



An
Bord
Pleanála

Inspector's Report ABP 313746-22

Development	Importation of soil, stone and concrete for the raising of an agricultural field, upgrade entrance and construction of temporary haul road.
Location	Garraneboy, Whitecross, Cork.
Planning Authority	Cork City Council
Planning Authority Reg. Ref.	21/40158
Applicant	Connor Landfill Ltd.
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	3 rd Party v. Grant
Appellants	Joan & Billy Twomey
Observer(s)	None
Date of Site Inspection	01/11/22
Inspector	Pauline Fitzpatrick

1.0 Site Location and Description

- 1.1. The site, which has a stated area of 3.07 hectares, forms part of an agricultural holding within the townland of Garraneboy to the south-east of White's Cross, c. 1.5 km to the north-west of Ballyvolane and c.4km to the north of Cork city centre. The site forms part of a larger agricultural holding with the farm buildings and farmhouse located to the south at the highest point of the holding. They are served by an access off local road L2976 (Laherdane Road). The said local road is narrow with poor vertical and horizontal alignment.
- 1.2. The lands to be filled are located in the northern portion of the holding. They are relatively low lying with vegetation indicating poor drainage. A watercourse forms the northern boundary with a drainage ditch traversing the lands from south to north draining into the watercourse. The appellants' lands and farmhouse are immediately to the north.
- 1.3. Regional road R 614 (Ballyhooley Road) bounds the agricultural holding to the west. It is relatively straight but with limited overtaking opportunities. The 80 kph speed limit applies.

2.0 Proposed Development

- 2.1. The application was lodged with the planning authority on the **05/05/21** with further plans and details submitted **05/04/22** and copies of revised public notices submitted **14/04/22** following a request for further information dated 29/06/21 (period by which the response was to be submitted extended to 06/04/22).
- 2.2. As amended, the proposal entails the raising of agricultural lands. The area identified for infilling equates to 22,785m³. 65,360 m³ (98,050 tonnes) of soil and stone are to be imported onto the site. 5,000m³ of crushed concrete is to be used for the haul road and turning area which will be removed on completion of the landfilling. If concrete is not acceptable quarried stone would be used. The material is to be sourced from the wider Cork area. A 5 year period for the importation of the materials is proposed. A Waste Facility Permit will be sought from Cork City Council.
- 2.3. An access from regional road R614 is proposed.

2.4. The application is accompanied by:

- Environmental Risk Management
- Site Assessment Report
- Environmental Accident Prevention and Environmental Emergency Response Procedure
- Flood Risk Assessment
- Natura Impact Statement
- Construction Environmental Management Plan
- Outline Traffic Management Plan

Note: Whilst reference is made to an Archaeological Impact Assessment none was submitted with the further information request.

3.0 Planning Authority Decision

3.1. Decision

Grant permission for the above described development subject to 23 conditions. Of note:

Condition 2: The volume of fill to be deposited on site shall not exceed 65,360m³.

Condition 8: Waste facility permit to be secured prior to commencement of development.

Condition 9: Archaeological requirements.

Condition 13: Entrance to be recessed a minimum of 10 metres behind the new fence line and splayed at a 45° angle.

Condition 18: Full width overlay reinstatement of the public road along roadside boundary on completion of the project.

Condition 22: Construction Traffic Management Plan for development including dedicated haulage route and a protocol to be followed to be agreed prior to commencement of development.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The **1st Planner's** report dated **29/06/21** notes:

- No survey of vegetation provided to measure the impact of the proposed loss.
- There is a lack of detail regarding the nature of the material to be brought to the site.
- AA Screening concludes that further information is required before the proposal can be screened out.
- An Archaeological Impact Assessment required.
- The recommendations of the other internal reports summarised below noted.

A request for further information recommended.

The **2nd Planner's** report dated **11/05/22** following FI notes:

- In terms of the NIS and supporting documentation adequate information has been provided in respect to baseline conditions, the potential impacts are clearly identified and that best scientific information and knowledge was used. The NIS lacks some detail in terms of in-combination affects. However satisfied that this was adequately considered in the screening Stage 1 document and that in-combination affects will not give rise to significant impacts on the qualifying interests of the identified Natura 2000 sites.
- The Archaeological Impact Assessment referenced was not submitted. A condition requiring its submission prior to commencement of development recommended.
- The recommendations of the Internal Reports summarised below noted.

A grant of permission subject to conditions. The recommendation was endorsed by the Acting Senior Executive Planner.

3.2.2. Other Technical Reports

1st Area Engineer's report dated **02/06/21** recommends further information on the proposed access arrangements relative to the existing farm entrance. The **2nd report** dated **10/05/22** following FI has no objection subject to conditions including

full width overlay reinstatement of the public road along the length of the roadside boundary.

