



Planning and Development Acts 2000 to 2020

Planning Authority: Cork County Council

Planning Register Reference Number: 19/06783

Appeal by Gerry Moore of Donegal Cottage, Donegal, Cobh, County Cork and by Áine O Callaghan of 1 Marino Villas, Carrigaloe, Cobh, County Cork against the decision made on the 22nd day of July, 2020 by Cork County Council to grant subject to conditions a permission to Belvelly Marina Development Company DAC (BMDC) care of McCutcheon Halley of 6 Joyce House, Barrack Square, Ballincollig, County Cork in accordance with plans and particulars lodged with the said Council:

Proposed Development: Demolition, site infrastructure improvements, and utility upgrade works to stabilise the existing site and to provide capacity for future industrial development proposals at the Belvelly Port Facility.

Demolition will comprise site clearance and demolition of all existing derelict super structures, including prill tower, concrete tanks, workshops, stores and office buildings; sub structures including foundations and floorslabs; and redundant services including piperacks, sumps and sea water cooling pipe.

Site infrastructure improvements will comprise: (i) infilling of the lagoon located at the north east of the site using a combination of imported material and suitable site-own demolition material; (ii) site levelling works and construction of a flood protection revetment along the northern and north

western perimeter of the site; (iii) upgrade of existing main site entrance and provision of new emergency access along the north eastern frontage of the site; new internal road layout and site lighting along the new roads; (iv) development of a new railway connection along the eastern boundary and restoration of the former rail siding at the north east of the site; (v) widening of access road and bridge to the jetty; (vi) tree planting along the northern and western boundary. Utility upgrade works will comprise: (vii) provision of surface water drainage system, which includes treatment and disposal via outfalls to Cork Harbour; (viii) provision of a foul effluent drainage system, on-site treatment via a wastewater treatment plant and discharge along the path of an existing outfall into Cork Harbour; (ix) Provision of fire water infrastructure along the new internal roadways and on the jetty; (x) provision of site services, including potable water supply, new electrical infrastructure including a 10kV on-site substation and ducting for extra-low voltage and low voltage connection points; (xi) diversion of natural gas, methanol and mains water pipelines all at Belvelly Port Facility, Marino Point in the townlands of Marino, Belvelly and Oldcourt, Cobh, County Cork.

Decision

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Reasons and Considerations

Having regard to:

- (a) the nature and extent of the proposed development consisting of demolition, site infrastructure improvements and utility upgrade works to stabilise the existing site and to provide capacity for future industrial development proposals,
- (b) the proposed development being consistent with national, regional and local planning policy, in particular:
 - National Ports Policy (2013),
 - The National Planning Framework – Ireland 2040 (2018),
 - Regional Spatial and Economic Strategy for the Southern Region (2020),
 - the Cork Metropolitan Area Strategic Plan 2001- 2020,
 - the Cork County Development Plan 2014, and
 - the Cobh Municipal District Local Area Plan 2017,
- (c) the submissions and observations received, and
- (d) the report of the Inspector.

Appropriate Assessment Screening

The Board considered the screening for Appropriate Assessment and Natura impact statement and all other relevant submissions and carried out both an appropriate assessment screening exercise and an Appropriate Assessment in relation to the potential effects of the proposed development on European Sites, namely, Great Island Channel Special Area of Conservation (Site Code: 001058) and Cork Harbour Special Protection Area (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.

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 aforementioned European Sites, 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 Sites, in view of the sites' Conservation Objectives.

Environmental Impact Assessment

The Board completed an environmental impact assessment of the proposed development taking account of:

- (a) The nature, scale, location and extent of the proposed development on a site that is subject to significant risk of environmental pollution,
- (b) The Environmental Impact Assessment Report (EIAR) and associated documentation submitted in support of the application,
- (c) The submissions received from the planning authority, prescribed bodies and third parties, and
- (d) 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 developer and submissions made in the course of the planning application.

