



An
Bord
Pleanála

Inspector's Report

ABP-314532-22

Development	Importation of clean and inert soil and stone material to raise agricultural field, construction of a temporary haul road and improvement of entrance
Location	Lands at Ballydaniel More, Ballynatra and Corbally (Currabally), Cobh, County Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	21/7530
Applicant(s)	Coolyrahilly Farms Ltd.
Type of Application	Planning Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Colm Damery & Others
Observer(s)	None
Date of Site Inspection	22 nd February 2024
Inspector	Gary Farrelly

1.0 Site Location and Description

- 1.1. The subject site has a stated site area of 2.45 hectares and is located on the Great Island, within the townlands of Ballydaniel More, Ballynatra and Currabally, County Cork. The site is located approximately 4km east of the town of Cobh. The site is located approximately 500 metres south of the Great Island Channel Special Area of Conservation (SAC) and Cork Harbour Special Protection Area (SPA).
- 1.2. The topography of the site gradually rises by approximately 3 metres from the west boundary of the site (c. 66.19mOD) to the east boundary (c. 69.83mOD) of the site. An existing drainage ditch traverses the site. The site is located outside Flood Zones A or B for coastal or fluvial flooding.

2.0 Proposed Development

- 2.1. The proposed development involves the importation of clean inert soil and stone material and the construction of a new temporary haul road, widening of an existing access gate and a temporary wheel wash. It is stated that the purpose of the development is to increase the ground level of the field in order to improve the agricultural output of the field.
- 2.2. It is proposed to accept approximately 60,000 tonnes of infill material over a period of 5 years. This equates to approximately 12,000 tonnes per annum. The material will be delivered to the site in tipper trucks and tracked plant machinery will disperse the material across the site. The average fill depth is outlined as 2.2 metres with the maximum fill depth outlined as 2.9 metres. Once site capacity is attained, it is proposed to place topsoil material sown with grass across the site. The existing drainage ditch is proposed to be piped and backfilled.
- 2.3. The application is accompanied by a number of documents including:
 - Technical Assessment Report (which includes a preliminary flood risk assessment and traffic assessment);
 - AA Screening Report and Natura Impact Statement (NIS);
 - Wintering Waterbirds Survey, Breeding Bird Survey and Amphibian Survey;
 - Revegetation Strategy, Closure Plan and Construction Environmental Management Plan.

3.0 Planning Authority Decision

3.1. Decision

In considering the application, Cork County Council (The Planning Authority) sought further information in relation to the following;

- a temporary benchmark relating to existing and proposed levels during the duration of the works,
- a waste acceptance procedure,
- confirmation that there would be no fill material within the buffer zone area,
- a facility closure plan,
- details of the hydrological link outlined within the AA screening report,
- the suitability of the field for foraging or roosting waders and additional QI species,
- the submission of a breeding bird survey,
- the submission of an amphibian survey, and
- the submission of details regarding compensatory hedgerow planting.

The Planning Authority decided to grant permission by Order dated 8th August 2022, subject to 38 conditions;

- Conditions 3 and 23 relate to the reinstatement of the lands;
- Condition 5 and 6 relate to the implementation of mitigation measures outlined in the NIS;
- Condition 7 relates to the carrying out of a survey for amphibians prior to commencement of the development;
- Conditions 8 and 9 relate to the planting of hedgerow;
- Condition 24 relates to the prevention of introduction of invasive species, including Japanese knotweed;
- Condition 25 relates to a revised closure plan to be submitted within 1 month of a grant of permission;

- Conditions 26, 27, 28, 29, 30, 31, 32, 33 and 34 relate to road safety measures;
- Conditions 36, 37 and 38 relate to surface water measures.

No development contributions were attached.

3.2. **Planning Authority Reports**

Planning Reports

- There are a total of 2 no. Area Planner's reports which assessed the requirements for an EIAR, flood risk, access proposals, drainage, ecology and appropriate assessment. Further information was requested and considered acceptable to the Area Planner. The Area Planner's reports, which are endorsed by the Senior Planner, recommended that permission be granted subject to 38 conditions.

Other Technical Reports

- Area engineer (Report dated 07/02/22) – No objection to the development, subject to conditions.
- Environment Section (Reports dated 24/02/22 and 03/08/22) – Requested further information for the submission of a temporary benchmark relating to existing and proposed levels during the duration of the works, a waste acceptance procedure, revised drawings to confirm that there would be no fill material within the buffer zone area and a facility closure plan. After the further information response, Environment Section recommend a grant of permission, subject to conditions.
- Ecology Officer (Reports dated 25/02/22 and 05/08/22) – The Ecologist undertook an appropriate assessment and originally requested further information in relation to a potential hydrological link to the Belvelly Estuary, potential foraging bird species, requested the carrying out of a breeding bird survey, requested the carrying out of an amphibian survey and requested further details regarding compensatory hedgerow. After the further information response the Ecologist recommend a grant of permission, subject to conditions.

