



An
Bord
Pleanála

Inspector's Report

ABP-313805-22

Development	Construction of a boathouse. A NIS was submitted with the application.
Location	Rathcoursey West, Midleton, Co. Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	215077
Applicant(s)	Mike O'Riordan
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Gillian Geasely
Observer(s)	Adrian Sandham
Date of Site Inspection	28 th July 2022
Inspector	Liam Bowe

1.0 Site Location and Description

- 1.1. The appeal site is located in a rural area approximately 3.7km to the southwest of Midleton town in Co. Cork. The site is immediately adjacent to the Ballynacorra River, which is within both the designated area for Cork Harbour SPA and Great Island Channel SAC. There is a house immediately to the southwest and immediately to the northeast of the appeal site. The house to the northeast is listed on the NIAH (Ref. No. 20907653).
- 1.2. The appeal site is stated to be 0.023 ha. in area. It is accessed directly from a county road (L-3629). The local road is narrow but is wide enough to facilitate passing cars. There was no evidence of a structure on the appeal site on the day of my site inspection. There is an electricity pole present on the site. The north-eastern site boundary has a c.1.5m high stone wall; the south-western boundary has a c.1.8m high concrete post and timber panel fence; the south-eastern site boundary is open to the public road; and the north-western boundary is open to the Ballynacorra River. The appeal site falls away from the public road towards the river channel to the northwest.

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of a boat house (stated area of 107m²) on the site and associated works, all at Rathcoursey, Midleton, Co. Cork. The associated works are shown as steps and a handrail on the southwest elevation and a slipway on the northwest elevation. The site is serviced by public water.
- 2.2. The application was accompanied by:
 - An Appropriate Assessment Screening Report
 - An Ecological Impact Assessment (EclA)

3.0 Planning Authority Decision

- 3.1.1. Prior to its notification of decision, the Planning Authority issued a further information request on 16th June 2021 requiring title deeds / relevant folio maps, a Natura Impact Statement (NIS) and measures to safeguard the SPA / SAC during construction.
- 3.1.2. In response, the first party submitted copies of the folio / folio maps, and a NIS. The Planning Authority issued a further request on 19th October 2021 requiring a winter bird survey, a lighting plan, and an updated NIS.
- 3.1.3. In response, the first party submitted an updated NIS which included a winter bird survey.

3.2. Decision

- 3.2.1. By order dated 23rd May 2022 Cork County Council issued a notification of decision to Grant Permission for the proposed development subject to 18 no. conditions. Of note are the following conditions:

Condition No.2: Limiting the use to a boathouse.

Condition No.6: Limiting development works to between 1st March and 31st October.

Condition No.8: Implementation of mitigation measures specified in the NIS.

Condition No.10: Requirement for a CEMP.

Condition No.15: Requirement for a plant survey.

Condition No.17: Surface water to be disposed by means of soakaways.

Condition No.18: Requirement to service the development by adequate water and wastewater facilities.

3.3. Planning Authority Reports

3.3.1. Planning Reports

The Planning Officer in the initial report dated 16th June 2021 outlined the relevant development plan policy, the planning history on the site, and highlighted concerns regarding the ownership of the site and possible impacts on the designated SPA / SAC. Further information was recommended.

Appropriate Assessment Screening was carried out by the Council's Ecologist and concluded that there was potential for significant effects to any Natura 2000 site during the construction stage of the development without protective / mitigation measures.

A second report dated 18th October 2021 outlined concerns regarding the completeness of the NIS and possible impacts on the designated SPA / SAC. Clarification of further information was recommended.

A third report dated 20th May 2022, subsequent to the submission of a response to the clarification of further information, recommends a grant of permission consistent with the notification of decision which issued.

Stage II Appropriate Assessment Screening was completed and concluded that there is no likely potential for significant effects to any Natura 2000 site, subject to the implementation of the mitigation measures outlined in the NIS.

3.3.2. **Other Technical Reports**

Area Engineer: No objections. Conditions recommended.

Conservation Officer: No objections. Condition recommended.

Ecologist: The initial report dated 16th June 2021 outlined concerns given that the proposed development would occur within two European sites. A NIS was sought as further information.

A second report dated 14th October 2021 seeks further information in relation to a winter bird survey, a lighting plan, and an updated NIS arising from these.

A third report dated 19th May 2022 concludes that the mitigation measures outlined in the updated NIS are acceptable. Conditions recommended.

3.4. **Prescribed Bodies**

Department of Tourism, Culture, Arts, Gaeltacht, Sport & Media: No objections. Conditions recommended.

A second report seeks the completion of a winter bird survey.

Irish Water: No objections. Conditions recommended.

3.5. **Third Party Observations**

Submissions were received from Gillian Geasley and Adrian Sandham. The issues raised in these submissions were in relation to land ownership, regularisation of the demolition of the structure on the site, concerns about the proposed design and its visual impact, lack of provision of wastewater treatment, and parking / access concerns.

4.0 **Planning History**

4.1. **Appeal site:**

P.A. Ref. No. 21/4641: Permission to construct a new split-level boathouse (incomplete application).

P.A. Ref. No. 20/5983: Permission for retention of demolition of boat house and permission for a new split-level boathouse (application withdrawn).

5.0 **Policy Context**

5.1. **Cork County Development Plan 2022-2028**

I draw the Board's attention to the adoption of the Cork County Development Plan on 25th April 2022, which came into effect as the statutory plan for the county on 6th June 2022.

- 5.1.1. The appeal site is located within an area of West Cork designated as a '**High Value Landscape**'.

Objective GI 14-9: Landscape

- a) Protect the visual and scenic amenities of County Cork's built and natural environment.
- b) Landscape issues will be an important factor in all land-use proposals, ensuring that a pro-active view of development is undertaken while protecting the environment and heritage generally in line with the principle of sustainability.
- c) Ensure that new development meets high standards of siting and design.

- d) Protect skylines and ridgelines from development.
- e) Discourage proposals necessitating the removal of extensive amounts of trees, hedgerows and historic walls or other distinctive boundary treatments.

5.1.2. The appeal site is located along a designated **scenic route**.

S51 – R630 Regional Road from Ballynacorra via East Ferry to Whitegate and Roche’s Point. Views of the Estuary & Harbour, Roche’s Point and the rural coastal environment.

Objective GI 14-13: Scenic Routes

Protect the character of those views and prospects obtainable from scenic routes and in particular stretches of scenic routes that have very special views and prospects identified in this Plan.

