



An
Bord
Pleanála

Inspector's Report

ABP-316013-23

Development	Construction of wastewater pumping station and associated works
Location	Lands to the west of the Mill Road and part of, Mill Road, The Owenacurra River, and the Northern, Relief Road, townlands Townparks, Broomfield West, & Knockgriffin (Imokilly), Midleton, Co. Cork.
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	22/5032
Applicant(s)	Uisce Éireann
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Sheenvale Ltd.
Observer(s)	Peter Sweetman
Date of Site Inspection	18 th September 2023
Inspector	Tomás Bradley

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1.0 Introduction

Under the provisions of Section 37 of the Planning and Development Act 2000, as amended (PDA), Sheenvale Ltd. has appealed the decision of Cork County Council (CCC) to grant planning permission subject to no. 46 conditions for a wastewater pumping station and associated works in Midleton, Co. Cork. The applicant is Uisce Éireann (UÉ)

2.0 Site Location and Description

The site is located in Midleton, Co. Cork, approximately 600 m north of the town centre and to the west of Midleton Train Station. This site has two distinctive areas, the pumping station and the pipeline which are described individually below.

The pumping station site occupies lands to the west of Mill Road (Regional Road R626). The site is largely overgrown with scrub and trees. Access is onto Mill Road where there is an existing opening, albeit currently overgrown. There is a vacant residential dwelling opposite the site on Mill Road. There is an existing stone wall with palisade fencing on the eastern boundary. A rail line and associated infrastructure including a level crossing bounds the site to the south. To the north and west there is a brownfield site (in the ownership of the appellant) with existing hardstanding where industrial buildings once stood and is understood to have been demolished circa 2018.

The pipeline is an underground feature and largely follows the alignment of the public roadway except for a crossing of the Owenacurra River on private lands. It leaves the pumping station site opposite the residential dwelling and travels north along Mill Road. At the junction with the Northern Relief Road (NRR) and Avoncore Cottages, it turns west onto the NRR Road. In order to cross the Owenacurra River, approximately 150 m along the NRR, the pipeline enters private lands to the south of the road (in the ownership of the appellant). The pipeline rejoins the public road further west at an entrance to the brownfield site. The pipeline continues along the NRR until the roundabout where it joins a separately approved pipeline.

The site is located in close proximity to the Owenacurra River as previously noted above. The site has been considered under the Catchment Flood Risk Assessment and Management (CFRAM) Programme. The mapping indicates that a portion of the

pumping station is in Flood Zone A and B and has a medium probability (1 in 100 chance) of being fluvial flooded in a severe flood event. A flood event is also noted at the NRR and Mill Road junction also.

There are no specific natural heritage designations in respect to the subject site. The Owenacurra River flows south into the wider Great Island Channel. The Great Island Channel is a Special Area of Conservation (SAC), proposed Natural Heritage Area (pNHA) and is also part of the wider Cork Harbour Special Protection Area (SPA). There are no Recorded Monuments on the site, however, a mill race is located in proximity to the site but is largely culverted under the brownfield site.

It should be noted that the UÉ site was formally part of the appellants overall landholding. CCC issued a Compulsory Purchase Order (CPO) for the UÉ site. In addition, Córas Iompair Éireann (CIÉ) is also acquiring land from the appellant for a separate proposed development not the subject of this appeal (see Section 5.2).

3.0 Proposed Development

The Midleton North Wastewater Pumping Station and Network, which will consist of:

- 1) a new wastewater pumping station with below ground wet well and chambers, 2 no. above ground kiosks, vent stack (c.6.2 m in height), telemetry pole (c. 6 m in height), boundary fencing, retaining wall, and modifications to an existing entrance from Mill Road, including new gates, to facilitate vehicular and pedestrian access;
- 2) the construction of a below ground pipeline (c. 650 m long) connecting the proposed wastewater pumping station to the previously approved Water-Rock Pumping Station (consented as per Section 179 of PDA (Water-Rock Urban Expansion Area (UEA) Infrastructure Works);
- 3) the construction of c. 30m of an underground pipeline to connect the existing foul network on the Mill Road to the proposed foul pumping station; and
- 4) all associated site development, landscaping and site excavation works above and below ground, including the demolition of the existing boundary wall, fence and gates along the Mill Road, on lands to the west of Mill Road, and part of Mill Road, the Owenacurra River, and the NRR, in the townlands of Townparks, Broomfield West, and Knockgriffin (Imokilly) Midleton, Co. Cork.

