

An
Bord
Pleanála

Board Direction
BD-018298-24
ABP-313746-22

The submissions on this file and the Inspector's report were considered at a Board meetings held on 09/01/2024, 07/05/2024 and 25/11/2024.

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 policies and provisions of the Cork City Development Plan, 2022-2028 and the nature and scale of the development proposed, it is considered that, subject to compliance with the conditions set out below, the proposed development, which seeks to raise lands for agricultural use, would not seriously injure the amenities of the area, would not be likely to have significant effects on the environment, would not adversely impact the amenities of adjoining property and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment: Stage 1:

The Board considered the Natura Impact Statement and all the other relevant submissions and carried out both an appropriate assessment screening exercise and an appropriate assessment in relation to the potential effects of the proposed development on designated European Sites. The Board agreed with and adopted the screening assessment carried out and conclusions reached in the Inspector's report

that Cork Harbour SPA (site code 004030) and Great Island Channel SAC (site code 001058) are the only European Sites in respect of which the proposed development has the potential to have a significant effect.

Appropriate Assessment: Stage 2:

The Board considered the Natura Impact Statement and associated documentation submitted with the application, the mitigation measures contained therein, the submissions and observations on file, and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed development for the aforementioned European Site in view of the sites' 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:

- 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 Sites.

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 Sites, 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 the European Sites, in view of the sites' Conservation Objectives.

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 5th day of April 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. The mitigation measures contained in the submitted Natura Impact Statement (NIS), shall be implemented.

Reason: To protect the integrity of European Sites

3. All of the environmental and construction mitigation measures, as set out in the Construction Environmental Management Plan, Outline Traffic Management Plan, Revegetation Strategy received by the planning authority on the 5th day of April 2022, shall be implemented by the developer, except as may otherwise be required in order to comply with the conditions of this Order.

Reason: In the interests of clarity and of the protection of the environment during the construction and operational phases of the development.

4. 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 (including hydrological and geotechnical investigations) 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.

5. (a) Prior to commencement of development, a system of advanced warning signs shall be erected along the access road to the site which shall be agreed in writing with the planning authority.

(b) The public roadway shall be kept clean and tidy at all stages of the development.

Reason: In the interest of traffic safety.

6. A full width overlay reinstatement of the public road along the length of the roadside boundary shall be carried at the developer's expense on completion of the proposed development. Full details of the works shall be

submitted to the planning authority for its written agreement prior to the commencement of the overlay reinstatement.

Reason: In the interests of traffic safety.

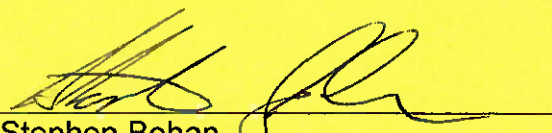
7. PA Condition no.17 "The importation of infill material... .. public holidays".
8. There shall be no interference with bridging, drainage or culverting of the adjacent stream or any watercourse, its banks or vegetation to facilitate development without the written agreement of the planning authority, following consultation with Inland Fisheries Ireland.

Reason: In the interest of the protection of surface water bodies.

[**Note:** The Board noted the issue of land ownership raised in the response to the s.132 and s.137 notices and considered that there was insufficient evidence provided to substantiate a clear lack of ownership/consent. The Board considered the letter of consent from the landowner included in the application and noted that the planning authority raised no issue regarding land title. Notwithstanding this, the applicants are advised to note section 34(13) of the Planning and Development Act, 2000 (as amended) which states that a person shall not be entitled solely by reason of a permission to carry out any development.]

[Please include a copy of this Direction with the Board Order to the parties.]

Board Member


Stephen Bohan

Date: 25/11/2024