1st Environment Report dated **11/06/21** recommends further information on total volume, type and source of material to be used and means of calculation, haul road details including turning area and containment measures. **2nd report** from Environment Section dated **05/05/22** has no objection subject to conditions including precluding the use of crushed concrete.

1st Traffic: Regulation and Safety report dated **21/06/21** recommends further information on traffic to be generated and preparation of a Construction Traffic Management Plan. The **2nd report** dated **27/04/22** following FI has no objection to the amended access arrangements subject to conditions.

1st Drainage report dated **25/06/21** recommends further information seeking site specific flood risk assessment, procedures to ensure no asbestos in the fill material, and details in terms of waste permit. The **2nd report** dated **03/05/22** following further information has no objection subject to conditions including requirement to obtain a waste facility permit and landfilling to be set back a minimum of 10 metres from existing stream edge.

Contributions Report dated **08/06/21** notes that no contributions are applicable.

Archaeology Report dated **09/05/22** has no objection subject to a condition.

3.3. Prescribed Bodies

Inland Fisheries Ireland in a report dated **25/05/21** recommends that details be agreed to prevent soiled water runoff from entering adjacent watercourses, that inert material, only, be used, maintenance of 5 metre buffer and erection of fence. No interference with bridging, draining or culverting of adjacent stream or any watercourse.

Irish Water in a report dated **05/05/21** recommends a series of conditions should permission be granted.

3.4. **Third Party Observations**

Objections to the proposal received by the planning authority are on file for the Board's information. The issues raised relate to impact of construction vehicles, traffic and pedestrian safety, and amenities of adjoining properties.

4.0 **Planning History**

ABP 306325 (SHD) - permission granted 27/05/20 for 753 residential units on lands to the south of the agricultural holding with access from the regional road.

ABP 311730 – permission granted 09/02/23 for 96 dwelling units and creche on lands to the west on the opposite side of the regional road.

5.0 **Policy Context**

5.1. **Development Plan**

- 5.1.1. Since the planning authority's adjudication on the application the Cork City Development Plan, 2022, came into effect.
- 5.1.2. The zoning provisions for the area have altered from those of the previous plan. The western section of the holding and approx. half of the area which is to be raised is now within an area zoned Z09 - Light Industry and related uses. The main purpose of this zoning objective is to provide for and protect dynamic light industry and manufacturing employment areas. Primary uses in this zone are where the principal activity is the manufacturing of a physical product and which activity is compatible with being located near to residential areas. Primary uses include light industry; small to medium sized manufacturing and repairs; wholesaling; trade showrooms; retail showrooms ancillary to manufacturing, fitting and business to business activity; car showrooms; and incubator units. Other uses may include warehousing, logistics, storage and distribution, primary healthcare centres, builders providers / garden centres, subject to local considerations. Offices ancillary to the main light industry, manufacturing or employment use are also acceptable.

- 5.1.3. The remainder of the area to be raised along the eastern extent is within an area Zoned 20 – City Hinterland, the objective for which is to protect and improve rural amenity and provide for the development of agriculture.

5.2. Natural Heritage Designations

- 5.2.1. The nearest designated site, Cork Harbour SPA is approx. 3.5 km (straight line) to the south-east of the site.

6.0 The Appeal

6.1. Grounds of Appeal

The submission by Coakley O'Neill on behalf of the appellants, whose lands and dwelling are to the north of the appeal site, refers. The grounds of appeal can be summarised as follows:

6.1.1. Procedural Issues

- The process under which the application was assessed by the planning authority was not properly carried out in terms of the NIS submitted at further information stage.
- The NIS is incomplete and does not assess in-combination effects.
- Inland Fisheries Ireland was not informed of the further information submission.
- Archaeological Assessment not submitted.
- The above cited omissions are significant which undermine the full and robust assessment of the proposal and prejudice the appellants and others to properly assess the impacts.

6.1.2. Policy Provisions and Visual Impact

- The proposal would be excessive and overbearing particularly relative to the site's sensitive conservation context within an Area of High Landscape Value and the Prominent and Strategic Metropolitan Greenbelt. The proposal is not

in accordance with the area's character and does not respond positively to its immediate environment.

- The proposal would be contrary to 2022 Development Plan City Hinterland designation and industrial zoning for the land.

6.1.3. Impact on Adjoining Property

- The works will be visible from the appellants' lands.
- The duration of the works over a period of 5 years and the operating hours with at least 5 trips per day, in addition to the on-site works, will result in dust, noise and vibration, which would seriously impact on their residential amenities.

