



An
Bord
Pleanála

Inspector's Report ABP-318652-23

Development	Developing a series of walking trails and ancillary works
Location	Copper Coast UNESCO Global Geopark between Stradbally and Bunmahon, Co. Waterford
Local Authority	Waterford City and County Council
Type of Application	Application for approval made under Section 177(AE) of the Planning and Development Act, 2000 (local authority development requiring appropriate assessment)
Prescribed Bodies	Development Applications Unit
Observer(s)	Declan McGrath
Date of Site Inspection	24 th of April 2024
Inspector	Adrian Ormsby

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1.0 Introduction

- 1.1. Waterford City and County Council is seeking approval from An Bord Pleanála to develop a series of walking trails and ancillary works along the Copper Coast UNESCO Global Geopark between Stradbally and Bunmahon, Co. Waterford, in the townlands of Woodhouse, Stradbally More, Ballyvoony, Killelton, Ballydowane West, Ballydowane East. Ballynarrid and Templeyvrick.
- 1.2. The application site lies within and adjacent to the Mid-Waterford Coast SPA (004193) which is a designated European site. A Natura Impact Statement (NIS) and application under Section 177AE was lodged by the Local Authority on the basis of the proposed development's likely significant effect on a European site.
- 1.3. Section 177AE of the Planning and Development act 2000 (as amended) requires that where an appropriate assessment is required in respect of development by a local authority, the authority shall prepare an NIS and the development shall not be carried out unless the Board has approved the development with or without modifications. Furthermore, Section 177V of the Planning and Development Act 2000 (as amended) requires that the appropriate assessment shall include a determination by the Board as to whether or not the proposed development would adversely affect the integrity of a European site and the appropriate assessment shall be carried out by the Board before consent is given for the proposed development.

2.0 Proposed Development

- 2.1. The proposed development comprises three trail walkways as follows-
 - Trail 1 Stradbally to Killelton (4.5km)
 - Trail 2 Ballydowane Beach (1.1km)
 - Trail 3 Cooneennacartan to Trá na mBo (2.0km) and-
 - 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

- Viewing platform on headland overlooking Ballydowane Beach in the townland of Ballydowane West linked to the walkway by a 1.2m boardwalk

2.1.1. The walking trail will generally be 2m in width. The exiting grassland surface will remain mostly untouched.

2.1.2. The development of the three walking trails will also involve the following elements-

- Minor improvements to the existing ground surface
- Stiles and kissing gates at boundary crossings
- Fencing only where necessary to protect livestock and walkers. An existing raised berm/stonewall along the cliff edge will be retained.
- Steps at cove crossings
- Minor bridges at cove crossings
- Wayfinding signs and information boards
- Benches at various locations

2.1.3. The submitted EIA Screening report indicates c. 100m³ of excavated soil will be removed and temporarily stored on site and then reused in the construction of the walking trails.

2.2. **Accompanying documents:**

- Public Notices
- Planning Statement prepared by 'Tobin Consulting Engineers' which includes-
 - A general introduction, project description, consultations, 'Environmental Assessments' i.e. Bird Surveys, AA and NIS and Archaeological Screening
 - Appendix A- Archaeological Screening Report 'Cultural Heritage Constraints Report' prepared by Moore Group, Archaeological Consultancy (30th November 2023) and
 - Appendix B- EIA Screening Report
- Natura Impact Statement

- Planning Drawings

3.0 Site and Location

- 3.1. The site is located in three parts along the southern coast of Waterford c. 21-26 km southwest of Waterford City and c.11- 17km just northeast of Dungarvan. The three route parts can be described as located between Stradbally and Bunmahon.
- 3.2. The application documents detail the site will be located within the 'Copper Coast Global Geopark' which is a UNESCO designation for sites and landscapes of international geological significance and is the first such designation in Ireland.
- 3.3. The extent and range of the site can be described as along agricultural lands in close proximity to coastal cliffs and the sea. The site is accessible from a number of local roads and generally follows the path of the coastline.
- 3.4. Page 10 of the EIA Screening Report details the proposed development covers an area of less than 4.958 ha. However page 14 of the EIA Screening Report states an overall area of less than 2.4 ha.
- 3.5. A number of archaeological sites and monuments are located in close proximity to the proposed trails along its three proposed routes. These are generally to the southern coastline side but one is located just north of the eastern most trail.

4.0 Planning History

- 4.1. I have not been able to identify any significant pertinent planning history in the area and surrounds of the subject site.

5.0 Legislative and Policy Context

- 5.1. **The EU Habitats Directive (92/43/EEC):** This Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) and 6(4) require an appropriate assessment of the likely significant effects of a proposed development on its own and in combination with other plans and projects which may have an effect on a European Site (SAC or SPA).

- 5.2. **European Communities (Birds and Natural Habitats) Regulations 2011:** These Regulations consolidate the European Communities (Natural Habitats) Regulations 1997 to 2005 and the European Communities (Birds and Natural Habitats) (Control of Recreational Activities) Regulations 2010, as well as addressing transposition failures identified in CJEU judgements. The Regulations in particular require in Reg 42(21) that where an appropriate assessment has already been carried out by a 'first' public authority for the same project (under a separate code of legislation) then a 'second' public authority considering that project for appropriate assessment under its own code of legislation is required to take account of the appropriate assessment of the first authority.
- 5.3. **National nature conservation designations:** The Department of Culture, Heritage and the Gaeltacht and the National Parks and Wildlife Service are responsible for the designation of conservation sites throughout the country. The three main types of designation are Natural Heritage Areas (NHA), Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) and the latter two form part of the European Natura 2000 Network. European sites located in proximity to the subject site include:
- Mid-Waterford Coast SPA (004193)
- 5.4. **Planning and Development Acts 2000 (as amended):** Part XAB of the Planning and Development Acts 2000-2017 sets out the requirements for the appropriate assessment of developments which could have an effect on a European site or its conservation objectives.
- 177(AE) sets out the requirements for the appropriate assessment of developments carried out by or on behalf of local authorities.
 - Section 177(AE) (1) requires a local authority to prepare, or cause to be prepared, a Natura impact statement in respect of the proposed development.
 - Section 177(AE) (2) states that a proposed development in respect of which an appropriate assessment is required shall not be carried out unless the Board has approved it with or without modifications.

