

An
Bord
Pleanála

Board Order
ABP-307432-20

Planning and Development Acts, 2000 to 2020

Planning Authority: Wexford County Council

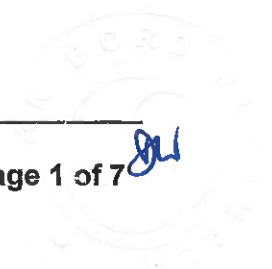
Application by Wexford County Council for approval under section 177AE of the Planning and Development Act 2000, as amended, in accordance with plans and particulars, including a Natura impact statement, lodged with An Bord Pleanála on the 22nd day of June, 2020, as amended by the further information received by An Bord Pleanála on the 8th day of April, 2021.

Proposed Development: The proposed development is for the installation of water level management measures at Lady's Island Lake, County Wexford.

As revised by further public notice received by An Bord Pleanála on the 8th day of May, 2021 the proposed development now consists of the installation of drainage pipeline and flow control structure within the beach fronting the lake to manage water levels and salinity in the Lake.

Decision

APPROVE the above proposed development based on the reasons and considerations under and subject to the conditions set out below.



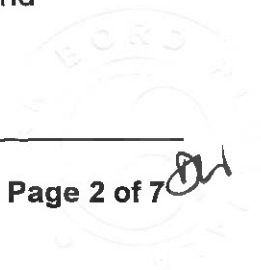
Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

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 2011-2015,
- (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 Lady's Island Lake Special Area of Conservation (Site Code: 000704), Lady's Island Lake Special Protection Area (Site Code: 004009) and Carnsore Point Special Area of Conservation (Site Code: 002269),
- (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 and the response to the further information request including the revised Natura impact statement,
- (h) the submissions received in relation to the proposed development, and



- (i) the report and recommendation of the person appointed by the Board to make a report and recommendation on the matter.

Appropriate Assessment

The Board agreed with the screening determination that the Lady's Island Lake Special Area of Conservation (Site Code: 000704), Lady's Island Lake Special Protection Area (Site Code: 004009) and Carnsore Point Special Area of Conservation (Site Code: 002269) are the only European Sites in respect of which the proposed development has the potential to have a significant effect, in view of the conservation objectives of those Sites.

The Board considered the Natura impact statement, the revised Natura impact statement and the associated documentation submitted with the application for approval, the mitigation measures contained therein, the submission on file, and the Senior Ecologist's assessment and the Inspector's recommendation. The Board completed an appropriate assessment of the implications of the proposed development for the affected European Sites, namely Lady's Island Lake Special Area of Conservation (Site Code: 000704), Lady's Island Lake Special Protection Area (Site Code: 004009) and Carnsore Point Special Area of Conservation (Site Code: 002269), in view of the conservation objectives of those Sites. The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment, comprising the best scientific information available and in line with the requirements of section 177AE. 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 screening conclusion and the appropriate assessment carried out in the Senior

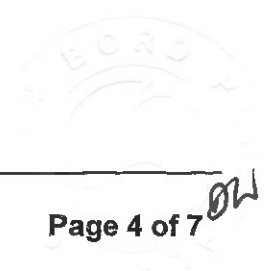


Ecologist's Report and concurred with by the Inspector in respect of the potential adverse effects of the proposed development on the aforementioned European Sites, having regard to the Sites' conservation objectives.

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 conservation objectives of those Sites. The Board was satisfied that the proposal would result in positive effects on the attainment of the conservation objectives of Lady's Island Lake Special Protection Area (Site Code: 004009) in particular with reference to four Tern species, special conservation interest species (breeding) of that Site.

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 coastal processes in the area and would not 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 proposed development shall be carried out and completed in accordance with the plans and particulars, including the mitigation measures specified in the revised Natura impact statement, submitted with the further information response submitted to An Bord Pleanála on the 8th day of April, 2021, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be prepared by the local authority, these details shall be placed on file prior to commencement of development and retained as part of the public record.

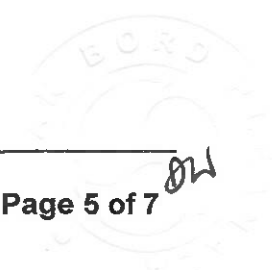
Reason: In the interest of clarity and the proper planning and sustainable development of the area and to ensure the protection of the environment.

2. The local authority and any agent acting on its behalf shall comply with the mitigation measures contained in the revised Natura impact statement which was submitted with the further information response.

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

3. Prior to the commencement of development, the local authority shall agree with the relevant statutory agencies a Construction Environmental Management Plan, incorporating all mitigation measures indicated in the revised Natura impact statement.

Reason: To ensure the protection of the European Sites.

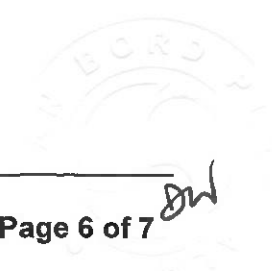


4. A suitably qualified ecologist shall be appointed by the local authority as a Project Ecologist/Ecological Clerk of works to oversee the site set up and construction of the proposed development and implementation of mitigation and all monitoring measures relating to ecology set out in the Natura impact statement and outline schedule of environmental commitments. The ecologist shall be present during site construction works. Ecological monitoring reports detailing all monitoring 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; to prevent adverse impacts on European Sites and to ensure the protection of Annex I habitats, including priority habitat, protected plant species and qualifying interests for which the Sites are designated.

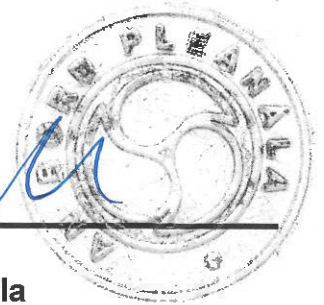
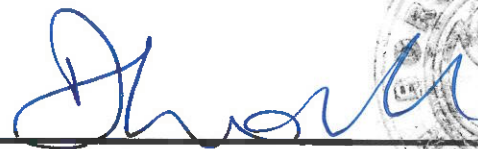
5. The duties and responsibilities of key personnel shall be defined in advance of works, in particular, the Project Manager and Environmental Manager as may be required.

Reason: In the interest of nature conservation; to prevent adverse impacts on European Sites and to ensure the protection of Annex I habitats, including priority habitat, protected plant species and qualifying interests for which the Sites are designated.



6. The local authority and any agent acting on its behalf shall ensure that all plant and machinery used during the works shall 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.



Dave Walsh
Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.

Dated this 3rd day of September 2021