



An
Bord
Pleanála

Inspector's Report ABP-301475-18

Development	South Kerry Greenway Project
Location	From Renard Point (south-west of Cahirsiveen) to Glenbeigh, Co. Kerry
Planning Authority	Kerry County Council
Prospective Applicant	Kerry County Council
Case Type	Pre-Planning Consultation
Date of Site Inspection	13 th & 14 th June 2018
Inspector	Michael Dillon

1.0 Introduction

- 1.1. Kerry County Council (the prospective applicant) requested pre-application consultations under Section 51A of the Roads Act, 1993, for the development of a cycleway - "South Kerry Greenway" (the scheme). One pre-application consultation meeting took place between An Bord Pleanála and the prospective applicant – on 26th June 2018.
- 1.2. This Report is prepared following the request by the applicant to close the pre-application consultation between the applicant and An Bord Pleanála – by letter received on 20th July 2018. This Inspector's Report provides an overview of the scheme, a summary of the sole meeting, the legislative provisions, and the advice provided by An Bord Pleanála.

2.0 Background

- 2.1. Kerry County Council sought an EIS Direction from the Board in relation to this project – ref. 08.HD0039. By Order dated 9th March 2017, the Board directed the road authority to prepare an environmental impact statement in respect of the proposed road development (the greenway) arising from the ecological sensitivity of sections of the proposed route.
- 2.2. Ever before seeking this direction from the Board, KCC had engaged in extensive consultation with the local community and interested groups – dating back to 2014. The project came about following the work of local development partnerships on ways to halt economic and social decline in this part of the Iveragh Peninsula. One such company, ACARD, identified a possible greenway from Renard Point to Cahirsiveen, whilst another, SKPD, identified a possible greenway from Cahirsiveen to Glenbeigh – both running along the line of the former Farranfore to Renard railway line (closed in 1960). Some progress was made on the former project, with planning permissions granted – but the project ran into difficulties in relation to permissive rights across private property.
- 2.3. Kerry County Council has taken up the project, and is building on the work of the above-referenced local development partnerships. The 32km shared use (pedestrian/cycleway) route will be predominantly off-road (92%) with some 54% of

the route being within the former railway corridor. A significant portion of the railway infrastructure remains in place – in particular such notable elements as the Drung Hill tunnels, Gleensk viaduct and Valencia River bridge.

- 2.4. The scheme is supported by Fáilte Ireland strategic marketing surveys to target the cycling market. Monies are available from the Department of Transport, Tourism and Sport for projects such as this one; and in 2014 KCC secured funding to examine the feasibility of the scheme. Acquiring the necessary land by agreement has not proved possible, despite considerable engagement with landowners: any scheme coming before the Board will be accompanied by a CPO of the necessary lands.
- 2.5. Section 66 of the Local Government Act (as amended), tasks Local Authorities with promoting the interests of local communities.
- 2.6. The scheme is supported by a number of national, regional and local policy guidance documents-
 - Project Ireland 2040 National Planning Framework, supports the enhancement of local amenities – and specifically references greenways to improve connectivity and support sustainable diversification of the rural economy.
 - The National Cycle Policy Framework seeks- “To provide designated rural cycle networks for visitors and recreational cyclists”.
 - The South West Regional Authority Regional Planning Guidelines 2010-2022, supports the development of sustainable travel and development of tourism, such as cycling.
 - The Kerry County Development Plan 2015-2021, specifically references the South Kerry Greenway, through re-use of former railway lines, and states at RD-31- “Support the establishment of a network of cycleways and walkways with the County including Glenbeigh to Renard”.
 - The Kerry Local Economic & Community Plan 2016-2022, supports the development of greenways in the county – referencing South Kerry.
 - The Cahirsiveen, Waterville and Sneem Functional Area Local Area Plan (LAP) 2013-2019, and the Killorglin Functional Area Local Area Plan (LAP)

2013-2019, both support the development of a greenway on the former railway line between Farranfore and Renard. The proposed greenway is partially located within each of the two above-referenced LAPs.

