



An  
Bord  
Pleanála

**Board Direction**  
**BD-010968-22**  
**ABP-312041-21**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 08/07/2022.

The Board decided to approve the proposed development 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 to the following:

- (a) the EU Habitats Directive (92/43/EEC),
- (b) the European Union (Birds and Natural Habitats) Regulations 2011-2021,
- (c) the likely 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 a European Site,
- (d) the conservation objectives, qualifying interests and special conservation interests for the Cork Harbour SPA (Site code: 004030),
- (e) the policies and objectives of the Cork County Council Development Plan, 2022-2028,
- (f) the nature and extent of the proposed works as set out in the application for approval,

- (g) the information submitted in relation to the potential impacts on habitats, flora and fauna, including the Natura Impact Statement (and addendum),
- (h) the submissions and observations received in relation to the proposed development, and
- (i) the report and recommendation of the person appointed by the Board to make a report and recommendation on the matter

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

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the Cork Harbour Special Protection Area (Site code:004030), is the only European Site for which there is a possibility of significant effects and must therefore be subject to Appropriate Assessment.

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

The Board considered the Natura Impact Statement and addendum, associated documentation submitted with the application for approval, and all other relevant submissions and carried out an appropriate assessment of the implications of the proposed development for the European Site in view of the site's Conservation Objectives (Cork Harbour Special Protection Area (Site code:004030)). The Board considered that the information before it was sufficient to undertake a complete assessment of all aspects of the proposed development in relation to the site's conservation objectives using the best available knowledge in the field.

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

- i. the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- ii. the mitigation measures which are included as part of the current proposal, and

- iii. the conservation objectives for the European Site.

In completing the appropriate assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the implications of the proposed development on the integrity of the aforementioned European Site, having regard to the site's Conservation Objectives.

In overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of the European Site in view of the site's Conservation Objectives and there is no reasonable scientific doubt as to the absence of such effects.

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

It is considered that, subject to compliance with the conditions set out below, the proposed development would not:

- (a) have significant negative effects on the environment or the community in the vicinity,
- (b) give rise to a risk of pollution,
- (c) be detrimental to the visual or landscape amenities of the area,
- (d) seriously injure the amenities of property in the vicinity,
- (e) adversely impact on the cultural, archaeological and built heritage of the area and
- (f) interfere with the existing land uses in the area.

The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, and additional plans and particulars submitted on 11<sup>th</sup> April 2022, except as may otherwise be required in order to comply with the following conditions. Where any mitigation measures set out in the Natura Impact Statement or any conditions of approval require further details to be prepared by or on behalf of the Local Authority, these details shall be placed on the file and retained as part of the public record.

**Reason:** In the interest of clarity and the proper planning and sustainable development of the area and to ensure the protection of the environment.

2. The mitigation and monitoring measures identified in the Natura Impact Statement and Addendum Report submitted with the application shall be implemented in full except as may otherwise be required in order to comply with other conditions. Prior to the commencement of development, details of a time schedule for implementation of mitigation measures and associated monitoring shall be prepared by the Local Authority and placed on file and retained as part of the public record.

**Reason:** In the interest of protecting the environment, the protection of European Sites and in the interest of public health.

3. Prior to the commencement of development, the Local Authority, or any agent acting on its behalf, shall prepare in consultation with the relevant statutory agencies, a Construction Environmental Management Plan (CEMP), incorporating all mitigation measures indicated in the Natura Impact Statement and Addendum Report and Ecological Impact Assessment and demonstration of proposals to adhere to best practice and protocols. The CEMP shall include:

- a) all mitigation measures indicated in the Natura Impact Statement and Addendum Report;

- b) specific proposals as to how the measures outlined in the CEMP will be measured and monitored for effectiveness;
- c) methods to avoid pollution of the Owenabue River / Estuary;
- d) methods to avoid and minimise disturbance to SCI bird species.

**Reason:** In the interest of protecting the environment.

4. The scheme shall be modified as follows:

- a) the proposed dropped kerbs immediately north of the existing bridge (east and west of Bóthar Guidel) shall not be installed as part of the works under this scheme;
- b) A 'cyclist dismount' sign shall be erected south of the proposed bridge for a temporary period until such time as the planned upgrade works to the R612 junction are undertaken.

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

5. The following nature conservation requirements shall be complied with:

- (a) piling works and bridge abutment works will take place outside the winter bird season i.e., October to March.
- (b) The works shall be carried out in compliance with the Inland Fisheries Ireland document "Guidelines on protection of fisheries during construction works in and adjacent to waters." A programme of water quality monitoring shall be prepared in consultation with the Contractor, the Local Authority and relevant statutory agencies and the programme shall be implemented thereafter. Details of the programme shall be placed on the file and retained as part of the public record.
- (c) A pre-construction otter survey shall be carried out on behalf of the Local Authority before works commence. If Otter holts are recorded at that time, a supervising ecologist will determine the appropriate

means of minimising effects i.e. avoidance, moving works, timing of works etc.

**Reason:** In the interest of biodiversity and nature conservation.

6. The Local Authority and any agent acting on its behalf shall ensure that all plant and machinery used during the works should be thoroughly cleaned and washed before delivery to the site to prevent the spread of hazardous invasive species and pathogens.

**Reason:** In the interest of the proper planning and sustainable development of the area and to ensure the protection of the European sites.

7. A suitably qualified ecologist shall be retained by the Local Authority to oversee the site set-up and construction of the proposed development and implementation of mitigation measures relating to ecology set out in Natura Impact Statement and Addendum Report and the Ecological Impact Assessment. The ecologist shall be present during site construction works. Upon completion of works, an ecological report of the site works shall be prepared by the appointed ecologist to be kept on file as part of the public record.

**Reason:** In the interest of nature conservation and the protection of terrestrial and aquatic biodiversity.

8. The construction of the development shall be managed in accordance with a Construction and Traffic Management Plan.

**Reason:** In the interests of amenity, public health and safety.

9. The Local Authority and any agent acting on its behalf shall facilitate the preservation, recording, protection or removal of archaeological materials or features that may exist within the site. A suitably qualified archaeologist

shall be appointed by the Local Authority and the archaeologist shall monitor all site investigations and other excavation works under a Licence for Archaeological Excavation (Section 26 of the National Monuments Act 1930 (as amended) from the Department of Housing, Local Government and Heritage.

**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.

**Board Member**

Maria FitzGerald  
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**Date:** 11/07/2022