6.1.4. Access and Traffic

- The proposed entrance and haul road is in close proximity to their entrance.
- The stretch of road that both entrances are located on provides no opportunity for cars to slow until you reach Whitecross c. 160 metres to the north of their entrance.
- Vehicular speeding is noted on this stretch of road.
- The entrance will be used primarily by slower moving HGVs with large loads of material contributing to a slower entry to the site.
- While sightlines and minimum stopping distances in relation to the proposed entrance have been calculated at 160 metres it is contended that the proposed access arrangement to the site poses a significant risk to road and traffic safety. The fact that delivery of material will occur during off peak hours in the morning and evening does not address the hazard.
- There is no indication as to how the gate to the recessed entrance is to be managed. There is potential for conflict arising from HGVs trying to enter the site being made to wait on the road to turn into the site or having to wait for the gate to be opened.
- There is a conflict between the Traffic Management Plan which does not propose to provide for carparking and condition 21 which requires such provision.

- The temporary nature of the access and haul road do not negate the safety concerns arising.

6.1.5. Haul Route

- There are concerns about the construction phase of the haul road.
- No provisions made during the initial construction phase as to how the field will be accessed nor the details of machinery needed to carry out the necessary works to make the haul road viable and safe to use.
- The field has been subject to flooding in the past.
- The stream could impact on the overall integrity of the haul road throughout the course of the infill works if it were to overflow during rain periods.
- The haul road could give rise to a number of ecological impacts such as habitat fragmentation and pollutants to the watercourse along with other sensitive receptors.
- While a buffer of 10 metres is to be maintained to the watercourse there is no guarantee that material from HGVs would not fall into the stream itself.
- There is the potential that some infill material may be contaminated or contain traces of invasive species.

6.2. Applicant Response

None. Response received was late and returned.

6.3. Planning Authority Response

None

6.4. Observations

None

6.5. Section 131 Notices

On the basis that the proposal may have an impact on Cork Harbour SPA and Great Island Channel SAC certain prescribed bodies were invited to make a submission on the appeal. One response was received.

6.5.1. Inland Fisheries Ireland

Following conditions required:

- All necessary measures to be put in place to prevent loss or escape of suspended solids to waters.
- Only inert materials to be used.
- Fence to be erected to ensure 5 metre buffer is maintained from all watercourses.
- No interference with bridging, draining, or culverting of adjacent stream or any watercourse, its banks or bankside vegetation without its prior approval.

7.0 Assessment

I consider that the issues arising can be assessed under the following headings:

- Policy Context and Principle of Development
- Access and Traffic
- Amenities of Adjoining Property
- Flood Risk and Impact on Watercourse
- Other Issues
- Appropriate Assessment

7.1. Policy Context and Principle of Development

- 7.1.1. Since the assessment of the application and decision made by the planning authority the Cork City Development Plan, 2022, came into effect. A material change has occurred in the zoning provisions for the site and the lands in the vicinity including the appellants' lands. Previously the site was within the metropolitan Cork Greenbelt. The main body of the site is now zoned for light industry and related uses

with only the western extent of the lands which are to be raised zoned Z20 – City Hinterland. The lands are not within an area designated as being a high value landscape.

- 7.1.2. The holding of which the appeal site forms part and the lands in the vicinity including the appellants are in agricultural use however it is a reasonable expectation that the character of the area will alter fundamentally should development in line with the current zoning provisions be realised. In this context I note the large residential schemes granted permission on lands to the south and west of the appeal site.
- 7.1.3. As amended, the proposal entails the raising of agricultural lands for beneficial use. The area for infilling equates to 22,785m³ with 65,360 m³ (98,050 tonnes) of soil and stone to be imported onto the site for that purpose. Crushed concrete is proposed to be used for the haul road and turning area which will be removed on completion of the landfilling. If concrete is not acceptable the applicant is willing to use quarried stone. The materials are to be sourced from the wider Cork area. A Waste Facility Permit will be sought from Cork City Council.
- 7.1.4. Apart from general policies encouraging re-use and recycling and appropriate treatment, the Waste Management Plan for the Southern Region lacks specific policies of relevance to the type of development proposed. Whilst objective 9.12 addresses waste management in the Cork City Development Plan, 2022, it does not relate specifically to this type of inert landfill. In general terms the Council will seek to support the sustainable management of waste in line with the objectives of the Southern Region Waste Management Plan 2015-2021 and the National Waste Management Plan for a Circular Economy (NWMPCE) when published, which will replace the existing Regional Waste Management Plans, and to facilitate the transition to a circular economy facilitating the value recovery and recirculation of resources in order to generate minimal waste.
- 7.1.5. On the basis of the stated policies and objectives, the proposed development description and my inspection, I am satisfied that the development will provide a benefit to the land, would not be contrary to any policies or objectives of the current Cork City Development Plan and is acceptable in principle.

