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Bord  
Pleanála

## **Board Direction BD-019598-25 ABP-319002-24**

The submissions on this file, the Inspector's report and the Inspectorate Ecologist's report were considered at a Board meeting held on 30/04/2025.

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

### **Reasons and Considerations**

Having regard to: -

- the nature, scale and extent of the proposed development,
- the characteristics of the entirety of the site and of the surrounding area,
- the national, regional and local policy support, in particular:
  - the National Planning Framework (2025),
  - the Government Policy Statement on the Security of Electricity Supply (2021),
  - the Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031,
  - the Kildare County Development Plan 2023-2029, and
  - the Kildare Town Local Area Plan 2023-2029,

- the likelihood for consequences on 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

and given:

- that the Board has performed its functions in a manner consistent with The Climate Action and Low Carbon Development Act 2015 (as amended),

the Board considered that the proposed development, subject to compliance with the conditions set out below, would be consistent with the provisions of the Kildare County Development Plan 2023-2029 and the Kildare Town Local Area Plan 2023-2029, would not have an unacceptable impact on the landscape, would not have significant adverse impacts on the environment, would not significantly injure established equine business and would not seriously injure the residential amenities of property in the vicinity. The proposed development would not have any likely significant effects on Pollardstown Fen Special Area of Conservation (site code: 000396) or any other European Site (see Appropriate Assessment below). Accordingly, the proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **Appropriate Assessment Stage 1**

The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report that there is potential for significant effects on the Pollardstown Fen Special Area of Conservation (site code: 000396) and an Appropriate Assessment is, therefore, required.

### **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



proposal for the European Site, in view of the site's conservation objectives. 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, the likely direct and indirect impacts arising from the proposal both individually or in combination with other plans or projects, specifically upon the European Site,

- i. mitigation measures which are included as part of the current proposal (specifically, in Appendix 3: Outline Construction Environmental Management Plan of the Natura Impact Statement),
- ii. conservation objectives for these European Site, and
- iii. views of prescribed bodies in this regard.

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.

## **Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further particulars submitted to the Board on the 31<sup>st</sup> day of May 2024 with respect to the installation of composite poles [Pole Numbers 38-44], except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.



**Reason:** In the interest of clarity.

2. The mitigation measures contained in the submitted Natura Impact Statement (NIS), specifically, in Appendix 3: Outline Construction Environmental Management Plan of the Natura Impact Statement, shall be implemented.

**Reason:** To protect the integrity of Pollardstown Fen Special Area of Conservation.

3. The period during which the development hereby permitted may be carried out shall be 10 years from the date of this Order.

**Reason:** Having regard to the nature of the development, the Board considers it appropriate to specify a period of validity of this permission in excess of five years.

4. Prior to the commencement of development, a badger survey shall be undertaken by a suitably qualified person for the written agreement of the planning authority. In the event of a badger sett(s) being identified, appropriate mitigation and avoidance shall be agreed in writing with the planning authority.

**Reason:** In the interest of clarity and the protection of the environment.

5. (a) Prior to the commencement of development, an updated Construction and Environmental Management Plan (CEMP) shall be submitted to, and agreed in writing with, the planning authority. The updated Construction and Environmental Management Plan shall include but not be limited to construction phase controls for waste management, protection of soils, groundwaters and surface waters, site housekeeping, noise, emergency response planning, site environmental policy, and project roles and responsibilities.  
  
(b) It shall also include the location of any and all archaeological or cultural heritage constraints relevant to the proposed development as set out in

the Cultural Heritage Assessment Report by Byrne, Mullins and Associates (dated May 2023) and by any subsequent archaeological investigations associated with the project. The Construction and Environmental Management Plan shall clearly describe all identified likely archaeological impacts, both direct and indirect, and all mitigation measures to be employed to protect the archaeological or cultural heritage environment during all phases of site preparation and construction activity.

**Reason:** In the interests of clarity, public health and safety, archaeology and environmental protection.

6. The site development and construction works shall be carried out in such a manner as to ensure that the adjoining roads are kept clear of debris, soil and other material.

**Reason:** In the interests of traffic safety and convenience.

7. The applicant shall include flight diverters on the overhead line crossing on the Milltown feeder of the Grand Canal proposed National Heritage Area. Details on the design of the flight diverters shall be submitted to, and approved in writing with, the planning authority prior to the commencement of development.