GI 14-14: Development on Scenic Routes

- a) Require those seeking to carry out development in the environs of a scenic route and/or an area with important views and prospects, to demonstrate that there will be no adverse obstruction or degradation of the views towards and from vulnerable landscape features. In such areas, the appropriateness of the design, site layout, and landscaping of the proposed development must be demonstrated along with mitigation measures to prevent significant alterations to the appearance or character of the area.
- b) Encourage appropriate landscaping and screen planting of developments along scenic routes.

5.1.3. The site is located in an area designated as **‘Prominent and Strategic Metropolitan Greenbelt’**.

GI 14-16: Prominent and Strategic Metropolitan Greenbelt Map

Protect those prominent open hilltops, valley sides and ridges that define the character of the Metropolitan Cork Greenbelt and those areas which form strategic, largely undeveloped gaps between the main Greenbelt settlements. These areas are shown on the Prominent and Strategic Metropolitan Greenbelt (Figure 14-3) and it is an objective to preserve them from development.

5.2. Natural Heritage Designations

The site is located partially within two designated Natura 2000 sites, namely Cork Harbour SPA (Site Code: 004030) and Great Island Channel SAC (Site Code: 001058).

5.3. EIA Screening

A boathouse is not a class of development for which EIA is required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The grounds of appeal are submitted by Seán R. McCarthy Consulting Engineers Limited, Drimnamore, Sneem, Co. Kerry on behalf of the Third Party, Gillian Geasley, and the main points made can be summarised as follows:

- Contends that the description is incorrect as the proposed structure is two-storey.
- Contends that no title documents were submitted to show that the applicant was the owner of the entire site.
- States that no drawings of the former boat house were provided with the application.
- Contends that the masonry wall on her shared boundary would have to be removed in order for the development as proposed to be constructed and no consent has been given for this.
- States that no sanitary facilities are provided with the workshop.
- Notes condition no.18 but contends that the site is not capable of accommodating the safe and adequate disposal of effluent.
- Contends that the proposed terrace (balcony) is unnecessary and will result in a loss of privacy to her house.

- Contends that the design of the proposed building is out of character with this rural area and not in keeping with the previous structure that was on the site.

6.2. Applicant Response

The First Party has not responded to the grounds of appeal.

6.3. Planning Authority Response

The Planning Authority has stated that all the relevant issues have been covered in the technical reports and have no further comment to make.

6.4. Observations

6.4.1. An observation was received from Adrian Sandham, Pier Cottage, Rathcoursey West, Midleton, Co. Cork, P25 TY46 and the main points made can be summarised as follows:

- States that First Party does not have his consent to carry out works on his land.
- Contends that the Area Engineer's and Conservation Officer's reports refer to retention as part of the planning application, which was not stated on the application for consent.

Copies of submissions made on the planning application and folio details / map accompanied the observation.

7.0 Assessment

I consider the main issues in determining this appeal are as follows:

- Legal Interest
- Principle of Development
- Design and Layout
- Loss of Privacy
- Disposal of Waste and Surface Water
- Other Issue
- Appropriate Assessment

7.1. Legal Interest

- 7.1.1. The Third Party and Observer contend that works are proposed on lands that are not in the ownership of the First Party and that the First Party does not have consent to carry out works on this land. The First Party submitted a copy of his folio details and a map (CK177696F) in response to the RFI by the Planning Authority. Under this appeal, the Observer (owner of the house and site to the southwest of the appeal site) has submitted a copy of his folio details and a map (CK30163).
- 7.1.2. For further clarity, the Observer has submitted a GIS Overlay Map demonstrating his landholding map and the appeal site. This GIS Overlay Map presents clear evidence that the appeal site, and parts thereof where works are proposed, is not contained within the ownership of the First Party. Consequently, I am satisfied that the details submitted in the observation on this file in relation to title and confirmation as to the legal interest in respect of the lands contained in Folio CK30163 clearly demonstrate that some land where works are proposed are outside of the First Party's control.
- 7.1.3. Further to this, it has been confirmed in the observation that consent has not been given to make a planning application on this part of the appeal site or to carry out works and I am satisfied that, in the absence of a final resolution of the matters with regard to legal interest or consent, there is a likelihood development subject of a grant of permission would not be feasible or implementable due to insufficient legal interest or consent. Reliance on the provisions of section 34 (13) of the Act, with a view to post planning resolution of this regard would therefore be inadvisable.

7.1.4. On the basis of the information available, I am satisfied that there is clear information presented to conclude that the applicant does not have sufficient legal interest in part of the appeal site, and I am satisfied that the applicant has not provided sufficient evidence of his legal interest for the purposes of the planning application and decision. I consider that reliance on the provisions of section 34(13) of the Act, with a view to post planning resolution of this regard would also be inadvisable and that clarification and confirmation in this regard is required in advance, in the event of possible favourable consideration. I, therefore, recommend that permission be refused on grounds of insufficient legal interest.

7.2. Principle of Development

7.2.1. Having reviewed the Planning Officer's report, the documentation submitted with the appeal and the Third Party observations on the file, I note that it is apparent and accepted by all parties that there was a boat house on the appeal site up until 2018.

7.2.2. I also note the issue raised by the Third Party in relation to the development description whereby it is contended that the proposed structure is two-storey and not split-level as stated on the public notices. I consider that the proposed boat house is effectively two-storey in height but given the nature of the site and levels thereon I am satisfied that the description of the proposed boat house as split-level is accurate.

7.2.3. Having examined all the material on the file and taking these factors into consideration, I am satisfied that the principle of a boat house on the appeal site is long-established on the site. On this basis, I consider it reasonable and pragmatic to accept the principle of a boat house on the appeal site, subject to the normal planning and environmental considerations.

7.3. Design and Layout

7.3.1. The proposed development is located within a highly scenic coastal area designated as a 'High Value Landscape' in the Cork County Development Plan 2022-2028. The policy **Objective GI 14-9** of the Planning Authority, as set out in the Plan, seeks to protect the visual and scenic amenities of County Cork's built and natural environment and to ensure that new development meets high standards of siting and

design. Further to this, the appeal site is located on a designated scenic route (S51) and policy **Objective GI 14-13** of the Planning Authority, as set out in the Plan, seeks to protect the character of those views and prospects obtainable from scenic routes and in particular stretches of scenic routes that have very special views and prospects.

