An Bord Pleanála

Ordú ón mBord
ABP-305618-19

Na hAchtanna um Pleanáil agus Forbairt, 2000 go 2022

Údarás Pleanála: Comhairle Cathrach agus Contae Phort Láirge

Planning and Development Acts 2000 to 2022

Planning Authority: Waterford City and County Council

Iarratas ar Thoiliú Ionaid ag Meitheal Trá na Rinne Teoranta faoi chúram Fehily Timoney and Company, Core House, Bóthar Pholl an Duibh, Contae Chorcaí, de réir alt 177E den Acht um Pleanáil agus Forbairt, 2000, arna leasú trí alt 57 den Acht um Pleanáil agus Forbairt (Leasú), 2010, arna leasú, a chur isteach.

Láthair: Saoráid próiseála oisrí ag an Móta, an Rinn, Dún Garbhán, Contae Phort Láirge.

Cinneadh

De réir alt 177K den Acht um Pleanáil agus Forbairt, 2000, arna leasú, agus bunaithe ar na Cúiseanna agus na Cúinsí atá leagtha amach thíos, chinn an Bord toiliú ionaid **A DHEONÚ** de réir na gcoinníollacha seo a leanas.

Cúiseanna agus Cúinsí

Agus é ag teacht ar an gcinneadh uaidh, bhí aird ag an mBord ar na nithe seo a leanas, i measc nithe eile:

(a) na forálacha den Acht um Pleanáil agus Forbairt, 2000, arna leasú,

(b) na forálacha de na Rialacháin um Pleanáil agus Forbairt, 2001, arna leasú,

(c) an beartas pleanála náisiúnta, réigiúnach agus áitiúil is infheidhme, lena n-áirítear, go háirithe, na forálacha de Phlean Forbartha Cathrach agus Contae Phort Láirge 2022-2028,

(d) Ráiteas leigheasta Tionchair Natura agus na doiciméid tacaíochta a cuireadh isteach leis an iarratas,

(e) na haighneachtaí a fuarthas ó chomhlachtaí forordaithe,

(f) na barúlacha agus na haighneachtaí a fuarthas,

(g) stair phleanála an láithreáin, agus

(h) an tuarascáil agus an moladh ó Chigire an Bhoird, lena n-áirítear an tuarascáil aguisín dar dáta an 13 Lúnasa 2024.

Measúnacht Tionchair Timpeallachta

Chuir an Bord Cinneadh Scagtha ar Mheasúnacht Tionchair Timpeallachta i gcrích i ndáil leis an bhforbairt a rinneadh, agus aird á tabhairt aige ar na nithe seo a leanas:

(a) cineál, scála, láthair agus méid na forbartha le haghaidh toiliú ionaid,

(b) an Tuarascáil Scagtha leigheasta maidir le Measúnacht Tionchair Timpeallachta agus na doiciméid ghaolmhara a cuireadh isteach chun tacú leis an iarratas,

(c) an doiciméad dar teideal 'EIA of Projects – Guidance on Screening' (2017) arna eisiúint ag an gCoimisiún Eorpach,

(d) an doiciméad dar teideal 'Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-Threshold Development' arna eisiúint ag an Roinn Comhshaoil, Oidhreachta agus Rialtais Áitiúil i mí Lúnasa 2003,

(e) íogaireacht eolaíoch na timpeallachta glactha, lena n-áirítear Limistéar Cosanta Speisialta Chuan Dhún Garbhán (Cód Láithreáin: 004032),

(f) saintréithe na dtionchar a d'fhéadfadh a bheith ann, lena n-áirítear, go háirithe, na tionchair sin ar an mbithéagsúlacht agus ar cháilíocht an uisce,

(g) an acmhainneacht theoranta atá ann go dtiocfadh tionchair shuntasacha chun cinn as an bhforbairt láithreach, agus

(h) an tuarascáil agus an moladh ó Chigire an Bhoird, lena n-áirítear an tuarascáil aguisín dar dáta an 13 Lúnasa 2024.

