



An  
Bord  
Pleanála

**Board Direction**  
**BD-015377-24**  
**ABP-317703-23**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 08/02/2024.

The Board decided to grant approval 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 (as amended),
- (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 Cork Harbour SPA (site code 004030),
- (e) the policies and objectives of the Cork City Development Plan, 2022-2028 (as varied),

- (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,
- (h) the submissions 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:**

The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report that Cork Harbour SPA (site code 004030) is the only European site in respect of which the proposed development has the potential to have a significant effect.

The Board considered the Natura Impact Statement and associated documentation submitted with the application for approval, the mitigation measures contained therein, and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed development for the affected European Site, namely Cork Harbour SPA (site code 004030), 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 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 potential

effects of the proposed development on the integrity of 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 the European site, 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 or significantly adversely affect biodiversity in the area, would not be detrimental to the visual or landscape amenities of the area, would not adversely impact on the cultural, archaeological and built heritage of the area, would not interfere with the existing land uses in the area, and would improve the standard and safety of the public road. 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, 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 measures outlined in the plans and particulars relating to the proposed development, including those set out in Section 4.4 of the Natura Impact Statement and Section 6 of the Ecological Impact Assessment shall be implemented in full. 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 and European Site, 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 Ecological Impact Assessment and demonstration of proposals to adhere to best practice and protocols. The CEMP shall include a traffic management plan and appropriate mitigation measures for noise and dust and for monitoring of such levels. These details shall be placed on the file and retained as part of the public record.

**Reason:** In the interests of protecting the environment, European Site, and in the interest of public safety and health.

4. A pre-construction bat roost (emergence) survey will be carried out at an appropriate season, and prior to vegetation, stone or loose mortar removal, any cracks will also be surveyed for bats (using an endoscope where

necessary). These details shall be placed on the file and retained as part of the public record.

**Reason:** In the interest of protecting bat species.

5. Prior to the commencement of development, details of measures to protect fisheries and water quality of the river systems shall be outlined and placed on file. Full regard shall be had to Inland Fisheries Ireland's published guidelines for construction works near waterways (Guidelines on Protection of Fisheries during Construction Works in and Adjacent to Waters, 2016). 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. These details shall be placed on the file and retained as part of the public record.

**Reason:** In the interest of the protecting of receiving water quality, fisheries and aquatic habitats.

6. 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. 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.

7. (a) The City Council and any agent acting on its behalf shall facilitate the preservation, recording and protection of archaeological

materials or features that exist within the site. A suitably qualified monitoring archaeologist shall be appointed by the City Council to oversee the site set-up and construction of the proposed development and the archaeologist shall be present on site during construction work.

- (b) All works, including temporary structures, machinery movements, in the river must be notified to and agreed in advance with the Department of Housing, Local Government and Heritage prior to the commencement of any instream works.
- (c) The monitoring archaeologist shall obtain a dive survey licence in order to facilitate investigation of any in-stream, underwater works and underwater archaeological materials should they be uncovered in the course of the monitoring.
- (d) Should archaeological material be found during the course of the archaeological monitoring, the archaeologist shall have work on site stopped pending a decision regarding appropriate mitigation. The developer shall be prepared to be advised by the Department of Housing, Local Government and Heritage with regard to any mitigating action (this may include recommendations for redesign to allow for preservation in situ, further dive surveys, excavations and or monitoring). The developer shall facilitate the archaeologist in recording any material found.
- (e) The Department of Housing, Local Government and Heritage shall be furnished with a final archaeological report describing the results of archaeological monitoring and of any archaeological investigative work/excavation required, following the completion of all archaeological work on site and any necessary post-excavation specialist analysis. All resulting and associated archaeological costs shall be borne by the developer.

**Reason:** In order to conserve the archaeological heritage of the site and to secure its preservation and protection.

**Board Member**

  
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Una Crosse

**Date:** 08/02/2024