- 7.3.2. The Third Party contends that the design of the proposed boat house is out of character with development in the area and does not respect the design of the original structure on the appeal site. Consequently, both the Third Party and the Observer contend that the proposed boat house would detract from this scenic landscape and would be detrimental to the visual amenities of the area.
- 7.3.3. The First Party proposes a two-storey split level boat house at 8.76m in height. The boat storage area is proposed at ground floor level with a workshop and external terrace proposed at first floor level. The proposed finishes are concrete and natural stone walls with slate on the roof.
- 7.3.4. There is no detailed site analysis or design statement included with the appeal / application for a development on this visually sensitive site overlooking Ballynacorra River estuary. It is unclear as to the necessity of the first floor level, which may be for a practical reason associated with the requirement for some boat maintenance on the site, but I consider it is, more likely, to avail of the views of the Ballynacorra River estuary to the northwest of the appeal site.
- 7.3.5. Having examined the street view photography submitted with the Third Party observation, I consider that First Party is proposing to significantly raise the height of the boat house compared to the original structure that was present on the site. Furthermore, I consider the depth of the building would also be greater leading to a bulkier addition to this sensitive coastal landscape.
- 7.3.6. Given that the appeal site is located within an area of East Cork with a designation of a 'High Value Landscape' and a 'Scenic Route (S51)', where there are objectives (GI 14-9 and GI 14-13) of the plan to protect the visual and scenic amenities of County Cork's built and natural environment and to protect the character of those views and prospects obtainable from scenic routes from development, I consider that the proposed development, due to its height and bulk, would, therefore, detract to an undue degree from the rural character and scenic amenities of the area and would

constitute an undesirable precedent for development of this nature in a scenic, sensitive coastal landscape.

7.4. Loss of Privacy

- 7.4.1. The First Party proposes an external terrace (1.8m width x 6.4m length) at first floor level on the northern elevation of the proposed boat house. The Third Party contends that the proposed terrace (balcony) is unnecessary and will result in a loss of privacy by means of overlooking to her rear garden.
- 7.4.2. In this regard, I refer the Board to the Upper Level Plan (Drawing No.A3.02), North East Elevation (Drawing No.A3.05) and Typical Cross Section A-A (Drawing No.A3.07) submitted with the planning application. These drawings demonstrate that the proposed terrace / balcony is enclosed within the roof space of the proposed boat house and full-length walls on the north eastern elevation, as well as on the south western elevation.
- 7.4.3. I consider that this aspect of the proposed design would prevent direct overlooking of the neighbouring properties. I am, therefore, satisfied that the drawings adequately demonstrate that no direct overlooking will accrue to the Third Party's rear garden or house and, consequently, I do not recommend that permission is refused on these grounds.

7.5. Disposal of Waste and Surface Water

- 7.5.1. I note the Third Party concerns regarding the absence of sanitary facilities with the proposed workshop. The Third Party highlights condition no.18 of the Planning Authority's notification of decision requiring these facilities but contends that the site is not capable of accommodating the safe and adequate disposal of effluent.
- 7.5.2. For clarity, the First Party does not propose the installation of a wastewater treatment system as part of the proposed development. The condition attached by the Planning Authority to the notification of decision requiring sanitary facilities to be provided can only facilitate a storage tank or portaloos type of arrangement as planning permission would be required for an on-site wastewater treatment system. I note the description of the proposed development contained within the NIS submitted with the planning application, which states that foul water will be collected

by means of an on-site storage tank. It is also stated that this will be collected and disposed of by a licenced operator.

- 7.5.3. I am satisfied that condition no.18 of the Planning Authority's notification of decision is appropriate but recommend that, if the Board is minded to grant permission, a further condition should be attached so that any storage tank or other facility should be provided internally within the footprint of the proposed building.
- 7.5.4. On the day of my site inspection, I did not observe the presence of any on-site surface water soakpit(s) referenced on the planning application form and the Council's Area Engineer's report. I note that it is stated within the NIS submitted with the planning application that surface water run-off will discharge directly to the Ballynacorra River. I am satisfied that the proposal to discharge surface water to the adjacent river is acceptable and would be the same as previous arrangement on the site for the disposal of surface water. I note that the Planning Authority included a condition requiring surface water to be disposed of within the site by means of soakaways but I do not consider this to be practical or necessary in this case.
- 7.5.5. In conclusion, I consider that the surface water run-off from the development can be adequately disposed to the adjacent river. I am satisfied that there will be no additional surface water impacts as a result of this development and I, therefore, do not recommend that permission is refused on grounds of potential impacts of stormwater disposal.

7.6. **Other Issue**

Development Description

- 7.6.1. The Third Party raises an issue whereby no drawings of the previous structure on the site have been submitted with the planning application / appeal and no reference is made in the development description to the retention of demolition of this structure. In relation to the issue of the alleged demolition of the previous structure on the appeal, it is of note that the Board does not have a role in enforcement. In this respect, I note the content of Section 10.1 of the Development Management Guidelines 2007 which provides that enforcement of planning control is the responsibility of the planning authority.

8.0 **Appropriate Assessment**

8.1. **Compliance with Article 6(3) of the Habitats Directive**

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.

8.2. **Background on the Application**

- 8.2.1. The applicant has submitted a Natura Impact Statement as part of a response to a RFI on the planning application. This statement was prepared by DixonBrosnan on behalf of the First Party with the final updated version prepared in March 2022 submitted in response to the RFI. The applicant's Stage 1 AA Screening Report was prepared in line with current best practice guidance and provides a description of the proposed development and identifies European Sites within a possible zone of influence of the development.
- 8.2.2. An Ecological Impact Statement was also prepared by DixonBrosnan on behalf of the First Party in January 2021. This includes a description of the proposed development and an assessment of the potential impacts during both the construction and operational phases of the proposed development. In the absence of mitigation, it identifies light, emissions, wastewater emissions and water pollution from surface water during the construction and operation phases that can result in aspects of the project that could have significant effects on European sites.
- 8.2.3. The applicant's AA Screening Report concluded that the proposed development either alone or in-combination with other plans and/or projects does not have the potential to significantly affect any European site, in light of their conservation objectives. Consequently, significant effects to the Cork Harbour SPA and Great Island Channel SAC could be ruled out. However, the Planning Authority disagreed with this conclusion as the site was located within two European sites and it determined that mitigation measures would be required to prevent significant impacts on these two European sites. Consequently, mitigation measures could only be considered at Stage 2 Appropriate Assessment and a NIS was required.
- 8.2.4. Having reviewed the documents, I am not satisfied that the information contained in the Screening Report allows for a complete assessment of the possible impacts on

the Natura 2000 sites in the vicinity of the appeal site to be carried out in accordance with Article 6 of the Habitats Directive adopted under Council Directive 92/43/EEC. In this regard, I draw the Board's attention to the Qualifying Interests for Cork Harbour SPA (004030) annotated in the Screening Report for Appropriate Assessment (January 2021). The possible impacts of the proposed development is assessed on 23 species of waterbirds. The Board should note that there are 25 species of waterbirds protected under Article 4(1) and (2) of the Directive for this Natura 2000 site, and these are contained in Schedule 3 of S.I. No. 391/2021 – European Union Conservation of Wild Birds (Cork Harbour Special Protection Area 004030) Regulations 2021. My screening assessment below has been undertaken on the basis of the most recent statutory instrument (S.I. 391/2021) relating to the Cork Harbour site.