Meastar nach dócha go mbeidh éifeachtaí suntasacha ag an bhforbairt láithreach ar an gcomhshaol. Meastar, dá bhrí sin, nach gá Measúnacht Tionchair Timpeallachta a ullmhú ná a chur isteach.

Measúnacht Chuí Chéim 1 (Scagadh)

Chomhaontaigh an Bord leis an Measúnacht Scagtha a rinne an Cigire, inar thángthas ar an gconclúid gurb é Limistéar Cosanta Speisialta Chuan Dhún Garbhán (Cód Láithreáin: 004032) an t-aon Láithreán Eorpach amháin dá raibh Measúnacht Chuí Chéim 2 ag teastáil agus gur féidir éifeachtaí suntasacha ar aon Láithreáin Eorpacha eile a chur as an gcuntas:

Measúnacht Chuí Chéim 2

Rinne an Bord breithniú ar Ráiteas Ieigheasta Tionchair Natura agus ar gach aighneacht iomchuí eile, agus rinne sé Measúnacht Chuí ar impleachtaí na forbartha láithrí do Limistéar Cosanta Speisialta Chuan Dhún Garbhán (Cód Láithreáin: 004032) i bhfianaise chuspóirí caomhantais an láithreáin. Mheas an Bord gur leor an fhaisnéis a bhí os a chomhair chun Measúnacht Chuí a dhéanamh. Agus an mheasúnacht á déanamh aige, rinne an Bord breithniú ar na tionchair dhíreacha agus indíreacha ar dóigh dóibh teacht as an bhforbairt stairiúil, aisti féin nó in éineacht le pleananna nó tionscadail eile, ar na bearta faireacháin atá leagtha amach i Ráiteas Ieigheasta Tionchair Natura agus ar na cuspóirí caomhantais don Láithreán Eorpach.

Faoi réir na bearta sainaitheanta faireacháin a chur chun feidhme agus ar bhonn na faisnéise a bhí ar fáil, ba dheimhin leis an mBord nach ndéanfadh an fhorbairt, aisti féin nó in éineacht le pleananna nó tionscadail eile, dochar do shláine an láithreáin Eorpaigh seo ná do shláine aon láithreáin ainmnithe Eorpaigh eile, i bhfianaise chuspóirí caomhantais aon láithreáin den sórt sin.

Pleanáil Chuí agus Forbairt Inchothaithe

Agus aird á tabhairt ar chineál, scála agus méid na forbartha agus ar a inghlactha atá na héifeachtaí comhshaoil, agus á thabhairt faoi deara nach ndearnadh dochar do shláine Láithreán Eorpach, i bhfianaise chuspóirí caomhantais na láithreán iomchuí, mar atá leagtha amach thuas, agus faoi réir na coinníollacha atá leagtha amach thíos a chomhlíonadh, is deimhin leis an mBord go bhfuil an cinneadh chun toiliú ionaid a dheonú don fhorbairt ag teacht le pleanáil chuí agus forbairt inchothaithe an limistéir.

Coinníollacha

1. (a) Beidh an deonú toilithe ionaid seo i gcomhréir leis na pleananna agus na sonraí a cuireadh faoi bhráid an Bhoird Pleanála an 9ú lá de mhí Dheireadh Fómhair 2019, seachas de réir mar is gá ar shlí eile chun na coinníollacha seo a leanas a chomhlíonadh.

   (b) Baineann an deonú toilithe ionaid seo le forbairt a rinneadh, mar atá tuairiscithe san iarratas, agus léi sin amháin, agus ní údaraítear leis an deonú toilithe ionaid seo aon fhorbairt amach anseo ar an láithreán lena mbaineann.

   Cúis: Ar mhaithe le soiléire.

2. Scoirfidh an t-iarratasóir den chlós íochtair a úsáid do ghníomhaíochtaí a bhaineann leis an ngnó, agus bainfidh sé na feithiclí, an trealamh, an dramhaíl agus an smionagar ar fad den láthair seo laistigh de 12 sheachtain ó dháta an Ordaithe.

