



An
Bord
Pleanála

Board Order 02.JP0049

Planning and Development Acts, 2000 to 2018

Planning Authority: Cavan County Council

Application by Cavan 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 6th day of October, 2017.

Proposed Development: Proposed development comprising of:

- The construction of amenity trails along the River Finn, Lough Sarah and Church to the existing Castle Trail.
- The proposed pathways will be approximately two metres wide with a grit topping. The construction of the path will involve the removal of the sod, the laying of a base layer of stones with a top layer of fine sandstone grit.
- The development of a playground.
- The installation of a 40-metre long floating mooring on the river.
- The restoration of an old boat house on the site, to include toilet and shower facilities.
- The restoration and upgrading of the existing access roadway to boat house.
- Waste from moored boats and from the toilet facilities in the restored boat house will be stored on site within a 15,625-litre holding tank. This will be emptied when necessary and brought to a nearby treatment plant.

All in the townland of Castlesaunderson Demesne, County Cavan, as amended by the further information received by the Board on the 31st day of May, 2018.

Decision

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

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Reasons and Considerations

In coming to its decision, the Board had regard to

- (a) the EU Habitats Directive (92/43/EEC),
- (b) the European Communities (Birds and Natural Habitats) Regulations 2011,
- (c) the EU Water Framework Directive 2000 (2000/60/EC),
- (d) the document entitled Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities issued by the Department of the Environment, Heritage and Local Government (amended 2010),
- (e) the Cavan County Development Plan 2014 - 2020,

- (f) 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 European Sites, including sites designated in Northern Ireland,
- (g) the submissions and observations received in relation to the likely effects on the environment, including relevant authorities in Northern Ireland, and
- (h) the report and recommendation of the reporting Inspector.

Appropriate Assessment:

The Board completed an Appropriate Assessment Screening exercise in relation to the potential effects of the proposed development on designated European Sites. The Board noted that the proposed development is not directly connected with or necessary to the management of a European Site. The Board considered,

- the nature, scale and location of the proposed development,
- the Natura Impact Statement submitted with the application,
- the submissions on file and the report of the Inspector.

Stage 1:

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the Louth Oughter and Associated Loughs Special Area of Conservation (site code: 000007), the Upper Lough Erne Special Area of Conservation (site code: UK0016614) and the Upper Lough Erne Special Protection Area (site code: UK9020071) are the only European Sites in respect of which the proposed development has the potential to have a significant effect.

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 proposed development for European Sites, the Louth Oughter and Associated Loughs Special Area of Conservation (site code: 000007), the Upper Lough Erne Special Area of Conservation (site code: UK0016614) and the Upper Lough Erne Special Protection Area (site code: UK9020071), in view of the sites' 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 Sites.

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 aforementioned European Sites, having regard to the sites' conservation objectives.

Conclusion:

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 Sites, in view of the sites' conservation objectives.

Effects on the Environment:

Having regard to the nature and scale of the proposed development and, subject to the implementation in full of all mitigation measures outlined in the application and supporting documentation and the conditions set out below, the Board is satisfied that the proposed development would not give rise to pollution and is unlikely to give rise to unacceptable negative environmental effects.

Proper Planning and Sustainable Development:

It is considered, given the location, scale and extent of the proposed development and the established presence of 'amenity' uses at this location that, subject to compliance with the conditions set out below, the proposed development would not adversely affect the environment and would not seriously injure the amenities of the area or property in the vicinity, would enhance the natural amenity of the area and would promote the recreational character of the waterway. 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 Ecological Impact Assessment (May 2018) and Natura Impact Statement (May 2018) and other associated documentation, lodged with An Bord Pleanála on the 6th day of October, 2017 and the 31st day of May, 2018, except as may otherwise be required in order to comply with the conditions set out below. Where any mitigation measures set out in the Ecological Impact Assessment and Natura Impact Statement or any conditions of this 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 interest 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 associated monitoring outlined in the plans and particulars submitted with the application, including the Ecological Impact Assessment (May 2018) and Natura Impact Statement (May 2018), shall be carried out in full except as may otherwise be required in order to comply with other conditions. Prior to commencement of development, details of a time schedule for implementation of the mitigation measures and associated monitoring shall be prepared by the local authority.

Reason: In the interest of clarity and the protection of the environment and in the interest of public health.

3. Prior to 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), generally in accordance with the outline Construction Environmental Management Plan submitted with the application that adheres to best practice environmental management. The CEMP shall include specific proposals for monitoring of the effectiveness of the environmental management measures outlined in the CEMP.

Reason: In the interest of protecting the environment, the protection of European Sites and in the interest of public health.

4. Prior to commencement of development, details of measures to protect fisheries and the water quality of the river systems shall be outlined and placed on file by the local authority, generally in accordance with Inland Fisheries Ireland's published updated 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.

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

5. A suitably qualified ecologist shall be appointed by the local authority to oversee the site set-up and construction of the proposed development in accordance with the mitigation measures set out in the Natura Impact Statement. Upon completion of the construction stage, an audit report of the site works shall be prepared by the appointed ecologist and submitted to the local authority to be maintained on record.

Reason: To ensure the protection of the designated sites during construction.