8.3. Screening for Appropriate Assessment - Test of likely significant effects

- 8.3.1. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s).
- 8.3.2. 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.

8.4. Brief description of the development

- 8.4.1. The applicant provides a description of the project on page 10 of the AA Screening Report (January 2021). In summary, the development comprises:
- The demolition of an existing boat house and the construction of a new split level boat house,
 - Foul water to be collected by an on-site storage tank,
 - Surface water to be discharged to the Ballynacorra River, and
 - Associated works.
- 8.4.2. A further description of the project is provided on page 8 of the Natura Impact Statement (March 2022) In summary, the development comprises:

- The construction of a new split level boat house,
- Associated site works, and
- One exterior light installed above the door of the boat house.

8.4.3. The development site is described on page 28 of the AA Screening Report (January 2021). It is described as land that can broadly delineated between the terrestrial habitat and intertidal habitat. The habitats recorded within these areas were:

- Above the high-water mark, the site is dominated by **Recolonising Bare Ground (ED3)**.
- Sections of the habitat, which adjoins the site, are **Mixed Sediment Shores (LS5)**.
- A **Tidal River (CW2)** habitat adjoins the site and although not a qualifying habitat it does approximately correspond to 'estuaries (1130)' which is a qualifying habitat.

8.4.4. 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:

- Habitat loss,
- Disturbance,
- Surface water run-off during both the construction and operational phases, and
- The spread of invasive species.

8.5. Submissions and Observations

An observation has been received by the Board on foot of the appeal. However, no issue has been raised in relation to impacts on European sites in this observation.

8.6. European Sites

8.6.1. The development site is located partially within two European sites - Cork Harbour SPA (site code: 004030) and Great Island Channel SAC (site code: 001058). All

other European sites are located at a remote distance from the project site. A summary of these European Sites is presented in the table below. Where a possible connection between the development and a European site has been identified, these sites are examined in more detail.

8.6.2. All other European sites were not considered, by the applicant, to be within the ZoI of the proposed development due to a lack of ecological/hydrological connectivity, the nature of qualifying interests, and/or physical distance. I concur with this assessment and consider that Great Island Channel SAC and Cork Harbour SPA are the only sites that have a pathway to the appeal site.

Table 1: Summary Table of European Sites Within the Zone of Influence of the Proposed Development

European Site	List of Qualifying Interests (QI)/Special Conservation Interests (SCI)	Distance from Proposed Development	Connections (source, pathway, receptor)
Great Island Channel SAC	Mudflats and sandflats not covered by seawater at low tide Atlantic salt meadows	0km	Within and hydrological
Cork Harbour SPA ¹	Little Grebe Great Crested Grebe Cormorant Grey Heron Shelduck Wigeon	0km	Within and hydrological

¹ SI 391, European Union Conservation of Wild Birds (Cork Harbour Special Protection Area 004030) Regulations 2021.

Teal		
Mallard		
Pintail		
Shoveler		
Red-breasted Merganser		
Oystercatcher		
Golden Plover		
Grey Plover		
Lapwing		
Dunlin		
Black-tailed Godwit		
Bar-tailed Godwit		
Curlew		
Redshank		
Greenshank		
Black-headed Gull		
Common Gull		
Lesser Black-backed Gull		
Common Tern		
Wetlands ²		

8.7.1. Based on my examination of the Screening Report, the NIS and supporting information, the NPWS website, aerial and satellite imagery, the scale of the proposed development and likely effects, separation distance and functional relationship between the proposed works and the European sites, I agree with the

² Wetlands is listed as a Conservation Objective for Cork Harbour SPA under the 'Conservation Objective Series Cork Harbour SPA 004030' (NPWS).

conclusion of the Planning Authority that a Stage 2 Appropriate Assessment is required for two European sites referred to above, those being Cork Harbour SPA (site code: 004030) and Great Island Channel SAC (site code: 001058).

8.7.2. All other European sites can be screened out from further assessment because of the nature and scale of the proposed works, the nature of the Conservation Objectives, Qualifying and Special Conservation Interests, the separation distances and the lack of a substantive hydrological or ecological linkage between the proposed works and the other European sites. No reliance on avoidance measures or any form of mitigation is required in reaching this conclusion.

8.8. Identification of Likely Effects

8.8.1. The conservation objectives of the Natura 2000 sites are as follows:

- Great Island Channel SAC – Conservation objectives are set out in the ‘Conservation Objectives Series Great Island Channel SAC 001058’ document published by the National Parks & Wildlife Service (NPWS). They are to maintain the favourable conservation condition of all habitats cited.
- Cork Harbour SPA – Conservation Objectives are set out in the ‘Conservation Objectives Series Cork Harbour SPA 004030’ document published by the NPWS. They are to maintain the favourable conservation condition of bird species and the wetland habitat.³ I will also assess the potential significant effects on Mallard with the objective of maintaining the favourable conservation condition of Mallard in Cork Harbour SPA.

8.8.2. As identified in section 8.4.4 above, I consider the likely significant effects on European sites to be both construction and operation related concerning habitat loss, disturbance, surface water run-off, and the spread of invasive species. These pollutants / emissions could have a significant effect on the invertebrate community within mudflat habitats and on birds.

8.8.3. In relation to the SAC, given the location of the appeal site within the designated area there is potential for invasive species to spread and potential for a pollution

³ Mallard and Greenshank are listed within SI 391, 2021 but there is no specific Conservation Objective for Mallard within the ‘Conservation Objectives Series Cork Harbour SPA 004030’ (NPWS). Wetlands is not specified as a Qualifying Interest within SI 391, 2021 but it is listed as a Conservation Objective for Cork Harbour SPA under the ‘Conservation Objective Series Cork Harbour SPA 004030’ (NPWS).

event to affect the mudflats at both construction and operational phases. For the SPA, potential pathways for impacts are through the potential for noise disturbance at the construction phase impact on the foraging ability of the SCI bird species and by lighting during the operational phase.

