



An  
Bord  
Pleanála

**Board Direction**  
**PL.06S.JA0040**

---

The submissions on this file and the Inspector's report were considered at Board meetings held on 23<sup>rd</sup> January 2019 and 10<sup>th</sup> June 2020.

At the meeting of 23<sup>rd</sup> January 2019, the Board decided to defer consideration of the case and in accordance with section 175(5)(a) of the Planning and Development Act 2000, as amended, requested the applicant to furnish further information in relation to the effects on the environment of the proposed development. The further information received by the Board on the 24<sup>th</sup> December, was deemed to be significant additional information and the response was publicised and issued to each prescribed authority to which notice was given pursuant to subsection 175(4)(b).

At the meeting of 10<sup>th</sup> June 2020, the Board considered the further information, the submissions on the file, the Inspector's reports (including the Inspector's Addendum Report to address the further information and submissions) and 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**

In coming to its decision, the Board had regard to the following:

- a) EU legislation including in particular Directive 92/43/EEC (Habitats Directive) and Directive 79/409/EEC as amended by 2009/147/EC

(Birds Directive) which set the requirements for conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union.

- b) The relevant provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU (EIA Directive) on the assessment of the effects of certain public and private projects on the environment.
- c) The Water Framework Directive (2000/60/EC).
- d) National Policy including in particular:
  - The National Planning Framework (NPF), 2018.
- e) Regional Policy including in particular:
  - Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031.
- f) Local Planning Policy including in particular:
  - The provisions of the South Dublin County Development Plan 2016-2022.
- g) The following matters:
  - The likely consequences for the environment and the proper planning and sustainable development of the area in which is it proposed to carry out the proposed development and the likely significant effects of the proposed development on European Sites.
  - The conservation objectives, qualifying interests and special conservation interests of the Wicklow Mountain SPA (Site Code 004040), and the Wicklow Mountains SAC (Site Code 002122).
  - The documentation and submissions of the applicant, including the amended Environmental Impact Assessment Report, the Natura Impact Statement and associated documentation submitted with the application, and the range of mitigation and monitoring measures proposed.
  - The submissions and observations made to An Bord Pleanála in connection with the application and at the oral hearing.

- The nature and extent of the proposed development as set out in the application for approval.
- The report (including the Inspector's Addendum Report) and recommendation of the inspector including the examination, analysis and evaluation undertaken in relation to appropriate assessment and environmental impact assessment.

### **Appropriate Assessment:**

The Board completed an Appropriate Assessment exercise in relation to the potential effects of the proposed development on the affected Natura 2000 sites, namely the Wicklow Mountains SAC (Site Code 002122) and the Wicklow Mountains SPA (Site Code 004040) and in doing so took into account the nature, scale and location of the proposed development, the Natura Impact Statement submitted with the application as part of the further information submitted to the Board on 24<sup>th</sup> December 2019 (inclusive of the Walker Survey Report and additional Bird Surveys), the submissions on file, and the report of the Inspector's assessment. In completing the Appropriate Assessment, the Board adopted the report of the Inspector and concluded that the proposed development would not be likely to have a significant effect individually or in combination with other plans and projects on the environment, on the amenities of the area or on the European sites referred to. The Board concluded that the proposed scheme would not have an adverse effect on the integrity of the European sites, having regard to the Conservation Objectives for the sites.

### **Environmental Impact Assessment**

The Board completed in compliance with section 172 of the Planning and Development Act 2000 an environmental impact assessment of the proposed development, taking into account:

- the nature, scale, location, and extent of the proposed development,
- the amended Environmental Impact Assessment Report and associated documentation submitted with the application,

- the submissions from the applicant, the observers and the prescribed bodies, including submissions made to the oral hearing, and
- the Planning Inspector's reports.

The Board considered that the Environmental Impact Assessment Report, supported by the information submitted by the applicant identifies and describes adequately the direct, indirect and cumulative effects of the proposed development on the environment. The Board is satisfied that the information contained in the EIAR complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU.

The Board agreed with the summary and 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 is satisfied that the Inspector's reports set out how these were addressed in the assessment and recommendation (including environmental conditions) and are incorporated into the Board's decision.

