



An
Bord
Pleanála

Board Order ABP-317484-23

Planning and Development Acts, 2000 to 2022

Planning Authority: Carlow County Council

Application by Carlow 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 30th day of June, 2023 as amended by the further information received by An Bord Pleanála on the 27th day of October, 2023.

Proposed Development: Construction of a pedestrian cycle route and bridge crossing of the River Derry linking Clonegal and Kildavin to join the South Leinster Way and the Wicklow Way.

All within the townlands of Clonegal and Kildavin, County Carlow.

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 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 Slaney River Valley Special Area of Conservation (Site Code: 000781),
- (e) the policies and objectives of the Carlow County Development Plan 2022-2028 (in particular CG. P12) and Wexford 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 Natura Impact Statement, and,
- (h) 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 Slaney River Valley Special Area of Conservation (Site Code: 000781), 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 additional information submitted to the Board, the submissions on file, and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed development for the affected European Site, namely the Slaney River Valley Special Area of Conservation (Site Code: 000781), 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 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.

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 adversely impact on the cultural, archaeological and built heritage of the area and would not 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 additional plans and particulars submitted on the 27th day of October 2023, except as may otherwise be required in order to comply with the following conditions. Where any mitigation measures set out in the revised Natura Impact Statement 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 pathway shall be furnished with impermeable surface.

Reason: To protect water quality and the qualifying interests of the Slaney River Valley Special Area of Conservation (Site Code: 000781).

3. The mitigation and monitoring measures identified in the revised Natura Impact Statement dated the 27th day of October 2023 shall be implemented in full except as may otherwise be required in order to comply with other 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 interests of protecting the environment, the protection of European Sites and in the interests of public health.

4. 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 the 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 biodiversity.

1. No individual trees belonging to the qualifying interest alluvial forests with alnus glutinosa and fraxinus excelsior of the Slaney River Valley Special Area of Conservation (Site Code: 000781) shall be felled.

Reason: To protect alluvial forests with alnus glutinosa and fraxinus excelsior a qualifying interest of the Slaney River Valley Special Area of Conservation (Site Code: 000781).

6. Prior to the commencement of development, the local authority, or any agent acting on its behalf, shall prepare in consultation with the project ecologist and relevant statutory agencies, a detailed Construction Environmental Management Plan (CEMP), incorporating all mitigation measures indicated in the Natura Impact Statement, Ecological Impact Assessment, Invasive Species Management Plan, Construction Methodology, and demonstration of proposals to adhere to best practice and protocols. The CEMP shall include:

- a) all mitigation measures indicated in the Natura Impact Statement,
- b) identification of the off-site compound location in accordance with the specifications outlined in the Natura Impact Statement and CEMP submitted as part of the further information response,
- c) specific proposals as to how the measures outlined in the CEMP will be measured and monitored for effectiveness, and,
- d) methods to avoid pollution of the Derry River/Slaney River.

Reason: In the interests of protecting the environment and the European Sites.

7. The following nature conservation requirements shall be complied with:
- a) 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),
 - b) no vegetation removal shall take place during the period of the 1st day of March to the 31st day of August (inclusive),
 - c) a pre-construction otter survey by a suitably qualified ecologist shall be carried out before works commence,
 - d) a pre-construction bat survey shall be carried out by a suitably qualified ecologist during the active bat season, and,
 - e) 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.

Reason: In the interests of biodiversity and nature conservation.

8. 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.

9. 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 assess the site and monitor all site development 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.



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

Dated this 7th day of June 2024