8.9. Mitigation Measures

8.9.1. 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.

8.10. Screening Determination

8.10.1. The proposed development was considered in light of the requirements of section 177U of the Planning & Development Act, 2000 (as amended). Having carried out screening for Appropriate Assessment of the project, I conclude that the project individually (or in combination with other plans or projects) could have a significant effect on European sites Cork Harbour SPA (site code: 004030) and Great Island Channel SAC (site code: 001058) in view of the sites' Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is therefore required.

8.11. Appropriate Assessment of Implications of the Proposed Development

8.11.1. 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).

8.11.2. 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. 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.

8.11.3. Following the screening process, it has been determined that Appropriate Assessment is required as it cannot be excluded on the basis of objective information that the proposed development of a boat house individually or in-combination with other plans or projects will have a significant effect on the following European sites (i.e., there is the possibility of significant effect):

- Cork Harbour SPA (site code: 004030)
- Great Island Channel SAC (site code: 001058)

8.11.4. The possibility of significant effects on other European sites has been excluded on the basis of objective information. All other European sites have been screened out for the need for appropriate assessment due to their remote distance from the project site and no other European site is connected to the project site via any SPR pathways. The nearest other European site is 12.3km to the southeast:

- Ballycotton Bay SPA (site code: 004022).

8.11.5. The application included a Natura Impact Statement (NIS) prepared by DixonBrosnan (March 2022) which examines and assesses potential adverse effects of the proposed development on the Natura 2000 network. The applicant carried out a number of studies and surveys, including:

- An Ecological Impact Assessment, and
- A Winter Bird Survey.

8.11.6. The applicant's NIS was prepared in line with current best practice guidance and provides an assessment of possible significant effects on Cork Harbour SPA and Great Island Channel SAC. The applicant's NIS stated that the project will not, alone or in-combination with other plans or projects, result in adverse effects to the integrity and conservation status of European sites in view of their Conservation Objectives and on the basis of best scientific evidence and there is no reasonable scientific doubt as to that conclusion.

8.11.7. As in the screening assessment above, I draw the Board's attention to the Qualifying Interests for Cork Harbour SPA (004030) annotated in Table 4 of Section 4.3.2 of the

updated NIS (March 2022) submitted by the First Party in response to the RFI. The possible impacts of the proposed development is assessed on 23 species of waterbirds. The Board should note that there are 25 species of waterbirds protected under Article 4(1) and (2) of the Directive for this Natura 2000 site, and these are contained in Schedule 3 of S.I. No. 391/2021 – European Union Conservation of Wild Birds (Cork Harbour Special Protection Area 004030) Regulations 2021.

8.11.8. Having reviewed the documents, submissions and consultations with the NPWS etc, I am not satisfied that the information allows for a complete assessment (see Section 8.12.3 below) of any adverse effects of the development, on the conservation objectives of the following European site alone, or in combination with other plans and projects:

- Cork Harbour SPA (site code: 004030).

8.11.9. In order to carry out a complete appropriate assessment of the proposed development, 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 2000 sites. The provisions of Article 6 of the Habitats Directive 92/43/EEC

8.12. Relevant European sites:

8.12.1. The following sites are subject to appropriate assessment:

- Cork Harbour SPA (site code: 004030) and
- Great Island Channel SAC (site code: 001058)

8.12.2. A catalogue of these sites and their Qualifying Interests/Special Conservation Interests are set out in the NIS in Section 4. Habitats and species for which direct or indirect impacts were identified for assessment of adverse effects are examined in view of their conservation objectives, including detailed targets and attributes (Tables

2, 3 and 4 in the NIS). This was based on ecological surveys, analysis of distribution mapping, ecological requirements of individual species and habitats and impact pathways etc. I have examined and evaluated this scientific analysis and provide a summary in Tables 2 and 3 of this report as part of my assessment for the Board.

8.12.3. I have also examined the Natura 2000 data forms as relevant and the conservation objectives supporting documents for these sites, available through the NPWS website (www.npws.ie). During this examination and assessment, I noted that there are two additional species of bird listed as qualifying interests in Schedule 3 of SI 391/2021 – European Union Conservation of Wild Birds (Cork Harbour Special Protection Area 004030) Regulations 2021. The two additional species are Mallard (*Anas platyrhynchos*) and Greenshank (*Tringa nebularia*). I am satisfied that the potential significant effects from the proposed development are the same for these two bird species as for the other waterbirds listed as qualifying interests. I consider that the conservation objectives for both the Mallard and the Greenshank would be ‘to maintain the favourable conservation condition of’ both species. I am also satisfied that once the mitigation measures detailed in Table 2 below are implemented no significant effect will accrue to these species. I provide a summary in Tables 2 and 3 of this report as part of my assessment for the Board. I am satisfied that in-combination effects have also been considered and adequately assessed in the NIS.

8.13. Aspects of the Proposed Development that could affect Conservation Objectives

8.13.1. In my opinion, having reviewed the development proposals, the main aspects of the proposed development that could affect the conservation objectives of the sites are those set out in Section 8.8 above.

8.13.2. For the SAC this is a change in water quality as a result of invasive species and potential for a pollution event during construction and operation impacting on mudflats, sandflats and Atlantic salt meadows during both the construction and operational phases.

8.13.3. For the SPA there is potential for significant effects as a result of noise disturbance at the construction phase impact on the foraging ability of the SCI bird species and by lighting during the operational phase.

8.13.4. Tables 2 and 3 summarise the AA and site integrity test. The relevant conservation objectives for the two European sites have been examined and assessed with regard to the identified potential significant effects and all aspects of the project, both 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, and clear, precise, and definitive conclusions reached in terms of adverse effects on the integrity of the European sites.

Tables 2 and 3 below: 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 2: Great Island Channel SAC [001058]

Summary of key issues that could give rise to adverse effects:

- Changes in water quality during construction/operation impacting on mudflats and sandflats not covered by seawater at low tide
- Changes in water quality during construction/operation impacting on Atlantic salt meadows

Conservation objectives: see [ConservationObjectives.rdl \(npws.ie\)](#)

Summary of Appropriate Assessment

Qualifying Interest Feature	Conservation objectives targets and attributes	Potential adverse effects	Mitigation measures	In-combination effects	Can adverse effects on integrity be excluded?
Mudflats and sandflats not covered by seawater at low tide [1140]	To maintain the favourable conservation condition of Mudflats and sandflats not covered by seawater at low tide	The site is within and hydrologically linked to the SAC/habitat via the existing surface water drainage system which discharges directly to the river. There is potential for effects through run off or wastewater discharge during both construction and operation.	<p>Construction – A site-specific Construction & Environmental Management Plan and Method Statement will be put in place for carrying out the works.</p> <p>The site compound will be 5m back from the high tide mark and silt fences will be erected above the high tide mark.</p> <p>Refuelling of vehicles will be carried out away from the high tide mark.</p> <p>Concrete mixing will take place away from the water's edge in a designated area.</p> <p>Portaloos will be provided and regularly maintained.</p>	There is no potential for the proposed development to undermine the integrity of Great Island Channel SAC, acting in-combination with other plans or projects.	Yes Adverse effects on the site can be excluded and with the implementation of the mitigation measures the potential for significant effects can be ruled out.