7.2. Access and Traffic

- 7.2.1. The original proposal entailed a new access and haul road in proximity to the farm's entrance off local road L2976 (Laherdane Road) to the south. The said road is narrow and has a poor alignment. Consequent to the further information request revised access arrangements with a new entrance and haul road from regional road R614 (Ballyhooley Road) to the west is proposed.
- 7.2.2. The access is proposed to be positioned in the north-western most corner of the holding approx. 180 metres to the south of the appellants' access. The road along the site frontage is straight without the benefit of hard shoulders. There is a central, solid white line to the south of the access precluding overtaking which gives way to a broken white line to the north. The road was noted to be relatively lightly trafficked with vehicles travelling at speed. The 80kph speed limit applies.
- 7.2.3. An Outline Traffic Management Plan was submitted by way of further information. 65,360 m³ (98,050 tonnes) of soil and stone are to be imported onto the site over a 5 year period. This equates to 19,610 tonnes per annum requiring approx. 980 truck movements. Working on the principle of 200 working days per year this would result in 5 truck imports per day or 10 HGV movements. It is anticipated that the majority of vehicles will travel from Cork City northwards along the regional road.
- 7.2.4. The temporary entrance to be provided from the regional road can provide for sightlines of 120 metres in either direction at a setback of 3 metres. This is considered to be acceptable along the regional road where the 80 kph speed limit applies. The applicant also noted that as the vehicle movements will be predominately HGVs they offer a better position in terms of driver visibility. I also note that the gate is to be positioned 18 metres back from the roadside boundary which would allow for vehicles to pull in should the gate be closed.
- 7.2.5. I note that the Area Engineer and the Traffic Regulation and Safety Section had no objection to the proposed access arrangements subject to conditions including a full width overlay reinstatement of the public road for the full length of the roadside boundary.
- 7.2.6. On balance, I consider that the additional traffic which the development would generate on the regional road would not be significant. Subject to the erection of advance warning signs of construction traffic and the obligation to keep the road free

of debris, I am satisfied that the proposed development would not create an unacceptable traffic hazard or unacceptable convenience to other road users.

7.3. Amenities of Adjoining Property and Visual Impact

- 7.3.1. The appellants' lands and dwelling are the nearest to the appeal site located immediately to the north. The dwelling in question is approx. 250 metres to the north-west of the lands to be raised and approx. 170 metres from the proposed haul route at its closest point. There is a hedgerow delineating the boundary between the properties.
- 7.3.2. Certainly the operation will generate traffic and vehicular movements on the site which will generate noise and potential for dust and nuisance. The Construction Environmental Management Plan submitted by way of further information sets out the measures to minimise such impacts and would be in accordance with best practice measures.
- 7.3.3. The issue of control of materials to be disposed of within the site is a matter for control and surveillance under the Waste Facility Permit which will be required for the site.
- 7.3.4. The appellant contends that the development will have a negative visual impact. I submit that whilst the site has an innate rural quality it is not within an area designated to be of high landscape/scenic value. It is located within a working rural landscape and is highly managed. By reason of the topography of the area views of the site are restricted to neighbouring lands including the appellants' property. Certainly the development will result in the manipulation of the topography of the site however having inspected the site, I consider that the importation and spreading soil and stones over the agricultural fields to an average depth of 2.8 metres would not significantly alter views of the wider landscape. Certainly for the duration of the infilling works there will be an impact on views. I consider that with settlement and appropriate grading and having regard to the purpose of the works which is to increase the beneficial agricultural use of the lands, the works the development will integrate successfully into the landscape. I consider that the extent of the visual impact is acceptable and that the landscape is capable of absorbing change.

7.4. Flood Risk and Impact on Watercourse

- 7.4.1. A Flood Risk Assessment report was submitted by way of further information.

- 7.4.2. A small stream delineates the northern boundary of the site draining in an east – west direction before flowing southwards parallel to the regional road. A 1m. x 1m. earthen bund and silt fence offset from the stream by a 5 metre minimum buffer is proposed to the north of the fill area. The majority of the haul road save in the north-west corner is setback from the watercourse and appropriate measures can be put in place to ensure that the stream is protected at this point. The stream is to be temporarily bridged/piped at the point of access and the measures are to be agreed with Inland Fisheries Ireland prior to installation. IFI in its submission to the Board following a section 131 notice has no objection to the proposal subject to conditions.
- 7.4.3. A drainage ditch traverses the site which drains to the watercourse to the north. It is to be piped thereby maintaining the existing drainage regime.
- 7.4.4. From the details available the site is not identified as susceptible to flood risk. The vegetation noted on site is indicative of poor drainage, the reason for the raising of the lands to increase their beneficial agricultural use. The lands to either side of the watercourse are higher and the stream runs in a steeply sided, well confined valley. The Flood Zones for both A and B of the stream lie very close to the river banks with flow depth in the stream not greater than 1 metre under any conditions including for climate change with the channel very efficient at conveying flows due to its steep slope. Peak water levels were checked at two locations and are noted as being in excess of 2 metres below the level of the lowest point of fill proposed. It is reasonable to conclude on the basis of the detail provided that the proposed raising of lands will have no impact on flood risk in the vicinity.