3.3. Prescribed Bodies

- An Taisce (report dated 03/02/22) – They sought further information on the survey methodology used for foraging and/or roosting golden plovers and requested additional appropriate surveying. No response was provided after the further information response. They recommended a condition that no works occur within a buffer zone around the drainage ditches.
- Department of Housing, Local Government and Heritage (report dated 14/03/22) – They considered that the survey carried out for Golden Plover was insufficient and further surveys were recommended to be carried out. They also requested that the drainage ditches are surveyed for breeding frogs. No response was provided after the further information response.
- Inland Fisheries Ireland (report dated 24/01/22) – They requested measures to prevent any soiled water run-off entering any watercourse, the erection of a fence to maintain a buffer zone to the watercourse, confirmation that only inert materials would be introduced on site and requested no interference with a watercourse without prior IFI approval. No response was provided after the further information response.

3.4. Third Party Observations

A number of third party observations/submissions were received from the following: Anna Aherne, Jan Verwey, Cllr. Alan O'Connor, Margaret Somers, Hendrick Verwey, Mary O'Leary and Colm Damery. A number of issues were raised including, inter alia, concerns in relation to the impact on European Sites, the adequacy of the appropriate assessment screening report, the timings and methodology for the bird surveys, the removal of hedgerow, the traffic impact of the development and the construction of the haul route.

4.0 Relevant Planning History

None

5.0 Policy Context

5.1. Development Plan

Cork County Development Plan 2022-2028 (CDP)

The subject site is located within an area of High Value Landscape, as designated under the CDP.

Objective EC: 8-15 Agriculture and Farm Diversification

(a) Encourage the development of sustainable agriculture and related infrastructure including farm buildings;

Objective GI 14-9: Landscape

(a) Protect the visual and scenic amenities of County Cork's built and natural environment.

(e) Discourage proposals necessitating the removal of extensive amounts of trees, hedgerows and historic walls or other distinctive boundary treatments.

Objective GI 14-10: Draft Landscape Strategy

Ensure that the management of development throughout the County will have regard for the value of the landscape, its character, distinctiveness and sensitivity as recognised in the Cork County Draft Landscape Strategy and its recommendations, in order to minimize the visual and environmental impact of development, particularly in areas designated as High Value Landscapes where higher development standards (layout, design, landscaping, materials used) will be required.

Objective BE 15-7: Control of Invasive Alien Species

Implement best practice to minimise the risk of spread of invasive alien species, on Council owned or managed land, and require the development and implementation of Invasive Alien Species Management Plans for new developments where required.

Objective BE 15-17: Waste Prevention and Management

(a) Planning applications for infilling of marginal land through soil importation will be supported where it can be demonstrated that the developments accord with proper planning and sustainable development, ensuring that they are compatible with the

protection of environmental resources including water quality, Natura 2000 sites, biodiversity, archaeological and landscape resources.

5.2. **National Policy**

- Project Ireland 2040 – National Planning Framework (2018) and National Development Plan 2021-2030
- A Waste Action Plan for a Circular Economy, Ireland’s National Waste Policy 2020-2025
- Climate Action Plan 2023, as updated

5.3. **Regional Policy**

- Regional Spatial and Economic Strategy for the Southern Region

5.4. **National Guidance**

- The Planning System and Flood Risk Management Guidelines (2009)
- Transport Infrastructure Ireland Rural Road Link Design (2017) (Document DN-GEO-03031)

5.5. **Other Guidance**

- Bird Watch Ireland and the NPWS’ I-WeBS Counter Manual Guidelines for Irish Wetland Bird Survey counters

5.6. **Natural Heritage Designations**

The subject site is located approximately 500 metres south of the Great Island Channel Special Area of Conservation (SAC) (Site Code 001058) and the Cork Harbour Special Protection Area (SPA) (Site Code 004030). The Great Island Channel is also designated as a proposed Natural Heritage Area (pNHA). The subject site is also located approximately 750 metres northeast of the Cuskinny Marsh proposed Natural Heritage Area (pNHA).

5.7. **Environmental Impact Assessment (EIA) Screening**

Having regard to the nature, size and location of the proposed development, comprising the infilling of agricultural land with clean inert material, there is no real

likelihood of significant effects on the environment arising from the proposed development. The need for environment impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required. Refer to Appendix 1 regarding this preliminary examination.