			<p>Any invasive species on the site will be removed by an expert prior to commencement of construction.</p> <p>Operation – Surface water will drain directly to the river as per the existing arrangement.</p> <p>No mitigation measures are proposed for wastewater as the system will be enclosed and emptied by a licensed operator.</p>		
<p>Atlantic salt meadows (Glaucopuccinellietalia maritimae) [1330]</p>	<p>To restore the favourable conservation condition of Atlantic salt meadows (Glaucopuccinellietalia maritimae)</p>	<p>The site is within and hydrologically linked to the SAC/habitat via the existing surface water drainage system which discharges directly to the river. There is potential for effects through run off or wastewater discharge during both construction and operation.</p>	<p>Construction – A site-specific Construction & Environmental Management Plan and Method Statement will be put in place for carrying out the works.</p> <p>The site compound will be 5m back from the high tide mark and silt fences will be erected above the high tide mark.</p> <p>Refuelling of vehicles will be carried out away from the high tide mark.</p> <p>Concrete mixing will take place away from the water's edge in a designated area.</p> <p>Portaloos will be provided and regularly maintained.</p>	<p>There is no potential for the proposed development to undermine the integrity of Great Island Channel SAC, acting in-combination with other plans or projects.</p>	<p>Yes</p> <p>Adverse effects on the site can be excluded and with the implementation of the mitigation measures the potential for significant effects can be ruled out.</p>

			<p>Any invasive species on the site will be removed by an expert prior to commencement of construction.</p> <p>Operation – Surface water will drain directly to the river as per the existing arrangement.</p> <p>No mitigation measures are proposed for wastewater as the system will be enclosed and emptied by a licensed operator.</p>		
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Overall conclusion: Integrity test

Following the implementation of mitigation, the construction and operation of the proposed development will not adversely affect the integrity of Great Island Channel SAC in light of the site’s conservation objectives. No reasonable scientific doubt remains as to the absence of such effects.

Table 3: Cork Harbour SPA [004030]

Summary of key issues that could give rise to adverse effects:

- Changes in water quality during construction/operation impacting on wetlands/birds
- Noise emissions impacting on birds
- Light emissions impacting on birds

Conservation objectives: see [ConservationObjectives.rdl \(npws.ie\)](#)

Summary of Appropriate Assessment

Special Conservation Interest / Qualifying Interest Feature	Conservation objectives targets and attributes	Potential adverse effects	Mitigation measures	In-combination effects	Can adverse effects on integrity be excluded?
Little Grebe [A004]	To maintain the favourable conservation condition of Little Grebe	<p>Water Quality – The site is within and hydrologically linked to the SPA/habitat via the existing surface water drainage system which discharges directly to the river. There is potential for effects through run off during both construction and operation.</p> <p>Noise - There is potential for birds to be disturbed from noise emissions during construction.</p>	<p>Construction – A site-specific Construction & Environmental Management Plan and Method Statement will be put in place for carrying out the works.</p> <p>The site compound will be 5m back from the high tide mark and silt fences will be erected above the high tide mark.</p> <p>Refuelling of vehicles will be carried out away from the high tide mark.</p>	There is no potential for the proposed development to undermine the integrity of Cork Harbour SPA, acting in-combination with other plans or projects.	<p>Yes</p> <p>Adverse effects on the site can be excluded and with the implementation of the mitigation measures the potential for significant effects can be ruled out.</p>

			<p>Concrete mixing will take place away from the water's edge in a designated area.</p> <p>Portaloos will be provided and regularly maintained.</p> <p>Any invasive species on the site will be removed by an expert prior to commencement of construction.</p> <p>The works will be carried out between March and September.</p> <p>Operation – Surface water will drain directly to the river as per the existing arrangement.</p> <p>No mitigation measures are proposed for wastewater as the system will be enclosed and emptied by a licensed operator.</p>		
Great Crested Grebe [A005]	To maintain the favourable conservation condition of Great Crested Grebe	Water Quality – As above. Noise – As above.	As above.	There is no potential for the proposed development to undermine the integrity of Cork Harbour SPA, acting in combination with other plans or projects.	Yes Adverse effects on the site can be excluded and with the implementation of the mitigation measures the potential for

					significant effects can be ruled out.
Cormorant [A017]	To maintain the favourable conservation condition of Cormorant	Water Quality – As above. Noise – As above. Light – There is potential for Cormorants to be disturbed from excessive lighting emissions during operation.	As above. Operation – External lighting is limited to one single light as part of the proposed development.	There is no potential for the proposed development to undermine the integrity of Cork Harbour SPA, acting in-combination with other plans or projects.	Yes Adverse effects on the site can be excluded and with the implementation of the mitigation measures the potential for significant effects can be ruled out.
Grey Heron [A028]	To maintain the favourable conservation condition of Grey Heron	Water Quality – As above. Noise – As above.	As above.	There is no potential for the proposed development to undermine the integrity of Cork Harbour SPA, acting in-combination with other plans or projects.	Yes Adverse effects on the site can be excluded and with the implementation of the mitigation measures the potential for significant effects can be ruled out.
Shelduck [A048]	To maintain the favourable conservation condition of Shelduck	Water Quality – As above. Noise – As above.	As above.	There is no potential for the proposed development to undermine the integrity of Cork Harbour SPA, acting in-combination with other plans or projects.	Yes With the implementation of the mitigation measures the potential for significant effects as a result of a pollution

					event can be ruled out.
Wigeon [A050]	To maintain the favourable conservation condition of Wigeon	Water Quality – As above. Noise – As above.	As above.	There is no potential for the proposed development to undermine the integrity of Cork Harbour SPA, acting in-combination with other plans or projects.	Yes Adverse effects on the site can be excluded and with the implementation of the mitigation measures the potential for significant effects can be ruled out.
Teal [A052]	To maintain the favourable conservation condition of Teal	Water Quality – As above. Noise – As above.	As above.	There is no potential for the proposed development to undermine the integrity of Cork Harbour SPA, acting in-combination with other plans or projects.	Yes Adverse effects on the site can be excluded and with the implementation of the mitigation measures the potential for significant effects can be ruled out.
Mallard [A053] ⁴	To maintain the favourable conservation condition of Mallard	Water Quality – As above. Noise – As above.	As above.	There is no potential for the proposed development to undermine the integrity of Cork Harbour SPA, acting in-combination with other plans or projects.	Yes Adverse effects on the site can be excluded and with the implementation of the mitigation measures

