



An  
Bord  
Pleanála

**Board Direction**  
**PL04. HA0053**  
**PL04. MA0014**

At meetings held on, 6<sup>th</sup> June 2018, 13<sup>th</sup> June 2018 and 28<sup>th</sup> June 2018, the Board considered:-

- (a) the objections made to the proposed development,
- (b) the report of the Inspector, who held the oral hearing and
- (c) the documents and submissions on file generally.

The Board decided to approve the proposed development and confirm the Compulsory Purchase Order, subject to modification, generally in accordance with the Inspector's recommendations, for the following reasons and considerations and subject to the following conditions below.

### **REASONS AND CONSIDERATIONS**

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

- (a) The European, national and regional transport policies including Trans European Networks (TEN-T) and the National Ports Policy;
- (b) The national, regional and local planning policies and objectives, inclusive of those set out in Project Ireland 2040 - encompassing the National Planning Framework and the National Development Plan, in Smarter Travel, the South West Regional Planning Guidelines, Cork County

Development Plan, Cork City Development Plan and Ballincollig-Carrigaline Municipal District Local Area Plan.

- (c) The scheme constituting a key strategic transport route connecting Cork City and Region and the national road network via the N40 with the Port and the Strategic Employment Area at Ringaskiddy, which would alleviate traffic congestion and delays, facilitate the economic development of the area, improve road safety for all road users, and reduce the traffic impact on the human environment for the communities along the N28 corridor.
- (d) The design, layout and alignment of the proposed development minimising the impact of the development on the environment.
- (e) The range of proposed mitigation measures set out in the submitted Environmental Impact Statement, Natura Impact Statement and Schedule of Commitments, and
- (f) The submissions made in relation to the application and the report and recommendation of the Inspector (including the report of the Traffic and Transportation Consultant employed by the Board).

### **Appropriate Assessment**

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) and the Great Island Channel Special Area of Conservation (Site Code 001058) are the European sites for which there is a likelihood of significant effects.

The Board considered the Natura Impact Statement, the submissions of the Department of Arts, Heritage and the Gaeltacht and all other relevant submissions and carried out an appropriate assessment of the implications of the proposed development for European Sites in view of the conservation objectives for the Cork Harbour Special Protection Area (Site Code 004030) and the Great Island Channel Special Area of Conservation (Site Code 001058). The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment.

In completing the assessment, the Board considered, in particular, the likely direct and indirect impacts arising from the proposed development, both individually or in combination with other plans or projects, the mitigation measures which are included as part of the current proposal and 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 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 would not adversely affect the integrity of these European Sites in view of the sites' conservation objectives.

### **Environmental Impact Assessment**

The Board completed an environmental impact assessment of the proposed development, under the provisions of EU Directive 2011/92/EU, taking into account:

- (a) The nature, scale, location and extent of the proposed development,
- (b) The Environmental Impact Statement and associated documentation submitted with the planning application,
- (c) The submissions made by observers and prescribed bodies in the course of the planning application and the oral hearing,
- (d) The responses from the applicant to the submissions,
- (e) The mitigation measures proposed
- (f) The report, assessment and conclusions of the Inspector (including the report of the Traffic and Transportation Consultant employed by the Board).

It considered that this information was adequate in identifying and describing the direct and indirect effects of the proposed road development. The Board completed an environmental impact assessment of the proposed development, by itself or in combination with other development in the vicinity, and concluded that subject to the mitigation measures proposed and the conditions set out below, the effects of the proposed development on the environment would be acceptable. In doing so, the Board adopted the report of the Inspector appointed by the Board.

### **Proper Planning and Sustainable Development of the Area**

It is considered that, subject to compliance with the conditions set out below, the proposed road development:-

- would assist in alleviating traffic congestion and delays and facilitate the economic development of the region including the strategic development of the Port of Cork at Ringaskiddy,
- would provide opportunities to develop sustainable transport projects (including walking, cycling and public transport) in the general vicinity,
- would improve the human environment for communities along the route, and
- would improve road safety for all road users.

The proposed development would not have significant negative effects on the community in the vicinity, would not give rise to a risk of pollution, would not give rise to unacceptable visual or landscape impacts, would not have a detrimental impact on archaeological and architectural heritage, would not seriously injure the amenities of the area or property in the vicinity 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.

### **CONDITIONS**

1. The proposals, mitigation measures and commitments set out in the Environmental Impact Statement, and as further stated and clarified in the

Schedule of Commitments submitted by the local authority to the Oral Hearing on the 1<sup>st</sup> day of December 2017, shall be implemented as part of the proposed development.

**Reason:** In the interest of clarity, to mitigate the environmental effects of the development, and to protect the amenities of properties in the vicinity.

2. In advance of the coming into operation of the proposed development the following traffic related matters shall be addressed:-
  - (a) The revised layouts for the following elements of the Scheme shall be implemented in accordance with the details submitted by the local authority to the oral hearing on 28<sup>th</sup> day of November, 2017:-
    - (i) Incorporate auxiliary lane on approach to Northbound Diverge as shown on Drawing No. SK5067.
    - (ii) Revised junction layout for Carr's Hill/Maryborough Hill incorporating traffic signals, pedestrian crossings and footpaths, cycle facilities and road markings as shown on drawing submitted.
  - (b) The proposed realignment of the L6472 at Shanbally shall be omitted from the Scheme and shall be replaced by an alternative proposal to upgrade Ballyhemiken Road to facilitate HCV deliveries to the ESB substation.
  - (c) Ball netting shall be provided along the boundary with Douglas Golf Club lands where it adjoins the proposed two-way link road between Carr's Hill and Maryborough Hill.
  - (d) Traffic management measures shall be put in place to achieve the following:-
    - (i) Routing of ferry terminal traffic exiting onto the junction of the N28 and the Loughbeg Road (L6517) along the L2545 to access the M28 at Ringaskiddy East roundabout.
    - (ii) Traffic calming on Mount Oval Diverge at entrance to the estate.

