10. The works to the Avonmore Bridge shall be carried out in accordance with best construction practice as detailed in the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of Arts, Heritage and the Gaeltacht in 2011. The works shall be designed to cause minimum interference to the bridge and the masonry walls and retain the maximum amount of historic fabric in situ.

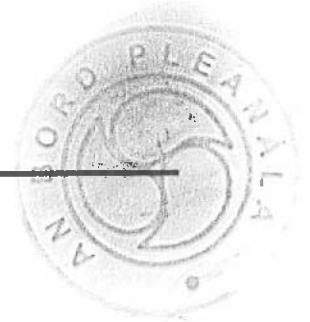
Reason: To ensure the integrity of the protected structure is maintained.

11. 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. In this regard the developer shall:
- (a) employ a suitably qualified archaeologist who shall access the site and monitor all excavation and site works, and
 - (b) provide suitable arrangements acceptable to the Department of Housing, Local Government and Heritage for the recording and removal of any archaeological material which is considered appropriate to remove.

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.



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



Dated this 29th day of August 2023