

An  
Bord  
Pleanála

## Board Order ABP-313867-22

**Planning and Development Acts, 2000 to 2021**

**Planning Authority: Laois County Council**

**Application** by Laois 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 22<sup>nd</sup> day of June, 2022 and further information lodged on the 1<sup>st</sup> day of December, 2022.

**Proposed Development:** Silt/gravel deposits removal using mini excavator and vacuum excavator. The proposed works involve the topping of the vegetated gravel and silt deposits/berms within the channel and will involve the removal of material above river-bed level at the time of the proposed works using an excavator. The exposed deposited silt will be removed using an excavator above river-bed level. The proposed works will be carried out during the 1<sup>st</sup> day of July and the 30<sup>th</sup> day of September, inclusive, and will be carried out during a period of low water levels. All at the N80 Bridge, Stradbally River, Stradbally, County Laois.

### Decision

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

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## Reasons and Considerations

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

- (a) the EU Habitats Directive (92/43/EEC), and the Planning and Development 2000, as amended, including Section 177AE of that Act,
- (b) the European Communities (Birds and Natural Habitats) Regulations 2011, as amended,
- (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 Barrow and River Nore Special Area of Conservation (Site Code: 002162),
- (e) the policies and objectives of the Laois County Development Plan 2021-2027,
- (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,
- (h) the submissions received in relation to the proposed development, and
- (i) the report and recommendation of the of the inspector.

### Appropriate Assessment:

The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report that the River Barrow and River Nore Special Area of Conservation (Site Code: 002162) is the European Site for which there is a likelihood of significant effects.



The Board considered the Natura Impact Statement and the revision to same and all other relevant submissions and carried out an appropriate assessment of the implications of the proposal for the River Barrow and River Nore Special Area of Conservation (Site Code: 002162), 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 assessment, the Board considered, in particular, the

- i. likely direct and indirect impacts arising from the proposal both individually or in combination with other plans or projects, specifically upon River Barrow and River Nore Special Area of Conservation (Site Code: 002162),
- 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 adverse 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, in particular the underwater archaeology and would not interfere with the existing land uses in the

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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, including the mitigation measures specified in the Natura Impact Statement, submitted with the application to An Bord Pleanála on the 22<sup>nd</sup> day of June, 2022 and further information lodged on the 1<sup>st</sup> day of December, 2022, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be prepared by the local authority, these details shall be placed on file prior to commencement of development 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 measures and monitoring commitments identified in the Natura Impact Statement, and other plans and particulars submitted with the application shall be carried out in full except as may otherwise be required in order to comply with other conditions.

**Reason:** In the interests of clarity and protection of the environment during the construction and operational phases of the proposed development.

3. Prior to the commencement of development, the local authority shall agree with the relevant statutory agencies a Construction Environmental Management Plan and Method Statement, incorporating:
  - (a) all mitigation measures indicated in the Natura Impact Statement and revision to same;
  - (b) methods to be employed to sterilise the equipment and machinery.

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This Construction Environmental Management Plan shall be placed on file prior to commencement of development and retained as part of the public record.

**Reason:** In the interest of protecting the environment.

4. A suitably qualified ecologist shall be appointed by the local authority to oversee the site set-up and works on site. Upon completion of works, an audit report of the site works shall be prepared by the appointed ecologist and submitted to the local authority to be kept on record.

**Reason:** In the interest of nature conservation, to prevent adverse impacts on the European Sites and to ensure the protection of the Annex I habitats and Annex II species of the Habitats Directive (92/43/EEC) and the sites' Qualifying Interests/Special Conservation Interests for which the sites were designated.

5. 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. In-channel works shall adhere to the timing restrictions set out in the Natura Impact Statement. 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).

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

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 Sites.

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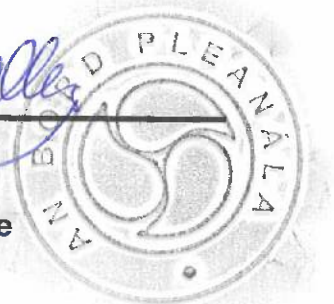
7. The local authority, and any agent acting on its behalf, shall facilitate the preservation, recording, protection or removal of archaeological materials or features that may exist within the site. A suitably experienced maritime/riverine archaeologist shall be appointed by the local authority and the archaeologist shall be present on site during the removal works.

A report shall be compiled on same with and a report on same shall be kept on record.

**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.

*Eamonn Patrick Kelly*

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



Dated this *27* day of *June* 2023