

Christine Brennan

From: Angela O'Donoghue <doghouseproductionsltd@gmail.com>
Sent: Monday 23 March 2020 17:00
To: Kieran Somers; SIDS
Cc: SIDS; 'Anthony Marston'
Subject: 06s.JA0040 comment on additional information - existing observer
Attachments: Hellfire-ABP final - Marston - Group of Res Ass & Community Groups.doc

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Kieran,

Please see the attached submission. Please acknowledge receipt (as directed in the correspondence attached) to Anthony Marston of Marston Planning Consultancy.

Many thanks
Angela O'Donoghue
086.833.774

The Secretary
An Bord Pleanála
64 Marlborough Street
Dublin 1

7th February 2020

Ref: APPLICATION TO SUBMIT COMMENTS IN RESPECT OF SOUTH DUBLIN COUNTY COUNCIL (SDCC) APPLICATION TO BUILD A DUBLIN MOUNTAIN VISITOR CENTRE (APPLICATION REFERENCE 06S: JA0040)

Dear Sirs

We wish to make comments in respect of SDCC Application. [Ref: 06S.JA0040]

We refer to the letter dated the 6th February 2019 seeking Further Information of the Applicant by ABP and the subsequent reply to ABP by the Applicant. We have already paid our observation fee via previous correspondence submitted to you via the good offices of Anthony Marston of Marston Planning Consultancy, of 23 Grange Park, Foxrock, Dublin 18. Please continue to direct correspondence to him on our behalf.

We make this submission having read and understood the relevant rules applicable relating to this application. Accordingly, we make these comments in the context of the proper planning and sustainable development of the area and the likely effect on the environment of the proposed development.

In this regard we have set out comments which relate to the following matters

1. The SDCC response did not actually address the ABP concerns, based on the 'precautionary principle', in a substantial or material manner
2. The material that was supplied has failed to remove all 'reasonable scientific doubt as to the effects of the project' both in situ and ex situ.
3. None of the mitigation measures proposed are actual real mitigation factors
4. Summary-Conclusion

1.The SDCC response did not actually address the ABP concerns, based on the precautionary principle, in a substantial or material manner

1. ABP allowed a full year cycle for SDCC to undertake comprehensive ecological surveys however the surveys were undertaken during a limited part of the year. The limited nature of the surveys therefore cannot provide any data from which robust conclusions can be established.
2. ABP has now given SDCC ample time and opportunity to address the impact of the proposed project's proximity of the proposed developed to Natura 2000 Sites. The information supplied does not in any way deal specifically with these areas We note that page 36 of the Natura Impact Statement lists the main threats as "walking, horse riding, unmotorised vehicles, paths, tracks and cycle paths"- there are no measures

being put in place to limit this in any way. Indeed, it is accepted that there will be a significant increase in footfall ('a three-fold increase) within the area.

The Walker Surveys assumes current pattern of usage will remain without any clarification as to why that might be the case – they have supplied no data to back this up. "A three-fold increase in visitor numbers at Hell Fire Club is highly unlikely to result in a significant increase in visitor numbers accessing Cruagh Wood or the Natura 2000 sites through the existing trail network." (Page 120 EIAR vol1 – Main Report). This is merely an assumption not a scientific certainty.

2. The material that was supplied has failed to remove all 'reasonable scientific doubt as to the effects of the project' both in situ and ex situ.

1. There is no significant additional material.
2. The actual survey undertaken was minimal in this regard. Doing a page turn with the original provided material reveals that in the following aspects only is there additional information:
 - (i) Main Report-There is clearly less than 1% alteration (Biodiversity chapter being replaced in the entirety however limited alteration within the chapter).
 - (ii) The NIS Report-This appears to be an extended version of what was already provided.
 - (iii) The NIS makes reference at page 3 to the need for information relating to environmental issues in the context of applications of this type to be "*capable of removing all reasonable scientific doubt as to the effects of the works proposed on the potential site concerned-Sweetman-v-ABP CJEU Case C-258/11.*"

We would respectfully submit that none of this effectively addresses any of the queries raised by ABP and certainly, none of the information provided addresses the concerns that ABP raised in a detailed manner, particularly given the amount of time/opportunity given to SDCC and this is particularly relevant in the context of (iii) above.

3. None of the mitigation measures proposed are actual real mitigation factors.

1. It is clear that ABP have genuinely sought SDCC engagement and have given SDCC every opportunity to address the issues raised. Despite having had a year all SDCC has done is:
 - (i) Conducted a partial and incomplete habitat/wildlife survey
 - (ii) made minimal alterations to the EIS already provided
 - (iii) Most seriously of all, there has been no real mitigation in place. SDCC has only made reference to monitoring the construction of the development, partial drains coverage etc. This is all cosmetic or process. The most obvious example of this is the continued reference to signage. Signage can and is ignored. Compulsion without penalty is not a compulsion. The yellow lines currently in place around the Hellfire/Massey Woods entrances are continually ignored as acknowledged by the Dublin Mountain Partnership Twitter reports of recent days (a co-applicant to this application). Monitoring is not mitigation – watching something degrade is not a mitigation.