6.0 The Appeal

6.1. Grounds of Appeal

A third party appeal was lodged to the Board on 5th September 2022 by Colm Damery and Others. The grounds of appeal can be summarised as follows:

- The AA Screening submitted in response to the further information request identified additional sources and pathways for effects which were not considered in the original AA Screening/NIS submitted with the application. Therefore, the conclusion of the further information AA screening is not completed.
- The conditions applied introduce additional mitigation measures not submitted as part of the application and are applied without a true assessment process being presented.
- It is stated that this conflicts with the supreme court ruling in Connelly 2018 where the court held that there must, before a valid AA can be said to have been conducted, be a precise identification of the potential risks and, importantly, precise scientific findings to allay any fear of those risks coming to pass.
- The bird survey undertaken was inadequate to support the appropriate assessment process as the surveys represented less than 2 hours of surveys during March only. The standard period for winter wader surveys is between October to April with the SNH guidelines being typical which uses 36 hours of surveys.
- The construction works will give rise to increased noise and disturbance effects and given the distance to the SPA, these impacts will likely have significant effects on the foraging success of the QI species. No assessment of these

effects within the AA Screening/NIS and no mitigation measures to reduce or control disturbance effects.

- Requests that the Board invokes Section 35 of the Act as the applicant has already built the haul road prior to the application and they have not applied for retention permission. Lands were sprayed prior to May 2022 and the second nesting bird survey was carried out after the lands were sprayed.
- The destruction of the bog habitat by drainage and resting sites for birds have not been acknowledged.
- The development does not comply with proper planning, sustainable development and the protection of biodiversity and would seriously be injurious to the amenities of the area, as it will destroy this valuable boggy habitat.

6.2. Applicant Response

In a submission received by the Board on 4th October 2022, the Applicant addresses the grounds of appeal as follows:

- The process adopted for the AA and NIS are suitable and robust and remain valid.
- The original AA Screening/NIS was submitted following a walkover survey of the site where it was considered likely that a hydrological connection may exist between the existing drainage infrastructure at the site and the European Sites. The AA Screening was updated at further information to reflect an additional walkover survey and a direct hydrological link could not be mapped or traced, however, using the precautionary principle, the AA Screening concluded that a link could be possible.
- Given the low potential impact on foraging or breeding birds, the surveys completed are deemed appropriate for informing the conclusions of the AA Screening. It was determined that the likely impacts would not be significant given the abundance of suitable foraging areas in the surrounding area, given the small scale size of the site in the context of the surrounding area and to the relatively short period time for the proposed works with the site to be returned to grassland upon completion.

- The wintering bird survey report and breeding bird surveys did not encounter any field bird species which are qualifying interests of the Cork Harbour SPA. The commencement of the development will take place outside the bird breeding seasons and buffer zones around the perimeter of the works will be adhered to.
- Access to the site is via an existing farm passageway that provides access to the general farmyard and it is proposed to extend this passageway. No elements of the proposed extension have been commenced to date. The access may have been more informal in the past and was upgraded sometime prior to the commencement of the lease by the applicant. Map provided showing passageway from aerial photography.
- The spraying of the lands were completed in May 2022 to address noxious weeds. This is entirely permissible in the general upkeep and maintenance of the farm. Photograph provided showing grass growth on the farm.
- No boggy habitat recorded on the site, as per the AA screening report and no drainage of such sites is proposed. The comments appear to be in relation to an unrelated development on the landholding. Teagasc Letter provided.

6.3. Planning Authority Response

The Planning Authority had no further comments and referred the Board to the technical reports on file.

6.4. Observations

None

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, after an inspection of the site, and having regard to relevant local, regional and national policies and guidance, I consider that the main issues on this appeal are as follows:

- Principle of the development
- Biodiversity
- Appropriate Assessment (AA)
- Flood Risk & Public Health
- Traffic Safety
- Other Issues

Principle of the development

7.2. The submitted documentation states that the existing condition of the field is in poor agricultural condition due to the saucer shaped aspect of the land and the inability for surface water to drain off efficiently. It is stated that the site is not capable of producing crops or rearing livestock. A letter from Teagasc is provided confirming this condition.

7.3. The proposed development involves the importation of clean inert soil and stone material into the site, in order to improve the agricultural output of the field. The proposal will include the importation of approximately 60,000 tonnes of infill material over a period of 5 years, which equates to approximately 12,000 tonnes per annum. I note that the documentation states that the operations will commence upon grant of a waste facility permit application.

7.4. Having regard to the purpose of the development, which will result in a benefit to agriculture, I consider that the development complies with objective EC 8-15 of the Cork County Development Plan 2022-2028 (CDP). Whilst I note that the site is located within a High Value Landscape area, as designated under the CDP, having regard to the proposed maximum fill depth of 2.9 metres and to the proposed restoration of the site to grassland after the infilling works are completed, I consider that the development would not result in a significant adverse impact on the visual amenities of the area, and therefore will not contravene objectives GI 14-9 and GI 14-10 of the CDP.