A Natura Impact Statement (NIS) was submitted to the planning authority with the application.

3.1. Documents supporting the Proposed Development

The following documents were submitted to CCC in the first instance in support of the proposed development:

- Cover Letter
- Statutory Particulars Application Form, Public Notices (Newspaper & Site), Letters of Consent, CPO Notices, the fee
- Drawing Pack
- Planning Report
- Archaeology Screening Assessment
- Design Process Traffic Management Plan (TMP)
- Flood Risk Assessment (FRA)
- Appropriate Assessment (AA) Screening Report
- NIS
- Invasive Species Report

Following receipt of certain submissions from prescribed bodies, the applicant submitted the unsolicited information to CCC on the 23rd of June responding to the issues raised by Iarnród Éireann (IÉ), Department of Housing, Local Government and Heritage (DHLGH Nature Conservation), Athena Private Assets Ltd (the appellant, now Sheenvale Ltd with same registered address), Gas Networks Ireland (GNI) and Inland Fisheries Ireland (IFI). Details of these submissions are set out in Section 4.0.

Following to a Request for Further Information (RFI), the following additional information was submitted on the 9th of December 2022:

- Flood Risk
 - Details of interaction with existing mill race
 - Flooding of access road
 - Storm Water Drainage
 - Flood Awareness Plan and Flood Emergency Response Plan
- External Boundary Treatment

- Site Boundary
- Existing and Proposed Vegetation
- Interaction with Water Rock and Public Service Network
 - Details of Connection
 - Design Capacity and Additional Flows
- Impact on Mixed Use Zoned Lands
 - Internal Boundary Treatment
 - Details of Wayleaves
- Ecology
 - European Sites and Water Quality
 - Construction Environmental Management Plan (CEMP)
 - Ecological Impact Assessment
 - Tree and Landscape Plan

4.0 Planning Authority Decision

4.1. Decision

For clarity, the following is a chronology of key dates related to the CCC decision:

- 6th May 2022 - Application submitted by UÉ to CCC
- 30th June 2022 – RFI from CCC to UÉ
- 23rd June 2022 - Unsolicited Information received from UÉ by CCC
- 9th December 2022 – Further Information received from UÉ by CCC
- 13th February 2023 - Decision made by CCC
- 13th March 2023 – Appeal submitted by 3rd Party to the Board

4.2. Planning Authority Reports

4.2.1. Planning Reports

4.2.1.1. Executive Planner (24/06/2023)

The Planning Report dated 24th of June 2022 sets out the planning history of the site. The report also considers several interdepartmental reports which are further discussed in Section 4.2 of this report as well as the provisions the development plan. The zoning objective for the area is also detailed.

The planning assessment contains a substantive discussion on the principle of the development, the design and layout, visual impacts, transport impacts, flooding, interactions with Part 8 housing schemes in the area and ecology.

On the basis of this initial assessment the report concludes that a RFI is required relating to issues of flood risk, revised boundary treatment on the eastern side and impacts to adjacent lands zoned for mixed use.

Comment on RFI (10/02/2023)

The report generally expresses satisfaction with the information received under the RFI and summarises the response of other technical reports outlined below. It concludes with the recommendation to grant permission and the collation of no. 46 conditions.

4.2.1.2. Senior Executive Planner (30/06/2023)

This report builds on the Executive Planner's report and endorses many of the same points. The report is clear that the proposed development is needed to unlock residential growth targets for Middleton. The report summarises some of the primary issues raised in Section 4.2.2 and Section 4.2.3 of this report and concludes by collating the items for RFI.