- Section 177(AE) (3) states that where a Natura impact assessment has been prepared pursuant to subsection (1), the local authority shall apply to the Board for approval and the provisions of Part XAB shall apply to the carrying out of the appropriate assessment.
- Section 177(V) (3) states that a competent authority shall give consent for a proposed development only after having determined that the proposed development shall not adversely affect the integrity of a European site.
- Section 177AE (6) (a) states that before making a decision in respect of a proposed development the Board shall consider the NIS, any submissions or observations received and any other information relating to:
 - The likely effects on the environment
 - The likely consequences for the proper planning and sustainable development of the area
 - The likely significant effects on a European site
- Section 177AE (8) states that the Board may, in respect of an application for approval under this section of proposed development
 - (i) approve the proposed development,
 - (ii) make such modifications to the proposed development as it specifies in the approval and approve the proposed development as so modified,
 - (iii) approve, in part only, the proposed development (with or without specified modifications of it of the foregoing kind), or
 - (iv) refuse to approve the proposed development, and may attach to an approval under subparagraph (i), (ii) or (iii) such conditions as it considers appropriate

5.5. National Planning Framework

The NPF sets out a high-level strategic plan for shaping future growth and development of Ireland for the period up to 2040. It seeks to develop a region-focused strategy to manage growth and environmentally focused planning at a local level. It contains several National Strategic Outcomes (NSOs) which include seeking

to achieve empowered local economies and communities, enhanced amenity and heritage, and a transition to a low-carbon and climate resilient society. NSO 3- 'Strengthened Rural Economies and Communities' discusses how greenway and blue way networks including rural walking routes etc. have demonstrated major potential to bring new life to regional and rural locations through the "win-win" scenario of increased tourism activity and healthier travel. Developing these networks further will diversify rural economies by embracing the potential for a major expansion in the demand for activity based tourism.

5.6. The National Biodiversity Plan 2023-2030

5.6.1. This plan lays out the framework for Ireland's national approach to biodiversity based on five key objectives-

1. Adopt a Whole-of- Government, Whole of- Society Approach to Biodiversity
2. Meet Urgent Conservation and Restoration Needs
3. Secure Nature's Contribution to People
4. Enhance the Evidence Base for Action on Biodiversity
5. Strengthen Ireland's Contribution to International Biodiversity Initiatives

5.7. The Regional Spatial & Economic Strategy for the Southern Region 2020

5.7.1. This provides a framework for development at regional level. Section 1.3 includes the 'Copper Coast Geopark' as a natural, cultural and heritage asset.

5.7.2. The following Regional Policy Objectives (RPO) are relevant-

- RPO 1 states-

"a. Any reference to support for all plans, projects, activities and development in the RSES should be considered to refer to 'environmentally sustainable development that has no adverse effects on the integrity of European sites and no net loss of biodiversity that shall be subject to appropriate feasibility studies, best practice site/route selection (to consider environmental constraints such as

landscape, cultural heritage, the protection of water quality, flood risks and biodiversity as a minimum), environmental assessment including EclA to support development management and where required, the completion of statutory SEA, EIA and AA processes as appropriate

b. The RSES seeks to protect, manage, and through enhanced ecological connectivity, improve the coherence of the Natura 2000 Network in the Southern Region.

c. RSES support for other plans/ programmes (and initiatives arising) is on the basis of appropriate SEA, SFRA, EIA and AA processes being undertaken in order to ensure the avoidance of adverse effects on European Sites and ensure implementation of mitigation measures where required.

d. Development Plans shall include an objective for the protection of European sites and Natural Heritage Areas (designated and notified proposed NHAs)".

- RPO 53 states-

Tourism

"It is an objective to:

a. Enhance provision of tourism and leisure amenity to cater for increased population in the Region including recreation, entertainment, cultural, catering, accommodation, transport and water infrastructure inter alia;

b. Promote activity tourism subject to appropriate site selection and environmental assessment processes;

c.

d. Sustainably develop walking and cycling trails opening greater accessibility to the marine and countryside environment by sustainable modes and promote the sustainable designation and delivery of Greenway and Blueway Corridors.

- e. *Facilitate appropriate tourism development and in particular a National Greenways, Blueways and Peatways Strategy, prioritising sustainable projects that achieve maximum impact and connectivity at national and regional level;*

.....”

- RPO 54 states-

“Tourism and the Environment

Development of new or enhanced tourism infrastructure and facilities should include an assessment of the environmental sensitivities of the area including an Environmental Impact Assessment (EIA); Appropriate Assessment (AA) and Strategic Flood Risk Assessment (SFRA) if required in order to avoid adverse impacts on the receiving environment. Where such tourism infrastructure or facilities are developed, the managing authority/agency should ensure that effective monitoring protocols are put in place to monitor and assess the ongoing effect of tourism on sensitive features with particular focus on natural, archaeological and built heritage assets.”

- RPO 200 states-

“Green Infrastructure and Recreation

It is an objective to support investment in the on-going maintenance and enhanced facilities in existing green infrastructure and support the provision of new public parks, green space in tandem with projected population growth to create green, healthy settlements throughout our Region. Local authorities shall identify the potential locations of new public parks and open spaces jointly (with neighbouring local authorities) and individually to develop both regional scale recreational open space and local parks and open space. Local authorities should ensure that decision-making in relation to the development of new or enhanced Green Infrastructure and new public parks and facilities is informed by an appropriate level of environmental assessment.”

- RPO 201 states-

“National Trails, Walking Routes, Greenway and Blueway Corridors

It is an objective to support investment in the development of walking and cycling facilities, greenway and blueway corridors within the Region between our Region’s settlements and the potential for sustainable linkages to create interregional greenways. Proposals for investment in walking and cycling facilities, greenway and blueway corridors should be based on rigorous site/route selection studies and Local authorities should ensure that decision-making in relation to such developments is informed by an appropriate level of environmental assessment, including all necessary reports to assess the potential impact on designated European sites and on biodiversity outside of formal protections such that proposed development does not contribute to loss of biodiversity. Local authorities and other public agencies shall seek to promote and support access to rural areas including upland areas, forestry, coastal areas and the development of existing walking routes, pilgrim paths, mountain trails and nature trails in conjunction with other public bodies, representative agencies and community groups and shall identify and protect existing paths, walkways and rights of way.”

