



An
Bord
Pleanála

Board Order 04.YA0014

Planning and Development Acts, 2000 to 2017

Planning Authority: Cork County Council

APPLICATION by Cork County Council for approval under section 226 of the Planning and Development Act, 2000, as amended, in accordance with plans and particulars, including an environmental impact statement and a Natura impact statement, lodged with An Bord Pleanála on the 12th day of September, 2016.

PROPOSED DEVELOPMENT:

- Construction of a 400-metre-long rubble mound breakwater with a four-metre-wide crest. The structure will be constructed in the tidal and inter-tidal areas and will involve the permanent reclamation of approximately 2.2 hectares from the foreshore and seabed.
- The dredging of a new navigation channel. The channel will be 50 metres wide and will be dredged to -5.0 metre Chart Datum.
- Ancillary works

All at Baltimore Harbour, Baltimore, County Cork.

As amended by the further information received by the Board on the 14th day of July, 2017.

DECISION

REFUSE approval for the above proposed development based on the reasons and considerations 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

Notwithstanding the demonstrated need to improve the safety and accessibility of Baltimore Harbour, and the acceptability in principle of the breakwater as applied for, the construction of the proposed breakwater would result in the permanent loss of 1.57 hectares of the marine community type *shallow sand/mud community complex*, a subset of large shallow inlet and bay habitat, one of the qualifying interests of the Roaringwater Bay and Islands Special Area of Conservation (side code: 000101). The Conservation Objectives set out by the National Parks and Wildlife Service (Version 1.0 of 19th July, 2011) for large shallow inlet and bay is that the permanent habitat area is stable or increasing, subject to natural processes. The Board could not be satisfied, given the submissions by the Department of Culture, Heritage and the Gaeltacht, that the proposed development would not result in the direct loss of this habitat and would, therefore, adversely affect the integrity of the European Site in view of the site's conservation objectives. In such circumstances, the Board is precluded from granting approval.

Appropriate Assessment

In completing the Appropriate Assessment, the Board did not agree with all aspects of the Inspector's report. The following sets out the Board's conclusion with respect to the Appropriate Assessment.

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the information on the file was adequate in order to issue a screening determination and that the Roaringwater Bay and Islands Special Area of Conservation (side code: 000101) and the Lough Hyne Nature Reserve and Environs Special Area of Conservation (site code: 000097) are the only European Sites for which there is a likelihood of significant effects.

The Board considered the Natura impact statement, the Inspector's report and all other relevant submissions, including submissions received on foot of a notice issued by the Board to the parties dated the 12th day of April, 2018.

The Board carried out an Appropriate Assessment of the implications of the proposed development on the Roaringwater Bay and Islands Special Area of Conservation (side code: 000101) and the Lough Hyne Nature Reserve and Environs Special Area of Conservation (site code: 000097) in view of these 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 assessment the Board considered, in particular:-

- (i) the likely direct and indirect impacts arising from the proposed development, both individually or in combination with other plans or projects, specifically aquaculture and fisheries activities in Roaringwater Bay,
- (ii) the mitigation measures which are included as part of the current proposal,
- (iii) the conservation objectives for these European Sites,
- (iv) the submissions from the Department of Culture, Heritage and the Gaeltacht,

- (v) the Roaringwater Bay and Islands Special Area of Conservation (site code: 000101) and conservation objectives supporting document – marine habitats Version 1. National Parks and Wildlife Service, April 2011,
- (vi) the Interpretation Manual of European Union Habitats - EUR28. European Commission, April 2013, and
- (vii) Article 6 Assessment of Aquaculture and Fisheries in Roaringwater Bay. Marine Institute, 27th June, 2013.

The Board noted the effects and potential effects identified by the Inspector in the appropriate assessment section of her report. These are:-

- The footprint of the breakwater leading to the permanent loss of 1.57 hectares (0.012%) of large shallow inlet and bay, which is a qualifying interest of the Roaringwater Bay and Islands Special Area of Conservation (site code: 000101).
- The dredging of the navigation channel and the area under the proposed breakwater, and the subsequent dumping of the spoil at sea leading to:
 - the disturbance of 3.01 hectares of large shallow inlet and bay (a qualifying interest) within the Roaringwater Bay and Islands Special Area of Conservation (site code: 000101),
 - the representativeness of the sediment samples taken for characterisation of, and the determination of the level of contaminants in, the sediments to be dredged,
 - impacts on water quality, including the spreading of contaminants within the Roaringwater Bay and Islands Special Area of Conservation (site code: 000101),

- potential sedimentation of reefs (a qualifying interest) within the Roaringwater Bay and Islands Special Area of Conservation (site code: 000101) from both the dredging and dumping activities, and
- the potential for material dumped at the identified dumping at sea site to be transported to Lough Hyne Nature Reserve and Environs Special Area of Conservation (site code: 000097).

