



An  
Bord  
Pleanála

## Inspector's Report ABP-304860-19

### Development

Demolition of bungalow and construction of a below ground foul pumping station, control building, ESB station, chemical dosing unit, and associated site works and site excavations

### Location

Shanbally, Raheens, Coolmore, Barnahelly, Raheens East, Ringaskiddy, County Cork

### Planning Authority

Cork County Council

### Planning Authority Reg. Ref.

18/6038

### Applicant(s)

IDA Ireland

### Type of Application

Permission

### Planning Authority Decision

Grant

### Type of Appeal

Third Party

### Appellant(s)

Maria & Martin Finnin

### Observer(s)

Cllr Marcia D'Alton

Johnny Cush

Dara Fitzpatrick

**Date of Site Inspection**

15<sup>th</sup> October, 2019

**Inspector**

Kevin Moore

## 1.0 Introduction

1.1. Further to my report dated 8<sup>th</sup> April 2020, the Board issued a Section 131 notice to the planning authority and the applicant seeking comments on third party and observer submissions that were received by the Board following the applicant's submission of a Natura Impact Statement to the Board on 31<sup>st</sup> January 2020. A response to these submissions was received from the applicant on 15<sup>th</sup> June 2020. There was no response from Cork County Council. The Board has requested that an Addendum Report be prepared following the receipt of submissions.

## 2.0 Third Party and Observer Submissions

2.1. The following is a synopsis of the submissions made after the receipt of the applicant's NIS by the Board as set out in my report of 8<sup>th</sup> April 2020.

2.2. The appellants Maria and Martin Finnin submitted that the Board is precluded from granting planning permission because:

- Authorisation for the project may only be given once all aspects of the project have been identified which can, by themselves or in combination with other plans or projects, affect the conservation objectives of the site concerned. This has not been done. Omissions are identified in attached reports with the submission. The application itself admits that it is intended to facilitate other projects of unknown characteristics.
- Authorisation for this project may only be given if, in light of the best scientific knowledge in the field, the Board is certain that the project will not have lasting adverse effects on the integrity of the Cork Harbour SPA site. That threshold of certainty is only passed if and when there is no reasonable scientific doubt as to the absence of such effects. That threshold of certainty has not been achieved in this case.

The appellants' response to the NIS included a submission which refers to the deficiencies of the NIS and the applicant's methodologies, assessment and conclusions and a report which refers to significant omissions in the NIS and identifies the impacts likely to result from the proposed development.

- 2.3 The observer Dara Fitzpatrick submitted that the site contains the rare habitat dry meadow and grassy verge, the proposal is a high-level threat, the SPA is within the immediate zone of impact, the site cannot be considered as non-integral to the functioning of the SPA, and the NIS fails to mention the dramatic decrease in wintering birds in the SPA recently. It was further submitted that Common tern are known to nest not far from the outflow, damage to the SPA cannot be policed at the construction and operation phases, the proposed station has not been future-proofed against sea level changes, the effects of nutrient and storm water releases cannot be mitigated against, and the precautionary principle should be applied.
- 2.4 The observer Marcia D'Alton considered the submitted NIS to be inadequate. It is submitted that the NIS fails to assess the nature and impact of future discharges on Lough Beg, fails to consider hydrological connections between the proposal and Lough Beg, fails to consider cumulative impacts on Lough Beg, does not acknowledge that the SPA's conservation objectives are not being achieved, does not consider the construction risks to Lough Beg, and has inadequate mitigation measures.
- 2.5 The observer Johnny Cush refers to observed incidents relating to overflows in the IDA's storm water pipes and to the inadequacies and consequences of the practices employed. He submits that best practice is not being employed and that the existing pipelines will be unable to cope with the extra loads. Reference is made to the pumping station being constructed in seriously unstable bedrock with underground rivers and aquifers and on a site surrounded by underground water recharge areas. The observer does not accept the NIS submission that the proposed development will not adversely affect the integrity of Cork Harbour SPA. The observer's submission included a series of photographs alluding to pipeline and exploratory drilling incidents.

## 3.0 Applicant's Response

### 3.1. Introduction

The applicant's response to these submissions takes the form of a brief response to issues raised other than those related to the Natura Impact Statement and a specific response to items raised in relation to the Natura Impact Statement. These responses may be synthesised as follows:

### 3.2 Issues unrelated to the NIS

#### 3.2.1 Details of the Proposed Development

- The development is merely a 'transfer station' to enable wastewater from future development to access the Cork Lower Harbour Waste water Treatment Plant.

