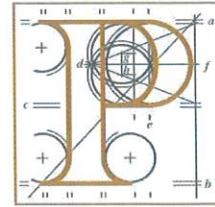


**Our Case Number:** ABP-309349-21



**An  
Bord  
Pleanála**

Kildare County Council  
Áras Chill Dara  
Devoy Park  
Naas  
Co. Kildare  
W91 X77F

**Date:** 22 JUL 2021

**Re:** Monasterevin Bridge Remediation Works, Monasterevin, Co. Kildare  
Monasterevin, Co. Kildare

Dear Sir / Madam,

An order has been made by An Bord Pleanála determining the above-mentioned case. A copy of the order is enclosed.

In accordance with section 146(3) of the Planning and Development Act, 2000, as amended, the Board will make available for inspection and purchase at its offices the documents relating to the decision within 3 working days following its decision. In addition, the Board will also make available the Inspector's Report and the Board Direction on the decision on its website ([www.pleanala.ie](http://www.pleanala.ie)). This information is normally made available on the list of decided cases on the website on the Wednesday following the week in which the decision is made.

The attachment contains information in relation to challenges to the validity of a decision of An Bord Pleanála under the provisions of the Planning and Development Act, 2000, as amended.

If you have any queries in relation to the matter please contact the undersigned officer of the Board.

Please quote the above mentioned An Bord Pleanála reference number in any correspondence or telephone contact with the Board.

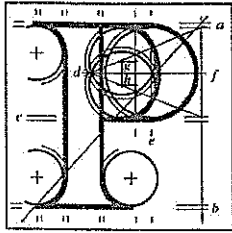
Yours faithfully,

Jennifer Sherry  
Executive Officer  
Direct Line: 01-8737266

AA14

<b>Teil</b>	<b>Tel</b>	(01) 858 8100
<b>Glaó Áitiúil</b>	<b>LoCall</b>	1890 275 175
<b>Facs</b>	<b>Fax</b>	(01) 872 2684
<b>Láithreán Gréasáin</b>	<b>Website</b>	<a href="http://www.pleanala.ie">www.pleanala.ie</a>
<b>Ríomhphost</b>	<b>Email</b>	<a href="mailto:bord@pleanala.ie">bord@pleanala.ie</a>

64 Sráid Maoilbhríde	64 Marlborough Street
Baile Átha Cliath 1	Dublin 1
D01 V902	D01 V902



An  
Bord  
Pleanála

**Board Order**  
**ABP-309349-21**

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## Planning and Development Acts, 2000 to 2020

### Planning Authority: Kildare County Council

**Application** by Kildare 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 3<sup>rd</sup> day of February, 2021.

**Proposed Development:** Remediation works on Monasterevin Bridge, a protected structure (Kildare County Council Record of Protected Structures Reference: B26-38) which is located within the River Barrow and River Nore Special Area of Conservation. Remediation works arise from damage to the bridge caused by scouring. Monasterevin Bridge is an early nineteenth century bridge structure that is on the primary entrance road, the R445 on the western side of the town.

The proposed works will consist of:

- Remedial repair works to piers and cutwater: Works will require removal of defective sections of the concrete cutwater, dismantling displaced masonry, grouting voids, reinstatement of displaced masonry and renewal of concrete cutwater.
- Localised vegetation removal and pointing of opening joints. Dismantling will be carried out to remove embedded roots.
- Rock armour protection to the east embankment of the river.

## Decision

**APPROVE the 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 the following:

- (a) the EU Habitats Directive (92/43/EEC),
- (b) the Water Framework Directive (2000/60/EC),
- (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 Kildare County Development Plan, 2017-2023 and the Monasterevin Local Area Plan, 2016-2022,
- (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 and observations received in relation to the proposed development, and
- (i) the report and recommendation of the person appointed by the Board to make a report and recommendation on the matter.

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

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). 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:

- 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 set out in the submissions received.

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.

## Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where any mitigation measures set out in the 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 interest of clarity and the proper planning and sustainable development of the area and to ensure the protection of the environment.

2. The mitigation and monitoring measures outlined in the plans and particulars relating to the proposed development, including those set out in 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, the protection of European Sites and in the interest of public health.

3. 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 to avoid damage to spawning and juvenile fish and Lamprey. 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). 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 protecting receiving water quality, fisheries and aquatic habitats.

4. 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), an Environmental Operating Plan (EOP) and a Water Management Plan incorporating all mitigation measures indicated in the Natura impact statement and a demonstration of proposals to adhere to best practice and protocols.

**Reason:** In the interest of protecting the environment, the landscape, European Sites, and sensitive receptors and in the interest of public health.

