

An
Bord
Pleanála

Board Direction
BD-013985-23
ABP-315087-22

The submissions on this file and the Inspector's report were considered at a Board meeting held on 03/10/2023.

The Board decided that the application for a Railway Order be granted 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:

- (a) the nature, scale and extent of the proposed development,
- (b) the characteristics of the site and of its surroundings,
- (c) Relevant policy provisions, including:

EU Policy

- EU White Paper on Transport: Roadmap to a single European Transport Area – Towards a competitive and resource efficient transport system.
- The European Green Deal.
- European Sustainability and Smart Mobility Strategy – Putting European Transport on Track for the Future (2020).

National Policy

- National Planning Framework (2018).
- National Development Plan 2021 – 2030.
- Climate Action Plan 2023.

- National Investment Framework for Transport in Ireland.
- National Sustainable Mobility Policy (April 2022).
- The National Recovery and Resilience Plan (NRRP) (2021).

Regional Policy

- Regional Spatial and Economic Strategy for the Southern Region.
- Cork Metropolitan Area Strategic Plan.
- Cork Metropolitan Area Transport Strategy (CMATS) 2040.

Local Policy

- Cork County Development Plan 2022 – 2028.

- (d) The Draft Railway Order and supporting documents and drawings submitted with the application, including the Environmental Impact Assessment Report, the Appropriate Assessment Screening report and the Natura Impact Statement, and the documentation submitted at the oral hearing,
- (e) the submissions on file including those from prescribed bodies, the relevant local authority, the observers and persons affected by the proposed land acquisition, and the submissions made at the oral hearing, and
- (f) the report of the Inspector.

Environmental Impact Assessment

The Board completed an Environmental Impact Assessment of the proposed development taking into account:

- (i) the nature, scale and extent of the proposed development,
- (ii) the Environmental Impact Assessment Report and associated documentation submitted in support of the application,
- (iii) the submissions made in the course of the application and at the oral hearing; and
- (iv) the Inspector's report.

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, adequately considers alternatives to the proposed development and identifies and describes adequately the direct,

indirect, secondary and cumulative effects of the proposed development on the environment.

The Board agreed with the examination, set out in the Inspector's report, of the information contained in the Environmental Impact Assessment Report and associated documentation submitted by the applicant and submissions made in the course of the application.

The Board considered, and agreed with the Inspector's reasoned conclusions, that the main significant direct and indirect effects of the proposed development on the environment are as follows:

Construction activity will give rise to noise and vibration emissions, with temporary significant effects on adjoining sensitive receptors. Such effects from such activities would be adequately mitigated by:

- Implementation of the Construction and Environmental Management Plan to include a construction noise management plan based on best practise mitigation measures and adherence to guidelines for such activities, including BS 5228-1:2009+A1:2014, parts 1 & 2.
- Implementation of a comprehensive noise and vibration monitoring protocol to be agreed.
- Community liaison and engagement.
- Appointment of an Ecological Clerk of Works (ECOW).
- The short-term nature of the activities.
- Provision of noise insulation measures and / or temporary rehousing of residents during periods of particularly intense noise construction work in accordance with relevant guidance.
- Avoidance of night works where possible at residential areas, and of day-time works adjacent to the community college.

Increased frequency of train movements facilitated by the proposed twin tracking will result in an increase in operational noise levels along the line. The impacts from such additional movements would be adequately mitigated by:

- Specific measures at Noise Sensitive Location 2, as described at the oral hearing, to include the installation / enhancement of noise barriers and installation of acoustically treated mechanical ventilation, subject to agreement with the property owners.
- Embedded design measures, including the use of continuously welded track and removal of a track expansion joint and existing points in proximity to Noise Sensitive Location 2.
- Standard maintenance activities to reduce rail noise.
- Additional mitigation along the route comprising renewal and maintenance of existing noise attenuation barriers and provision of new barriers along the boundary with Noise Sensitive Locations 8 & 9 and along the boundary with Millbrook, Middleton, at Noise Sensitive Locations 14 & 15.
- The development and application of a protocol for the use of train horns along the line.