7.5. Furthermore, I note that objective BE 15-17 of the CDP supports the infilling of marginal land subject to the protection of environmental resources. I consider that the proposed development is acceptable in principle.

Biodiversity

7.6. I note that the Appellants' had a number of concerns in relation to the methodology of the bird surveys undertaken onsite. Originally, the Applicant undertook a 15 minute survey for golden plover. This was considered inadequate by the PA and further surveys were carried out and submitted at further information stage.

7.7. In response, a wintering waterbird survey was carried out between 10am and 11am on 7th March 2022 and between 3pm and 4pm on 29th March 2022. The Applicant states that these times were chosen as they were either side of high tide and thus were considered the maximum likelihood of detecting waterbirds as they would be more likely to forage at the site due to the mudflats being inaccessible. The survey concluded that the site is not utilised for foraging by the Qualifying Interests (QI) of Cork Harbour SPA. Golden plover are known to forage on agricultural lands, however, were not recorded.

7.8. I note the Appellants' concerns regarding the timing of the surveys and references Scottish Natural Heritage Guidelines. These guidelines were referenced by An Taisce in their submission to the planning authority and I note that they are in relation to onshore wind farms. The Board should note that I have had regard to the National Parks and Wildlife Service and Bird Watch Ireland's 'Irish Wetland Bird Survey (I-WeBS)'. As part of their Counter Manual Guidelines for Irish Wetland Bird Survey counters, it is recommended that counts are completed within 3 hours either side of the high tide and that counts themselves are completed within 3 hours to minimise duplication. Having regard to the above, I am satisfied with the methodology used by the Applicant and to the findings of the submitted wintering waterbird survey.

7.9. I note the breeding bird survey submitted at further information stage was in response to concerns regarding the site having potential breeding opportunities for Snipe, Yellowhammer and Meadow Pipit. This survey was carried out between 6am and 9am on 20th April 2022 and 10th May 2022. The survey found that it is likely that yellowhammer utilises the hedgerows and trees for nesting on the periphery of the site and no other species were observed to nest within the site. Mitigation measures are

proposed via clearance of hedgerows and stripping of soil to be undertaken outside of the breeding season. I consider this to be an appropriate measure to protect breeding birds.

- 7.10. An amphibian survey was also carried out on 7th March 2022 and 10th May 2022 and found that the site is highly unlikely to utilise onsite drainage features for spawning. It is proposed that the proposed enclosure and piping of the drainage feature will be completed following a further ecological survey. I note the conclusions from the PA's ecologist with regards to the bird and amphibian surveys submitted. I also note the requirements from Inland Fisheries Ireland to protect adjacent watercourses.
- 7.11. It is stated that approximately 20 metres of hedgerow will be removed to accommodate the proposed haul road. The submitted revegetation plan proposes replacement planting of 20 metres and will comprise of native species. I consider this to be acceptable in the interest of biodiversity.

Appropriate Assessment (AA)

- 7.12. The Board should note that the requirements of Article 6(3), as related to Appropriate Assessment of a project under part XAB, sections 177U and 177V of the Planning and Development Act 2000 (as amended), are considered fully in this section. The areas addressed in this section are as follows:
- Compliance with Article 6(3) of the EU Habitats Directive
 - Screening the need for Appropriate Assessment
 - The Natura Impact Statement and associated documents
 - Appropriate Assessment of implications of the proposed development on the integrity of each European site.

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

- 7.13. 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).

Screening the need for Appropriate Assessment

Identification of relevant European Sites

European Site (Code)	List of Qualifying Interest	Distance from proposed development	Connections	Considered further in screening
Cork Harbour SPA (Site Code 004030)	24 QIs https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004030.pdf	Approximately 500 metres north	Potential hydrological connection	Yes
Great Island Channel SAC (Site Code 001058)	Mudflats and sandflats not covered by seawater at low tide [1140] Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330]	Approximately 500 metres north	Potential hydrological connection	Yes

7.14. I note that the nearest other European Sites are the Ballycotton Bay SPA (Site Code 004022), approximately 15km to the east of the subject site, and the Blackwater River (Cork/Waterford) SAC (Site Code 002170), approximately 16km to the north of the subject site. Having reviewed the Environmental Protection Agency's AA Mapping Tool, to the absence of any hydrological connection onsite to these European Sites and to the separation distance with regards to any other ecological pathways, I consider that the proposed development, individually or in-combination with other plans or projects, would not be likely to have a significant effect on these European Sites, in view of the said sites' conservation objectives.

Assessment of likely significant effects

- 7.15. The proposed development has the potential to impact the Cork Harbour SPA (004030) and Great Island Channel SAC (001058) via pollution from construction vehicles and increased sedimentation due to the proximity of the European Sites and to the potential for a hydrological link within the site. These impacts have the potential to result in habitat reduction and species disturbance.