**Reason:** In the interest of road safety and the amenity of the area.

3. In advance of the coming into operation of the proposed development the following additional noise mitigation measures shall be implemented:

(a) Noise Barrier AB12 at Maryborough Ridge, as shown on Drawing No. NB002 of the EIS shall be extended by c.1000 metres to the south.

(b) Noise Barrier AB25 at Shanbally, as shown on Drawing No. NB005 of the EIS shall be extended by c.100 metres to the west.

**Reason:** in the interests of the residential amenities of the existing and future occupiers of nearby properties.

4. The proposed mitigation measure to erect an artificial nest box for Peregrine Falcon south of Chainage 11250, as provided for in Item 23 of 19.1.8 Schedule of Commitments submitted by the local authority on 1<sup>st</sup> day of December, 2017, shall be omitted from the Scheme.

**Reason:** the proposed structure at this location could give rise to conflict with the bird species for which the Cork Harbour SPA has been designated.

5. Bloomfield Woods shall be included in the pre-construction surveys for bat activity and potential roost sites, and should evidence of bat activity or roosts be found, these woods shall be included in the mitigation measures and monitoring programme as outlined in Schedule of Commitments submitted by the local authority on 1<sup>st</sup> day of December 2017.

**Reason:** in the interests of the protection of any bat species present within these woodlands.

6. In advance of the coming into operation of the proposed development, the following additional landscaping mitigation measures shall be implemented:
- (a) The existing soil wall to the rear of the properties at Newlyn Vale, at Chainage 435, shall be retained and the Extra Heavy Standard trees to be planted at this location shall be planted at existing ground level.
  - (b) The wing walls to Structures S8A (Shanbally underpass) and S10 (Old Post Office Road underpass) shall be flared and finished with a textured or patterned finish.
  - (c) Retaining walls RW17 and RW18, located to the north of Forrester's Hall and the Grotto at Shanbally Upper, shall be planted with a 1.5m high instant hedge and 4.5m high Extra Heavy Standard trees immediately to the south of the said retaining walls.
  - (d) The existing mature tree/hedgerow on the roadside immediately to the south of 'Martello', Old Post Office Road, Ringaskiddy, shall be retained if possible. Should it be necessary to fell this tree, a replacement tree shall be planted at extra heavy standard (4.5m height) in the next planting season following the coming into operation of the Scheme.

**Reason:** In the interests of the visual and residential amenities of the area.

The Board also decided to confirm the compulsory purchase order for the reasons and considerations set out in Schedule 1 subject to the modifications set out in Schedule 2.

## **SCHEDULE 1**

### **REASONS AND CONSIDERATIONS**

Having considered the objections made to the compulsory purchase order, the report of the persons who conducted the oral hearing into the objections, the purpose of the compulsory purchase order and also having regard to:

- (i) The need to improve connectivity between the local, regional and national road network and with the Tier 1 Port;
- (ii) The reduced congestion on the local, regional and national road network;
- (iii) The community need, public interest served and overall benefits, including benefits to Cork City, the Port of Cork and the Strategic Employment Area of Ringaskiddy, and increased provisions for a range of road users to be achieved from use of the acquired lands;
- (iv) The provisions of the Cork County Development Plan and the Ballincollig to Carrigaline Municipal District Local Area Plan and the policies and objectives stated therein, which specifically identify the proposed road development; and
- (v) The proportionate design response to the identified need,

It is considered that, subject to the modifications to the order as set out in the Schedule below, the acquisition by the local authority of the lands in question, and the extinguishment of public and private rights of way, as set out in the compulsory purchase order and on the deposited maps, are necessary for the purpose stated, and that the objections cannot be sustained having regard to the said necessity.



## SCHEDULE 2

The compulsory purchase order shall be modified in accordance with the modifications submitted to the Board at the Oral Hearing on the 1<sup>st</sup> day of December, 2017 as follows:

- (i) Minor adjustment to CPO line in vicinity of CPO Plot Ref. 105, Ted Neville's property at Carr's Hill Interchange to allow the retention of the boundary between Mr. Neville's property and Douglas Golf Club (Plot 112),
- (ii) Adjustment to CPO line at Shanbally Quarry, CPO Plot Ref. 168, where lands are no longer required for the translocation of Pennyroyal,
- (iii) The inclusion of the following
  - Frances Gordon as reputed owners of Plot 103;
  - The IDA as reputed owners and occupier of Plots 105a.110 and 105a.111;
  - Murnane and O'Shea as reputed owners of Plots 123 and 124;
  - Astra Construction as reputed owners of Plots 144 and 145; and
  - Castleventry as reputed owners of Plot 153.

**Reason:** To take account of updated information in respect of land ownership and other matters as agreed at the oral hearing.

**Board Member**

**Date:** 29<sup>th</sup> June 2017

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Eugene Nixon