In completing the Appropriate Assessment, the Board concluded that, on the basis of the information provided with the application, including the Natura impact statement, and in light of the reasons and considerations set out above, the Board is not satisfied that the proposed development, individually or in combination with other plans or projects, would not adversely affect the integrity of the Roaringwater Bay and Islands Special Area of Conservation (site code: 000101), in view of the site's conservation objectives. In such circumstances, the Board is precluded from granting approval.

The Board did not accept the Inspector's Appropriate Assessment in relation to the effects of the proposed dredging and subsequent dumping of the spoil at the proposed dumpsite. In particular:-

- In respect of the disturbance from the dredging of 3.01 hectares of large shallow inlet and bay within the Roaringwater Bay and Islands Special Area of Conservation (site code: 000101), the Board noted that the area to be dredged, and the surrounding 50.5 hectares within which the Natura impact statement models predict will be subjected to deposition of suspended material, is classified as *shallow sand/mud community complex*, a marine community type of large shallow inlet and bay. The Board agreed with the opinion of the Department of Culture, Heritage and the Gaeltacht (submission dated the 24th May, 2018) that the natural processes to allow a return to a pre-existing faunal diversity will continue to exist after the works have been completed. The Board concluded that this is a temporary loss of amenity and the site will recover within a short period of time and would not, therefore,

result in an adverse effect on the integrity of the Roaringwater Bay and Islands Special Area of Conservation (site code: 000101).

- With regard to the representativeness of the samples taken in the area to be dredged, the Board noted that the biological and physicochemical parameters measured show the characteristics of the samples to be very similar, indicating a relatively homogeneous seabed type. This is reflected in the single marine community habitat type across the area to be dredged and throughout Baltimore Harbour generally. In addition, the conditions found in the six trial holes excavated up to depths of five metres at the location of the proposed breakwater were found to be similar with the surface sediments consisting of un-compacted silt over silt or silty clay with shells. Based on the above sampling and testing, the Board was satisfied that the number and distribution of samples taken was sufficient to characterise the sediments for the purpose of assessing the impact of sediment resuspension from the proposed dredging and dumping operations.

- Impacts on water quality, including the spreading of contaminants within the Roaringwater Bay and Islands Special Area of Conservation (site code: 000101), was considered by the Board and, based on the levels of contaminants measured in the sediment samples collected from the area proposed to be dredged, together with the rural nature and general absence of industrial activity at this location, the Board was satisfied that sediments proposed to be dredged do not contain contaminants that would give rise to ecotoxicological effects and that any release of nutrients would not result in eutrophication impacts.

- The Board also considered the potential impacts of the deposition of sediments resulting from the proposed dumping operations on the Roaringwater Bay and Islands Special Area of Conservation (site code: 000101) and the Lough Hyne Nature Reserve and Environs Special Area of Conservation (site code: 000097). The Natura impact statement and environmental impact statement present sediment dispersion models

resulting from the dredging and dumping activities. These models indicate that there is very limited spatial overlap (where it does occur only it is at very low levels of settlement) with the Roaringwater Bay and Island Special Area of Conservation (site code: 000101) as a result of the dumping at sea operations. In addition, the models show no interaction of the dumping at sea operation with the Lough Hyne Nature Reserve and Environs Special Area of Conservation (site code: 000097).

The Board noted that the proposed development would be subject to an assessment and permitting process by the Environmental Protection Agency in accordance with the Dumping at Sea Act 1996 (as amended).

The Board was satisfied that there was sufficient information on file to assess the impact of the proposed development on the Roaringwater Bay and Islands Special Area of Conservation (side code: 000101) and the Lough Hyne Nature Reserve and Environs Special Area of Conservation (site code: 000097).

The Board was satisfied that the dredging and dumping activities of the proposed development would not adversely affect the integrity of the Roaringwater Bay and Islands Special Area of Conservation (side code: 000101) or the Lough Hyne Nature Reserve and Environs Special Area of Conservation (site code: 000097) in view of the sites' conservation objectives.

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

Dated this day of 2018.