

An  
Bord  
Pleanála

**Board Direction**  
**BD-010945-22**  
**ABP-310368-21**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 28/06/2022.

The Board decided to approve the proposed development generally in accordance with the Inspector's recommendation, for the following reasons and considerations, and subject to the following conditions.

### **Reasons and Considerations**

In coming to its decision, the Board had regard to the policies and objectives of the following:

- (a) the National Planning Framework Plan 2018-2040,
- (b) the National Development Plan 2021-2030,
- (c) the Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031, and
- (d) the policies of the planning authority as set out in the Wicklow County Development Plan 2016 to 2022 and the Arklow and Environs Local Area Plan 2018 to 2024.

The Board also had regard to the following:

- (a) the distance to dwellings or other sensitive receptors,
- (b) the submissions made in connection with the application,

- (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 European Sites,
- (d) the appropriate assessment report of the Inspector, and
- (e) the report and recommendation of the Inspector.

### **Screening for Appropriate Assessment Stage 1:**

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report, that the following European Sites are the only Sites for which there is a possibility of significant effects and must therefore be subject to appropriate assessment:

- Wicklow Mountains Special Area of Conservation (Site Code: 002122)
- The Murrough Special Protection Area (Site Code: 004186)
- Cahore Marshes Special Protection Area (Site Code: 004143)
- Poulaphouca Reservoir Special Protection Area (Site Code: 004063)
- Wexford Harbour & Slobbs Special Protection Area (Site Code: 004076)
- Ireland's Eye Special Protection Area (Site Code: 004117)
- Tacumshin Lake Special Protection Area (Site Code: 004092)
- Lambay Island Special Protection Area (Site Code: 004069)
- Saltee Island Special Protection Area (Site Code: 004002)
- Skerries Island Special Protection Area (Site Code: 004122)
- Ballymacoda Bay Special Protection Area (Site Code: 004023)
- Ballycotton Bay Special Protection Area (Site Code: 004022)
- Cork Harbour Special Protection Area (Site Code: 004030)

### **Screening for Appropriate Assessment 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 flood relief development for European Sites in view of the Sites' Conservation Objectives, namely:



- Wicklow Mountains Special Area of Conservation (Site Code: 002122)
- The Murrough Special Protection Area (Site Code: 004186)
- Cahore Marshes Special Protection Area (Site Code: 004143)
- Poulaphouca Reservoir Special Protection Area (Site Code: 004063)
- Wexford Harbour & Slobbs Special Protection Area (Site Code: 004076)
- Ireland's Eye Special Protection Area (Site Code: 004117)
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- Lambay Island Special Protection Area (Site Code: 004069)
- Saltee Island Special Protection Area (Site Code: 004002)
- Skerries Island Special Protection Area (Site Code: 004122)
- Ballymacoda Bay Special Protection Area (Site Code: 004023)
- Ballycotton Bay Special Protection Area (Site Code: 004022)
- Cork Harbour Special Protection Area (Site Code: 004030)

The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment of all aspects of the proposed development in relation to the Sites' Conservation Objectives using the best available scientific knowledge in the field.

In completing the assessment, the Board considered, in particular, the following:

- (i) the site specific Conservation Objective for these European Sites,
- (ii) the current conservation status, threats and pressures of the qualifying interest features,
- (iii) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects, and
- (iv) the mitigation measures which are included as part of the current proposals.

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 Sites, having regard to the sites' 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 Sites in view of the sites' Conservation Objectives and there is no reasonable scientific doubt as to the absence of such effects.

**Environmental Impact Assessment:**

The Board completed an environmental impact assessment of the proposed development taking account of:

- (a) the nature, scale, location and extent of the proposed development,
- (b) the Environmental Impact Assessment Report and associated documentation submitted in support of the application,
- (c) the submissions received from the prescribed bodies and observers, and
- (d) the Inspector's report.

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, adequately considers alternatives to the proposed development, and identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment. The Board agreed with the examination, set out in the Inspector's report, of the information contained in the Environmental Impact Assessment Report and associated documentation submitted by the applicant and submissions made in the course of the application. The Board considered that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated, as follows:

- The risk of pollution of ground and surface waters during the construction phase which would be mitigated by the implementation of measures set out in the Environmental Impact Assessment Report and the final Construction and Environment Management Plan which include specific provisions relating to groundwater, surface water and drainage.
- Unacceptable noise, vibration and air quality impacts during the construction phase would be avoided/reduced to an acceptable level by the



implementation of the measures set out in the Environmental Impact Assessment Report and the final Construction and Environment Management Plan which include specific provisions relating to the control of noise, vibration, dust and odours.

- Biodiversity impacts, including on habitats, flora and fauna (including terrestrial and aquatic wildlife), would be mitigated by the implementation of specific mitigation to protect such habitats, flora and fauna (including pre-construction surveys, timing and seasonality of works, drainage and runoff management, the management of artificial lighting, buffers and the appointment of a project ecologist), during the construction and operational phases.
- Traffic impacts arising from an increase in vehicle movements and resulting traffic during the construction phase would be mitigated by the preparation and implementation of a Construction Traffic Management Plan.
- Landscape and visual impacts would arise during the operational phase from the insertion of the flood defence embankment and flood defence walls into the urban, riparian and marsh landscapes, however, the scale, design and linear layout of the project and associated public realm works would assist in assimilating the works into the landscape.
- Impacts on residential amenity during the construction phase would be avoided by the implementation of the measures set out in the Environmental Impact Assessment Report and the final Construction and Environment Management Plan which include specific provisions relating to the control and management of dust, vibration, noise, odours, water quality and traffic movement.
- Impacts on cultural heritage would be mitigated by archaeological pre-testing and monitoring with provision made for resolution of any archaeological features or deposits that may be identified.
- Significant positive environmental impacts/benefits would arise during the operational phase including protection of properties and infrastructure from fluvial and tidal flooding events, improvement to the public realm and the enhanced pedestrian walkway to the south of the river.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures proposed, and, subject to compliance with the conditions set out below, the negative effects of the proposed development on the environment, by itself and in combination with other plans and projects in the vicinity, would be acceptable. The Board also noted the positive environmental effects of the proposed development in terms of protecting properties and infrastructure from fluvial and tidal flood events. In doing so, the Board adopted the report and conclusions of the Inspector.