7.5. Procedural Issues

- 7.5.1. It is contended that the planning authority did not follow the procedures applicable where a NIS has been submitted. Absence of reference to the NIS in the revised public notices and the time period by which submissions could be made should have been cited. I note that the said revised public notices make reference to the fact significant further information had been provided and that a submission/observation could be made within the statutory time period.
- 7.5.2. Any shortcomings in terms of the validation of the application and compliance with the Planning and Development Regulations, 2001, as amended, as pertain to the

said application with specific regard to Articles 239 and 240 is a matter more appropriately raised with the planning authority.

- 7.5.3. Although referenced in the further information response an Archaeological Impact Assessment was not submitted. There are no recorded monuments within or in the immediate vicinity of the site the nearest being approx. 100 metres to the east. In view of the nature and extent of the proposed development which does not entail material levels of excavation but the converse, namely infilling of lands, I do not consider that the absence of the assessment to be fatal and I consider that there is sufficient detail before the Board to allow for a full and proper assessment of the proposal. I note that the City Archaeologist in a report that post-dated the further information response had no objection subject to a condition. A condition requiring archaeological monitoring would be appropriate in this instance.

7.6. Environmental Impact Assessment

- 7.6.1. The area for infilling equates to 22,785m³. 65,360 m³ (98,050 tonnes) of soil and stone. With importation proposed over a 5 year period this equates to 19,610 tonnes per annum.
- 7.6.2. The development subject of this application falls within the class of development described in 11(b) Part 2, Schedule 5 of the Planning and Development Regulations, 2001, as amended. EIA is mandatory for developments comprising of installations for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part 1 of this Schedule. The proposed development falls short of this threshold.
- 7.6.3. The materials to be disposed of within the site comprise of inert subsoil, stone and topsoil.
- 7.6.4. The proposed development is not significant in terms of size and design entailing a site of 3.07 hectares c. 1.5 km to the north-west of Ballyvolane and c.4km to the north of Cork city centre. The site is low lying. The works will allow for the beneficial use of the land for agricultural purposes.
- 7.6.5. The reclamation works will not result in any significant loss of natural resources or local biodiversity. Save for the hedgerow in the centre of the site all other field boundaries are to be maintained with the drainage ditch traversing the site to be

piped. The lands in the vicinity are comparable in character and are used for agricultural purposes.

- 7.6.6. Appropriate measures are to be incorporated including setback to the watercourse along the northern boundary and installation of silt fences to protect against accidental spillage/pollution to surface water.
- 7.6.7. The site is not within or adjacent to any European Site. The issues arising from the proximity/connectivity to a European Site can be adequately dealt with under the Habitats Directive and the proposed mitigation measures included within the NIS are considered to adequately address any significant likely effects that would require to be addressed in an EIAR
- 7.6.8. The site is not within an area designated as being of visual sensitivity or of high amenity value. The main body of the site is zoned for light industry in the 2022 Cork City Development Plan. There are no archaeological or cultural heritage features within the site.
- 7.6.9. Noise and vehicular movement would be comparable to that generated at other construction sites and would be temporary in duration.
- 7.6.10. There is no risk of major accidents or risks to human health.
- 7.6.11. The application is accompanied by a suite of documents including a Flood Risk Assessment, Natura Impact Statement, Hedgerow Appraisal Report, Revegetation Survey, Construction Environmental Management Plan and Outline Traffic Management Plan. The totality of the documentation addresses the issues arising in terms of site access, vehicular movements and protection of amenities of adjoining property.
- 7.6.12. I submit that the location of the proposed development and the environmental sensitivity of the geographical area would not justify a conclusion that it would be likely to have significant effects on the environment. The proposed development does not have the potential to have effects the impact of which would be rendered significant by its extent, magnitude, complexity, probability, duration, frequency, or reversibility. This conclusion is consistent with the information provided in the applicant's EIA Screening Report.

7.6.13. Therefore having regard to: -

- The nature and scale of the proposed development, which is below the threshold in respect Class 11(b) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- The location of the site outside of any sensitive location specified in article 109 of the Planning and Development Regulations 2001 (as amended),
- The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003),
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended),
- The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Natura Impact Statement it

It is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not, therefore, be required.

7.7. Appropriate Assessment

Compliance with Articles 6(3) of the EU Habitats Directive

- 7.7.1. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.
- 7.7.2. The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site’s conservation objectives. The competent authority must be satisfied that the proposal

will not adversely affect the integrity of the European site before consent can be given. The proposed development is not directly connected to or necessary to the management of any European site and, therefore, is subject to the provisions of Article 6(3).

- 7.7.3. The application is accompanied by an Appropriate Assessment Screening Report and a Natura Impact Statement prepared by Byrne Looby. They contain a description of the proposed development, the project site and the surrounding area. The NIS outlines the methodology used for assessing potential impacts on the habitats and species within the European Sites that have the potential to be affected by the proposed development. It predicts the potential impacts for the sites and their conservation objectives and suggests mitigation measures.
- 7.7.4. Having reviewed the documents and submissions I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development alone, or in combination with other plans and projects on European sites.