- The County Kerry Tourism Strategy and Action Plan 2016-2021, supports the development of a greenway, in a sustainable manner, from Renard to Glenbeigh.
- The Skellig Coast Visitor Experience Development Plan seeks to examine the potential of completing the greenway from Glenbeigh to Renard.

3.0 Proposed Development

3.1. KCC has examined a number of route options and has engaged with interested parties and landowners, to come up with a final preferred route – which adheres, as closely as possible, to the former rail corridor. Since 1960, when the track was lifted, the corridor has been encroached upon for road construction, building construction (including houses) and agriculture. This has necessitated a significant number of diversions off the original line, notwithstanding that the line may still exist. The principal points of note within the scheme are as follows-

- 32km of greenway – principally within the corridor of the former railway line linking Glenbeigh with Renard (departure point for ferry to Valentia Island), via Kells and Cahirsiveen. Approximately 54% of the route is within the corridor of the old railway.
- 3m wide shared-use carriageway, which will be paved.
- Car-parking at five locations – Renard Point, Cahirsiveen Marina (already in existence, but to be upgraded), Kells, Glenbeigh, and an overflow car-park for Glenbeigh at Rosbeigh (to be linked by footpath).
- Toilets at car-park facilities.
- Renovation of Drung Hill tunnels, Gleensk viaduct and Valencia River bridge.
- Raising the height of an existing overbridge at Mountain Stage (where the N70 has been diverted onto the bed of the railway line); where raising the bridge will permit high HGVs to pass beneath it in the future, thereby

removing HGVs from the old N70, which will be used as part of the greenway. At present high HGVs must divert onto the old N70 to avoid the low bridge.

- New single-span metal bridge at Drung Hill tunnels.
- Approximately 100m length of boardwalk.
- Construction of approximately 1.0km of gabion structure at Drung Hill, to support a new length of greenway, where the old railway corridor has been partially quarried out to widen and realign the N70 National Secondary Route.
- New underpass beneath the N70 at Kells.
- Drainage, with Section 50 Consent from OPW.
- Scheme maintenance in agreement with local farmers.
- Directional signage.
- Fencing along the route, and agricultural & emergency vehicular access.

3.2. During the course of the first and only meeting, KCC advised that Pre-Draft Public Consultation was entered into in November 2014; followed by Route Options Public Consultation in March-May 2015; Emerging Preferred Route Public Consultation in June 2016; and Preferred Route Public Consultation in August 2017. It did not prove possible to acquire the rights to land by consent, and so a CPO will accompany any application to An Bord Pleanála.

3.3. Route selection process arose from presence of obstructions on the corridor, or wishes of landowners – options being assessed under the four headings of engineering, environment, economics and safety. This resulted in a preferred option. A number of requests for deviations were received from residents and farmers – not all of which were acceded to. A Residential Impact Assessment Report has been prepared for 40 locations, where the impact on houses required further assessment. No house is to be acquired by way of CPO.

3.4. A Construction Methodology Report has been prepared – identifying locations for temporary compounds, access points, quantifying materials balance, outlining mitigation measures, and detailing specifics around new structures. An Invasive Species Management Plan has also been prepared.

3.5. The ecological impact of the scheme has been assessed. In particular, the Board has already directed that an EIS be prepared for the scheme – now an EIAR. An NIS had also been prepared, arising from the ecological sensitivity of some of the lands through which the former railway corridor passes – some of which have been designated as European sites. The sites likely to be affected are the Killarney National Parks, Macgillycuddy’s Reeks and Caragh River Catchment SAC and the Iveragh Peninsula SPA – as the route traverses both of these sites.