Reasoned Conclusion on the Significant Effects

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, and would be mitigated, as follows:

- (a) The risk of pollution of ground and surface waters through a potential lack of control of surface water during construction, the mobilisation of sediments and other materials during construction, and the necessity to undertake construction activities in the vicinity of the marine environment. These impacts would be mitigated by the implementation of Construction and Environment Management Plan measures and water quality control measures including water quality monitoring.
- (b) Biodiversity impacts on flora and fauna on and in the vicinity of the site arising from the nature and extent of the works and the immediate proximity to European Sites. These impacts would be mitigated by adhering to the water quality management proposals inclusive of the

implementation of the Construction Surface Water Management Plan, employment of best practice construction methodologies and on-site protection measures for bird, mammal and plant species of conservation interest.

- (c) Traffic impacts deriving from increased Heavy Goods Vehicle (HGV) movements. Significant impacts on the road network would be avoided by restricting hours of importation and exportation of materials, extensive utilisation of materials obtained at the demolition and site works stage for infill and regrading, and the implementation of a Construction Traffic Management Plan.

The Board also considered that environmental benefits would arise from the proposed development in terms of the improvements to the nature and quality of site infrastructure, the removal of obsolete structures and infrastructure, and the consequent improvements to emissions, in particular to surface and foul waters discharging to the marine environment.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures proposed as set out in Chapter 15 of Volume 2 of the EIAR which provides a Programme of Mitigation Measures, and, subject to compliance with the conditions set out below, the effects of the development on the environment by itself and in combination with other plans and projects in the vicinity are not considered significant and, as such, are acceptable. In doing so, the Board adopted the report and conclusions of the Inspector.

Conclusions on Proper Planning and Sustainable Development

Having regard to the location and former use of the site, to the pattern of development in the area and the nature and extent of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with national, regional and local planning policy, would be acceptable in terms of traffic safety, would not have an unacceptable impact on the amenities of the area, would be acceptable in terms of water quality, air, noise, landscape and visual impacts, would be acceptable in terms of public health and 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, as amended by the further plans and particulars submitted on the 10th day of March, 2020, the 30th day of March, 2020 and the 4th day of June, 2020, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the proposed development shall be carried out in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. (a) The mitigation and monitoring measures outlined in the plans and particulars relating to the development, including those set out in Chapter 15 of Volume 2 of the Environmental Impact Assessment Report submitted with this application, shall be implemented in full.
- (b) Prior to commencement of development, the developers shall submit a finalised Habitat and Species Management Plan containing details of all mitigation measures proposed to protect and enhance habitats and to protect species. The plan shall incorporate all measures set out in the Biodiversity Enhancement Plan, the EIAR and the NIS and which have been clarified by way of further information. The plan shall include an implementation timeline as well as detail of ecological supervision and monitoring during the works phase. It is expected that all key measures relating to habitat creation, new planting and alien invasive species control would be implemented within two years of commencement of works at the site.

Reason: In the interest of clarity and to mitigate the environmental effects of the project.

3. (a) The proposed effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details submitted to the planning authority and in accordance with the requirements of the document entitled "Wastewater Treatment Manuals – Treatment Systems for Small Communities, Business, Leisure Centres and Hotels" Environmental Protection Agency, 1999. Arrangements in relation to the ongoing maintenance of the system shall be

submitted to, and agreed in writing with, the planning authority prior to commencement of development.

- (b) Within three months of the first operation of the treatment plant, the developer shall submit a report to the planning authority from a suitably qualified person with professional indemnity insurance certifying that the effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner in accordance with the standards set out in the EPA document.

Reason: In the interest of public health

- 4. (a) Prior to commencement of development, the developer shall prepare a Construction and Environmental Management Plan (CEMP), to include demonstration of proposals to adhere to best practice and protocols, which shall be submitted to and agreed in writing with the planning authority. The CEMP shall include specific proposals as to how the CEMP will be measured and monitored for effectiveness.
- (b) A Construction/Demolition Dust and Noise Management Plan shall be put in place and agreed in writing with the planning authority prior to the commencement of operations on site. This plan shall provide details of intended construction plan for the development, including;
 - (i) Proposals for the suppression of on-site noise,
 - (ii) Proposals for the suppression of dust on-site
 - (iii) Proposals for the suppression of vibration

- (iv) Proposals to minimise any odours on-site.

Reason: In the interest of protecting the environment, residential amenities, protection of European sites and in the interest of public health.

5. 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. Details of the name and contact details of this person shall be made available to the planning authority prior to commencement of construction activities on site.

Reason: To safeguard the amenities of the area.