### **Proper Planning and Sustainable Development**

It is considered that subject to compliance with the conditions set out below the proposed development would accord with European, national, regional and local planning and environmental policy, it would not have an unacceptable impact on the landscape or ecology, it would not seriously injure the visual or residential amenities of the area or of property in the vicinity, and it would be acceptable in terms of traffic safety and convenience. It is also considered that the proposed development would give rise to positive effects on properties and infrastructure in the area by providing appropriate flood defences. 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, received by the Board on the 31<sup>st</sup> day of May, 2021, as further stated and clarified in the schedule of commitments by the local authority in Section 20 of document entitled 'Response to Submissions relating to Planning and Environmental Matters' dated 12<sup>th</sup> January 2022 and as further elaborated and clarified at the oral hearing, except as may otherwise be required in order to comply with the following conditions. Where any mitigation measures 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 measures contained in the Environmental Impact Assessment Report and in the Natura Impact Statement which was submitted with the application and the additional mitigation measures and clarifications identified in the response to the request for further information, shall be implemented in full.

**Reason:** In the interests of clarity and the proper planning and sustainable development of the area and to ensure the protection of European Sites.

3. Prior to the commencement of development and after consultation with the relevant statutory agencies as appropriate, the local authority shall prepare a final Construction Environmental Management Plan and Method Statement, incorporating:
  - (a) all mitigation measures indicated in the Natura Impact Statement and the Environmental Impact Assessment Report and updated,
  - (b) methods to be employed to sterilise the equipment and machinery,
  - (c) details of intended construction practice for the development, including hours of working, noise, vibration, dust and odour monitoring and management measures, traffic management, protection of wayleaves, an invasive species management plan, and off-site disposal of construction, demolition and post examination river dredge waste,
  - (d) structural surveys at sensitive receptors shall be undertaken to establish their condition and tolerance for vibration impacts before works commence,
  - (e) a construction noise management plan and a contingency plan for remedial action shall be prepared in the event that monitoring levels indicate an exceedance of limits, before works commence.

This Construction Environmental Management Plan shall be placed on file prior to commencement of development and retained as part of the public record.

**Reason:** In the interest of protecting the environment.

4. The works including the replacement tree planting in the area south of the proposed embankment at Ferrybank located to the northwest of Bridgewater roundabout shall be implemented so as not to impede the provision of a future permanent access off the existing west spur off the roundabout.

**Reason:** In the interest of proper planning and development of the area.

5. The services of a suitably qualified and experienced Ecologist shall be retained to undertake pre-construction surveys at the various project elements immediately prior to commencing work in order to check for the presence of protected species in the vicinity (including otter, bat, birds and plants). Buffer zones shall be provided around Moore's Horsetail and Wild Clary in accordance with measures contained in the Natura Impact Statement. Bridge underpinning and river dredging works shall be carried out in accordance with the requirements of Inland Fisheries Ireland. Derogation Licences shall be obtained for the removal of any bat roost or otter holts.

**Reason:** In the interest of protecting ecology and wildlife in the area.

6. The following additional specific ecological requirements shall be complied with:
  - (a) Construction of the in-stream temporary haul road should be with accumulated exposed gravels rather than existing inert materials and there should be no tracking of plant/machinery in the live channel.
  - (b) Pile driving mitigation measures to reduce impacts on aquatic habitats and species shall be implemented (including soft start, vibrating hammer and bubble curtain).



- (c) Additional native species planting shall be provided between streetlights and Avoca River to prevent light spillage so as to maintain dark conditions for roosting bats.
- (d) The use and uptake of the bat boxes and tubes shall be monitored annually over a five-year period focusing on occupancy of bat tubes (usage and species determination) as well as presence of foraging bats and the survey results shall be submitted to the Minister for Housing, Local Government and Heritage.

**Reason:** In the interest of protecting ecology and wildlife in the area.

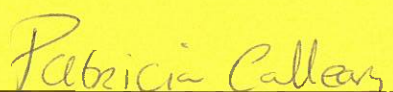
- 7. The landscaping proposals shall be carried out within the first planting season following commencement of construction of the proposed development. The landscaping and screening shall be maintained at regular intervals. Any trees or shrubs planted in accordance with this condition which are removed, die, become seriously damaged or diseased within two years of planting shall be replaced by trees or shrubs of similar size and species to those original required to be planted.

**Reason:** In the interest of visual amenity.

- 8. All plant and machinery used during the works should be thoroughly cleaned and washed before delivery to the site to prevent the spread of hazardous invasive species and pathogens.

**Reason:** In the interest of the proper planning and sustainable development of the area, and to prohibit the spread of invasive species.

**Board Member:**

  
Patricia Calleary

**Date** 01/07/2022