4.0 **Pre-Application Consultation Meetings**

4.1. As noted above, one pre-application consultation meeting took place, at which the prospective applicant made a ‘Powerpoint’ presentation entitled “Slí Ghlas Chiarraí Theas – South Kerry Greenway” – copy included on the file. The following points were raised/discussed-

- Any works to Protected Structures (Glensk viaduct and Valencia River bridge) would have to have the potential to impact on European sites, and this possibility should be carefully examined, particularly where there is surface water path connection.
- All watercourse crossings should be identified and numbered in any application to An Bord Pleanála.
- Connection of the fifth car-park at Rosbeigh with the scheme was raised, particularly given its separation from the scheme.
- Confirmed that the route would not encroach on the Valencia Harbour/Portmagee Channel SAC (between Renard and Cahirsiveen); and that rerouting off-line on the north side of the Valencia River would not encroach on any European site.
- Unoccupied cottage at Mountain Stage, which was to be demolished, will be retained due to occupation by a colony of Lesser horseshoe bats.
- Kerry slug identified at Mountain Stage. Derogation Licence to disturb the species has been obtained from Department of Culture, Heritage and the Gaeltacht. This may need to be renewed – depending on time delays.

- Significant consultations have been undertaken with NPWS. The prospective applicant was encouraged to engage as fully as possible with the NPWS in relation to European sites.
- Significant consultations have been undertaken with the Irish Farmers' Association.
- Storage tanks at car-park toilets will be emptied by tankers and waste transported to licenced waste-water treatment plants.
- Issue of making the application under section 52 of the Roads Act rather than section 175 of the Planning and Development Act was raised. The prospective applicant sought legal advice, and was happy that the correct line of proceeding was under the Roads Act.
- Visual impact of gabion structure at Drung Hill was adverted to – particularly in light of specified Scenic Views in the Kerry County Development Plan.
- Lighting will only be provided within Drung Hill tunnels.
- Cumulative impact with any other projects in the area should be addressed in the EIAR, and in-combination impacts with any other projects should be addressed in the NIS.
- Córas Iompair Éireann (CIE) retains ownership of some portions of the railway corridor – even though it may not occupy such lands. This may have arisen where purchase of the lands was not completed for some reason. CIE does not wish to retain any beneficial interest in any of the former railway corridor lands. Any CPO will address both occupiers and owners.
- The majority of local objections to the scheme relate to the use of CPO powers: which KCC considers necessary for the success of the scheme – which involves such a large outlay of capital expenditure. Extent of land acquisition needs to be clear. The Board cannot expand the area of the CPO once the application is made. The number of affected landowners is 172 – most of which are not opposed to CPO.
- Any links between the route and local schools should be clearly set out.

- The Residential Impact Assessment Report undertaken will be included as an appendix to the EIAR submitted with any application.
- A separate document outlining all mitigation measures should be submitted with any application, for convenience and ease of reference.
- The prospective applicant is keen to lodge the application as soon as possible – arising from funding requirements.

5.0 Roads Act Legislative Provisions

- 5.1. The Roads Act, 2015, inserted Section 51A into the Roads Act, 1993. Section 51A provides for consultations with An Bord Pleanála, before making an application under Section 51. The consultation in relation to this road scheme follows similar-type consultations – in particular, for the N28 Ringaskiddy Road Scheme.
- 5.2. As set out in case ref. 08.HD0039, Section 68(1) of the Roads Act, 1993 (as amended), states- ‘In this section “cycleway” means a public road or a proposed public road reserved for the exclusive use of pedal cyclists or pedal cyclists and pedestrians”. I would consider that ‘cycleway’ and ‘Greenway’ are one and the same thing.
- 5.3. Section 51A of the Roads Act is copied in full in Appendix 2 of this Report. The Act provides that An Bord Pleanála may give advice in relation to the procedures involved in making the application, and what may have a bearing on its decision in relation to the application in respect of the effects of the proposed road development on the environment, or an area, site or land, and proper planning and sustainable development.
- 5.4. Consultations under section 51A of the Roads Act differ from other strategic infrastructure legislation – for example Seventh Schedule type development. The Act does not require An Bord Pleanála to provide an opinion on whether the project comprises strategic infrastructure or not. Following the completion of any consultations between An Bord Pleanála and the applicant, the Roads Act states that the applicant may apply to An Bord Pleanála for the approval in relation to a proposed road development.