6. Prior to commencement of development, the developer shall prepare a Sediment Control Plan, which shall be submitted to and agreed in writing with the planning authority, to cover on-site construction activity related to demolition of existing structures, removal of obsolete infrastructure, and provision of new infrastructure and upgraded utilities. The submitted plan shall include details of measures to protect water quality of the adjoining marine environment.

A programme of water quality monitoring to cover the period of works covered by this condition shall be prepared in consultation with the planning authority and the programme shall be implemented thereafter.

Reason: In the interest of protection of receiving water quality and aquatic habitats.

7. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

8. Prior to commencement of development, the developer shall prepare a Hazardous Waste Management Plan, which shall be submitted to, and agreed in writing with, the planning authority, to cover on-site construction activity related to demolition of existing structures and removal of obsolete infrastructure. The submitted plan shall include an inventory of hazardous materials and shall define the specialised management practices to be employed, as well as the handling, storage and disposal arrangements proposed.

Reason: In the interest of protecting the environment and in the interest of public health.

9. Site development and building works shall be carried out only between the hours of 07.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received by the contractor from the local authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

10. Prior to commencement of development, the developer shall prepare a Construction Traffic Management Plan which shall be submitted to and agreed in writing with the planning authority.

Reason: To ensure appropriate engagement with the public and the appropriate management of construction traffic.

11. A suitably qualified ecologist shall be retained by the developer to oversee the demolition works and construction of the proposed project and implementation of mitigation measures relating to ecology. Upon completion of works, an ecological report of the site works shall be prepared by the appointed ecologist and submitted to the planning authority to be kept on file as part of the record.

Reason: In the interest of nature conservation and protection of terrestrial and aquatic biodiversity.

12. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
- (b) employ a suitably qualified archaeologist who shall monitor all site investigations and other excavation works, and
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

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.

13. Prior to commencement of development, the developer shall prepare, and agree in writing with the planning authority, detailed landscaping and planting proposals, along with proposed timing for their implementation, and proposals for ongoing landscape maintenance of the site.

Reason: In the interest of protecting the landscape and biodiversity.

14. (a) The site entrance, emergency access, internal road network, footpaths and public lighting shall all comply with the detailed standards of the planning authority for such works.
- (b) The recommended measures submitted in response to the submitted Road Safety Audit of the R624/access road junction improvements shall be agreed with the planning authority and provided by the developer at the sole expense of the developer.
- (c) A Stage 2 and Stage 3 Road Safety Audit shall be carried out and submitted at the developer's expense for the proposed public road lighting. Recommendations shall be agreed in writing with the planning authority and implemented at the sole expense of the developer.

Reason: In the interest of amenity and of traffic and pedestrian safety.

15. The proposed realigned road markings on the R624/L2989 junction shall be provided at the expense of the developer. The programme and full details of the realignment shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of orderly development.

16. The disposal of surface water shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

17. (a) The existing railway boundary fence shall be preserved and not interfered with, except where written consent from Iarnród Éireann has been sought and received.
- (b) No building shall be constructed within two metres of the railway boundary. This is to allow for any future maintenance works to be carried out without the need to enter the developer's property.
- (c) Due to the close proximity of the site to the railway, Iarnród Éireann shall be advised of any earthworks or excavations that take place within five metres of the railway boundary fence.
- (d) No liquid, either surface water or effluent from the proposed development shall be discharged or escape onto the railway property. Any surface water that may come from the development and discharges into culverts under the railway property will require formal agreement with Iarnród Éireann/C.I.E.
- (e) Lights from the proposed development, either during the construction phase or when the development is completed, should not cause glare or in any way impair the vision of train drivers or personnel operating on track machines.
- (f) In the event of any services (cable, pipe, duct, etc.) to the development that are routed over or under the Cork to Cobh railway line, it will be necessary for the developer to apply to Iarnród Éireann/C.I.E. to seek permission for a license agreement to cover each service.

- (g) No trees shall be planted along the railway boundary as they can impair the vision of train drivers or their views of signals, etc. Furthermore, falling leaves and/or leaf litter on rails can adversely affect the operation of trains by causing poor wheel/rail adhesion.
- (h) All works on and adjacent to the railway are required to meet the terms of the Railway Safety Act 2005.

Reason: In the interest of orderly development.

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

Dated this day of 2021