

An
Bord
Pleanála

Board Direction
BD-017298-24
ABP-305618-19

The submissions on this file and the Inspector's reports were considered at Board meetings held on 25/01/2022, 11/06/2024 and 22/08/2024.

The Board decided to grant substitute consent, generally in accordance with the Inspector's recommendation, for the following reasons and considerations, and subject to the following conditions.

Reasons and Considerations

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

- (a) the provisions of the Planning and Development Act 2000, as amended,
- (b) the provisions of the Planning and Development Regulations, 2001, as amended;
- (c) the applicable national, regional and local planning policy including in particular, the provisions of the Waterford City and County Development Plan 2022-2028;
- (d) the remedial Natura Impact Statement and supporting documentation submitted with the application;
- (e) the submissions received from prescribed bodies;

- (f) the observation and submissions received;
- (g) the planning history of the site and
- (h) the report and recommendation of the Board's inspector, including the addendum report dated 13/08/2024.

Environmental Impact Assessment

The Board completed an Environmental Impact Assessment Screening Determination in relation to the development that has taken place, taking account of:

- (a) the nature, scale, location and extent of the development for substitute consent,
- (b) the remedial Environmental Impact Assessment Screening Report and associated documentation submitted in support of the application,
- (c) the document 'EIA of Projects – Guidance on Screening' (2017) issued by the European Commission,
- (d) the document 'Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-Threshold Development' issued by the Department of Environment, Heritage and Local Government in August 2003,
- (e) the ecological sensitivity of the receiving environment, including the Dungarvan Harbour Special Protection Area (Site Code: 004032),
- (f) the characteristics of potential impacts including, in particular, those of biodiversity and water quality,
- (g) the limited potential for significant impacts arising from the existing development,

- (h) the report and recommendation of the Board's Inspector, including the addendum report dated 13/08/2024.

It is considered that the existing development would not be likely to have significant effects on the environment and that the preparation and submission of an Environmental Impact Assessment is not, therefore, required.

Appropriate Assessment

Appropriate Assessment Stage 1 (Screening)

The Board agreed with the Screening Assessment carried out by the Inspector which concluded that the following European Site is one for which a Stage 2 Appropriate Assessment was required, and that significant effects on any other European Sites can be ruled out:

Dungarvan Harbour Special Protection Area (Site Code: 004032)

Appropriate Assessment Stage 2

The Board considered the remedial Natura Impact Statement and all other relevant submissions and carried out an Appropriate Assessment of the implications of the existing development for the Dungarvan Harbour Special Protection Area (Site Code: 004032) in light of the site's conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment. In completing the assessment, the Board considered that the likely direct and indirect impacts arising from the historic development, both individually or in combination with other plans or projects, the monitoring measures set out in the remedial Natura Impact Statement and the conservation objectives for the European Site.

The Board is satisfied that, subject to the implementation of the identified monitoring

measures and on the basis of the information available, the development, either individually or in combination with other plans or projects, did not adversely affect the integrity of this European site or any other such European designated site, in view of the conservation objectives of any such site.

Proper Planning and Sustainable Development

Having regard to the nature, scale and extent of the development and to the acceptability of the environmental effects and noting the integrity of European Sites were not adversely affected, in view of the relevant sites' conservation objectives, as set out above, and subject to compliance with the conditions set out below, the Board is satisfied that to grant substitute consent to the development is in accordance with the proper planning and sustainable development of the area.

Conditions

1. (a) This grant of substitute consent shall be in accordance with the plans and particulars submitted to An Bord Pleanála on the 9th of October 2019, except as may otherwise be required in order to comply with the following conditions.

(b) This grant of substitute consent relates only to development undertaken, as described in the application, and does not authorise any future development on the subject site.

Reason: In the interest of clarity.

2. The applicant shall cease the use of the lower yard for activities associated with the business and shall remove all vehicles, equipment, waste, and debris from this location within 12 weeks of the date of this Order.

Reason: In the interests of visual and residential amenities and the protection of the environment.

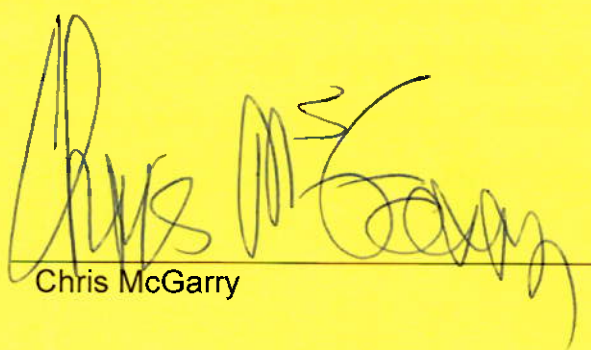
3. Mitigation and monitoring measures outlined in the remedial Natura Impact Statement shall be compiled into a single Schedule of Monitoring and Mitigation Measures and submitted to the planning authority. These measures shall be carried out in full. The Schedule shall be included in an Environmental Management System (EMS) which shall be submitted to and agreed in writing with, the Planning Authority within 12 weeks of the date of this Order.

The EMS shall include, as a minimum, the following:

- (a) A Noise Management Plan to manage noise from tractors and trucks;
- (b) Details of schedule for mechanical and physical checks of tractors including fuel tanks and proposals to rectify any defects within 24 hours;
- (c) Proposals to locate fuel tanks in bunded areas;
- (d) Details of areas for tractor refuelling which must take place on a hard standing area and wash water and surface water is drained through a hydrocarbon interceptor prior to discharge;
- (e) Proposals for alternative use of oyster shells;
- (f) Proposals for collection of oyster shells by an authorised contractor;
- (g) Proposals for pest control;
- (h) Monitoring of ground and surface water quality;
- (i) Details for clean up and maintenance of lower yard area;

Reason: In the interest of protecting the environment and the amenities of property in the vicinity and in the interest of public health.

Board Member



Chris McGarry

Date: 23/08/2024