⁴ Mallard is listed within SI 391, 2021 but there is no specific Conservation Objective for this species of bird within the 'Conservation Objectives Series Cork Harbour SPA 004030' (NPWS).

					the potential for significant effects can be ruled out.
Pintail [A054]	To maintain the favourable conservation condition of Pintail	Water Quality – As above. Noise – As above.	As above.	There is no potential for the proposed development to undermine the integrity of Cork Harbour SPA, acting in-combination with other plans or projects.	Yes Adverse effects on the site can be excluded and with the implementation of the mitigation measures the potential for significant effects can be ruled out.
Shoveler [A056]	To maintain the favourable conservation condition of Shoveler	Water Quality – As above. Noise – As above.	As above.	There is no potential for the proposed development to undermine the integrity of Cork Harbour SPA, acting in-combination with other plans or projects.	Yes Adverse effects on the site can be excluded and with the implementation of the mitigation measures the potential for significant effects can be ruled out.
Red-breasted Merganser [A069]	To maintain the favourable conservation condition of Red-breasted Merganser	Water Quality – As above. Noise – As above.	As above.	There is no potential for the proposed development to undermine the integrity of Cork Harbour SPA, acting in-combination with other plans or projects.	Yes Adverse effects on the site can be excluded and with the implementation of the mitigation measures the potential for

					significant effects can be ruled out.
Oystercatcher [A130]	To maintain the favourable conservation condition of Oystercatcher	Water Quality – As above. Noise – As above.	As above.	There is no potential for the proposed development to undermine the integrity of Cork Harbour SPA, acting in-combination with other plans or projects.	Yes Adverse effects on the site can be excluded and with the implementation of the mitigation measures the potential for significant effects can be ruled out.
Golden Plover [A140]	To maintain the favourable conservation condition of Golden Plover	Water Quality – As above. Noise – As above.	As above.	There is no potential for the proposed development to undermine the integrity of Cork Harbour SPA, acting in-combination with other plans or projects.	Yes Adverse effects on the site can be excluded and with the implementation of the mitigation measures the potential for significant effects can be ruled out.
Grey Plover [A141]	To maintain the favourable conservation condition of Grey Plover	Water Quality – As above. Noise – As above.	As above.	There is no potential for the proposed development to undermine the integrity of Cork Harbour SPA, acting in-combination with other plans or projects.	Yes Adverse effects on the site can be excluded and with the implementation of the mitigation measures the potential for

					significant effects can be ruled out.
Lapwing [A142]	To maintain the favourable conservation condition of Lapwing	Water Quality – As above. Noise – As above.	As above.	There is no potential for the proposed development to undermine the integrity of Cork Harbour SPA, acting in-combination with other plans or projects.	Yes Adverse effects on the site can be excluded and with the implementation of the mitigation measures the potential for significant effects can be ruled out.
Dunlin [A149]	To maintain the favourable conservation condition of Dunlin	Water Quality – As above. Noise – As above.	As above.	There is no potential for the proposed development to undermine the integrity of Cork Harbour SPA, acting in-combination with other plans or projects.	Yes With the implementation of the mitigation measures the potential for significant effects as a result of a pollution event can be ruled out.
Black-tailed Godwit [A156]	To maintain the favourable conservation condition of Black-tailed Godwit	Water Quality – As above. Noise – As above.	As above.	There is no potential for the proposed development to undermine the integrity of Cork Harbour SPA, acting in-combination with other plans or projects.	Yes With the implementation of the mitigation measures the potential for significant effects as a result of a pollution

					event can be ruled out.
Bar-tailed Godwit [A157]	To maintain the favourable conservation condition of Bar-tailed Godwit	Water Quality – As above. Noise – As above.	As above.	There is no potential for the proposed development to undermine the integrity of Cork Harbour SPA, acting in-combination with other plans or projects.	Yes Adverse effects on the site can be excluded and with the implementation of the mitigation measures the potential for significant effects can be ruled out.
Curlew [A160]	To maintain the favourable conservation condition of Curlew	Water Quality – As above. Noise – As above.	As above.	There is no potential for the proposed development to undermine the integrity of Cork Harbour SPA, acting in-combination with other plans or projects.	Yes With the implementation of the mitigation measures the potential for significant effects as a result of a pollution event can be ruled out.
Redshank [A162]	To maintain the favourable conservation condition of	Water Quality – As above. Noise – As above.	As above.	There is no potential for the proposed development to undermine the integrity of Cork Harbour SPA, acting in-combination with other plans or projects.	Yes Adverse effects on the site can be excluded and with the implementation of the mitigation measures the potential for

					significant effects can be ruled out.
Greenshank [A164]	To maintain the favourable conservation condition of	Water Quality – As above. Noise – As above.	As above.	There is no potential for the proposed development to undermine the integrity of Cork Harbour SPA, acting in combination with other plans or projects.	Yes Adverse effects on the site can be excluded and with the implementation of the mitigation measures the potential for significant effects can be ruled out.
Black-headed Gull [A179]	To maintain the favourable conservation condition of	Water Quality – As above. Noise – As above.	As above.	There is no potential for the proposed development to undermine the integrity of Cork Harbour SPA, acting in combination with other plans or projects.	Yes Adverse effects on the site can be excluded and with the implementation of the mitigation measures the potential for significant effects can be ruled out.
Common Gull [A182]	To maintain the favourable conservation condition of	Water Quality – As above. Noise – As above.	As above.	There is no potential for the proposed development to undermine the integrity of Cork Harbour SPA, acting in combination with other plans or projects.	Yes Adverse effects on the site can be excluded and with the implementation of the mitigation measures the potential for

					significant effects can be ruled out.
Lesser Black-backed Gull [A183]	To maintain the favourable conservation condition of	Water Quality – As above. Noise – As above.	As above.	There is no potential for the proposed development to undermine the integrity of Cork Harbour SPA, acting in combination with other plans or projects.	Yes Adverse effects on the site can be excluded and with the implementation of the mitigation measures the potential for significant effects can be ruled out.
Common Tern [A193]	To maintain the favourable conservation condition of	Water Quality – As above. Noise – As above.	As above.	There is no potential for the proposed development to undermine the integrity of Cork Harbour SPA, acting in combination with other plans or projects.	Yes Adverse effects on the site can be excluded and with the implementation of the mitigation measures the potential for significant effects can be ruled out.
Wetlands [A999] ⁵	To maintain the favourable conservation condition of the wetland habitat as a resource for the	Water Quality – Pollution could change the water quality and impact on the food source of the waterbird population. The assessment provided in Table 2 applies.	As per Table 2.	There is no potential for the proposed development to undermine the integrity of Cork Harbour SPA, acting in combination with other plans or projects.	Yes With the implementation of the mitigation measures the potential for significant effects as a