Construction activity will result in excavation and clearance of vegetation and soils along the corridor, with risk of the release of sediment or other contaminants to surface and groundwaters and potential impacts on karst features in the area. The impacts from such activities would be adequately mitigated by:

- Adherence to provisions of the finalised Construction and Environmental Management Plan, including standard, best practise guidance and measures, measures for the control of earthworks, soils, materials and pollutants, drainage design and the management of surface waters, and protocols to deal with contaminated soils.
- Appointment of an Ecological Clerk of Works (ECOW).
- Soil and stockpile management, including separation from waterbodies and from areas subject to flooding.
- Measures for the identification and design of works in the vicinity of karst features and drainage design to avoid discharge to identified karst area or features.
- Adherence to IFI guidance and best practice for the protection of fisheries, including the timing of works and post-construction site restoration.
- Application of an early flood warning system during the construction and operational phases.

Construction and maintenance activity will result in the removal of terrestrial habitat and potential disturbance and displacement of species occurring on or around the site during construction and operational phases, including wintering birds. The impacts from such activities would be adequately mitigated by:

- Adherence to the provisions of the CEMP and appointment of an Ecological Clerk of Works (ECOW).
- Pre-development surveys for ecological features of interest and adherence to any relevant licencing requirements.
- Reinstatement of habitats on completion of works.
- Adherence to published guidance and best practice in respect of potential impacts on badger and otter, including guidelines published by the NRA.
- Design and construction of bat mitigation measures, in line with NRA and NPWS Guidelines, including pre-felling surveys of trees and lighting design.
- Timing of construction works outside the wintering bird season or alternatively, the installation of a visual and acoustic barrier from Ch 340 to 850, with temporary lighting directed away from the SPA.
- Timing of vegetation clearance and trackside maintenance outside the breeding bird season or pre-construction surveys to inform activity where required.
- Implementation of an updated Invasive Species Management Plan.
- Compliance with IFI requirements and Guidelines for protection of fisheries and biosecurity, during construction and operation.
- Outdoor lighting design in line with published guidelines, where operational requirements permit, including the use of LED lighting with no UV element. Excessive light spill to vegetated features will be avoided.

Traffic generated during construction will give rise to potential disturbance and congestion on the local road network, which would be adequately mitigated by:

- Implementation of a Construction Traffic Management Plan including the routing and scheduling of construction traffic.
- The existing quality and residual capacity of identified haul routes and the short-term nature of construction activities.

Excavation and development of the site will give rise to direct impact on features of archaeological interest and previously unrecorded features. The impacts would be adequately mitigated by:

- Archaeological monitoring of sub-surface groundworks at identified AAP's.
- Retention of OBY 8, Ballyadam House Bridge.
- Protection of historic buttresses of the Owenacurra River bridge (OBY11).
- Piling design for retaining wall at culvert UBY2 at Haly's Bridge (OBY2).
- Specification for works affecting the NE wing-wall of Haly's Bridge (OBY 2) to be agreed.
- Monitoring of architectural heritage structures during construction, with post-construction maintenance inspections.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures set out in the Environmental Impact Assessment Report, and subject to compliance with the conditions set out below, the effects on the environment of the proposed development, by itself and in combination with other development in the vicinity, would be acceptable. In doing so, the Board adopted the report and conclusions of the Inspector.

Appropriate Assessment - Stage 1

The Board noted that the proposed development is not directly connected with, or necessary for the management of any European Site.

The Board completed an Appropriate Assessment Screening exercise in relation to potential effects on designated European Sites, taking into account the Screening Report submitted with the application, the report and screening assessment completed by the Board's Inspector which concluded that the following sites are the European Sites for which there is a likelihood of significant effects on:

- Great Island Channel SAC (Site code 001058)
- Cork Harbour SPA (Site code 004030)

- Ballycotton Bay SPA (code 004022).

The Board determined that Appropriate Assessment was required for these European Sites.

Appropriate Assessment - Stage 2:

The Board considered that the Natura Impact Statement and associated documentation submitted with the application, the mitigation measures contained therein, the submissions and observations on file, including submissions to the Oral Hearing held on 26 & 27th June and 3rd July 2023, and carried out an Appropriate Assessment of the implications of the proposed development on European Sites in view of their conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment and to allow it to reach complete, precise and definitive conclusions for Appropriate Assessment.