- RPO 202 states-

“Natural Heritage, Biodiversity and Built Heritage assets It is an objective to support initiatives that enhance and protect our Region’s unique natural heritage, biodiversity and built heritage assets, recognising the contribution which education and outreach can play in developing understanding of biodiversity and heritage in our communities. Such initiatives should secure funding to support projects in the Region in line with the National Biodiversity Action Plan.”

5.8. Local Planning Policy

5.8.1. Waterford City and County Development Plan 2022-2028

- Volume 1 Chapter 9 deals with ‘Climate Action, Biodiversity & Environment’.

The following ‘Policy Objectives’ are relevant-

- “BD 05 Protection of European Sites

Projects giving rise to adverse effects on the integrity of European sites (cumulatively, directly or indirectly) arising from their size or scale, land take, proximity, resource requirements, emissions (disposal to land, water or air), transportation requirements, duration of construction, operation, decommissioning or from any other effects shall not be permitted except as provided for in Article 6(4) of the Habitats Directive, viz. There must be a) no alternative solution available, b) imperative reasons of overriding public interest for the project to proceed; and c) Adequate compensatory measures in place.”

- BD 07 We will protect plant and animal species and habitats which have been identified by the EU Habitats Directive (1997), EU Bird Directive (1979), Wildlife Act (1976) and Wildlife (Amendment) Act 2000 and the Flora Protection Order (2015) and ensure development does not impact adversely on wildlife species or the integrity and habitat value of the site.

- Volume 1 Chapter 10 deals with ‘Landscape, Coast/Marine and Blue Green Infrastructure’. Section 10.3.1 discusses ‘Greenways’ which are described as *“shared off-road routes designed to provide recreational opportunities for walking and cycling”*. It discusses the Waterford Greenway opened in 2017 which provides a central recreational asset that in turn promotes visitor numbers to other attractions such as.....Copper Coast Geopark,.....and coastal walking trails.

- Section 10.4 deals with ‘Walking Trails and Public Rights of Way’. Table 10.1 details a number of existing Waterford Trails. The proposed trails are not identified. The following ‘Amenity Management Policy Objectives’ are relevant-

- G 02 UNESCO Copper Coast Geopark

“We will protect and promote the geological heritage of the UNESCO Copper Coast Geopark and support the work of the Geopark to ensure it retains and adds value to its designation status as a UNESCO Geopark.”

- BGI 10 Trail Development and Public Rights of Way

“We will protect public rights of way which give access to seashore, mountain, lakeshore and riverbank or other place of natural beauty or recreational utility. We will work in collaboration with state bodies, development agencies, landowners and local communities to support the maintenance and promotion of existing trails and outdoor recreational amenities. We will examine the sustainable environmental and economic development potential of additional trails and outdoor recreational amenities and associated infrastructure whilst ensuring adherence to best practise principles in relation to upland path repair and management. Derived proposals will ensure no adverse impacts on ecological integrity including the Natura 2000 Network”.

- BGI 11 Trail Support Facilities

“To develop comprehensive plans for all proposed recreational trails that incorporate planning and design of sustainable trails and supporting infrastructure such as car parking and lighting and in consultation with local communities to ensure no adverse impact on local land use, the ecological integrity of the Natura 2000 Network and the environment.”

- BGI 16 Visitor and Habitat Management

“Where relevant, the Council and those receiving permission for development under the Plan shall seek to manage any increase in visitor numbers and/or any change in visitor behaviour in order to avoid significant effects, including loss of habitat and disturbance. Management measures may include ensuring that new projects and activities are a suitable distance from ecological sensitivities. Visitor/Habitat Management Plans will be required for proposed projects as relevant and appropriate.”

- BGI 17 Increases in Visitor Numbers to Semi-Natural Areas
“Seek to manage any increase in visitor numbers in order to avoid significant effects including loss of habitat and disturbance, including ensuring that new any projects, such as greenways, are a suitable distance from ecological sensitivities, such as riparian zones.”
- BGI 18 Outdoor Recreation
“To promote outdoor recreation and increase access to the natural environment.”
- BGI 19 Outdoor Recreation Access
“We will ensure that accessibility is taken into account at planning and design stage in the development of all outdoor recreation facilitates to ensure that there are opportunities”

6.0 The Natura Impact Statement

6.1. Waterford City and County Council’s application for the proposed development was accompanied by a Natural Impact Statement (NIS). This has been prepared by Blackstaff Ecology, is dated November 2023 and examines the proposed development in the context of designated European sites. The NIS identifies and characterises the possible implications of the proposed development on European sites, in view of the site’s conservation objectives, and provides information to enable the Board to carry out an appropriate assessment of the proposed works.

6.2. The NIS identifies one designated sites for assessment-

- the Mid-Waterford Coast SPA 004193

The majority of the site application site is located within the designated SPA with only a small potion located outside to the west end of the site near Stradbally.

6.3. The NIS was accompanied by

- A Breeding Birds & Habitat Survey (Appendix 2)

7.0 Consultations

7.1. The application was circulated to the following bodies:

- Fáilte Ireland
- An Taisce
- Department of Housing, Local Government and Heritage
- The National Monuments Service
- Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media
- The Heritage Council

7.2. Responses were received from the **Development Applications Unit** on the 16/02/24. This submission can be generally summarised as follows-

Nature Conservation

- The proposed development would be located within the Mid-Waterford Coast Special Protection Area (SPA) (site code: 004193).
- The Department is concerned about the likely adverse effect the development would have on the integrity of the designated European Site through long term adverse effects on the Chough's population and its habitat. There are also concerns of disturbance to breeding Peregrine Falcon and Herring Gull.
- Chough and Peregrine are listed in Annex I of the Birds Directive
- All three bird species are Special Conservation Interests (SCIs) for this designated European Site.
- The Mid-Waterford Coast was identified and designated as a SPA for Chough because of the presence of internationally important numbers there.
- In accordance with Ireland's requirements under the Birds Directive (2009/147/EC), an area approximating the 300m fringing the coast was designated to protect the breeding and feeding habitat of this Annex I species.

- Through disturbance it is considered the development would impact on this 300m band and specifically impact heavily on the most important 50m coastal component of the 300m zone.
- The Natura Impact Statement has confirmed the usage of the proposed development area and zone of influence by the SCI species Chough with-
 - potentially up to four pairs of birds between Bunmahon Strand and Blind Harbour,
 - one confirmed pair on the western side of Stradbally Cove and
 - a probable pair close to Ballydowane Bay.