Screening Conclusion

- 7.16. Therefore, it has been determined that Appropriate Assessment is required as it cannot be excluded on the basis of objective information that the proposed development, individually or in-combination with other plans or projects, will have a significant effect on the Great Island Channel SAC (Site Code 001058) and Cork Harbour SPA (Site Code 004030).

The Natura Impact Statement and associated documents

- 7.17. The application included a Natura Impact Statement (NIS) (dated 22 November 2021) which examines and assesses potential adverse effects of the development on the Great Island Channel SAC (001058) and the Cork Harbour SPA (004030). Additionally, a breeding bird survey (2 June 2022), a wintering waterbirds survey (2 June 2022) and an amphibian survey (2 June 2022) were also submitted at the further information stage.
- 7.18. I note the Appellants' concerns that the Natura Impact Statement is not complete as the appropriate assessment screening was updated and further surveys were submitted at further information stages, however, no updated NIS was submitted. I note the response from the Applicant in this regard stating that the updated screening included a further walkover survey, however, could not conclude that there was a certain hydrological link to the European Sites.
- 7.19. The Applicant's NIS concluded that "*considering the mitigation measures proposed, and based on the best scientific knowledge available, it is concluded that there will be no significant adverse impacts on the integrity of Great Island Channel SAC or Cork Harbour SPA as a result of the proposed development*".
- 7.20. Notwithstanding the Appellants' grounds of appeal in relation to the appropriate assessment process followed by the Applicant, having reviewed the documents,

submissions and grounds of appeal, I am satisfied that the information on file allows for a complete assessment of any adverse effects of the development, on the conservation objectives of the Cork Harbour SPA (004030) and Great Island Channel SAC (001058), alone or in combination with other plans and projects.

Appropriate Assessment of implications of the proposed development on the integrity of each European site

7.21. The following sites are subject to Appropriate Assessment:

- Great Island Channel SAC (Site Code 001058)
- Cork Harbour SPA (Site Code 004030)

7.22. A description of the site and its Conservation and Qualifying Interests/Special Conservation Interests, are set out as part of my assessment within Appendix 2 of this report and within the submitted NIS. I have also examined the Natura 2000 data forms as relevant (including the NPWS' Article 17 Habitats reports) and the Conservation Objectives supporting documents for these sites available through the National Parks and Wildlife Service's website.

7.23. The main aspects of the proposed development that could adversely affect the conservation objectives of these European sites include the following.

- Impacts on habitat or species due to release of sediments into watercourses during the site works.
- Impacts on habitat or species due to release of pollutants (oils and petrochemicals) into watercourses during the site works.
- Introduction of invasive species to the site.

7.24. I also consider that there is potential ex-situ effects of the qualifying bird species for the Cork Harbour SPA. I note the concerns of the Appellants' in relation to the methodology of the bird surveys undertaken. However, as examined earlier in my report, I am satisfied with the methodology undertaken and thus with the findings of these surveys which indicate that there should be no potential ex-situ effects, in terms of noise or air pollution, on the qualifying interests of the Cork Harbour SPA. There are extensive lands available in the wider area and in the intervening area to support potential foraging opportunities. Furthermore, I note the conclusions of the PA's

Ecologist who noted that the field drains flow in a southerly direction away from the SPA.

Mitigation Measures

7.25. Section 7 of the submitted NIS and Section 4.4. of the submitted CEMP outline a number of mitigation measures including the following:

- The creation of an earthen bund and installation of a silt fence, and creation of a 5 metre buffer zone around all open drains around the site.
- Refuelling to be undertaken in bunded areas more than 10 metres from any watercourse.
- Power washing of construction machinery before entry to site to prevent introduction of invasive species.
- Any cutting of hedgerows and vegetation to be undertaken outside of the bird breeding season.

These mitigation measures are detailed further within Appendix 2 of my report. I consider these mitigation measures to satisfactorily address the potential effects highlighted in paragraph 7.23 above.

In-Combination Impact

7.26. With regard to potential in-combination effects, I have reviewed the Department of Housing, Local Government and Heritage's National Planning Application database and EIA Portal and the Cork County Council's planning register. I note a project currently on appeal to the Board (Ref. 313903) involving the deepening of an existing quarry extraction area, located approximately 1.7km north of the subject site within the townland of Rossmore. An Appropriate Assessment Screening report was submitted with this application and concluded that this project, individually or in-combination with other plans or projects, would not have a significant effect on any European Site. Furthermore, I note another project currently on appeal to the Board (Ref. 312981) which involves the construction of an agricultural fertiliser facility, approximately 4.5km west of the subject site at Belvelly Port Facility. A Natura Impact Statement has been submitted with this application and includes mitigation measures to avoid any adverse impact on the integrity of the Cork Harbour SPA and Great Island Channel SAC.