Cúis: Ar mhaithe le taitneamhachtaí amhairc agus cónaithe agus ar mhaithe leis an gcomhshaol a chosaint.

3. Déanfar na bearta maolaithe agus faireacháin atá leagtha amach i Ráiteas leigheasta Tionchair Natura a thiomsú ina Sceideal aonair maidir le Bearta Faireacháin agus Maolaithe, agus cuirfear an Sceideal sin faoi bhráid an údaráis pleanála. Cuirfear na bearta sin i gcrích ina n-iomláine. Cuirfear an Sceideal ar áireamh i gCóras Bainistíochta Comhshaoil, rud a chuirfear faoi bhráid an údaráis pleanála agus a chomhaontófar i scríbhinn leis laistigh de 12 sheachtain ó dháta an Ordaithe seo.

Áireofar leis an gCóras Bainistíochta Comhshaoil na nithe seo a leanas ar a laghad:

(a) Plean Bainistíochta Torainn chun bainistiú a dhéanamh ar thorann ó tharracóirí agus ó thrucailí,

(b) Mionsonraí faoin sceideal le haghaidh seiceálacha meicniúla agus fisiciúla a dhéanamh ar tharracóirí, lena n-áirítear umair bhreosla, agus tograí le haghaidh aon lochtanna a réiteach laistigh de 24 huaire an chloig,

(c) Tograí le haghaidh umair bhreosla a lonnú i limistéir bhundaithe,

(d) Mionsonraí faoi limistéir le haghaidh athbhreoslú tarracóirí, rud nach mór a dhéanamh ar limistéar dromchla chrua, áit a ndraenálfar uisce níocháin agus uisce dromchla trí idircheapóir hidreacarbóin sula scaoilfear iad,

(e) Tograí le haghaidh úsáid mhalartach a bhaint as blaoscanna oisre,

(f) Tograí le haghaidh bailiú blaoscanna oisre ag conraitheoir údaraithe,

(g) Tograí le haghaidh srianadh lotnaidí,

(h) Faireachán ar cháilíocht an screamhuisce agus an uisce dromchla, agus

(i) Mionsonraí faoi limistéar an chlóis íochtair a ghlanadh agus a chothabháil.

Cúis: Ar mhaithe leis an gcomhshaol agus na taitneamhachtaí maoine sa chomharsanacht a chosaint, agus ar mhaithe leis an tsláinte phoiblí.

Application for Substitute Consent by Meitheal Trá na Rinne Teoranta care of Fehily Timoney and Company of Core House, Pouladuff Road, County Cork in accordance with section 177E of the Planning and Development Act, 2000, as amended by the insertion on section 57 of the Planning and Development (Amendment) Act, 2010, as amended.

Location: Oyster processing facility at Móta, An Rinn, Dungarvan, County Waterford.

Decision

The Board, in accordance with section 177K of the Planning and Development Act, 2000, as amended, and based on the Reasons and Considerations set out below, decided to **GRANT** substitute consent in accordance with the following conditions.

Reasons and Considerations

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

(a) the provisions of the Planning and Development Act, 2000, as amended,

(b) the provisions of the Planning and Development Regulations, 2001, as amended,

(c) the applicable national, regional and local planning policy including, in particular, the provisions of the Waterford City and County Development Plan 2022-2028,

(d) the remedial Natura Impact Statement and supporting documentation submitted with the application,

(e) the submissions received from prescribed bodies,

(f) the observations and submissions received,

(g) the planning history of the site, and

(h) the report and recommendation of the Board's Inspector, including the addendum report dated 13th August, 2024.

Environmental Impact Assessment

The Board completed an Environmental Impact Assessment Screening Determination in relation to the development that has taken place, taking account of:

(a) the nature, scale, location and extent of the development for substitute consent,

(b) the remedial Environmental Impact Assessment Screening Report and associated documentation submitted in support of the application,

(c) the document 'EIA of Projects – Guidance on Screening' (2017) issued by the European Commission,

(d) the document 'Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-Threshold Development' issued by the Department of Environment, Heritage and Local Government in August 2003,

(e) the ecological sensitivity of the receiving environment, including the Dungarvan Harbour Special Protection Area (Site Code: 004032),

(f) the characteristics of potential impacts, including, in particular, those of biodiversity and water quality,

(g) the limited potential for significant impacts arising from the existing development, and

(h) the report and recommendation of the Board's Inspector, including the addendum report dated 13th August, 2024.