In completing the assessment, the Board considered in particular the likely direct and indirect impacts arising from the proposed development both individually and in combination with other plans and projects, the mitigation measures which are included as part of the current proposal and additional mitigation measures recommended by the inspector in view of the sites' conservation objectives. In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out by the Board's Inspector, of the potential effects of the development on the aforementioned European Sites, having regard to the sites' conservation objectives. In overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of the

- Great Island Channel SAC (Site code 001058)
- Cork Harbour SPA (Site code 004030)
- Ballycotton Bay SPA (code 004022).

, in view of the conservation objectives of those sites and there is no reasonable scientific doubt as to the absence of such effects.

Proper Planning and Sustainable Development

It is considered that, subject to compliance with the conditions set out below, the proposed development would accord with national, regional and local planning and related transportation policy, would not have a significant impact on the landscape or biodiversity of the area, would not result in unacceptable impacts on the residential amenities of the area or of property in the vicinity, and would result in improvements to railway safety, reliability and efficiency. 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 on 10/11/2022 as amended by the further plans and particulars submitted to the oral hearing held on 26 & 27th June and 3rd July 2023, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. The following modifications are made to the Railway Order:
 - (i) The Book of Reference and the Second and Third Schedules of the Railway Order shall be updated to reflect the changes set out in the corrigenda list titled "*Schedule of Proposed Amendments to Book of Reference*" which was submitted at the oral hearing on the 26th June 2023.
 - (ii) The Eighth Schedule, entitled 'Conditions, Modifications, Restrictions and Requirements' shall be added to the Railway Order and shall consist of the Board's reasoned conclusion and

the conditions hereby attached to the grant of the Railway Order.

Reason: In the interests of clarity and the proper planning and sustainable of the area.

3.

- a) All of the environmental, construction and ecological mitigation and monitoring measures set out in the Environmental Impact Assessment Report, the Natura Impact Statement and other particulars submitted with the application and as submitted to the Oral Hearing, shall be fully implemented by the developer, except as may otherwise be required in order to comply with the conditions of this order.
- b) Notwithstanding the results of monitoring of bird distribution, where works are proposed between September and March along the coastal section (0 – 850m chainage) a sound reducing hoarding will be placed along the works area as described in Table 7.3 of the NIS.

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

4. The period within which the railway works hereby permitted are to be completed, shall be ten years from the date of this order.

Reason: Having regard to the nature and scale of the development, the Board considers that this is an appropriate period for completion of the works.

5. Notwithstanding the extent of deviation provided for in Article 6(1) of Part II of the Railway Order, such horizontal deviation shall not result in any encroachment onto any European Site and shall not exceed 0.5m where it occurs within 10m of any residential building.

Reason: In the interest of clarity and in order to protect the residential amenities and biodiversity of the area.

6. In accordance with the details submitted to the Oral Hearing on the 26th June 2023, Ballyadam Bridge House shall be retained in-situ.

Reason: In the interest of clarity and in order to protect the architectural and cultural heritage of the area.

7.

- a) Final surface water drainage design details shall be submitted to and agreed in writing with Cork County Council prior to the commencement of works, having particular regard to the emerging requirements of the Midleton Flood Relief Scheme. All storm water drainage systems shall be installed in accordance with SuDS guidance.
- b) The final drainage design details to be agreed shall also include The corrections to drainage drawings, dwg. C745-WP3_03-XX-XX-XXX-DR-MMD-DE-0023 and dwg. C745-WP3_03-XX-XX-XXX-DR-MMD-DE-0026, as advised to the oral hearing on 26/06/2023.
- c) The final design of modifications to the IDA culvert and to culverts UBY2A, UBY1B and UBY1C, shall be submitted to and agreed in writing with Cork County Council prior to the commencement of development of such works.
- d) Any new or modified culverts or bridges, or other works affecting or crossing any watercourse, shall be subject to relevant consent under section 47 or section 50 the Arterial Drainage Act 1945, as amended.
- e) Prior to the commencement of works, a Flood Emergency Management Plan shall be submitted to and agreed in writing with the planning authority.

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

8.

- a) All works shall be carried out in accordance with IFI "*Guidelines on Protection of Fisheries during construction works in and adjacent to waters.*"
- b) No physical interference with the bed or bank of any watercourse shall be undertaken without prior consultation and agreement with IFI, including the provision of appropriate bed materials at the site of culvert works.