7.27. Having regard to the nature of the proposed development, to the separation from such developments and to the implementation of mitigation measures, I am satisfied that the in-combination impact of this project, and any other plan or project, will not affect the overall integrity of the European Sites.

Appropriate Assessment Conclusion

7.28. 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. Having carried out screening for Appropriate Assessment of the project, I conclude that it may have a significant effect on the Great Island Channel SAC (Site Code 001058) and the Cork Harbour SPA (Site Code 004030). Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of these sites in light of their conservation objectives.

7.29. Following an Appropriate Assessment, and the consideration of mitigation measures (which are outlined under Appendix 2), I have ascertained that the proposed development, individually or in combination with other plans or projects, would not adversely affect the integrity of these said European sites, or any other European site, in view of the sites' Conservation Objectives. 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.

Flood Risk & Public Health

7.30. The subject site is located outside Flood Zone A or B, however a preliminary flood risk assessment (PFRA) was carried out by the Applicant. The subject site is located within an area of high and extreme groundwater vulnerability. I note that the assessment found that the site is at a low risk from coastal flooding and fluvial flooding. The assessment also found that there is no historical evidence of groundwater flooding and the site is at a low risk of groundwater flooding. Measures are proposed during the works to limit any potential pluvial flood risk.

7.31. Having regard to the findings of the PFRA, I am satisfied that the works will not increase flood risk elsewhere. Furthermore, having regard to the importation of clean inert material and to the mitigation measures outlined in the submitted CEMP and NIS, I am satisfied that the development will not be a risk to groundwater and public health.

Traffic Safety

- 7.32. A traffic assessment has been submitted and forecasts that the development will result in an average of 3 imports to site per day over 5 years. A stationary wheel wash will be installed at the site which will clean all HGV trucks prior to exit onto the public road. The entrance to the site will be via an existing site entrance from the public road and will be widened and set back. Site visibility lines have been measured at 100 metres in both directions which is in accordance with Table 1.3 of DN-GEO-03031.
- 7.33. Having inspected the site I noted that the public roads within the vicinity of the site were not heavily trafficked. Having regard to the low level of traffic that will be generated by the development and to the sightlines achievable along the public road, I am satisfied that the proposed development is acceptable in terms of traffic safety.

Other Issues

- 7.34. I note that the Appellant raises concerns regarding the construction of the haul road not having planning permission. I note the Applicant's response on this issue. I note the submitted plans indicates an existing haul road to be used for site access from the junction with the public road to the existing agricultural farmyard. I noted on the date of the site inspection that there is no haul route from the farmyard to the proposed fill area. Whilst I note Section 4(1)(a) of the Planning and Development Act 2000, as amended, both parties should note that the matter of enforcement falls under the jurisdiction of the Planning Authority.
- 7.35. I note the Appellants' concerns regarding the spraying of the lands. The Applicant has stated that this was related to the general upkeep of the farm. The Board should note that I have no significant concerns with this and consider it to be standard agricultural practice.
- 7.36. Finally, with regards to the Appellants' concerns regarding loss of "boggy habitat", I note the Applicant's response in this regard. The boggy habitat appears to be in relation to another part of the landholding which was visited by the council where they agreed that the works were acceptable according to the Applicant. I note the letter from Teagasc confirming the purpose of those works. Notwithstanding this, having inspected the site, I am satisfied that the subject lands do not represent bogland or wetland. I also note that the site is not designated as a natural heritage area.

8.0 Recommendation

8.1. I recommend that permission is granted, subject to conditions.

9.0 Reasons and Considerations

Having regard to the location of the lands within a rural agricultural area, and to the provisions of the Cork County Development Plan 2022-2028, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities of the area and would not have significant effects on the environment or the biodiversity of the area and would be acceptable in terms of traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>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 13th June 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The mitigation measures contained in the Natura Impact Statement and Construction Environmental Management Plan submitted with the application shall be implemented in full.</p> <p>Reason: To protect biodiversity and to protect the integrity of the European Sites.</p>

3.	<p>The imported material to be deposited on the land shall comprise of inert soil, stone and topsoil only, and shall be levelled, contoured and seeded upon the completion of the works and protected until established.</p> <p>Reason: In order to assimilate the development into the surrounding rural landscape, in the interest of visual amenity.</p>
4.	<p>This permission shall apply for a period of five years from the date of this Order. Following the expiration of this period, the importation of material to the site and operations on site shall cease.</p> <p>Reason: In the interest of clarity.</p>
5.	<p>(a) The maximum quantities of inert soil and stone to be accepted at the site shall not exceed 60,000 tonnes in total over the period referred to in condition number 4 and shall not exceed 25,000 tonnes in any one year.</p> <p>(b) The developer shall keep a written record onsite of all the material imported to the site and this shall be made available for inspection by the planning authority upon request.</p> <p>Reason: In the interest of clarity and for the protection of the environment.</p>
6.	<p>The final use of the site after completion of the importation of materials shall be for agricultural purposes only and the lands shall be reinstated and haulage route removed to the written satisfaction of the planning authority.</p> <p>Reason: In the interest of clarity.</p>
7.	<p>(a) All trees and hedgerows on the boundaries of the site shall be retained and maintained, with the exception to those necessary to provide for the proposed entrance.</p>