Comment on RFI (09/02/2023)

The report generally expresses satisfaction with the information received under the RFI and summarises the response of other technical reports outlined below. It concludes with the recommendation to grant permission and the collation of no. 45 conditions.

4.2.2. Other Technical Reports

4.2.2.1. Engineering (24/06/2022)

This submission accepts the proposed development in principle subject to certain requests including:

- laying the westerly section of the pipeline in the centre of the road to avoid biodiversity constraints and existing services.
- improvements to the design of the easterly boundary given its prominent location on main road into the town.

- Appropriate management of left turning vehicles so as not to cause tailbacks at the level crossing
- The existing footpaths shall be made good in accordance with the requirements of CCC.

Conditions are requested to the same extent.

Comment on RFI (03/02/2023)

No comment. Recommends grant of permission with reference to primary report.

4.2.2.2. Environment Section (30/05/22)

This report does not raise any material issues subject to conditions being attached relating to river interference, compliance with a construction management plan, provision of welfare facilities, storm water overflows.

Comment on RFI (21/12/2022)

No comment on the RFI but considers the CEMP satisfactory.

4.2.2.3. Water Services (24/06/23)

This report does not raise any material issues subject to conditions being attached relating to continued engagement between UÉ and CCC.

4.2.2.4. Flooding Section (28/06/2022)

The Middleton Flood Relief Scheme (FRS) is at 'scheme development'. Regardless there is a likely interaction with the pipeline at the Owenacurra River. A condition is requested for engagement on the coordination of the two projects. A general review of the FRA is also carried out and, on that basis, seeks an RFI related to flooding of operational access road, treatment of surface water and the provision of a Flood Awareness Plan and Flood Emergency Response Plan. The report raises concern about the interaction with the mill race. Information was requested in this respect also.

Comment on RFI (16/12/2022)

This report was generally satisfied with the response to RFI and recommended a grant of permission subject conditions related to continued liaison with CCC on the FRS, implementation of the flood plans, updating of plans based on the FRS mapping and engagement on the 'main' compound.

4.2.2.5. Ecology Section (29/06/2022)

This report identified several deficits in the information submitted related to potential indirect impacts on the Great Channel SAC and Cork Harbour SPA associated with the construction phase; potential for spread of invasive species and potential for direct impacts to habitats and species using the pumping station site which is considered high natural value and contains several trees. Several further information items are requested in respect of these deficits.

Comment on RFI (09/02/2023)

Details submitted are generally considered acceptable subject to the implementation of measures and conditions. The submission also carries out a Habitats Directive Assessment which concluded that the proposed development will not have an adverse effect on any Natura 2000 site. Conditions are recommend seeking implementation of the CEMP, landscaping plan, avoiding vegetation removal during the bird breeding season, bee orchid surveys, appointment off an Ecological Clerk of Works (ECoW), implementation of mitigation measures in the NIS.

4.2.2.6. Housing Infrastructure Implementation Team (29/06/2022)

The Housing Team requests that UÉ clarify where the proposed foul sewer is connection discharging as the drawings are not clear and there is a significant distance to the Water Rock Pumping Station. There is also queries around capacity and additional flows for the Midleton Local Infrastructure Housing Activation Fund (LIHAF) Wastewater Project. Information is request in this respect.

Comment on RFI (no date)

The submission is satisfied with the proposed development and requests a special development contribution be levied on the developer. It queries the legal planning status of works due to occur outside the site boundary to connect the proposed development to the sewer network.

4.3. Prescribed Bodies

4.3.1. Gas Networks Ireland

This email dated 24th May 2022 does not raise any material issues.

4.3.2. Inland Fisheries Ireland (IFI)

This submission of 25th May 2022 raises the following:

- The proposed development should be designed constructed and operated in a manner which there is no overflow to surface waters.
- Should open cut be required to cross the Owenacurra River, then a condition is requested that there is no interference with bridging, draining, or culverting of the river without prior approval of the IFI.