Stage 1 - AA Screening

- 7.7.5. The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site in view of the conservation objectives of those sites.

Brief Description of the Development

- 7.7.6. The site comprises of low lying fields with wet grassland vegetation. The field boundaries are delineated by hedgerows with a watercourse along the northern boundary and a drainage ditch traversing the site.
- 7.7.7. The applicant provides a description of the project in Section 3 of the NIS. The development is also summarised in Section 2 of this Report. In summary the proposed development entails the importation of 65,360 m³ (98,050 tonnes) of soil, stone and subsoil to raise an area of 22,785m³. The lands are to be used for agricultural purposes. The total fill will, on average, be 2.8 metres above current ground level. Once the inert material has been deposited it will be spread out. When the desired fill depth of stone and subsoil has been reached, topsoil will be spread and then reseeded.

- 7.7.8. A temporary access from the regional road to the west is proposed with a temporary bridge over the stream at the proposed site entrance proposed.
- 7.7.9. A haul road c. 500 metres in length is proposed from the access. It runs along the northern boundary of the site before making a sharp right turn up a hill to an opening in the tree line. The road then follows an west-east axis along the ridgeline to the field. A 5 metre minimum buffer is to be maintained to the stream which runs along the boundary.
- 7.7.10. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European sites:
- Run off of silt, sediment and hydrocarbons during filling of land which could impact on downstream water quality.

Submissions and Observations

- 7.7.11. The 3rd Party appeal raises concerns regarding the consideration of in-combination effects.

European Sites

- 7.7.12. The development site is not located in or immediately adjacent to a European site. In determining the extent of potential effects of the development the source-pathway receptor model of impact was used.
- The stream bounding the site to the north flows in a westerly direction before turning southwards. It enters the River Lee via the Glen River and the Bride Rive c 5.5km downstream. The River Lee enters Cork Harbour SPA a further 5km downstream, giving a hydrologic distance of over 10 km.
 - The stream bounding the site to the north flows in a westerly direction before turning southwards. It enters the River Lee via the Glen River and the Bride Rive c 5.5km downstream. The River Lee flows past the western edge of Little Island and continues past Great Island Channel SAC a further 9.5 km downstream. This gives a hydrologic distance of over 15km.
 - There is no hydrological link with the Blackwater River SAC c. 12km to the north (straight line distance).

- 7.7.13. There is the possibility that surface water runoff containing silt or contaminants could reach the above referenced SPA and SAC and have effects on the qualifying interests of the sites. The potential for effects on the qualifying interests of the Natura 2000 site cannot, therefore, be screened out and Stage II Appropriate Assessment is required.

Mitigation Measures

- 7.7.14. No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise.

Screening Determination

- 7.7.15. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000, as amended. Having carried out screening for appropriate assessment of the project, it has been concluded that the project individually (or in combination with other plans or projects) could have a significant effect on European Sites nos. 004030 and 001058 in view of the sites' Conservation Objectives and Appropriate Assessment is therefore required.

The Natura Impact Statement

- 7.7.16. The NIS examines and assesses potential adverse effects of the proposed development on 2 no. designated European Sites.
- 7.7.17. The NIS is stated as having been informed by best practice guidance for such assessments, a desktop and literature study, including NPWS databases, the synopses and conservation objectives and a site survey.
- 7.7.18. Section 7 of the NIS contains an assessment of the potential impacts of the proposed development on the identified European Sites with Section 7.2 setting out a series of mitigation measures.
- 7.7.19. The NIS concludes that there will be no significant effects to the integrity of the designated sites.
- 7.7.20. Having reviewed the NIS, all supporting documentation and submissions, I am satisfied that the information allows for a complete assessment of any adverse effects of the proposed development on the conservation objectives of the abovementioned European sites alone, or in combination with other plans and projects.

Appropriate Assessment of Implications of the Proposed Development.

7.7.21. The following is an assessment of the implications of the project on the relevant conservation objectives of the European sites using the best available scientific knowledge in the field (NIS). All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are examined and assessed. I have relied on the following guidance:

- DoEHLG (2009). Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities. Department of the Environment, Heritage and Local Government, National Parks and Wildlife Service. Dublin
- EC (2002) Assessment of plans and projects significantly affecting Natura 2000 sites. Methodological guidance on the provisions of Article 6(3) and 6(4) of the Habitats Directive 92/43/EC
- EC (2018) Managing Natura 20
- EC (2018) Managing Natura 2000 sites. The provisions of Article 6 of the Habitats Directive 92/43/EEC.

Relevant European sites:

7.7.22. The watercourse along the northern boundary of the site provides a hydrological connection to the European Sites.