	<p>(b) The replacement hedgerow shall be planted in accordance with the revegetation plan and shall be completed within the first planting season after completion of the development.</p> <p>(c) All hedgerow/tree removal and stripping of soils shall be undertaken outside the bird breeding season.</p> <p>Reason: In the interest of visual amenity and biodiversity.</p>
8.	<p>The importation of inert soil and stone and the operation of associated machinery shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays, between 0800 to 1400 hours on Saturdays and not at all on Sundays, bank or public holidays.</p> <p>Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In the interest of good traffic management and to protect the amenities of the area.</p>
9.	<p>Prior to commencement of works to the drainage ditch, an amphibian survey shall be carried out and submitted to the planning authority for written approval. If species are identified, no works shall take place until suitable measures are in place which are to be agreed in writing with the planning authority.</p> <p>Reason: In the interest of biodiversity.</p>
10.	<p>(a) Surface water drainage arrangements, including the piping of the existing drainage ditch, shall comply with the detailed requirements of the planning authority and Inland Fisheries Ireland for such works and services. No surface water shall discharge to the public road or to adjoining properties.</p>

	<p>(b) A 5 metre buffer zone shall be maintained from all watercourses, in accordance with Section 4.4 of the submitted Construction Environmental Management Plan. There shall be no works permitted within this buffer zone.</p> <p>Reason: To protect the environment, biodiversity and in the interest of traffic safety.</p>
11.	<p>(a) Details of road signage, including advance warning notices, and proposals for traffic management at the site entrance, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>(b) A wheelwash facility shall be installed in a location to be agreed in writing with the planning authority prior to commencement of the development.</p> <p>Reason: In the interest of traffic safety.</p>
12.	<p>(a) The developer shall overlay the junction of the access and public roads in accordance with the detailed requirements of the planning authority, prior to any importing of material to the site.</p> <p>(b) No dust, mud, debris or other material shall be carried onto or deposited onto the public road.</p> <p>(c) The developer shall be responsible for the full cost of repair in respect of any damage caused to the public roadway arising from the construction works and operations and shall make good any damage to the road to the satisfaction of the planning authority.</p> <p>Reason: In the interest of traffic safety.</p>
13.	<p>The noise level from within the boundaries of the site, measured at noise sensitive locations in the vicinity, shall not exceed</p>

	<p>(a) an LAr,T value of 55 dB(A) between the hours of 0800 and 1900 from Mondays to Fridays and between the hours of 0800 and 1400 on Saturdays (excluding public holidays); and</p> <p>(b) an LAeq, T value of 45 dB(A) at any other time.</p> <p>Reason: To protect the residential amenities of property in the vicinity.</p>
14.	<p>During the construction stage, dust emissions shall not exceed 350 milligrams per square metre per day averaged over a continuous period of 30 days (Bergerhoff Gauge). The monitoring and mitigation measures outlined within Section 4.4 of the submitted Construction and Environmental Management Plan shall be implemented in full during the construction of the development.</p> <p>Reason: To protect biodiversity and the residential amenities of property in the vicinity.</p>

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.

Gary Farrelly
 Planning Inspector

27th February 2024

Appendix 1

Form 1 - EIA Pre-Screening

An Bord Pleanála Case Reference	314532-22		
Proposed Development Summary	Importation of clean inert soil and stone for the raising of an agricultural field		
Development Address	Lands at Ballydaniel More, Ballynatra and Currabally, Cobh, County Cork		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			EIA Mandatory EIAR required
No	X		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
			Conclusion
No			No EIAR or Preliminary Examination required
Yes	X	Class 11(b): Installations for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part 1 of this Schedule, Class 15: Any project listed in this Part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development but which would be likely to have significant effects on	Development relates to the infilling of an agricultural field of 60,000 tonnes over a period of 5 years. This equates to 12,000 tonnes per annum.
			Proceed to Q.4

		the environment, having regard to the criteria set out in Schedule 7.		
4. Has Schedule 7A information been submitted?				
No	X	Preliminary Examination required		
Yes		Screening Determination required		

Form 2 - EIA Preliminary Examination

The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.

