

An
Bord
Pleanála

Board Order ABP-318652-23

Planning and Development Acts, 2000 to 2022

Planning Authority: Waterford City and County Council

Application by Waterford City and 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 8th day of December 2023.

Proposed Development: A series of proposed walking trails and ancillary works comprising the following:

- trail 1 Stradbally to Killelton (4.5 kilometres),
- trail 2 Ballydowane Beach (1.1 kilometres),
- trail 3 Cooneennacartan to Trá na mBó (2.0 kilometres),
- extension of existing car park at Ballydowane Beach in the townlands of Ballydowane West and Ballydowane East,
- realignment of junction of L3031 and L7036 Ballydowane Beach Access Road in the townland of Ballydowane East, and
- viewing platform on headland overlooking Ballydowane Beach in the townland of Ballydowane West.

The development of the walking trails (Trail 1, Trail 2 and Trail 3 as listed above) will involve the following elements:

- minor improvements to the existing ground surface,

- stiles and kissing gates at boundary crossings,
- fencing,
- steps at cove crossings,
- minor bridges at cove crossings
- wayfinding signs and information boards, and
- benches at various locations.

All located along the Copper Coast United Nations Educational, Scientific and Cultural Organization (UNESCO) Global Geopark between Strabally and Bunmahon, County Waterford, in the townlands of Woodhouse, Stradbally More, Ballyvoony, Killelton, Ballydowane West, Ballydowane East, Ballynarrid and Templeyvrick.

Decision

REFUSE TO APPROVE the above proposed development based on the reasons and considerations set out below.

Reasons and Considerations

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

- (a) the relevant provisions of the Planning and Development Act 2000, as amended and the Planning and Development Regulations 2001, as amended,
- (b) the relevant provisions of European Union Directive 2014/52/EU, amending Directive 2011/92/EU (Environmental Impact Assessment Directive),
- (c) the relevant provisions of Directive 92/43/EEC (Habitats Directive) and Directive 79/409/EEC as amended by 2009/147/EC (Birds Directives), Wildlife Acts 1976, as amended and the European Communities (Birds and Natural Habitats) Regulations 2011, as amended,
- (d) national, regional and local policies and objectives of relevance,

- (e) the nature, extent and scale of the proposed works as set out in the application for approval,
- (f) the information submitted including the approval drawings, Environmental Impact Assessment Screening Report, Natura Impact Statement and associated documentation, and the range of mitigation measures set out,
- (g) the likely effects and 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,
- (h) the submissions received from the local authority, prescribed body and public submission in the course of the application,
- (i) the report of the Inspectorate Ecologist, and
- (j) the report and recommendation of the Inspector.

Appropriate Assessment Stage 1:

The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report and that the Mid-Waterford Coast Special Protection Area (Site Code: 004193) is the only European Site for which there is a likelihood of significant effects.

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 Mid-Waterford Coast Special Protection Area (Site Code: 004193) in view of the Site's conservation objectives.

Having considered the submissions of the Development Applications Unit, the public and the Inspectorate Ecologist, the Board is not satisfied that the information submitted in the Natura Impact Statement is adequate, with the result that it does not allow the Board to carry out appropriate assessment of all aspects of the proposed

development and is therefore not sufficient to enable the Board to reach complete precise and definitive findings as to the implications for the identified European Site. Reasonable scientific doubts exist as to the absence of adverse effects in view of conservation objectives of the protected site. There are inadequacies in terms of assessments of Special Conservation Interest (SCI) features of Peregrine Falcon in particular. In addition, the proposal would be likely to result in a significant decrease in the range, timing and intensity of use of areas by individual bird species most notably the Chough.

This conclusion is based on:

- inadequate assessment of impacts of breeding and foraging Chough population in Mid-Waterford Coast Special Protection Area (Site Code: 004193),
- inadequacies in terms of assessments of Special Conservation Interest (SCI) features of Peregrine Falcon,
- underestimation of adverse effects and how they would undermine the conservation objectives of the Site,
- inadequate mitigation measures lacking specificity, reliance on post consent monitoring to identify negative effects and a proposal for seeking post consent agreement of approach between third parties, with no evidence provided to support any such proposal, and
- reasonable scientific doubt as to the absence of adverse effects in view of conservation objectives of the Site and that the proposal would result in a significant decrease in the range, timing and intensity of use of areas by individual species.


Accordingly, the Board cannot be satisfied that the proposal would not adversely affect the integrity of the Mid-Waterford Coast Special Protection Area (Site Code: 004193) in view of the Site's conservation objectives. Therefore, the Board is precluded from granting approval for this development.

Environmental Impact Assessment Directive:

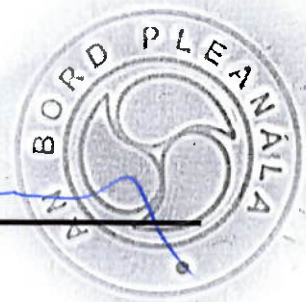
The Board agreed with and adopted the Inspector's finding that the development of a series of walkways as proposed is not a class of development under the classes listed in Schedule 5 of the Planning and Development Regulations 2001 (as amended) and therefore neither a preliminary examination nor environmental impact assessment screening is required.

Proper Planning and Sustainable Development/Likely effects on the environment:

Notwithstanding considerations relating to appropriate assessment and designated European Sites, it is considered that the principle of the proposed development is otherwise consistent with national, regional and local policies and objectives.



Martina Hennessy
Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.



Dated this 24th day of July 2024