This is potentially 18% of the 2008 SPA Chough breeding population. These figures while significant are lower than previous 2008 records.

- The Department highlight the conservation objective for this European Site is

"To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA"

Developments likely to have the reverse effect contravene this objective.

- Choughs feed on invertebrates found close to the surface and rely heavily on short grass swards to access prey items. Choughs generally cannot utilise intensive swards above 10cm in height, which in a Waterford context means much of the adjoining habitat is regularly unavailable to them and the birds are considerably more restricted to and dependent on the area directly on or closely adjoining the cliffs than they would be at more western exposed sites. The cliffs because of their uncultivated nature, physical structure and exposure with erosion common, contain large areas of short vegetation and exposed soil where choughs can forage.
- Chough in Waterford are more confined to a narrow coastal strip than in other more exposed and less intensively farmed areas. The Department considers that in this SPA the cliff area and the area directly adjoining it is disproportionately more important to the chough population than areas further from the cliff, even within the SPA boundary.

- The proposed development would concentrate disturbance in this critical core area. Some areas low on the cliff may be screened from the disturbance above but overall the Department considers the disturbance would impact on all of the top portion of the cliffs and much of the lower sections also.
- Research referenced details that human disturbance constitutes a significant threat to the short-term viability of chough populations in heavily trafficked areas.
- Considering the linear nature of the habitat at this Waterford site, ensuring a walker would inevitably make close contact with a bird in the core occupancy zone and that birds will recognise this, the open improved grassland on the landward side providing high visibility but low retreat value and the fact that some walkers will bring dogs with them, it is considered the referenced average 31.6m flush distance¹ likely to be conservative for this site.
- The Department's consider the presence of dogs even on leash will greatly increase the flush distance and it should be noted that no dogs were present in the referenced studies. Dog walking even on leash is documented as having an adverse effect on wild birds.
- While it is accepted it is proposed to erect signs asking people to keep dogs on leash. Some degree of off leash activity with dramatic disturbance effect remains likely, particularly at quieter walker usage times when choughs might potentially attempt to use the area.
- Regardless of the extent of flush distance it is clear that at a certain point human presence will cause birds to fly away with associated energetic costs and prevention of access to food resource.
- Even if the lower estimates of flush distance and a degree of habituation were accepted, this would still render a very large area of the designated SPA largely unusable for choughs when in use by walkers. This removes or at best very seriously limits access by chough to the important 50m zone holding over half of all ground observations.

¹ "The distance at which a bird will leave its habitat and fly away from a human"

- It is the Departments view that the proposed development would be in extensive all year round use, with increased usage numbers at the most sensitive time of year at breeding and post fledging. The proposal would for approximately seven kilometres within the SPA largely remove the availability of the most important portion of the habitat from use by the Annex I species for which the site was designated a European Site. The Conservation Objective for the Mid-Waterford Coast SPA is "To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA". In the case of Chough the proposed development would significantly degrade a large area of core habitat within the SPA and constitutes a significant adverse effect on the integrity of the Mid-Waterford Coast SPA. It is not accepted that any mitigation proposed will remove this impact.
- In relation to Peregrine Falcon a site visits from the Department on the 30-01-24 found two birds present within the proposed development area. The Department is aware that Peregrine have nested in this area in the past and expect that if undisturbed they could do so again. The Department has received credible reports of illegal human persecution of this species in this area which may affect current usage patterns.
- Peregrines are well known for their ability to nest in highly disturbed urban areas; however in such locations they locate nests on high structures above human interference. In the proposed development scenario, the walkway would be above and potentially looking down on possible nest sites. This would make the area less attractive for nesting than would otherwise be the case.
- The Department expects nesting herring gulls may similarly find the area less attractive than previously due to disturbance in proximity to and overlooking nesting areas.
- In relation to non SCI species which currently use the site and general biodiversity impacts the cliffs and adjoining top area provides attractive habitat for red listed birds of conservation concern in Irelands 2020-2026 such as Kestrel and Meadow Pipit and the red listed wading birds Curlew and

Oystercatcher use the cliff top fields to roost and forage particularly at high tide when adjoining feeding areas are covered.

- The Department is in no doubt that if the proposed development were to proceed it would have an adverse effect on usage of the area by the chough population in addition to potential impacts on other species. The development would have an adverse impact on the integrity of the European Site within which it is proposed.
- The Department is also concerned that such a development would create a precedent and incentive for other similar developments within the designated SPA and pressure to join up disparate access points on the coast by traversing through the SPA, adversely affecting other areas of habitat.
- A walkway set sufficiently back from ecologically important features and the core area of chough usage would in this Department's view be a more reasonable proposal.

Archaeology

- Notwithstanding the submitted archaeological report, a more comprehensive and field-based Archaeological Impact Assessment (AIA) will be required to determine the presence/absence of surviving archaeological remains within the footprint of the proposed development
- The development of an informed archaeological mitigation strategy will need to be implemented to ensure the protection of the archaeological heritage.
- The proposed works shall avoid all identified archaeological sites in adherence to the national policy on the protection of the archaeological heritage, with preservation in-situ always be the preferred option.
- The Department concurs with the findings and recommendations outlined in the submitted archaeological screening report in relation to the potential impact of the proposed development on the archaeological heritage, the requirement for further comprehensive field- based archaeological assessment in advance of any site preparation and/or construction works and

the development of an informed archaeological mitigation strategy to be implemented to ensure the protection of the archaeological heritage.

- A total of 21 recorded monuments have been identified along the proposed routes or within 200m. The route intersects with the Zone of Notification for 13 recorded monuments with potential for archaeological sites to be impacted. An appropriate mitigation strategy shall be developed and agreed with NMS.
- It is recommended a detailed and field based AIA be completed in advance of any site preparation or works with requirements set out with the CEMP allowing for same.
- The site is in an area of high underwater cultural heritage potential that may include wrecks and archaeological objects underwater. In light of the potential for adverse effects it is recommended a programme of pre-construction underwater assessments be undertaken with specific requirements detailed.

