

An  
Bord  
Pleanála

**Board Direction**  
**BD-012051-23**  
**ABP-310502-21**

The submissions on this file and the Inspector's report were considered at Board meetings held on 10/02/2022, 07/09/2022, 08/12/2022 and 17/04/2023.

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

### **Reasons and Considerations**

Having regard to the nature and extent of the proposed development and its location within a rural agricultural area, it is considered that subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of traffic safety and convenience, would not be prejudicial to public health, and would not seriously injure the amenities of the area or of property in the vicinity. The proposed development would be in accordance with Development Plan policy and would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **Appropriate Assessment: Stage 1**

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European Sites, taking into account the nature, scale and location of the proposed development within a zoned and serviced urban area, the Natura Impact Statement Report submitted with the application, the Inspector's report, and submissions on file. In

completing the screening exercise, the Board adopted the report of the Inspector dated 22/03/2023 and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the conservation objectives of such sites, other than the River Nanny Estuary & Shore Special Protection Area (Site Code: 004158) which is a European Site where the likelihood of significant effects could not be ruled out.

### **Appropriate Assessment: Stage 2**

The Board considered the Natura Impact Statement and all other relevant submissions on the file and carried out an Appropriate Assessment of the implications of the proposed development on the River Nanny Estuary & Shore Special Protection Area (Site Code: 004158) in view 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 appropriate assessment, the Board considered, in particular, the following:

- a) the site-specific conservation objectives for the European site,
- b) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects, and in particular the risk of impacts on surface water and ground water quality,
- c) the mitigation measures which are included as part of the current proposal.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Site, having regard to the sites' conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of this European Site in view of the site's conservation objectives. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable scientific doubt as to the absence of adverse effects.

his conclusion is based on the measures identified to control the quality of surface water discharges which provide for the interception of silt and other contaminants prior to discharge from the site during construction and operational phases.

## Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 08<sup>th</sup> day of March 2021 and the 25<sup>th</sup> day of March 2021 and by the further plans and particulars received by An Bord Pleanála on the 14<sup>th</sup> day of June 2021, and the 24<sup>th</sup> day of October 2022 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. (a) The permission shall apply for a period of five years from the date of commencement of operations. Following the expiration of this period, the importation of material to the site and operations shall cease, unless prior to the end of the period, planning permission shall have been granted for a further period.  
  
(b) A maximum of 345,000 tonnes (230,000 m<sup>3</sup>) of soil and stone shall be imported into the site and the permission shall be completed within a period of five years from the date of commencement of operations.  
  
(c) All uncontaminated soil and stone imported onto the site shall comprise non-waste by-product, in accordance with Article 27 of the European Communities (Waste Directive) Regulations 2011, S.I. No. 126 of 2011.  
  
(d) No development shall commence prior to registration with the Environmental Protection Agency of the material to be imported onto the lands, in accordance

with Article 27 of the European Communities (Waste Directive) Regulations 2011, S.I. No. 126 of 2011.

**Reason:** In the interest of clarity.

3. The imported material to be deposited on the land shall be levelled, contoured and seeded upon the completion of the works and protected until established.

**Reason:** In order to assimilate the development into the surrounding rural landscape, in the interest of visual amenity.

4. Prior to commencement of development, details regarding the origin/source of the proposed 345,000 tonnes of uncontaminated soil and stone to be imported onto the site shall be submitted for the written agreement of the planning authority.

**Reason:** To regulate the development, in the interest of the proper planning and sustainable development of the area.

5. Water supply and drainage arrangements for the site, including the disposal of surface and soiled water, shall comply with the requirements of the planning authority for such works and services. Drainage details shall be submitted to, and agreed in writing with, the planning authority, prior to commencement of development.

**Reason:** In the interest of environmental protection and public health.

6. (a) Prior to commencement of the development, drawings shall be submitted to and agreed in writing with the Planning Authority which shall detail existing and proposed ground levels, longitudinal and cross-section drawings and proposed locations of infilling operations.

(b) The developer shall submit on an annual basis, over the lifetime of this grant of permission, a record of the quantity of material imported into the site and details, including topographical survey drawings, which facilitates the planning authority to monitor the progress of the phases of restoration.

**Reason:** To ensure the satisfactory restoration of the site and to facilitate control of the development by the planning authority.

7. Details of the berms around the perimeter of the area to be infilled shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of clarity and in order to protect receiving drainage water courses.

8. (i) Prior to commencement of development, a Construction Environmental Management Plan (CEMP) shall be submitted for the written agreement of the planning authority.

(ii) All works on the site shall be carried out strictly in accordance with the mitigation measures specified in the Construction Environmental Management Plan (CEMP).

(iii) No development shall be commenced on the site until part (i) of this condition is complied with.

**Reason:** In the interest of environmental protection.

9. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall –

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation relating to the proposed development,

(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and

(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

10. The importation of soil and stone and the operation of associated machinery shall be carried out only between the hours of 0800 and 1800 from Mondays to Fridays, between the hours of 0800 and 1300 on Saturdays and not at all on Sundays, Bank or Public Holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In the interest of good traffic management and to protect the amenities of the area.

11. Prior to commencement of development, the developer shall submit for the written agreement of the Planning Authority details providing hardstanding from the main entrance to the site at the L5609 to the wheelwash within the main section of the site.

**Reason:** In the interest of traffic safety and to protect the amenities of the area.

12. Details of road signage including advance warning notices and proposals for traffic management at the site entrance shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of traffic safety.

13. During the construction phase of the proposed development, the noise level from within the boundaries of the site measured at noise sensitive locations in the vicinity, shall not exceed-

(a) an LA<sub>r,T</sub> value of 55 dB(A) between the hours of 0800 and 1800 from Mondays to Fridays, between the hours of 0800 and 1300 on Saturdays (excluding public holidays).

(b) an LA<sub>eq, T</sub> value of 45 dB(A) at any other time.

**Reason:** To protect the residential amenities of property in the vicinity.

14 .During the construction stage, dust emissions shall not exceed 350 milligrams per square metre per day averaged over a continuous period of 30 days (Bergerhoff Gauge). Details of a monitoring programme for dust shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Details to be submitted shall include monitoring locations, the commencement date and the frequency of monitoring results.

**Reason:** To protect the residential amenities of property in the vicinity.

15. All trees and hedgerows on the boundaries of the site shall be retained and maintained. Retained trees and hedgerows shall be protected from damage during construction and infill development works.

**Reason:** To protect trees and planting during the construction and infill period, in the interest of visual amenity and biodiversity.

16. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory completion of the development.

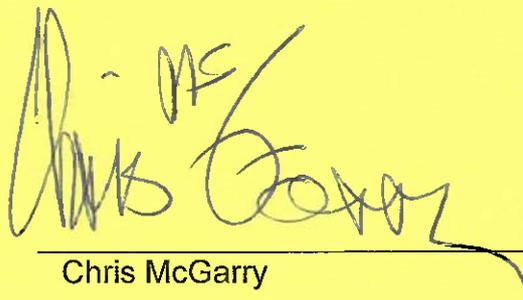
17. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning

authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

**Note:** The Board considered the totality of the documentation submitted with the application and appeal, including the description of the proposed development as set out in the statutory notices. In this regard the Board determined that the proposed development did not constitute a category of development within the scope of environmental impact assessment and therefore that no Environmental Impact Assessment Report (EIAR) is required. Notwithstanding, the Board considered that the EIAR, while non statutory within the meaning of applicable legislation, contained usable and relevant detail to inform its decision, including the imposition of conditions as appropriate.

Board Member



Chris McGarry

Date: 27/04/2023