**Reason:** In the interest of biodiversity and to apply a precautionary approach in preventing bird collision incidences.

8. (a) All mitigation measures in relation to archaeology and cultural heritage as set out in the Cultural Heritage Assessment Report by Byrne, Mullins and Associates (dated May 2023) shall be implemented in full, except as may otherwise be required in order to comply with the conditions of this Order.
- (b) A Project Archaeologist shall be appointed to oversee and advise on all aspects of the scheme from design, through inception to completion.



- (c) The developer shall engage a suitably qualified archaeologist to carry out an updated Cultural Heritage Assessment Report including Archaeological Test Excavation. This shall be completed and an Impact Assessment Report submitted for the written agreement of the planning authority, following consultation with the Department of Housing, Local Government and Heritage in advance of any site preparation works or groundworks, including site investigation works/topsoil stripping/site clearance and/or construction works.
- (i) The Updated Cultural Heritage Assessment Report shall address all proposed temporary construction works required to facilitate the development including (but not limited to) the location of any temporary access routes and construction compounds.
- (ii) The archaeologist shall liaise with the Department to establish the appropriate scope of the Archaeological Test Excavation to adequately characterise the character and extent of any potential sub-surface archaeological material that may be impacted by proposed groundworks in particular in the environs of Recorded Monument KD022-071 --/ KD023-076 --/ KD028-067— (Archaeological Complex).
- (iii) The report shall include an Archaeological Impact Statement and Mitigation Strategy. Where archaeological material is shown to be present, avoidance, preservation, in situ, preservation by record (archaeological excavation) and/or monitoring may be required.
- (iv) Any further archaeological mitigation requirements specified by the planning authority, following consultation with the Department of Housing, Local Government and Heritage shall be complied with by the developer,
- (v) No site preparation and/or construction work shall be carried out on site until the archaeologist's report has been submitted to and approval to proceed is agreed in writing with the planning authority.
- (d) A Suitably qualified archaeologist shall be retained to advise on and establish appropriate Exclusion Zones around the external-most elements of vulnerable



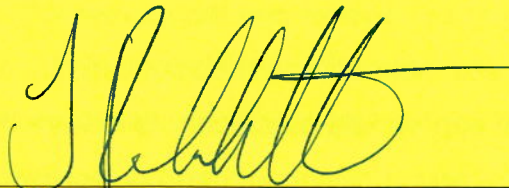
Heritage Assets, in particular within Recorded Monument KD022-071 --/ KD 023-076--/KD028-067— (Archaeological Complex).

- (i) Exclusion Zones shall be fenced off or appropriately demarcated for the duration of construction works in the vicinity of the monuments. The location and extent of each Exclusion Zone and the appropriate methodology for fencing off or demarcating at each location shall be agreed in advance with the Department and the planning authority.
  - (ii) No groundworks of any kind (including but not limited to advance geotechnical site investigations) and no machinery, storage of materials or any other activity related to construction will be permitted within the Exclusion Zones.
- (e) The developer shall engage a suitably qualified archaeologist to monitor (licensed under the National Monuments Acts) all site clearance works, topsoil stripping, groundworks and the implementation of agreed preservation in-situ measures associated with the development.
  - (i) The use of appropriate machinery to ensure the preservation and recording of any surviving archaeological remains shall be necessary.
  - (ii) Should archaeological remains be identified during the course of archaeological monitoring, all works shall cease in the area of archaeological interest pending a decision of the planning authority, in consultation with the Department, regarding appropriate mitigation, which may include preservation in-situ or full archaeological excavation.
  - (iii) The developer shall facilitate the archaeologist in recording any remains identified. Any further archaeological mitigation requirements specified by the planning authority, following consultation with the Department, shall be complied with by the developer.

- (f) The planning authority and the Department shall be furnished with a final archaeological report describing the results of all archaeological monitoring and any archaeological investigative work/excavation required, following the completion of all archaeological work on site and any necessary post-excavation specialist analysts. All resulting and associated archaeological cost shall be borne by the developer.

**Reason:** To ensure the continued preservation (either in-situ or by record) of places, caves, sites, features or other objects of archaeological interest.

**Board Member**



Tom Rabbette

**Date:** 06/05/2025