7.7.23. A description of the sites, their qualifying interests and conservation objectives including any relevant attributes and targets are set out in the NIS and are summarised in the tables below. I have also examined the Natura 2000 data forms and the conservation objectives supporting documents for the sites available through the NPWS website (www.npws.ie).

Evaluation of Effects

7.7.24. The main aspects of the proposed development that could adversely affect the conservation objectives of the European site include the release of sediment and other pollutants to surface water during the raising of the lands as the site is hydrologically linked to the SPA and SAC via the watercourse along the northern boundary.

7.7.25. Section 7.2 of the NIS details mitigation measures to be employed. The mitigation measures include:

- A 1 m x 1m earthen bund
- A silt fence on the exterior of the earthen bund
- Maintenance of a 5 metre buffer to be positioned between the stream and silt fence/bund.

7.7.26. The tables below summarise the appropriate assessment and integrity test. The conservation objectives, targets and attributes as relevant and the identified potential adverse effects have been examined and assessed in relation to all aspects of the project (alone and in combination with other plans and projects). Mitigation measures proposed to avoid and reduce impacts to a non-significant level have been assessed.

7.7.27. In terms of possible in-combination effects I note the appellants' comments regarding the absence of such consideration in the NIS. I note that the Appropriate Assessment Screening Report has regard to same in section 7.3.

7.7.28. In terms of possible in-combination effects I have regard to plans, programmes and existing and proposed developments in the vicinity. Regard is had to the Cork City Development Plan 2022 in which the majority of the lands are zoned light industry. The plan was subject of appropriate assessment. I also have regard to planning applications in the vicinity including the residential development comprising of over 700 dwelling units under ref. ABP 306325-20 on lands to the south which was subject of appropriate assessment and a further 96 dwelling units on lands to be west under ref. 21/40038 (ABP 311730-21) which was subject of aa screening. The residential developments will discharge to public foul and surface water networks during the operational phases with best practice methods to be employed during the construction phase. I do not consider that any in-combination effects arise.

7.7.29. Following the appropriate assessment and the consideration of mitigation measures, I am able to ascertain with confidence that the project would not adversely affect the integrity of Cork Harbour SPA and Great Island Channel SAC in view of the conservation objectives of these sites. This conclusion has been based on a

complete assessment of all implications of the project alone and in combination with plans and projects.

Appropriate Assessment Conclusion:

- 7.7.30. The proposed development has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended.
- 7.7.31. Having carried out screening for appropriate assessment of the project, it was concluded that it may have a significant effect Cork Harbour SPA (site code 004030) and Great Island Channel SAC (site code 001058). Consequently, an appropriate assessment was required of the implications of the project on the qualifying features of the site in light of its conservation objectives.
- 7.7.32. Following an appropriate assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European sites, or any other European site, in view of the sites' Conservation Objectives.
- 7.7.33. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable scientific doubt as to the absence of adverse effects.
- 7.7.34. This conclusion is based on:
- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures.
 - No reasonable scientific doubt as to the absence of adverse effects on the Cork Harbour SPA and Great Island Channel SAC, or any other European site, in view of the sites' Conservation Objectives.

Summary of Appropriate Assessment of implications of the proposed development on the integrity of European Sites alone and in combination with other plans and projects in view of the sites Conservation Objectives.

Table 9-2 Cork Harbour SPA					
<p>Key issues</p> <ul style="list-style-type: none"> Water quality impacts due to pollutants or soil/silt run off during importation of soil and raising of land <p>Conservation Objectives https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004030.pdf</p>					
Summary of Appropriate Assessment					
Conservation Objective: To maintain the favourable conservation condition of the following:	Targets and attributes (summary-as relevant)	Potential adverse effects	Mitigation measures (including monitoring)	In-combination effects	Can adverse effects on integrity be excluded?
Little Grebe Great Crested Grebe Cormorant Grey Heron Shelduck Wigeon Teal	Long term population trend stable or increasing. No significant decrease in the range, timing or intensity of use of areas, other than that	<u>Construction Phase</u> Potential effects on water quality from:- <ul style="list-style-type: none"> surface water contamination by suspended solids from spillages 	<u>Construction Phase</u> <ul style="list-style-type: none"> A 1 m x 1m earthen bund A silt fence on the exterior of the earthen bund 	None	Yes Adverse effects on site integrity can be excluded as there is no doubt as to absence of effects on these qualifying interests in view of their conservation objectives.

