



An  
Bord  
Pleanála

**Board Direction**  
**BD-015443-24**  
**ABP-315622-23**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 15/02/2024.

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**

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

- (a) the EU Habitats Directive (92/43/EEC),
- (b) the European Communities (Birds and Natural Habitats) Regulations 2011-2015,
- (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 Special Protection Area (Site Code: 004030) and the Great Island Channel Special Area of Conservation (Site Code: 001058),
- (e) Project Ireland 2040 – the National Planning Framework,
- (f) the Climate Action Plan 2023,
- (g) the Regional Spatial and Economic Strategy for the Southern Region,

- (h) the National Cycle Policy Framework, 2009-2020,
- (i) the Strategy for the Future Development of National and Regional Greenways, 2018,
- (j) the Rural Cycleway Design (Offline) DN-GEO-03047, Transport Infrastructure Ireland, 2017,
- (k) the policies and objectives of the Cork City Development Plan, 2022-2028,
- (l) the policies and objectives of the Cork County Development Plan, 2022-2028,
- (m) the nature and extent of the proposed works as set out in the application for approval,
- (n) the information submitted in relation to the potential impacts on habitats, flora and fauna, including the Natura Impact Statement,
- (o) the submissions and observations received in relation to the proposed development, and
- (p) 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 and adopted the screening assessment and conclusion carried out in the Inspector's report that the Cork Harbour Special Protection Area (Site Code: 004030) and the Great Island Channel Special Area of Conservation (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 for approval, 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 affected European Sites, namely the Cork Harbour Special Protection Area (Site Code: 004030) and the Great Island Channel Special Area of

Conservation (Site Code: 001058), 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:

- 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 integrity of the aforementioned European Sites, having regard to the Site's 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.

**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 have significant negative effects on the environment or the community in the vicinity, would not give rise to a risk of pollution, would not be detrimental to the visual or landscape amenities of the area, would not seriously injure the amenities of property in the vicinity, would not adversely impact on the cultural, archaeological and built heritage of the area and would not 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 proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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 outlined in the plans and particulars relating to the proposed development, including those set out in Chapter 7 of the Natura Impact Statement and those set out in Chapters 3-6 of the Environmental Report, shall be implemented in full or as may be required in order to comply with the following 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 an Invasive Alien Plant Species Management Plan, which will address the eradication of invasive alien plant species, tasks associated with the construction phase to avoid the risk of transporting or spreading invasive alien plant species and landscaping / re-vegetation phase on completion of construction to avoid the risk of invasive alien plant species re-establishing. The Invasive Alien Plant Species Management Plan shall also address the non-Third Schedule species identified within the Greenway site and shall include recommendations to manage non-Third Schedule species, to

prevent further spread. The plan shall be placed on file and retained as part of the public record.

**Reason:** In the interest of proper planning and sustainable development.

4. 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 all other relevant reports, and demonstration of proposals to adhere to best practice and protocols. The CEMP shall include specific proposals as to how the measures outlined will be measured and monitored for effectiveness. The plan shall be placed on file and retained as part of the public record.

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

5. A suitably qualified Project Ecological Clerk-of-Works and Licenced Ecologist shall be retained by the local authority to oversee the site set up and construction phase of the proposed Passage Railway Greenway Improvement Scheme Phase II and the implementation of mitigation measures relating to ecology set out in the Natura Impact Statement. 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.

6. Works in areas clearly visible from the estuary waters shall not be carried out during the wintering bird season (October to March) in order to minimise disturbance to the bird species associated with the Cork Harbour Special Protection Area (Site Code: 004030).

The total containment unit on the Black Bridge, as presented on drawing MCT0815-RPS-00-ST01-DR-C-BR0103-03 submitted with the application to the Board on the 23<sup>rd</sup> day of January 2023, will remain in situ for the duration of the works to the Black Bridge, and works which have been identified as having the highest noise potential - site investigation and grit blasting - will be restricted to being undertaken outside of the wintering birds season.

**Reason:** In order to minimise the impact of construction activities on species and habitats of conservation interest in the interest of proper planning and sustainable development of the area.

7. All repair works to the Black Bridge, Protected Structure, shall be carried out under the supervision of a qualified professional with specialised conservation expertise and in accordance with best conservation practice as detailed in "Architectural Heritage Protection: Guidelines for Planning Authorities" issued by the Department of Arts, Heritage and the Gaeltacht in 2011. The repair works shall retain the maximum amount possible of surviving historic fabric in-situ and shall be designed to give rise to minimum interference with the fabric of the Black Bridge.

**Reason:** To ensure that the character and integrity of the protected structure is maintained, and that the Black Bridge is protected from unnecessary damage and loss of fabric.

8. 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 to oversee the site set-up and construction of the proposed development and the archaeologist shall be present on-site during construction works.

**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.

9. Prior to the commencement of any development, full details of the proposed lighting scheme, including details of the proposed advanced intelligent light control system and automatic dimming and sensor control, and its management and direction of illumination, shall be provided for agreement with the Department of Housing, Local Government and Heritage – Development Applications Unit, in order to ensure that the scheme is wildlife friendly.

**Reason:** In order to minimise the impact of the development and ongoing activities on species of biodiversity and conservation interest, and in the interest of proper planning and sustainable development of the area.

10. 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. All works shall carried out in accordance with the Inland Fisheries Ireland Guidelines on protection of fisheries during construction works in and adjacent to waters.

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

Board Member



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Mick Long

Date: 15/02/2024