Measures suggested by the applicant are not specific, they are not quantifiable and no outputs from them can be measured due to their vague nature. E.g. there is no mapping of the 'quiet zones'.

They all rely on signage or are processes/protocols in the construction or management phase. There are no real material changes to the development that

may in some way impact upon the impact of the development: No reduction in size of the main building, no reduction in size of the car parking, no reduction/alteration of the proposed paths or the omission of the bridge from Hellfire Massy's Wood.

For the Board to assess mitigation measures, in our opinion, the following tasks should have been completed:

- list each of the measures to be introduced (e.g. noise bunds, tree planting);
- explain how the measures will avoid the adverse impacts on the site;
- explain how the measures will reduce the adverse impacts on the site. Then, for each of the listed mitigation measures:
 - provide evidence of how they will be secured and implemented and by whom;
 - provide evidence of the degree of confidence in their likely success;
 - provide a timescale, relative to the project or plan, when they will be implemented;
 - provide evidence of how the measures will be monitored, and, should mitigation failure be identified, how that failure will be rectified.

This is in stark contrast to what is obligated by under the EU Directive as outlined below:

Annex IV(7) of the amended Directive - 2014/52/EU

A description of the measures envisaged to avoid, prevent, reduce or, if possible, offset any identified significant adverse effects on the environment and, where appropriate, of any proposed monitoring arrangements (for example the preparation of a post-project analysis). That description should explain the extent, to which significant adverse effects on the environment are avoided, prevented, reduced or offset, and should cover both the construction and operational phases.

There are four established strategies for the mitigation of effects - avoidance, prevention, reduction and offsetting. The efficacy of each is related to the stage in the design process at which environmental considerations are taken into account. Effects avoidance is most applicable at the earliest stages, while prevention may be provided up to a much later stage. Mitigation of last resort, such as remedy or offsetting, may be the only option available for largely designed projects or for projects that cannot avoid significant effects due to their need to locate on a particular site.

The commitment to all mitigation and monitoring measures need to be made clear in the EIAR. Terms such as ...is recommended or ...should be considered need to be avoided. All commitments need to be clear and specific. For ease of reference and clarity and to facilitate enforcement, all such measures contained in an EIAR can be included in a compendium of mitigation and monitoring commitments (only). This may be a separate section or Appendix to the EIAR. Such a compendium should comprise a list of relevant measures but should not elaborate on the reasoning or expected effectiveness of those measures as the elaboration will take place within the main body of the EIAR.

4. Summary/Conclusion

- The SDCC response did not actually address the ABP concerns, based on the precautionary principle, in a substantial or material manner
- The material that was supplied has failed to remove all 'reasonable scientific doubt as

to the effects of the project' both in situ and ex situ.

- None of the mitigation measures proposed are actual real mitigation factors
- We respectfully submit that the Applicant has failed to address what was required of them by the Board in their correspondence dated the 6th February 2019 and is therefore in contravention of the EU Habitats Directive. We believe that in the interests of proper planning and sustainable development that this project should be refused planning permission.

Yours Sincerely,

Angela O'Donoghue on behalf of the following groups

- **Hellfire Massy Residents Association,**
Frank Doyle, Chairperson, Montpelier Farm, Killakee, Rathfarnham, Dublin 16
 - **Glendoher & District Residents Association**
Angela O'Donoghue, Chairperson, 17 Glendoher Close, Rathfarnham, Dublin 16
 - **Dodder Action**
Victoria White, Chairperson, 66 Whitebeam Road, Clonskeagh, Dublin 14
 - **Knocklyon Network**
Eugene Barrett, Director, IONA Centre, Idrone Avenue, Knocklyon, Dublin 16
 - **Butterfield District Residents Association**
Jennifer Dermody, Secretary, 30 Ballyroan Crescent, Rathfarnham, Dublin 16
 - **Moyville Residents Association,**
Sean Healy, Chairperson, 40 Moyville Estate, Ballyboden, Dublin 16
 - **Fonthill Residents Association**
Geraldine Marron, Secretary, 4 Fonthill Court, Rathfarnham, Dublin 14
 - **Palmer Park & Pearse Brothers Park Residents Association**
Brenda Doyle, Secretary, 28 Pearse Brothers Park, Ballyboden, Dublin 16
- Willbrook Estate & Willbrook Downs Residents Association**
Patrick Westman, Chairperson, 30 Willbrook, Rathfarnham, Dublin 14