4.3.3. Iarnród Éireann (IE)

This submission of 7th June 2022 raises the following:

- The proposed development is adjacent to the Cork-Midleton Rail Line and Railway Level Crossing XXY0012 and as such there is an obligation to design, construct and operate the development in line with Railway Safety Act 2005.
- A 2.4 m high security fence and track support zone is located to the south of the site. This should be preserved unless prior written consent has been sought from IÉ.
- No water, lights, structures or boundary landscaping shall enter, spill or overhang into the IÉ property. Any existing boundary landscaping interfering with IÉ property should be removed.
- The entrance to the site shall be designed in a manner which ensure that vehicles entering the site do not cause traffic delays on the Mill Road and potentially impede the level crossing.

Comment on RFI (10/02/2023)

A further comment in relation to the site boundary extending onto CIÉ/IÉ property is noted. IÉ advise that this cannot occur without prior agreement.

4.3.4. Department of Housing, local Government and Heritage (Nature Conservation)

This submission of 13th June 2022 raises the following:

- All measures outlined in the NIS should be implemented in full. In additional ECoW should oversee their implementation.
- Clarity required on use of grass verges along road when installing pipeline as bee orchids have been identified in this location. Measures should be provided to ensure no mitigation any impacts arising.

4.4. Third Party Observations

A submission from Tom Phillips + Associates on behalf of Athena Private Assets Ltd (the appellant, now Sheenvale Ltd with same registered address) is noted and raises similar grounds discussed below in Section 7.1.1.

5.0 Planning History

A review of the CCC Planning Portal and the Board's case files was carried out on the 13th of September 2023 to collate any relevant planning history for the site.

5.1. Subject Site

At the pumping station site there was no recent planning history (within 10 years) for the subject site, save for the planning application the subject of this appeal.

Along the pipeline site, there are several planning permissions granted (CCC Ref: 09/4188, 11/5888) for vehicular entrances on the NRR. These are noted.

5.2. Railway Infrastructure (ABP-315087-22)

CIÉ applied to the Board on the 8th of November 2022 for a Railway Order for the Glounthaune to Middleton Twin Track. It is currently under consideration by the Board.

5.3. Brownfield Site to north (ABP-316808-23)

These lands were included on the draft Residential Zoned Land Tax Map and this was appealed on the 28th of April 2023 by Sheenvale Ltd, the appellant to this appeal. It is currently under consideration by the Board.

5.4. Lands north of NRR (ABP-317575-23)

CCC submitted a planning application for approval on the 10th of July 2023 to the Board (as it required AA) for the Water-Rock Linear Park development. It is currently under consideration by the Board.

5.5. Other Urban Developments

There are numerous planning applications around the site in respect of residential, commercial and other utility developments in the north Middleton area which is to be expected in a such a suburban location. These are all noted and considered in the assessment below.

6.0 Policy Context

The Cork County Development Plan 2022-2028 (CCDP) came into effect on 6th of June 2022 and is the relevant plan for the subject site.

6.1. Zoning Objective

The site is zoned 'Existing Residential/Mixed Residential and Other Uses'. The general objective for such areas is "to conserve and enhance the quality and character of established residential communities and protect their amenities". This is marked on the webmap viewer for which a link is provided in Volume 6 of the plan.

While the zoning does not cite utilities and infrastructure specifically as an appropriate use it can be considered that this is a development which is ancillary to the parent use of residential and therefore Objective ZU 18-7 Ancillary uses applies.

ZU 18-7: Ancillary Uses: Ensure that developments ancillary to the parent use of a site are considered on their merits.

There is a Special Policy Area (MD-X-01) in the brownfield site to the north and west. This is considered suitable for a mixed use development including residential and commercial. Details are set out in Volume 4 of the plan.

6.2. Specific Objectives in respect of Wastewater Provision for Midleton

Midleton is located in the County Metropolitan Cork Strategic Planning Area and has a population target that requires 2,647 units during the plan period. The majority of these will occur in the Water-Rock UEA which is in proximity to the proposed development and included in the Governments Local Infrastructure Housing Activation Fund (LIHAF). This UEA will include approximately 2,500 residential units.