6.0 Conclusion

- 6.1. Following the insertion of Section 51A into the Roads Act, 1993, a road authority or the Authority as the case may be, can enter into consultations with An Bord Pleanála prior to submitting an application under Section 51(2) in relation to a proposed road development.
- 6.2. An Bord Pleanála may give advice to the road authority or the Authority regarding the procedures involved, what considerations relating to the effects of the proposed development on the environment or the proper planning and sustainable development may have on its decision in relation to the application.
- 6.3. During the one meeting held, advice was provided as noted on the file attached.
- 6.4. The prospective applicant now wishes to close the consultation stage and following the completion, the prospective applicant may apply to An Bord Pleanála for the approval of the roads project.
- 6.5. A list of Prescribed Bodies, who in the opinion of An Bord Pleanála should be forwarded copies of the application documentation is attached (Appendix 1), and the full wording of Section 51A of the Roads Act, 1993 (Appendix 2).

**Michael Dillon,
Planning Inspectorate**

31st July 2018

Appendix 1: List of Prescribed Bodies

Section 51(3)(b) lists the following bodies:

- (i) The Commissioners of Public Works in Ireland,
- (ii) Bord Fáilte Éireann,
- (iii) An Taisce – the National Trust for Ireland,
- (iv) Any other prescribed body or person.

The Board considers that the following prescribed bodies, as per section 51(3)(b)(iv) above, should also be notified:

- (i) An Chomhairle Ealaíon,
- (ii) South West Regional Authority,
- (iii) Minister for Culture, Heritage and the Gaeltacht,
- (iv) Transport Infrastructure Ireland,
- (v) National Transport Authority,
- (vi) Minister for Communications, Climate Action and Environment,
- (vii) Minister for Transport, Tourism and Sport,
- (viii) The Heritage Council,
- (ix) Inland Fisheries Ireland,
- (x) Córas Iompair Éireann.

Other Bodies-

- a. Irish Farmers Association.

Appendix 2: Section 51A of the Roads Act

Consultations with An Bord Pleanála before making of application under section 51

“51A. (1) Where a road authority or the Authority, as the case may be, proposes to make an application for approval to An Bord Pleanála pursuant to section 51(2) in relation to a proposed road development, it may, before making the application, make a request to An Bord Pleanála to enter into consultations in relation to the proposed road development.

(2) An Bord Pleanála shall—

- (a) accede to a request under subsection (1) as soon as possible, and*
- (b) ensure that consultations held are completed as expeditiously as is consistent with proper planning and sustainable development and, for that purpose, take all such steps as are open to it to ensure that, in so far as is practicable, there are no avoidable delays at any stage in the holding of those consultations.*

(3) In any consultations, An Bord Pleanála may give advice to the road authority concerned or the Authority regarding the proposed application for approval under section 51(2) and, in particular, regarding—

- (a) the procedures involved in making such an application and in considering such an application, and*
- (b) what considerations, relating to—*

(i) the effects of the proposed road development on the environment, or an area, site or land, referred to in section 50(1)(d), or

(ii) proper planning and sustainable development,

that may, in the opinion of An Bord Pleanála, have a bearing on its decision in relation to the application.

(4) A road authority or the Authority, as the case may be, shall, for the purposes of consultations, supply to An Bord Pleanála sufficient information in

relation to the proposed road development so as to enable An Bord Pleanála to assess that development.

(5) An Bord Pleanála may consult with any person who may, in the opinion of An Bord Pleanála, have information which is relevant for the purposes of consultations in relation to the proposed road development.

(6) The holding of the consultations shall not prejudice the performance by An Bord Pleanála of any other of its functions under this Act or regulations under this Act and shall not be relied upon in an application for approval under section 51(2) or in legal proceedings.

(7) An Bord Pleanála shall keep a record in writing of any consultations, including the names of those who participated in the consultations, and a copy of any such record shall be placed and kept with the documents to which any application for approval under section 51(2) in respect of the proposed road development relates.

(8) An Bord Pleanála shall provide a copy of any record kept in accordance with subsection (7) to the road authority concerned or the Authority.

(9) Following the completion of any consultations between An Bord Pleanála and the road authority concerned or the Authority, as the case may be, the road authority or the Authority may apply to An Bord Pleanála for the approval referred to in section 51(2) in relation to a proposed road development.

(10) In this section, 'consultations' means the consultations referred to in subsection (1)."