7.3. Public Submissions:

7.3.1. One submission was received from Mr Declan McGrath of 10 The Estuary, Kings Channel, Co. Waterford. This submission has been read in full and can be summarised as follows-

- The section 177AE notices does not refer to the sites location within the Mid-Waterford Coast SPA.
- The submission discusses what it considers are relevant aspects of EU Directives (birds & habitats)
- It highlights seabirds within the SPA referring to surveys in recent years including one in 2018.
- Consideration of shortcomings in the submitted NIS surveys are set out.
- The submission highlights disturbance as significant in relation to objectives of the Bird Directive.
- It discusses the Chough species in detail and in the context of the 300m strip used to form the SPA boundary and concludes disturbance from walkers

using the proposed trails will have serious adverse consequences for the Chough protected within the SPA.

- It discusses the Peregrine Falcon and details that ABP are being asked to rule on an application based on very limited and inadequate information presented with the application on this species that lives and breeds on the site. It questions the findings of the submitted survey.
- It discusses other land birds detailed in the NIS and highlights other birds- Kestrel or Raven not mentioned that also breed on the coastal cliffs. These are considered likely to be subject to disturbance from the proposed development.
- The bird survey was completed over six days in a three month period or less than 2% of the time the site is used by birds and potentially walkers. This is considered a limited survey time and can't be used to describe annual usage of the site by birds.
- The submission questions the use of 200m to identify other planning applications in the NIS. It considers the SPA boundary more appropriate and highlights two planning applications near the site and within/adjoining the SPA that were refused planning permission for reasons including landscape and potential impacts on Chough foraging habitat. A third application (which was refused by An Bord Pleanála 232989, hotel and golf course etc) was also identified as refused but outside the area where the trails are proposed, refused for reasons including a significant adverse effect on the integrity of protected Bird Species.
- The submission discusses a precedent for a similar development at Dunmore East to Ballymacaw Coastal Path in operation since 2021. The submitter contends that Peregrines and Ravens did breed along the stretch of coast up to 2020 but based on his own investigations can confirm no peregrine or ravens were present in 2021-2023 and this is due to disturbance from passing walkers and dogs. He also details that Chough are still present but cannot say definitively if they have been adversely affected by disturbance.

- The submission details an EPA Direction to Waterford City and County Council requiring monitoring of Peregrine and Chough for Ballymacaw to Portally Cove coastal trail and the Board may wish to request such results.
- The constant disturbance from such trails will result in the gradual decline of the Chough population and eventual loss of the species from east Waterford. Such a scenario will almost certainly arise at the SPA if the proposed development is allowed. There is also further risk from linking up the proposal by future extensions such as to the Waterford Greenway etc.
- In terms of Mitigation Measures it is not indicated how they will overcome the potential impacts on birds or how sensitive areas are to be avoided. The submission questions a mitigation measure that details how Birdwatch Ireland and the NPWS will be consulted for their views and recommendations in advance of works. The submission highlights limitations with this measure.
- The submission details there are only two real measures proposed- construction of signs and the undertaking of works in Winter outside the breeding season. The submitter does not agree these measures will ensure the proposal will not result in no significant effects or that signage can have its intended purpose in perpetuity.
- Measures included in the NIS Executive Summary include visual barriers that are not detailed elsewhere in the application.
- The submission questions assertions in relation to disturbance and highlights few birds nest on the section of an existing walkway between Bunmahon Strand and Trá na mBó partly because of high levels of disturbance from visitors in spring and summer and the development of the access route and track directly to Trá na mBó.
- In relation to the proposed Viewing Platform at Ballydowane Bay the submission argues if constructed very few if any bird species that have bred here in the past will ever do so again including Annex 1 species.
- The submission highlights discrepancies in the site area detailed in the submitted documentation i.e. 4.958 ha and 2.4 ha.

- The submission questions the use of existing and proposed walls as per paragraph 122 of the Bird Survey. This and other such recommendations are not included in the Planning Statement. It is not clear if a stone wall is required along the entire 7.6km length of walkway. There is also ambiguity in relation to 'general fencing'.
- The submission questions the gaps between the three proposed trails and why no access was possible during survey works. The gaps will lead to walkers reversing their route if access is restricted. This may form congregation areas with walkers entering areas with no access during bird survey work.
- The application does not make reference to likely numbers of walkers/visitors should the proposal be constructed. It is therefore not possible to gauge the level of disturbance likely. However the impacts of same on Chough is admitted in the AA screening report. The possible impacts of high numbers have not been addressed and it is not possible to condition a cap on such numbers or usage.
- The submission refers to impacts of Avian Flu and the impact of additional stresses to birds from the disturbance proposed.
- It is not indicated in the documentation on file if the Council's Heritage Officer was consulted.
- The submission refers to the Waterford City & County Development Plan 22-28 and highlights only three references to same within the NIS and Planning Statement combined. A number of sections from the Plan are highlighted in the submission.
- The submission then refers to the public consultation stage on the development plan in which the Development Applications Unit submitted an observation specifically mentioning the Chough and the threat posed by trials (see page 57-58 of the submission).
- Neither the submitted NIS or Planning Statement presents sufficient or convincing evidence that there will be no adverse impacts on the SPA. In fact

the opposite is the case with a number of discrepancies or lack of clarity detailed and presented in the submission.

- The Application does not consider ‘unknown effects’ to the wider SPA.
- Dogs are highlighted a number of times in the NIS mostly in the context of negative impacts of disturbance. The NIS recommends visual barriers, fencing and erection of signage at strategic locations etc. The submission questions the usefulness of this measure. It is also not clear from guidance in the planning statement if dogs will be precluded from the trails.
- The scheme has received funding under the Outdoor Recreation Infrastructure Scheme (ORIS) in 2021. The submission questions the requirements of this funding.
- The proposal will do nothing to enhance biodiversity in line with the national Biodiversity Plan (23-30)
- The submission concludes by urging An Bord Pleanála refuse permission for the proposal.
- Appendices to the submission include-
 - A “Scientific Paper in the Journal of Applied Ecology with details of impacts of disturbance on a Chough population in Brittany France
 - A copy of an email sent to the Council from the EPA in relation to Environmental Liability Regulations – Ballymacaw to Portally Cove Coastal Trail (referred to in submission)

7.3.2. The submission has been accompanied by a book titled ‘A guide to The Waterford Coast’ authored by Declan McGrath and published in 2011. While I have obviously and understandably not read this book in its entirety, I have read what I consider are relevant aspects for the purposes of this assessment.