It is considered that the existing development would not be likely to have significant effects on the environment and that the preparation and submission of an Environmental Impact Assessment is not, therefore, required.

Appropriate Assessment Stage 1 (Screening)

The Board agreed with the Screening Assessment carried out by the Inspector which concluded that Dungarvan Harbour Special Protection Area (Site Code: 004032) is the only European Site for which a Stage 2 Appropriate Assessment was required, and that significant effects on any other European Sites can be ruled out:

Appropriate Assessment Stage 2

The Board considered the remedial Natura Impact Statement and all other relevant submissions and carried out an Appropriate Assessment of the implications of the existing development for the Dungarvan Harbour Special Protection Area (Site Code: 004032) in light 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 assessment, the Board considered the likely direct and indirect impacts arising from the historic development, both individually or in combination with other plans or projects, the monitoring measures set out in the remedial Natura Impact Statement and the conservation objectives for the European Site.

The Board was satisfied that, subject to the implementation of the identified monitoring measures and on the basis of the information available, the development, either individually or in combination with other plans or projects, would not adversely affect the integrity of this European site or any other such European designated site, in view of the conservation objectives of any such site.

Proper Planning and Sustainable Development

Having regard to the nature, scale and extent of the development and to the acceptability of the environmental effects and noting the integrity of European Sites were not adversely affected, in view of the relevant sites' conservation objectives, as set out above, and subject to compliance with the conditions set out below, the Board is satisfied that to grant substitute consent to the development is in accordance with the proper planning and sustainable development of the area.

Conditions

1. (a) This grant of substitute consent shall be in accordance with the plans and particulars submitted to An Bord Pleanála on the 9th day of October, 2019, except as may otherwise be required in order to comply with the following conditions.

   (b) This grant of substitute consent relates only to development undertaken, as described in the application, and does not authorise any future development on the subject site.

   Reason: In the interest of clarity.

2. The applicant shall cease the use of the lower yard for activities associated with the business and shall remove all vehicles, equipment, waste, and debris from this location within 12 weeks of the date of the Order.

   Reason: In the interests of visual and residential amenities and the protection of the environment.

3. Mitigation and monitoring measures outlined in the remedial Natura Impact Statement shall be complied into a single Schedule of Monitoring and Mitigation Measures and submitted to the planning authority. These measures shall be carried out in full. The Schedule shall be included in an Environmental Management System (EMS) which shall be submitted to and agreed in writing with the planning authority within 12 weeks of the date of this Order.

   The EMS shall include, as a minimum, the following:

   (a) A Noise Management Plan to manage noise from tractors and trucks,

   (b) Details of schedule for mechanical and physical checks of tractors including fuel tanks and proposals to rectify any defects within 24 hours,

   (c) Proposals to locate fuel tanks in bunded areas,

   (d) Details of areas for tractor refuelling which must take place on a hard standing area and wash water and surface water is drained through a hydrocarbon interceptor prior to discharge,

(e) Proposals for alternative use of oyster shells,

(f) Proposals for collection of oyster shells by an authorised contractor,

(g) Proposals for pest control,

(h) Monitoring of ground and surface water quality, and

(i) Details for clean-up and maintenance of lower yard area.

Reason: In the interest of protecting the environment and the amenities of property in the vicinity, and in the interest of public health.

Chris McGarry

Comhalta den Bhord Pleanála atá údaraithe go cuí chun séala an Bhord a fhíordheimhniú

Member of An Bord Pleanála duly authorised to authenticate the seal of the Board.

Dátaithe ar an **lá seo de** **2024**

Dated this 9th **day of** September **2024**