

An
Bord
Pleanála

Board Direction
BD-010613-22
ABP-311943-21

The submissions on this file and the Inspector's report were considered at a Board meeting held on 04/05/2022.

The Board decided to approve the proposed development, based on the reasons and considerations below and subject to conditions, including requiring compliance with the submitted details and with the mitigation measures as set out in the Natura Impact Statement.

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 European Union (Birds and Natural Habitats) Regulations 2011, as amended,
- (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 Slaney River Valley Special Area of Conservation (Site code: 000781), the Wexford Harbour and Slobbs Special Protection Area (Site code: 004076) and The Raven Special Protection Area (Site code: 004019).

- (e) the policies and objectives of the Wexford County Development Plan, 2013-2019,
- (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 submission received in relation to the proposed development, and
- (i) the report and recommendation of the Inspector 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 Slaney River Valley Special Area of Conservation (Site code: 000781), the Wexford Harbour and Slobbs Special Protection Area (Site code: 004076) and The Raven Special Protection Area (Site code: 004019) are the only European Sites in respect of which the proposed development has the potential to have a significant effect.

The Board considered the Natura Impact Statement and associated documentation submitted with the application for approval, the mitigation measures contained therein, the submissions and observations on file, and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed development for the affected European Sites, namely the Slaney River Valley Special Area of Conservation (Site code: 000781), the Wexford Harbour and Slobbs Special Protection Area (Site code: 004076) and The Raven Special Protection Area (Site code: 004019), in view of the Sites' conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment. In completing the appropriate assessment, the Board considered, in particular, the following:

- i. the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- ii. the mitigation measures which are included as part of the current proposal, and
- iii. the conservation objectives for the European Sites.

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.

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 or 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 identified in the Natura Impact Statement submitted with the application shall be implemented in full except as may otherwise be required in order to comply with other 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, 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), incorporating all mitigation measures indicated in the Natura Impact Statement and demonstration of proposals to adhere to best practice and protocols. The CEMP shall incorporate:
 - a) all mitigation measures indicated in the Natura Impact Statement, and
 - b) specific proposals as to how the measures outlined in the CEMP will be measured and monitored for effectiveness.

Reason: In the interest of protecting the environment.

4. The following nature conservation requirements shall be complied with:
 - (a) The total containment unit is to be installed prior to the bird breeding season (1st March to 31st August inclusive).
 - (b) The total containment unit will remain in situ for the duration of the works. Site investigation and grit blasting works shall be restricted to being

undertaken outside the wintering bird season (October to March inclusive), with potential to take place in mid-late March, subject to monitoring and supervision by a suitably qualified ecologist.

(c) The works shall be carried out in compliance with the Inland Fisheries Ireland document "Guidelines on protection of fisheries during construction works in and adjacent to waters". 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. Details of the programme shall be placed on the file and retained as part of the public record.

(d) A pre-construction otter survey shall be carried out on behalf of the local authority before works commence.

Reason: In the interest of biodiversity and nature conservation.

5. The local authority and any agent acting on its behalf shall ensure that 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 ensure the protection of the European sites.

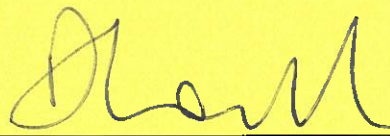
6. A suitably qualified ecologist shall be retained by the local authority to oversee the site set-up and construction of the proposed development and implementation of mitigation measures relating to ecology set out in Natura Impact Statement. The ecologist shall be present during site construction 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.

7. The construction of the development shall be managed in accordance with a Construction and Traffic Management Plan.

Reason: In the interests of amenity, public health and safety.

Board Member



Dave Walsh

Date: 04/05/2022