- c) The developer shall consult with Inland Fisheries Ireland prior to any instream works on the Owenacurra River or at any culvert works.
- d) All instream works shall be carried out in the dry and only carried out in the period July to September inclusive.
- e) Instream works shall be subject to prior removal and relocation of fish stocks by means of electro-fishing as necessary, and the free passage of fish should not be obstructed by works design or construction.

Reason: To protect aquatic species and habitats.

9.

- a) All watercourses in or adjacent to the works area shall be monitored on a daily basis by the EnCoW to ensure they are not being impacted by silt/sediment laden storm water run-off from works area. Visual inspections shall be continued during the operational period until vegetation is established on site. Any escape of contaminants shall be notified immediately to Inland Fisheries Ireland.
- b) A record shall be kept of daily visual examinations of watercourses which receive flows from the permitted development, during and for an agreed period after the construction phase.

Reason: In order to protect water quality.

10.

- a) Construction activity shall be managed in accordance with a construction noise and vibration management plan, which shall be developed after consultation with stakeholders and the local community, and agreed in writing with Cork County Council prior to the commencement of development. This plan should be subject to periodic review and shall provide details of the intended construction practice, including measures for the suppression and mitigation of on-site noise and vibration.
- b) The plan shall be developed having regard to, and all construction activity shall be undertaken in accordance with, best practice guidelines, including BS 5228-1:2009+A1:2014, parts 1 & 2.

Reason: In order to protect the amenities of the area.

11.

- a) The construction noise and vibration management plan shall include a comprehensive monitoring programme with regular reporting to Cork County Council.
- b) Noise monitoring locations shall be agreed in writing prior to commencement of development.
- c) Monitoring of the construction phase shall be carried out by a suitably qualified competent person to ensure that all environmental noise and vibration mitigation measures are satisfactorily implemented.
- d) The results of construction noise and vibration monitoring shall be readily available to owners / occupiers of affected properties, in a manner to be prescribed in the plan.

Reason: In order to protect the amenities of the area.

12.

- a) The applicant shall record all complaints received relating to construction activity. The record shall contain the name of the complainant, nature, time and date and a summary of the subsequent investigation and response. All records of complaints shall be made available to the planning authority on request whether requested in writing or by a member of staff of the planning authority at the site.
- b) A designated member of the company's staff shall interface with the Planning Authority or member of the public in the event of complaints or queries in relation to environmental emissions.

Reason: To ensure a satisfactory standard of development.

13.

- a) A noise management plan shall be developed after consultation with stakeholders and the local community in respect of the operational and maintenance phase and shall be agreed in writing with Cork County Council. A

performance review shall be completed by the applicant every 6 months and shall be made available on request.

- b) Such plan shall make provision for implementation of the mitigation measures described at the oral hearing in respect of Noise Sensitive Location 2, including in particular, works to existing noise barriers and installation of mechanical ventilation or other such measures as may be agreed.
- c) The management plan shall include a protocol for the use of train horns, which shall be developed and applied to the operation of the railway in order to minimise the effect on residential amenity of these essential safety features.

Reason: In order to protect the amenities of the area.

14.

- a) An inspection and assessment of the condition and effectiveness of existing acoustic barriers along the railway within the site shall be undertaken. Where renewal or enhancement is required to achieve a noise reduction class B4 when tested in accordance with EN 16272-2: 2012 – Part 2, such works shall be completed prior to commencement of operations on the new track.
- b) Additional acoustic mitigation barriers shall be erected along the boundary with Noise Sensitive Locations 8 & 9 and along the boundary with the Millbrook development in Midleton (Noise Sensitive Locations 14 & 15), in accordance with the specification set out in BS 5228-1:2009+A1:2014.

Reason: In order to protect existing residential amenities.

15. A Landscape and Site Reinstatement Plan shall be submitted to the Planning Authority for agreement prior to the commencement of development. The plan shall be prepared with input from the project ecologist and shall have regard to guidance set out in *Pollinator-friendly management of: Transport Corridors. All-Ireland Pollinator Plan, Guidelines 9*. National Biodiversity Data Centre Series No. 20, Waterford. Sept, 2019. Updated Oct 2022.

The plan should be compatible with the principle of no net biodiversity loss and should be prepared in accordance with the following key principles:

- a) species grassland areas to be allowed to regenerate naturally where possible and appropriate;
- b) species-rich topsoil to be protected and reused as appropriate;
- c) the development of species rich meadow type habitats on new embankments / verges (without application of new topsoil) to be encouraged where appropriate;
- d) native tree and shrub species mixes of local provenance to be used where new planting is proposed;
- e) use of non-native flowering plants, trees and shrubs to be confined to planters and flower beds associated with rail stations only.