#### 3.2.2 Response to Third Party Observations

It is considered that the new observations should only relate to the content of the NIS and further commentary outside of this should not be assessed further.

#### *Response to Dara Fitzpatrick Submission*

- The rare habitat on the site, dry meadow and grassy verge (GS2), is not a matter for the NIS to consider and was previously assessed as part of the Ecological Impact Assessment.
- The proposal is in accordance with the County Council's Strategic Vision for the area, providing infrastructure that will serve the wider industrial designation and will support the future expansion of activities in Ringaskiddy.
- The Flood Risk Assessment addresses the future proofing against expected sea level changes.

### *Response to Maria and Martin Finnin Submission*

- All aspects of the project have been identified in the planning application and subsequent correspondence relating to the appeal.
- Any future development that may utilise the proposed infrastructure will be subject to separate consenting procedures to Cork County Council or An Bord Pleanála. These may be accompanied by an AA screening or NIS and can assess that development in combination with other plans and projects, including the proposed development.
- The proposed development is located at the site to provide for the maximum flood relief to the wider industrial zoned lands. The site is appropriate and the development will not adversely affect the integrity of any Natura 2000 sites.
- It is incorrect that an EIAR should have been provided as part of the application.
- The operation of the foul pumping station is clearly set out in Section 1.4 of the Planning Report submitted with the application. An Emergency Response Plan will be developed to minimise/avoid any emergency overflows. All appropriate measures have been included.

### *Response to Johnny Cush Submission*

- With reference to the overflow event in relation to a storm water pipe, similar claims were made in the third party appeal and were addressed in the applicant's response on 7<sup>th</sup> August 2019. It is noted that there have been events where sea water has escaped from the local pipe system. Samples of the overflow were provided to the EPA. The manhole cover has been replaced recently and the proposed development will help alleviate issues in this regard.
- Regarding a conversation with a work crew who were carrying out site investigation works, the applicant has committed to measures to ensure that there will be no adverse impact on the adjoining residence and details such measures in relation to noise, construction and traffic in the Outline Construction and Environmental Management Plan. The applicant also

commits to vibration monitoring during the construction phase and will implement mitigation measures if required.

- Bats are not a qualifying interest of the Natura 2000 site the subject of the NIS. Bat investigations have been carried out and further surveys will be carried out prior to demolition of the derelict structure.

### **3.3 Response Natura Impact Statement Submissions**

This response may be summarised as follows:

#### *Natura 2000 Standard Form Code*

- Observations outline that Code E02 is listed in the Natura 2000 Standard Data form as a threat. Code E02 relates to industrial/commercial development. The pumping station is not considered an industrial or commercial development.

#### *Decrease in SCI species*

- Mobile species such as the SCI species are addressed in Section 6 and Section 7 of the NIS.
- The NIS is based on results of formal surveys, records from NPWS and i-WeBS and cannot give weight to anecdotal information.

#### *Construction Impacts*

- The NIS was requested by the Board to assess the impacts of the operation of the proposed development as these were screened out earlier.

#### *Flooding Issues with Pumping Station Failure*

- The NIS took into account mitigation against flood events from failure of the pumps to function.

#### *Exclusion of Future Chemical Processes*

- Future developments and associated chemical processes cannot be assessed in the absence of detailed development proposals. This proposal is concerned with establishing infrastructure. Future developments will be assessed on their own merits.

### *Aquifer Contamination*

- At the time of writing the NIS a hydrology report was not available. Should this impact occur it is likely to be at the preparatory and construction stages of the development, During operation the likelihood of contamination from failure of the pumping station is considered to be rare based on the construction design details.

### *Adequacy of Field Survey*

- The field survey was to check that the habitat descriptions from the original AA screening had not changed significantly. The Ecological Impact Assessment carried out an in-depth habitat assessment.

### *The Marsh pNHA not considered*

- Only European designated sites are assessed in a NIS. The pNHA was considered in the ecological assessment.

### *Pollution and Storm Water Considerations*

- Mitigation to minimise pollution incidences were taken into account in the Mitigation Section of the NIS. Further measures may need to be devised in the future once detail of developments that will be served by the facility are identified. These cannot be devised until those proposals exist.

### *Planning Applications*

- The proposal was assessed 'in combination' with all planning applications for which potential for an adverse effect existed. Future developments to be served by the pumping station will be considered as individual proposals and will be subject to their own NIS process as well as EPA permitting requirements, thus ensuring Natura 2000 sites are protected. This is appropriate because any potential impact would derive from the chemical discharges of these specific developments and not from the existence of a pumping station.