8.0 Assessment

8.1. The likely consequences for the proper planning and sustainable development of the area:

- 8.1.1. The proposed development of three walking trails along this stretch of the Waterford Coast have clear and evident benefits consistent with proper planning and sustainable developments. Such benefits including diversifying the rural economy, increased tourism activity and healthier living are recognised in NS03 of the NPF.
- 8.1.2. The RSES for the Southern Region sets out a number of objectives pertinent to the proposed development including RPO 53 and 54 which deal with Tourism and its impacts upon the environment. These regional objectives seek to (inter alia) sustainably develop walking trails opening greater accessibility to the marine and countryside environment by sustainable modes such as walking where such proposal include an include an assessment of the environmental sensitivities of the area as appropriate. RPO's 200-202 seek to support new green infrastructure and facilities including development of walking facilities while protecting and enhancing the regions unique natural heritage and biodiversity.
- 8.1.3. I have not been able to identify any specific policies or objectives in the Waterford City and County Development Plan 2022-28 (CDP) relating to the proposed development. However it is clear the CDP provides a number of objectives supportive of the proposed walking trails including BGI 10, BGI 18 subject to other normal planning considerations such as impacts upon the environment.
- 8.1.4. Having regard to the above, I consider that the proposed development is acceptable in principle. It generally accords with national, regional and local planning policy which seeks to facilitate enhanced recreational facilities and the growth of sustainable tourism. The principle of the proposed development is generally in accordance with the proper planning and sustainable development of the area.

8.2. EIA Screening

- 8.2.1. An Environmental Impact Assessment Screening Report (EIASR) is submitted with the application in Appendix B of the Planning Statement Document. Following a preliminary examination it finds in section 3.0 that-

“there was significant and realistic doubt in regard to the likelihood of significant effects on the environment arising from the proposed development and therefore it was necessary to proceed with screening for EIA and in that regard to prepare the information specified in Schedule 7A of the Regulations for the purposes of a screening determination”

8.2.2. Section 5.0 discusses the proposal in the context of Schedule 5 of the Planning and Development Regulations 2001-24 (as amended). It details the proposal does not meet or exceed Schedule 5 Part 1 or Part 2 thresholds or criteria and an EIA is not mandatory. It considers the proposal under subthreshold provisions including Part 2 Class 10 and 12 in which the proposal is not identified as ‘urban development’ or as a type listed under ‘Tourism and Leisure’.

8.2.3. It then refers to Class 15 which includes any project listed that does not exceed a quantity, area or other limit specified in respect of the relevant class of development but which would otherwise be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7. Section 5.0 concludes an EIA screening determination is therefore required under Class 15.

8.2.4. Section 7.0 and Table 7.1 screens the proposed walking trail against the criteria set out in schedule 7 of the Planning and Development Regulations including the nature of the proposed development, its size and location. The determination states-

“there is no real likelihood of significant effects on the environment arising from the proposed development and that an EIA is not therefore required.”

8.2.5. I also note concerns raised in the public submission in terms of cumulative impacts and the extent of the site area due to discrepancies in the documentation submitted i.e. 4.958 ha vs 2.4ha. The planning permissions referred to were all refused permission and accordingly cannot be considered in this context. I am satisfied the discrepancy in the site area is likely a typing error and consider the larger measurement more likely the correct site area.

8.2.6. Having regard to all of the above the following sets out my own consideration of the proposed development for the purposes of EIA. The Board are referred to Appendix 1 of this report where I have completed- Form 1 Pre-Screening (EIAR not submitted).

8.2.7. The development of a series of walkways as proposed is not considered a class of development under the classes listed in Schedule 5 of the Planning & Development

Regulations 2001 (as amended) and therefore neither a Preliminary Examination nor EIA screening is required.

8.3. The likely effects on the environment

8.3.1. Notwithstanding my considerations as regards EIA- preliminary examination, screening and EIAR, the following are other matters that may impact upon the environment which require some consideration by the Board-

- Potential adverse effects upon bird species and habitats associated and subsequent impacts upon the integrity of the designated European Site- Mid Waterford Coast SPA which the majority of the site is located within. Such impacts likely during both construction and operation. Further assessment of this concern is given appropriate consideration in section 8.3 below.
- Potential impacts upon cultural heritage i.e. archaeology and I note the proposal would appear to intersect the zone of notification for 13 recorded monuments with potential for archaeological features to be impacted during works. As per the recommendations of the DAU I am satisfied these impacts are not so significant and can be adequately addressed by condition should approval be granted.

8.3.2. Having regard to the nature of the proposed development, its relatively limited scale (i.e. the more likely stated site area of 4.958 ha extending over c. 7.6km in length) and the characteristics of the proposed development, there is no real likelihood of significant effects on the environment arising from the proposed development in this context.

8.4. The likely significant effects on a European site:

8.4.1. Introduction

a) The areas addressed in this section are as follows:

- Compliance with Articles 6(3) of the EU Habitats Directive
- The Natura Impact Statement
- Appropriate Assessment

- b) I note concerns raised in the public submission in relation to the absence of reference to the site's location within an SPA in the public documents and notifications. Notwithstanding this, the application is made under section 177AE of the Act i.e. *"Appropriate Assessment of certain development carried out by or on behalf of local authorities"* and in this context the pertinence of the Mid Waterford Coast SPA is therefore considered evident.
- c) Having considered the location and nature of the proposed development the Board should note I have also sought the views of An Bord Pleanála's in-house ecologist Dr. Maeve Flynn. Her report and recommendation are attached as Appendix 2 to this report.

8.4.2. Compliance with Articles 6(3) of the EU Habitats Directive:

- a) The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site.

8.4.3. The submitted Natura Impact Statement

- 8.4.4. The application was accompanied by an NIS document prepared by Blackstaff Ecology and is dated November 2023. The document sets out the Methodology used which included a desktop review, site visits and a series of bird and habitat surveys along each of the three proposed walking trail routes in March, April and May 2023. It describes the existing environment, the Mid Waterford Coast SPA and potential threats and pressures including minor pollution incidents, physical and noise disturbance to protected bird populations during construction and also the operational stage of the proposal.