### **Reasoned Conclusion on the Significant Effects**

Having regard to the examination of environmental information contained above, to the Environmental Impact Assessment Report and supplementary information provided by the applicant, and the submissions from the observers and prescribed bodies in the course of the application, including submissions made to the oral hearing and in response to the additional information including the amended Environmental Impact Assessment Report, it is considered that the main significant direct and indirect effects of the proposed development on the environment are, and will be mitigated as follows:

- **Biodiversity** Impacts to habitats and species could arise during construction of the visitor centre, car park and other structural elements due to disturbance and loss of habitat. These impacts will be mitigated following measures outlined in the Construction Management Plan and specific mitigation measures for Key Ecological Receptors and other environmental mitigation measures. With respect to operation, based on the additional baseline surveys and information

presented in the amended Environmental Impact Assessment Report, the Board is satisfied that the potential impacts have been adequately assessed and mitigated with respect to the impact of the increase in footfall on the environment and the replacement of 26 Hectares of conifer plantation (subject to a condition to limit the conifers to be replaced to those which are over-mature). The Board is now satisfied that the information submitted by the applicant enables the Board to conclude that there will not be a significant effect on the biodiversity of the area.

- **Population and Human Health:** The Board is satisfied that impacts on amenities of local landowners due to increases in the numbers of people potentially trespassing will be mitigated by the installation of additional fencing and the increased presence of management staff.
- **Material Assets, Landscape and Visual Impact:** The Board is satisfied that impacts on the landscape and impacts on protected views have been mitigated with the design of the visitor centre and the car park as well as the landscape strategy.
- **Material Assets, Cultural Heritage:** The Board is satisfied that impacts on the archaeology and architectural heritage of the area have been mitigated by the minimal interference approach on the existing structures and the improvements of existing trails. Potential impacts as a result of the new structures and trails will be mitigated by monitoring and test excavations.
- **Material Assets, Traffic and Transportation:** The Board is satisfied that impacts during construction will be mitigated by the implementation of a Construction and Traffic Management Plan. Impacts during operation will be mitigated by improvement in access to the site for other sustainable modes of transport, as well as an increase in the car parking availability thereby avoiding the need to park on the external road.

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, as set out in in the Environmental Impact Assessment Report, and, subject to compliance with the conditions set out below, the effects on the environment of the proposed development by itself and

cumulatively with other development in the vicinity would be acceptable. In doing so, the Board adopted the reports and conclusions of the reporting Inspector.

### **Section 34 (10) Reasons for not accepting Inspector's recommendation to omit elements of the proposed development**

In deciding not to accept the Inspector's recommendation to omit the treetop bridge and canopy, and the bridleway in Massy's Woods, the Board had regard to the additional walkers and ecological surveys carried out in response to the Board's further information request. The Board considered that the Inspector's concerns in relation to the potential impact of the treetop bridge on biodiversity, particularly bats and red squirrels, had been addressed by the recent bat and red squirrel surveys carried out in response to the Board's further information request, which established the key ecological receptors within the baseline environment and informed the mitigation measures included in the updated Operational Management and Monitoring Commitments submitted with the further information on 24<sup>th</sup> December 2019 (including the Red Squirrel Management Plan and bat mitigation measures). The established baseline environment would also enable the Strategic Oversight Group to undertake future meaningful monitoring of the development. The Board also noted the commitment to appoint an Ecological Clerk of Works to supervise and provide recommendations on the execution of any and all works which have the potential to give rise to negative effects on biodiversity including the exact route of the canopy bridge and new trail and surface water drainage in Massy's Woods. Furthermore, the Board had regard to the relevant photomontages of the proposed treetop bridge and in the context of the existing vegetation screening did not consider that there would be any unacceptable visual impacts associated with it.

In deciding not to accept the Inspector's recommendation to omit the bridleway in Massy's Woods, the Board considered that the additional habitat, bryophytes, vegetation and other ecological surveys that were carried out in response to the further information request also established the baseline environment for the proposed bridleway and was satisfied that the updated Operational Management and Monitoring Commitments including the commitment to appoint an Ecological Clerk of Works to supervise and provide recommendations on new trails would

ensure that the bridle path would not have an unacceptable adverse impact on ecology. The Board also noted the Inspectors concerns in relation to potential conflicts between people and horses in Massy's Woods but was satisfied that the Operation Management Plan which provides for the establishment of a Strategic Oversight Group and for ongoing monitoring and management programmes for the trails network would adequately address this operational issue.