Reason: In order to promote and protect biodiversity.

16. Prior to the commencement of development, a finalised Construction Environmental Management Plan (CEMP) shall be submitted to and agreed in writing with the Planning Authority, based on the draft plan submitted to An Bord Pleanála on 10/11/2022. The plan, prepared by a suitably qualified professional, shall incorporate all ecological mitigation measures as set out in the EIAR and NIS, the Landscape & reinstatement plan, and the conditions set out herein, and shall include details and schedules of monitoring supervision and reporting to the Planning Authority. Details of intended construction practice for the development shall include:

- (a) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network and for the cleaning of the same;
- (b) Containment of all construction-related fuel and oil within specially constructed bunds, to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- (c) Off-site disposal of construction / demolition waste and details of how it is proposed to manage excavated soil;

- (d) A surface water management plan including measures to ensure that surface water run-off is controlled such that no silt or other pollutants enter watercourses, groundwater or drains.
- (e) Measures to fully remediate the site in accordance with a Finalised Invasive Plant Species Management plan.
- (f) A dynamic dust risk and management plan.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

Reason: In the interest of amenities, public health and safety.

17. The existing vehicular entrance to the railway from the L3004 at chainage 650, shall not be used for the purposes of construction access between the hours of 2200hrs and 0800hrs.

Reason: In order to protect adjoining residential amenity.

18. Prior to the commencement of development, a finalised construction traffic management plan shall be submitted to and agreed in writing with the relevant local roads authorities and Transport Infrastructure Ireland, which plan shall:

- a) Include details of the timing and routing of construction traffic to and from the construction site and works areas, and associated directional signage, and in particular proposals to manage the delivery of abnormal loads including the routing and scheduling of such movements.
- b) Measures to obviate queuing of construction traffic on the adjoining road network.
- c) Address the potential effects of construction related traffic on the operation of national roads and associated junctions.
- d) Details of any temporary diversions and traffic management measures required in order to facilitate the proposed development, including signage.

Reason: In the interests of traffic safety and convenience and to protect tot strategic function of the national roads network.

19. Pre- and post-construction phase surveys of relevant public roads shall be carried out by the applicant. The location and extent of such surveys shall be agreed in writing with Cork County Council and TII where appropriate, prior to the commencement of works on the site, along with final details and specifications in respect of road reinstatement.

Any works, including temporary or reinstatement works to national roads or associated junctions shall comply with the standards outlined in TII publications and shall be subject to road safety audit.

Reason: In the interest of road safety and to ensure a satisfactory standard of development.

20. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to Cork County Council for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of sustainable waste management.

21. Any modifications to the existing public sewer network extensions across the railway line shall be agreed with Cork County Council or Irish Water, as appropriate.

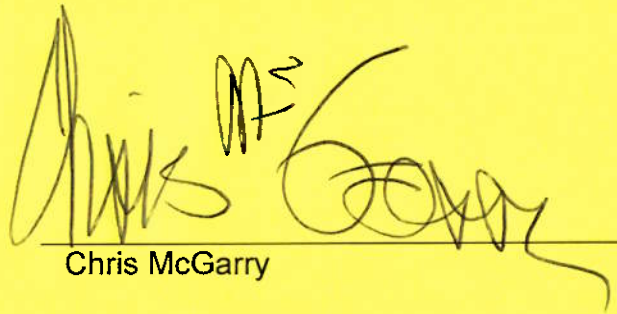
Reason: In the interests of public health.

22. Prior to the commencement of development, CIE shall make a financial contribution to Cork County Council toward the total cost of the rail overbridge

at the Water Rock Urban Expansion Area, in accordance with section 44 of the Transport Railway Infrastructure Act 2001, as amended. The amount of the contribution and the arrangements for payment shall be agreed between the developer and the County Council or, in default of agreement, shall be determined by An Bord Pleanála.

Reason: It is considered reasonable that the developer should contribute towards expenditure that is proposed to be incurred by the County Council in respect of works in the area in which the railway works are to be constructed.

Board Member



Chris McGarry

Date: 03/10/2023