- 8.4.5. The NIS contained a Stage 1 Screening Determination Statement which concludes-

“On the basis of the design information provided by Tobin Consulting², which is considered adequate to undertake a screening determination and having regard to:

- the nature and scale of the proposed development on existing undeveloped coastal lands*
- the intervening habitats and infiltration capacity and proximity to a European site*
- the direct hydrological connections with regard to the Source-Pathway-Receptor model and*
- the direct disturbance which may be used by the proposed works during pre-construction, construction and operational phases*

It is concluded that the proposed development, individually or in-combination with other plans or projects, would have effects of unknown significance on the above listed European site, in view of the said sites conservation objectives. An appropriate assessment is therefore, required.”

8.4.6. The stage 2 NIS identifies the potential impact to the Mid-Waterford Coast SPA including-

- Potential disturbance of Chough and/or Herring Gulls nesting on sea-cliffs at strategic locations
- Disturbance of a potential Chough nesting site at Ballydowane Beach and
- Potential disturbance of foraging Chough within Agricultural Grassland

Further potentially significant effects are detailed in Table 1 of the NIS.

8.4.7. The NIS suggests general mitigation measures including-

- the NPWS and Birdwatch Ireland are consulted to obtain their views and recommendations in advance of the commencement of any of the proposed works
- Erection of clear signage at strategic locations to aid in highlighting the negative impacts of disturbance.

² Tobin Consulting have prepared the application on behalf of Waterford County Council.

- Each trail route should be walked by the project supervisor and an ecologist/ornithologist prior to the commencement of any works to identify and mark areas which would be particularly sensitive to nesting birds and foraging Chough.
- All works should be undertaken outside of the main bird breeding season (1 March through to 31 August inclusive).
- Any arisings from ground improvements to the proposed walking trails should either be removed from site or, if storage is required on-site, storage should be at least 5 metres from any semi-natural coastal habitat and any associated drain or waterway, to ensure that no sediment enters these sensitive habitats. In addition, should any spoil storage site be located up-slope of either the coastal zone or an associated drain or waterway, it should be suitably bunded using a non-permeable material to avoid potential siltation down-slope.

Further specific mitigation measures are detailed in Tables 2 and 3.

8.4.8. The NIS was informed by the following studies, surveys and consultations:

- desk top studies
- A Breeding Birds & Habitats Survey (Appendix 2) dated September 2023. The breeding bird survey methodology is detailed in paragraphs 18-27 and included a combination of walked transects and a series of 49 vantage points. Paragraph 20 details each survey took place in March, April and May 2023 with each vantage point visited twice..
- A habitats survey methodology is set out in paragraph 28 which included a walkover survey in accordance with Fossit 2000.

8.4.9. The NIS report concludes-

“It is unknown if the proposed Copper Coast walking trails, individually or in-combination with other plans or projects, will have a significant negative impact on the Mid-Waterford Coast SPA in view of its conservation objectives, notably disturbance to foraging Chough within areas of improved grassland and foraging and/or nesting Chough in the area of Ballydowan Beach.

The effects are unknown for the following reasons:

- *it was not possible at present to determine how, and at what distance, foraging Chough may react negatively to increased visitor numbers and increased exposure to dogs, which would be viewed as potential predators; and*
- *nesting Chough could not be confirmed in the vicinity of Ballydowan Beach based on the results of the current surveys, although the species was known to have a breeding stronghold in this area during earlier surveys in 2008 (Trewby et al., 2010).*

As such, the precautionary principle has been applied and an Appropriate Assessment of the project has been completed which recommends a series of mitigation measures which, when applied, will result in no significant effects on the designation features of Mid-Waterford Coast SPA.”

8.4.10. Submission of the DAU and Observer

8.4.11. The Board are referred to the ‘Nature Conservation’ submission of the Development Applications Unit (DoHLG&H) and the one public submission from Mr Declan McGrath. Both these submissions raise significant concerns in relation to impacts from the proposal upon the integrity of the Mid-Waterford Coast Special Protection Area. The location and use of the proposed walking trails and proximity of same within the core area of ‘Chough’ usage would have significant adverse effects upon the Chough as well as other bird species protected by the European Site designation. The DAU submission suggests a walkway set back sufficiently from the core area of ‘Chough’ usage would be a more reasonable proposal. In this regard the Board will note the limitations of the application site boundary.

8.4.12. Stage 1 Appropriate Assessment

8.4.13. The Board are referred to the Inspectorate Ecologist Report in Appendix 2 in which the presupposition of the Local Authority consideration regarding establishing if likely significant effects on a European Site is explained in the context of Section 177AE.

8.4.14. The proposed development of three walking trails and ancillary works as described in the submitted documentation is not directly connected with or necessary to the management of any European site.

8.4.15. Having regard to the information and submissions available, nature, size and location of the proposed development and its likely direct, indirect and cumulative effects, the source pathway receptor principle and sensitivities of the ecological receptors the following European Site is considered relevant to include for the purposes of initial screening for the requirement for Stage 2 appropriate assessment on the basis of likely significant effects-

European site (SAC/SPA)	Qualifying Interests	Distance
Mid-Waterford Coast SPA (004193)	Cormorant (<i>Phalacrocorax carbo</i>) [A017] Peregrine (<i>Falco peregrinus</i>) [A103] Herring Gull (<i>Larus argentatus</i>) [A184] Chough (<i>Pyrrhocorax pyrrhocorax</i>) [A346]	Save for a small portion of the site near Stradbally the site is located wholly within the SPA boundary.

8.4.16. I am satisfied no other European Site could be affected by the proposed development and this assessment is confined to the Mid-Waterford Coast SPA detailed above.

8.4.17. The submitted AASR considers the following potential impacts-

- Minor pollution incidents from clearance of vegetation/ ground works with surface water run off/ contamination of coastal water bodies causing degradation of marine and coastal habitats.
- Disturbance of SCI bird species during construction phase particularly if carried out during breeding season.
- Disturbance of SCI bird species from human disturbance, changes in nesting behaviours, adverse effects on foraging chough. Impacts of unrestrained dogs on nesting birds and foraging chough.

8.4.18. The AASR considers that the extent of such impacts upon the European site during the operational phase of the development are unknown but have varying potential to

adversely impact on Chough and Herring Gull. It also details increased visitors and exposure to dogs may result in change in Chough foraging patterns and potential impacts would relate to distances involved and extent of visibility in each instance.

8.4.19. The report of the Inspectorate Ecologist notes these uncertainties are then brought forward into the Appropriate Assessment section of the submitted NIS document.