### *NIS discusses only nutrients as pollution*

- Foul water invariably involves nutrients and may involve other pollutants. Until proposals are devised which the pumping station would serve it is not possible to determine what other pollutants may require further consideration. This would be assessed on a case-by-case basis through their own NIS processes and EPA permitting process.

### *Mitigation measures for Surface Water Runoff*

- Surface water will be directed to the pumping station and will thus be addressed by the in-built mitigation that will treat all discharges.

### *Identification of all potential effects*

- The nature of development on the lands which the pumping station will serve is unknown and therefore cannot be assessed in detail at this point. Future developments will be assessed on a case-by-case basis.

### *Hydrological Connections*

- This was assessed based on best available information at the time of writing using the Flood Risk Assessment and online sources. The hydrology report referenced by third parties was not available at the time of writing of the NIS. The NIS is an iterative process and can be amended as further information is provided.

### *Cumulative Impacts on Lough Beg*

- There is little information on developments that will be served by the pumping station thus limiting the potential for detailed analysis of water quality parameters for the planning application, including cumulative analysis. Subsequent assessments will be required as individual proposals are devised.

### *Meeting Conservation Objectives*

- Conservation objectives are taken from NPWS reports. The conclusion of the NIS prior to mitigation does not take account of the fact that conservation objectives for the site are not currently being met. This is why mitigation was identified as being required to protect the European site.

### *Adequacy of Mitigation Measures*

- The purpose of the project is to install necessary advance storm water pumping infrastructure for future developments whose scale, nature and industrial process are currently unknown, with potential for it to pump foul water in the future. Designed in mitigation was accounted for in the NIS and includes mitigation for storm water. Subsequent assessments will be required as individual proposals are devised.

### *Flowing Watercourses*

- There are none on the site of the proposed development. The dyke referenced in one observation is recorded in the NIS as standing water as it has no obvious flow at the time of site visit. The dyke referred to is not marked on EPA online mapping sources.

## **4.0 Assessment**

- 4.1. The Board will note that I have previously addressed the issues raised in the third party and observer submissions that were submitted in response to the applicant's NIS as part of my report of 8<sup>th</sup> April 2020. These include matters relating to the submitted NIS, flood risk, EIA, the function of the proposed pumping station, the identification of potential impacts, mitigation measures, etc. I do not intend to repeat my considerations on these issues.
- 4.2. My remaining considerations further to the applicant's response to the third party and observer submissions on its NIS are as follows:
- The proposed development is a pumping station. It will not treat effluent. It is proposed to enable wastewater from future developments within industrial zoned lands to access the Cork Lower Harbour Waste Water Treatment Plant. This is planned, orderly development which is intended to facilitate existing and future sustainable development of the Strategic Employment Area that is Ringaskiddy.

- Future development that may utilise the proposed infrastructure will be subject to separate consenting procedures, including planning applications to Cork County Council or An Bord Pleanála. These may potentially be accompanied by an Appropriate Assessment screening, a Natura Impact Statement or an Environmental Impact Assessment Report. At that time of any such future planning application, a proposed development can be assessed in combination with other plans and projects, including the proposed pumping station development. Future applications for new industrial development may also be subject to permissions/licences that will be required from the Environmental Protection Agency. The protection of Natura 2000 sites will evidently form part of considerations at the time of the making of decisions on those applications also.
- A previous storm water overflow incident which was highlighted by observers was addressed by the applicant in its response to the third party appeal. I accept that the relevant manhole cover has been replaced and that the proposed development will aid in the alleviation of such issues into the future.
- The applicant's Outline Construction and Environmental Management Plan addresses measures that would relate to noise, construction and traffic which may impact on residential amenity at the construction phase.
- I repeat that bats are not a qualifying interest of the Natura 2000 site the subject of the NIS.

4.3 I note the applicant's comprehensive submission in response to the Natura Impact Statement submissions by the third party and the observers. I wholly concur with the responses given. I do not consider that it is appropriate or necessary to re-state the responses given to the various issues raised. The applicant has addressed the relevant concerns relating to appropriate assessment.

4.4 Finally, I once again conclude that I am satisfied that there would be no adverse effects on the integrity of European sites arising from the proposed development in combination with other plans and projects.

## 5.0 Recommendation

- 5.1. I recommend that permission is granted in accordance with the reasons, considerations and conditions set out in my report of 8<sup>th</sup> April 2020.

---

Kevin Moore  
Senior Planning Inspector

31<sup>st</sup> August 2020