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

It is considered that the principle of the proposed development is acceptable and would support the aim of encouraging access to the Dublin Mountains at a national and regional level and support the development of a visitor facility in or adjacent to the High Amenity – Dublin Mountains zone (HA-DM), as identified at a local level.

It is considered that, subject to compliance with the conditions set out below, the proposed development would not adversely affect the environment, would not seriously injure the amenities of the area, would respect the existing character of the area and would be acceptable in terms of traffic and pedestrian safety and convenience. 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, as amended by the further plans and particulars submitted on the 30 <sup>th</sup> day of November 2017, 12 <sup>th</sup> day of September 2018 and by the further plans and particulars received by An Bord Pleanála on the 24 <sup>th</sup> day of December, 2019, except as may otherwise be required in order to comply with the following conditions. Where any mitigation measures set out in the Environmental Impact Assessment Report and Natura Impact Statement or any conditions of this Approval require further details to be prepared by or on behalf of the
----	---

	<p>Local Authority, these details shall be placed on the file and retained as part of the public record.</p> <p>In default of agreement, the matter(s) in dispute shall be referred to An Board Pleanála for determination.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>The mitigation measures and monitoring commitments identified in the Environmental Impact Assessment Report, and other plans and particulars submitted with the application shall be carried out in full except as may otherwise be required in order to comply with other conditions. Prior to commencement of the development, details of a time schedule for implementation of the mitigation measures and associated monitoring shall be prepared by South Dublin County Council and placed on the file and retained as part of the public record.</p> <p><b>Reason:</b> In the interest of clarity and protection of the environment during the construction and operational phases of the proposed development.</p>
3.	<p>The mitigation measures contained in the Natura Impact Statement which was submitted with the application shall be implemented in full.</p> <p><b>Reason:</b> In the interest of clarity and the proper planning and sustainable development of the area and to ensure the protection of the European sites.</p>
4.	<p>The Operation Management Plan shall be updated to include proposals to ensure that there is no potential for conflicts between pedestrians and horses in Massy's Woods.</p> <p><b>Reason:</b> In the interest of clarity.</p>
5.	<p>A revised Forest Management Plan to retain the majority of the mature conifers on the Hellfire plantation to support the red squirrel shall be prepared by South Dublin County Council in consultation with the National Parks and Wildlife Service.</p> <p><b>Reason:</b> In the interest of protecting the environment, and in the interest of sustainable development and proper planning</p>



6.	<p>Prior to the commencement of development, South Dublin County Council or any agent acting on its behalf shall prepare in consultation with the relevant statutory agencies, a Final Construction Environmental Management Plan (CEMP), that adheres to best practice environmental management. The CEMP shall include the appointment of a full-time liaison officer and specific proposals for monitoring of the effectiveness of the environmental management measures outlined in the CEMP and shall be placed on the file and retained as part of the public record.</p> <p><b>Reason:</b> In the interest of protecting the environment, and in the interest of sustainable development and proper planning.</p>
7.	<p>A suitably qualified ecologist shall be appointed as an Ecological Clerk of Works by South Dublin County Council to oversee the site set-up and construction of the proposed development in accordance with the mitigation measures set out in the Environmental Impact Assessment Report. Upon completion of the construction stage, an audit report of the site works shall be prepared by the appointed ecologist and submitted to the local authority to be maintained on the file as part of the public record.</p> <p><b>Reason:</b> To ensure the protection of the environment during construction.</p>
8.	<p>During construction stage, any site operation (including hydrological and geotechnical investigations) associated with the proposed scheme shall be subject to full time archaeological monitoring by a suitably qualified archaeologist under licence from the Department of Culture, Heritage and the Gaeltacht. Provision shall be made available for the resolution of any archaeological features or deposits that may be identified.</p> <p><b>Reason:</b> To conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site</p>
9.	<p>Prior to commencement of development, the Planning Authority shall enter into water and waste water connection agreements with Irish Water.</p> <p><b>Reason:</b> In the interest of public health</p>

**Board Member**

\_\_\_\_\_  
Maria FitzGerald

**Date:**

17<sup>th</sup> June 2020