⁵ Wetlands is listed as a Conservation Objective for Cork Harbour SPA under the 'Conservation Objective Series Cork Harbour SPA 004030' (NPWS).

	regularly occurring migratory waterbirds that utilise it				result of a pollution can be ruled out.
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Overall conclusion: Integrity test

Following the implementation of mitigation, the construction and operation of the proposed development will not adversely affect the integrity of Cork Harbour SPA in light of the site's conservation objectives. No reasonable scientific doubt remains as to the absence of such effects.

8.14. Potential in-combination effects

8.14.1. Having examined and assessed the project alone and in combination with plans and projects as presented in the NIS, I accept that due to the limited scale and duration of the works, that the construction and completion of the boat house will not constitute a significant additional loading on the ecological carrying capacity of area or the complex of habitats that are required to maintain the conservation objectives of any of the ecological receptors considered in the NIS. Taking account of the scope, scale, nature, size and location of the project and the sensitivities of the ecological receptors, there is very limited potential for synergistic interaction, between the proposed development and the projects, plans and activities considered in the preceding sections that could result in cumulative or in-combination impacts.

8.15. Mitigation measures

8.15.1. Section 7 of the NIS sets out the mitigation measures proposed to avoid, reduce or prevent the risk of potential impacts arising from the proposed development. The mitigation measures proposed include as follows:

- A site-specific Construction & Environmental Management Plan and Method Statement will be put in place for carrying out the works.
- The site compound will be 5m back from the high tide mark and silt fences will be erected above the high tide mark.
- The works will be carried out between March and September.
- Refuelling of vehicles will be carried out away from the high tide mark.
- Concrete mixing will take place away from the waters edge in a designated area.
- Portalooos will be provided and regularly maintained.
- Any invasive species on the site will be removed by an expert prior to commencement of construction.
- There will be one external light installed as part of the proposed works.

8.15.2. All mitigation measures proposed have been examined, evaluated and assessed as being in line with current best practice. The measures have been described in detail providing evidence of how adverse effects will be avoided or reduced to non-

significant levels. There is no doubt as to the effectiveness of these measures or their ease of implementation. In my view, the mitigation measures are appropriate to the risks identified and would, if implemented correctly, be sufficient to avoid any significant impacts and exclude adverse effects on site integrity.

8.16. Site Integrity

8.16.1. The integrity of sites designated SAC or SPA involves their constitutive characteristics and ecological functions.

8.16.2. Following appropriate assessment of all aspects of the proposed development (alone and in combination with other plans and projects), which I consider to have been done in view of the best scientific knowledge, adverse effects on Cork Harbour SPA (site code: 004030) and Great Island Channel SAC (site code: 001058) can be excluded based on the following rationale:

- Following mitigation, none of the habitat types or species for which the sites have been designated will be significantly affected.
- The proposed development will not cause delays in achieving the conservation objectives of any of the European sites or interrupt progress towards achieving those objectives.
- The proposed development will not interfere with the ecological structure, function or ecological processes of any of the European sites.
- The proposed development will not reduce the area of key habitats or the population of key species or the balance between key species.
- The proposed development will not result in fragmentation of habitats or species and will not result in the loss or reduction of key features supporting those sites.

8.17. Appropriate Assessment Conclusion

8.17.1. The proposed development of a boat house has been considered in light of the assessment requirements of sections 177U and 177V of the Planning & Development Act, 2000 (as amended).

8.17.2. Having carried out screening for AA of the project, it was concluded that it may have a significant effect on Cork Harbour SPA (site code: 004030) and Great Island Channel SAC (site code: 001058). Consequently, an AA was required of the

implications of the project on the qualifying features of those sites in light of their conservation objectives.

8.17.3. Following AA, it has been ascertained that the proposed development, individually or in combination with other plans or projects, would not adversely affect the integrity of European site No.'s 004030 or 001058, or any other European site, in view of the sites Conservation Objectives.

8.17.4. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects. The basis of the conclusion is:

- a full and detailed assessment of all aspects of the proposed project including proposed mitigation measures in relation to the Conservation Objectives of Cork Harbour SPA and Great Island Channel SAC.
- detailed assessment of the in-combination effects with other plans and projects including historical projects, current proposals, and future plans.
- no reasonable scientific doubt as to the absence of adverse effects on the integrity of Great Island Channel SAC.
- no reasonable scientific doubt as to the absence of adverse effects on the integrity of Cork Harbour SPA.

9.0 Recommendation

I recommend that permission be refused for the reason stated below.

10.0 Reasons and Considerations

1. On the basis of the submissions made in connection with the planning application and appeal, the Board is not satisfied that the application has been made by a person who has:
 - a) sufficient legal estate or interest in the land the subject of the application to enable the person to continue the existing use of, or carry out the proposed works on the land, or
 - b) the approval of the person who has such sufficient legal estate or interest.

In these circumstances, it is considered that the Board is precluded from giving further consideration to the granting of permission for the development the subject of the application.

2. The site is located within an area designated as 'High Value Landscape' and on a designated 'Scenic Route' under the provisions of the Cork County Development Plan 2022-2028 where there are objectives (GI 14-9 and GI 14-13) of the plan to protect the visual and scenic amenities of County Cork's built and natural environment and to protect the character of those views and prospects obtainable from scenic routes from development. These designations and policies are considered reasonable. Having regard to the design and siting of the proposed development, it is considered that it would detract to an undue degree from the rural character and scenic amenities of the area, would be contrary to the provisions of Cork County Development Plan and would constitute an undesirable precedent for development of this nature in a scenic, sensitive rural landscape designated 'High Value Landscape' and located on a designated 'Scenic Route' in the Cork County Development Plan. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Liam Bowe
Planning Inspector

16th March 2023