5. The local authority and any agent acting on its behalf shall ensure that all plant and machinery used during the works shall be thoroughly cleaned and washed before delivery to the site and upon removal from the site to prevent the spread of hazardous invasive species and pathogens.

**Reasons:** In the interest of the proper planning and sustainable development of the area and to ensure the protection of the European Sites.

6. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be placed on the file and retained as part of the public record. This plan shall provide details of intended construction practice for the development, including:
  - (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse,
  - (b) Location of areas for construction site offices and staff facilities,
  - ~~(c) Details of site security fencing and hoardings,~~
  - (d) Details of the timing and routing of construction traffic to and from the construction site,
  - (e) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network,

- (f) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works,
- (g) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels,
- (h) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained,
- (i) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil,
- (j) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the local authority.

**Reason:** In the interest of amenities, public health and safety.

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. An Underwater Archaeological Impact Assessment shall be carried out in advance of works commencing and shall be placed on the file and retained as part of the public 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.



8. All areas in proximity to the works area containing Japanese Knotweed shall be avoided and all areas accessed by machinery on the riverbanks shall be examined after vegetation cutting for seedling knotweed, prior to excavation. An eradication plan for Japanese Knotweed shall be placed on the file and retained as part of the public record. The works area shall be inspected for Japanese Knotweed one year after works are complete. Details of site inspections shall be placed on the file and retained as part of the public record.

**Reason:** In the interest of nature conservation and to eradicate invasive species.

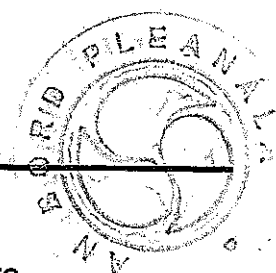
9. A suitably qualified ecologist shall be retained by the local authority to oversee the site set up and construction of the proposed development and implementation of mitigation measures relating to ecology set out in the Natura impact statement. The ecologist shall be present during site construction 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 terrestrial and aquatic biodiversity.



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**Dave Walsh**  
**Member of An Bord Pleanála**  
**duly authorised to authenticate**  
**the seal of the Board.**



Dated this 22<sup>nd</sup> day of July 2021

## Judicial Review Notice

Judicial review of An Bord Pleanála decisions under the provisions of the Planning and Development Acts (as amended).

A person wishing to challenge the validity of a Board decision may do so by way of judicial review only. Sections 50, 50A and 50B of the Planning and Development Act 2000 (as substituted by section 13 of the Planning and Development (Strategic Infrastructure) Act 2006, as amended/substituted by sections 32 and 33 of the Planning and Development (Amendment) Act 2010 and as amended by sections 20 and 21 of the Environment (Miscellaneous Provisions) Act 2011) contain provisions in relation to challenges to the validity of a decision of the Board.

The validity of a decision taken by the Board may only be questioned by making an application for judicial review under Order 84 of The Rules of the Superior Courts (S.I. No. 15 of 1986). Sub-section 50(6) of the Planning and Development Act 2000 requires that subject to any extension to the time period which may be allowed by the High Court in accordance with subsection 50(8), any application for judicial review must be made within 8 weeks of the decision of the Board. It should be noted that any challenge taken under section 50 may question only the validity of the decision and the Courts do not adjudicate on the merits of the development from the perspectives of the proper planning and sustainable development of the area and/or effects on the environment. Section 50A states that leave for judicial review shall not be granted unless the Court is satisfied that there are substantial grounds for contending that the decision is invalid or ought to be quashed and that the applicant has a sufficient interest in the matter which is the subject of the application or in cases involving environmental impact assessment is a body complying with specified criteria.

Section 50B contains provisions in relation to the cost of judicial review proceedings in the High Court relating to specified types of development (including proceedings relating to decisions or actions pursuant to a law of the state that gives effect to the public participation and access to justice provisions of Council Directive 85/337/EEC i.e. the EIA Directive and to the provisions of Directive 2001/12/EC i.e. Directive on the assessment of the effects on the environment of certain plans and programmes). The

general provision contained in section 50B is that in such cases each party shall bear its own costs. The Court however may award costs against any party in specified circumstances. There is also provision for the Court to award the costs of proceedings or a portion of such costs to an applicant against a respondent or notice party where relief is obtained to the extent that the action or omission of the respondent or notice party contributed to the relief being obtained.

General information on judicial review procedures is contained on the following website, [www.citizensinformation.ie](http://www.citizensinformation.ie).

Disclaimer: The above is intended for information purposes. It does not purport to be a legally binding interpretation of the relevant provisions and it would be advisable for persons contemplating legal action to seek legal advice.