



An
Bord
Pleanála

Board Order
ABP-319463-24

Planning and Development Acts 2000 to 2022

Planning Authority: Kilkenny County Council

Planning Register Reference Number: 2360345

APPEAL by Liam Hennessy and Patrick Hennessy Partnership care of Peter Thomson Planning Solutions of 4 Priory Grove, Kells, County Kilkenny against the decision made on the 12th day of March 2024 by Kilkenny County Council to refuse permission for the proposed development.

Proposed Development: Application for the retention of imported inert material from a slatted shed excavation elsewhere on the farm holding. For land reclamation works involving raising existing ground levels by circa 0.8 metres and associated works at Mallardstown Great, Kells, County Kilkenny.

Decision

REFUSE permission for the above proposed development in accordance with the reasons and considerations set out below.

Reasons and Considerations

Having regard to the information on file in relation to the development proposed to be retained, the nature and quantity of the material deposited at the site, which includes the disposal of construction and demolition waste, the proximity of the site to the Caherlesk Stream_010 which is a tributary of the Kings River which forms part of the River Nore Special Protection Area (Site Code 004233) and the River Barrow and River Nore Special Area of Conservation (Site Code 002162) and the location of the site in an area identified as a flood risk, the Board cannot be satisfied beyond reasonable scientific doubt that the development for which retention is sought, either individually or in combination with other plans or projects, would not adversely affect the River Nore Special Protection Area and the River Barrow and River Nore Special Area of Conservation in view of these sites' conservation objectives. In such circumstances the Board is not satisfied to grant permission for the development proposed to be retained.

In deciding not to accept the Inspector's recommendation to grant permission, the Board had regard to the Appropriate Assessment Screening determination set out in the Inspector's Report. The Board noted the site is in an area prone to flooding and lies immediately adjacent to the Caherlesk Stream_010 which is hydrologically connected to the River Nore Special Protection Area and the River Barrow and River Nore Special Area of Conservation. The Board further noted the site-specific conservation objectives, measures and targets for these two European sites including, inter alia, the requirement to achieve good to high status water quality. The Board considered that, having regard to the hydrological connectivity between the site and the Kings River via the Caherlesk stream_010, the works proposed for retention which have by their nature already been undertaken, could have potentially affected these European sites indirectly through siltation arising from vegetation clearance, topsoil removal and deposition works in an area prone to flooding. The Board was not satisfied based on the totality of the information on file, including the Inspector's Appropriate Assessment Screening Determination, that it has

been satisfactorily demonstrated that the development proposed to be retained is unlikely to have had a significant effect and did not adversely affect these two European sites.

Mary Gurrie

Mary Gurrie

Member of An Bord Pleanála

duly authorised to authenticate
the seal of the Board.

Dated this 08 day of January 2025.