Pintail Shoveler Red-breasted Merganser Oystercatcher Golden Plover Grey Plover Lapwing Dunlin Black-tailed Godwit Bar-tailed Godwit Curlew Redshank Black-headed Gull Common Gull Lesser Black-backed Gull Common Tern	occurring from natural patterns of variation	during raising of lands.	<ul style="list-style-type: none"> • Maintenance of a 5 metre buffer to be positioned between the stream and silt fence/bund. • Preparation of Construction Environmental Management Plan incorporating best practice pollution prevention methods 		
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Common Tern	No significant decline in breeding population, distribution of breeding colonies, no significant decrease in prey biomass, no significant increase in barriers to connectivity				
Wetland and Waterbirds	The permanent area occupied by the wetland habitat should be stable and not significantly less than the area of 2,587 hectares, other than that occurring from natural patterns of variation				
Overall conclusion: Integrity test Following the implementation of mitigation, the proposed development will not adversely affect the integrity of Cork Harbour SPA in view of the site's conservation objectives. No reasonable scientific doubt remains as to the absence of such effects.					

Table 9-3 Great Island Channel SAC

Key issues

- Water quality impacts due to pollutants or soil/silt run off during importation of soil and raising of lands

Conservation Objectives https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO001058.pdf

Summary of Appropriate Assessment

Conservation Objective: To maintain (M) or restore (R) the favourable conservation condition of the following:	Targets and attributes (summary-as relevant)	Potential adverse effects	Mitigation measures (including monitoring)	In-combination effects	Can adverse effects on integrity be excluded?
Mudflats and sandflats not covered by seawater at low tide (M)	<p>The permanent habitat area is stable or increasing, subject to natural processes.</p> <p>Conserve mixed sediment to sandy mud with polychaetes and oligochaetes</p>	<p><u>Construction Phase</u></p> <p>Potential effects on water quality from:-</p> <ul style="list-style-type: none"> • surface water contamination by suspended solids from spillages 	<p><u>Construction Phase</u></p> <ul style="list-style-type: none"> • A 1 m x 1m earthen bund • A silt fence on the exterior of the earthen bund 	None	<p>Yes</p> <p>Adverse effects on site integrity can be excluded as there is no doubt as to absence of effects on these qualifying interests in view of their conservation objectives.</p>

	community complex in a natural condition.	during raising of lands.	<ul style="list-style-type: none">• Maintenance of a 5 metre buffer to be positioned between the stream and silt fence/bund.• Preparation of Construction Environmental Management Plan incorporating best practice pollution prevention methods		
Atlantic salt meadows (R)	Targets for habitat area, distribution, Physical structure, vegetation structure and composition				
Overall conclusion: Integrity test					
Following the implementation of mitigation, the construction and operation of this proposed development will not adversely affect the integrity of Great Island Channel SAC in view of the site's conservation objectives. No reasonable scientific doubt remains as to the absence of such effects.					

8.0 Recommendation

Having regard to the foregoing I recommend that permission for the above described development be granted for the following reasons and considerations subject to conditions.

9.0 Reasons and Considerations

Having regard to the policies and provisions of the Cork City Development Plan, 2022 and the nature and scale of the development proposed, it is considered that, subject to compliance with the conditions set out below, the proposed development, which seeks to raise lands for agricultural use, would not seriously injure the amenities of the area, would not be likely to have significant effects on the environment, would not adversely impact the amenities of adjoining property 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.

Appropriate Assessment: Stage 1:

The Board considered the Natura Impact Statement and all the 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 designated European Sites. The Board agreed with and adopted the screening assessment carried out and conclusions reached in the Inspector's report that Cork Harbour SPA (site code 004030) and Great Island Channel SAC (site code 001058) are the only European Sites in respect of which the proposed development has the potential to have a significant effect.

Appropriate Assessment: Stage 2:

The Board considered the Natura Impact Statement and associated documentation submitted with the application, the mitigation measures contained therein, the submissions and observations on file, and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed

development for the aforementioned European Site 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 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.

10.0 Conditions

1. The 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 5th day of April 2022, 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 development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. All of the environmental and construction mitigation measures, as set out in the Construction Environmental Management Plan, Outline Traffic Management Plan, Revegetation Strategy and the Natura Impact Statement received by the planning authority on the 5th day of April 2022, shall be implemented by the developer, except as may otherwise be required in order to comply with the conditions of this Order.

Reason: In the interests of clarity and of the protection of the environment during the construction and operational phases of the development.

3. 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.

4. (a) Prior to commencement of development, a system of advanced warning signs shall be erected along the access road to the site which shall be agreed in writing with the planning authority.

(b) The public roadway shall be kept clean and tidy at all stages of the development.

Reason: In the interest of traffic safety.

5. A full width overlay reinstatement of the public road along the length of the roadside boundary shall be carried at the developer's expense on completion of the proposed development. Full details of the works shall be submitted to the planning authority for its written agreement prior to the commencement of the overlay reinstatement.

Reason: In the interests of traffic safety.

6. The importation of soil and operation of associated machinery shall be carried out only between the hours 0800 and 1800 from Mondays to Fridays inclusive. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In the interest of good traffic management and to protect amenities of the area.

Pauline Fitzpatrick
Senior Planning Inspector

March, 2023