8.4.20. **Stage 2 Appropriate Assessment**

8.4.21. I refer the Board to section 4.3 and 4.4 of the Inspectorate Ecologist (IE) Report. This generally considers the contents of the NIS and consideration of potential impacts that could arise with general mitigation as detailed by the applicant's submission. It also considers the adequacy of the submitted NIS to inform Appropriate Assessment (by the Board). It details how the uncertainties identified at screening stage are not resolved and there is an absence of reference to key publications concerning disturbance from human activity and tourism relating to the Chough. It highlights inadequacies in proposals for visual screening mitigation measures that may be required for the Chough. Overall mitigation measures are not related back to the conservation objectives or any attributes or targets considered standard for supporting site integrity at such SPA sites.

8.4.22. This section of the IE report concludes that-

".....the information as presented in the NIS is inadequate and it is not possible for the Board to undertake Appropriate Assessment in line with requirements for clear, precise and definitive findings that can exclude adverse effects on site integrity. Mitigation measures proposed are not compliant with the provisions of the Habitats Directive and rely on post consent assessments and agreements. There is reasonable scientific doubt as to absence of adverse effects on site integrity in view of the conservation objectives of the Mid-Waterford Coast SPA."

8.4.23. Based on the information of file, it is clear to me that the development as proposed would undermine the conservation objective of the Mid-Waterford Coast SPA which is to maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA. In particular the NIS doesn't resolve uncertainties regarding Chough in particular and mitigation measures are not

adequate to exclude adverse effects on site integrity i.e. inclusion of post consent measures that are not compliant with the provisions of Article 6(3) and signage to deter walking of dogs off leash etc.

8.4.23.1. Appropriate Assessment Conclusion

Having considered the submissions of the DAU, the public and the Inspectorate Ecologist, I am not satisfied that the information submitted in the NIS and on file is sufficient to allow the Board to carry out Appropriate Assessment of all aspects of the proposed development and to enable the Board to reach complete precise and definitive findings as to the implications for European Sites. Reasonable scientific doubt exists as to the absence of adverse effects in view of conservation objectives of the protected site. The proposal would 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 a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects. This conclusion is based on-

- Inadequate assessment of impacts on breeding and foraging Chough population in the Mid-Waterford Coast SPA.
- 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 with NPWS and BirdWatch Ireland with no evidence provided to support any such proposal.
- 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.

The Board cannot be satisfied that the proposal would not adversely affect the integrity of the Mid-Waterford Coast SPA (004193) in view of the site's Conservation Objectives. In this context it is considered the Board are precluded from granting approval for this development.

9.0 Recommendation

It is recommended that the Board **REFUSE TO APPROVE** the proposed development in accordance with the following Draft Order

10.0 Draft Order

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

- (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 EU Directive 2014/52/EU, amending Directive 2011/92/EU (EIA 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 bodies and public submission in the course of the application, and
- (i) the report of the Inspectorate Ecologist
- (j) the report and recommendation of the Inspector.

Appropriate Assessment

The Board agreed with and adopted the screening assessment and conclusion carried out in the inspector's report and that the Mid-Waterford Coast SPA (004193) is the only European site for which there is a likelihood of significant effects.

The Board considered the Natura Impact Statement (NIS) and all other relevant submissions and carried out an appropriate assessment of the implications of the proposal for the Mid-Waterford Coast SPA (004193) in view of the Site's Conservation Objectives.

Having considered the submissions of the DAU, the public and the Inspectorate Ecologist, the Board is not satisfied that the information submitted in the NIS is inadequate and 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 doubt exists as to the absence of adverse effects in view of conservation objectives of the protected site. 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 on breeding and foraging Chough population in the Mid-Waterford Coast SPA.
- 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 with NPWS and BirdWatch Ireland with no evidence provided to support any such proposal.
- 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 SPA (004193) in view of the site's Conservation Objectives. Therefore the Board are precluded from granting approval for this development.

EIA Directive

The Board agreed with and adopted the Inspectors 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 & Development Regulations 2001 (as amended) and therefore neither a Preliminary Examination nor EIA screening is required.

Proper Planning and Sustainable Development

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.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Adrian Ormsby
Planning Inspector
31/05/2024

11.0 Appendix 1- Form 1 EIA Pre-Screening [EIAR not submitted]

An Bord Pleanála Case Reference	ABP-318652-23		
Proposed Development Summary	Three walking trails and ancillary works		
Development Address	Along the 'Copper Coast UNESCO Global Geopark' between Stradbally and Bunmahon, Co. Waterford		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		N/A	EIA Mandatory EIAR required
No	X	<p>Class 10 Infrastructure Project</p> <p>(ii) <i>Construction of a car-park providing more than 400 spaces, other than a car-park provided as part of, and incidental to the primary purpose of a development.</i></p> <p>The proposal includes an extension to the existing car park at Ballydowane Beach. Drawing 11601-2322 shows the extended area as c. 36m * 14m or c. 504 sq.m but does not show how many spaces are to be provided. Having considered Development Managemnt Standard DM39 for Perpendicular Parking (Volume 2 of the CDP) I estimate (generously) provision for c. 30 extra parking spaces. Notwithstanding this I am satisfied such provision is clearly incidental to the primary purpose of the development and may not even be used for solely for the proposal. Therefore the proposal <u>is not a class on this basis.</u></p> <p>(dd) <i>All private roads which would exceed 2000 metres in length.</i></p> <p>While the walkways could be argued to fall under definition of road in the Planning Act of 2000 as amended and the Roads Act of 93 it is clear the proposal is not for private purposes. Therefore the proposal <u>is not a class on this basis.</u></p> <p>Class 12 Tourism and leisure</p>	Proceed to Q.3

		<p>Having considered guidance set out in “Interpretation of definitions of project categories of annex I and II of the EIA Directive” and in particular the ‘<i>wide scope and broad purpose</i>’ as well as the nature of the proposed development, I do not consider the proposal to fall into this category. <u>The proposal is not a class on this basis.</u></p> <p>Class 15</p> <p><i>“Any project listed in this Part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.”</i></p> <p>I do not consider the proposed development to be a project listed in Part 2 of Schedule 5 of the PDR’s and <u>therefore is not a class on this basis.</u></p>	
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No	X		No EIAR or Screening required
Yes		Class/Threshold.....	Proceed to Q.4

Inspector: _____

Date: 31/05/24

12.0 Appendix 2 Report of Inspectorate Ecologist