	Examination	Yes/No/ Uncertain
<p>Nature of the Development</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>60,000 tonnes of inert material is proposed to be imported into the site over a 5 year period to increase the agricultural output of the field. The average fill depth will be 2.2 metres. Having regard to the inert nature of the material to be imported, it is considered that this should not endanger the quality of surface water or groundwater.</p> <p>Noise and dust emissions are associated with a development of this nature. It is stated within the submitted CEMP that best practice measures in relation to construction traffic will be implemented and construction hours will be in accordance with a waste management permit.</p> <p>Mitigation measures to control dust emissions will be implemented including the dampening of the haul road, the provision of a wheel wash and the grading of imported soil as soon as practicable after unloading.</p> <p>There are no sensitive noise receptors within the vicinity of the fill area. There are a number of residential dwellings next to the access off the public road and haul road. However, I consider noise associated with low level HGV movements is not significant.</p>	No
<p>Size of the Development</p>	<p>The submitted traffic assessment forecasts a trip generation equating to a maximum of 1 HGV every 2.5 hours with 3</p>	No

<p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	<p>truck imports per day predicted. I consider this to be insignificant.</p> <p>No existing or permitted developments have been identified in the immediate vicinity that would give rise to significant cumulative environmental effects with the project.</p>	
<p>Location of the Development</p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>The site is located within 500 metres of the of the Great Island Channel Special Area of Conservation (SAC) (Site Code 001058) and proposed Natural Heritage Area (pNHA) and the Cork Harbour Special Protection Area (SPA) (Site Code 004030). The subject site is also located approximately 750 metres northeast of the Cuskinny Marsh proposed Natural Heritage Area (pNHA). An Appropriate Assessment Screening report and Natura Impact Statement were submitted with the documentation. My appropriate assessment concludes that the proposed development will not adversely affect the integrity of the European sites.</p> <p>The site is not located within Flood Zone A or Flood Zone B.</p> <p>There are no known archaeological monuments within the site.</p>	<p>No</p>
<p>Conclusion</p>		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required.</p>	<p>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</p> <p>Schedule 7A Information required to enable a Screening Determination to be carried out.</p>	<p>There is a real likelihood of significant effects on the environment.</p> <p>EIAR required.</p>

Inspector: _____

Date: _____

Gary Farrelly

Appendix 2: Appropriate Assessment (AA)

Great Island Channel SAC (Site Code 001058)					
Qualifying Interest	Conservation Objective	Potential Adverse Effect	Mitigation Measures	In-Combination Effect	Can Adverse Effect on Integrity be excluded ?
1140 Mudflats and sandflats not covered by seawater at low tide	To maintain the favourable conservation condition	<ul style="list-style-type: none"> • Sedimentation • Water pollution 	<ul style="list-style-type: none"> • Mitigation and monitoring measures to control dust as outlined in Section 4.4 of submitted CEMP • Creation of a 5 metre buffer zone from any watercourse • Creation of a 1m x 1m earthen bund and silt fence 	None	Yes
1330 Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>)	To restore the favourable conservation condition	<ul style="list-style-type: none"> • Sedimentation • Water pollution • Introduction of invasive species 	<ul style="list-style-type: none"> • No working during very wet conditions • Erosion and sediment control structures such as biodegradable matting • Refuelling control measures • Treatment of wash down water in a dedicated area • Washing of construction vehicles prior to entry to site 	None	Yes
<p>Overall conclusion: Integrity test Following the implementation of mitigation, the construction of this proposed development will not adversely affect the integrity of this European site in view of the Site's conservation objectives. No reasonable scientific doubt remains as to the absence of such effects.</p>					

Cork Harbour SPA (Site Code 004030)

Qualifying Interest	Conservation Objective	Potential Adverse Effect	Mitigation Measures	In-Combination Effect	Can Adverse Effect on Integrity be excluded ?
SCI Bird Species (All)	To maintain their favourable conservation condition	<ul style="list-style-type: none"> • Sedimentation • Water pollution • Airborne pollution <p>The submitted survey reports did not indicate any ex-situ effects.</p>	<ul style="list-style-type: none"> • Mitigation and monitoring measures to control dust as outlined in Section 4.4 of submitted CEMP • Creation of a 5 metre buffer zone from any watercourse • Creation of a 1m x 1m earthen bund and silt fence • No working during very wet conditions 	None	Yes
A999 Wetlands	To maintain the favourable conservation condition of the wetland habitat as a resource for the regularly-occurring migratory waterbirds that utilise it.	<ul style="list-style-type: none"> • Sedimentation • Water pollution • Airborne pollution 	<ul style="list-style-type: none"> • Erosion and sediment control structures such as biodegradable matting • Refuelling control measures • Treatment of wash down water in a dedicated area • Washing of construction vehicles prior to entry to site 	None	Yes

Overall conclusion: Integrity test

Following the implementation of mitigation, the construction of this proposed development will not adversely affect the integrity of this European site in view of the Site's conservation objectives. No reasonable scientific doubt remains as to the absence of such effects.