

An
Bord
Pleanála

Board Order ABP-316554-23

Planning and Development Acts, 2000 to 2022

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 27th day of April 2023, as amended by the further information received on the 22nd day of March 2024.

Proposed Development: The proposed dredging and removal of silt and vegetation from the shallow lake using an excavator and pruning of light timber for access in a publicly accessible area, wood-chipping of brash, processing of timber and removal of all arisings.

All located at 'Glendowns' in Portlaoise, County Laois.

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 European Union Habitats Directive (92/43/EEC),
- (b) the European Communities (Birds and Natural Habitats) Regulations 2011, as amended,
- (c) the Government of Ireland Climate Action Plan 2024,
- (d) the Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy, 2019-2031,
- (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 a European Site,
- (f) the conservation objectives, qualifying interests and special conservation interests for the River Barrow and River Nore Special Area of Conservation (Site Code: 002162),
- (g) the policies and objectives of the Laois County Development Plan 2021-2027,
- (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 Environmental Impact Assessment Screening Determination, potential impacts on aquatic habitats, flora and fauna, including the Natura Impact Statement,
- (j) the submission received in relation to the proposed development, and
- (k) the report and recommendation of the person appointed by the Board to make a report and recommendation on the matter.

Appropriate Assessment: Stage 1:

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 only European Site for which there is a likelihood of significant effects.

Appropriate Assessment: Stage 2:

The Board considered the Natura Impact Statement 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.

In completing the appropriate assessment, the Board considered, in particular:

- i. the likely direct and indirect impacts arising from the proposal both individually or in combination with other plans or projects, specifically upon the 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,
- iii. the conservation objectives for the European Site, and
- iv. the views of the Department of Housing, Local Government and Heritage.

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/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 and it would not give rise to likely effects on the environment.

CONDITIONS

1. The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application and the further information received on the 22nd day of March 2024, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interests of clarity and proper planning and sustainable development of the area and to ensure the protection of the environment.

2. The mitigation measures outlined in the plans and particulars relating to the proposed development, including those set out in Section 10-Mitigation of the Natura Impact Statement shall be implemented in full or as may be required in order to comply with the following conditions. Prior to the commencement of development, details of a time schedule for implementation of mitigation measures and associated monitoring 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 Site and biodiversity.

4. The following nature conservation requirements shall be complied with:
- (a) The works shall be carried out in compliance with the Inland Fisheries Ireland document "Guidelines on protection of fisheries during construction works in and adjacent to waters, 2016".
 - (b) Vegetation removal shall be restricted to outside of bird nesting season and of wintering bird season.
 - (c) A pre-construction otter survey by a suitably qualified ecologist shall be carried out before works commence, any destruction of otter holts or relocation of otter species shall be carried out by a suitably qualified ecologist under a Derogation Licence granted by the Minister for Housing, Local Government and Heritage.
 - (d) A pre-construction bat survey shall be carried out by a suitably qualified ecologist during the active bat season; any destruction of bat roosting sites or relocation of bat species shall be carried out by a suitably qualified ecologist under a Derogation Licence granted by the Minister for Housing, Local Government and Heritage; and the works shall be undertaken in accordance with the Bat Conservation of Ireland document "Bats and Lighting, Guidance Notes for: Planners, engineers, architects and developers 2010".
 - (e) Any areas damaged by machinery or equipment shall be fully re-instated.
 - (f) Prevention measures shall be put in place to prevent the introduction or spread of invasive species.

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 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 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.

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 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.



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

Dated this 5th day of July 2024