Volume 4 of the plan which details settlement plans for South Cork, including Midleton, states the existing Wastewater Treatment Plan at Midleton has no spare capacity at present. To increase the Population Equivalent (PE) the plan is to connect to the Carrigtwohill Project which will transfer the loading from a large portion of the town. As part of the Core Strategy (Chapter 2) to achieve this, a 'Rising Main / Pumping Station connection to Carrigtwohill' is considered specific and key infrastructure for Midleton. This is set out In *Appendix D Core Strategy Critical Infrastructure* of the CCDP. More generally there is also an objective for Midleton that:

MD-GO-03 In order to secure the sustainable population growth, appropriate and sustainable water and waste water infrastructure, must be provided and be operational in advance of the commencement of any discharges from the development.

Other provisions related to natural heritage, built heritage and development standards are noted.

7.0 The Appeal

For clarity, the following is a chronology of key dates related to the appeal:

- 13th March 2023 (prior to) – Appeal submitted by 1st Party to the Board
- 13th March 2023 – Appeal submitted by 3rd Party to the Board
- 25th April 2023 – Appeal submitted by 1st Party withdrawn.
- 5th April 2023 – Response to 3rd Party Appeal submitted by UÉ to the Board
- 22nd August 2023 – Applicant’s Response circulated to all parties for comment
- 11th September 2023 – Response from 2nd/3rd Parties to Applicants Response

7.1. Grounds of Appeal

7.1.1. Sheenvale. Ltd. (3rd Party)

The submission prepared by Tom Phillips + Associates on behalf of the appellant, Sheenvale. Ltd. accompanied the appeal in respect of this case file. The grounds of the appeal may be summarised as follows:

- The appellants supports the proposed development in principle. However, has a primary issue related to the coordination of planning applications on the wider landholding, which are of being proposed by two state agencies.
- There is specific concern in relation to the provisions of entrances to same. The appellants lands are being acquired by two state agencies, UÉ and CIÉ. These agencies have not engaged with one and other. This has resulted in the provision of two entrances that materially affects the short term development of the appellant’s lands. There is a related concerns of traffic impacts.
- The appellant, since first engaging with this planning application, now notes the CIÉ planning application which ‘freezes’ a large portion of the site and results in an uncoordinated approach to the site’s development.

- In addition, the appellants submits several other grounds, including:
 - The effect of the proposed development on the appellant's residual lands.
 - The accuracy of the zoning assumptions made by the applicant.
 - The validity of the FRA.
 - The assessment in respect of the Mill Race and impacts to same.
 - The appropriates of boundary treatments.
- As a solution, the appellants are seeking to facilitate discussions in respect of the two UÉ and CIÉ planning application and agree a coordinated approach to access issues which would mitigate impacts.
- The appellant provided mapping illustrating its lands in its ownership, timelines of correspondence in relation to this planning application and other related planning applications and summary of conditions to this planning application which are noted.

7.1.2. Uisce Éireann (1st Party)

An appeal was received from UÉ but this was ultimately withdrawn on the 25th of April 2023. No regards has been had to the contents of this appeal save for administrative correspondence advising its withdrawal.

7.2. Planning Authority Response

No substantive response was received from the planning authority in respect of the appeal in the first instance.

7.3. Observations

A submission from Peter Sweetman sets out the legal obligations of the Board when addressing the subject planning application under the PDA, the Environmental Impact Assessment (EIA) Directive, the Habitats Directive. It cites legislation and various legal precedents.

Specifically, the observations notes that the AA relies on Condition 4 (Implementation of NIS Mitigation Measures) and 5 (Implementation of CEMP Measures) which are not sufficiently detailed to remove all reasonable scientific doubt as to the effects of the works on European sites.

7.4. Applicant's Response

The submission is prepared by Atkins on behalf of the applicant, UÉ. The response to the appeal may be summarised as follows:

- The grounds of appeal are summarised as well as the setting out of key contextual matter related to the need and legal status of the proposed development and related site. The extent of the CPO is clarified in Plate 2 of the submission.
- The applicant note the concerns regarding site access; however, it is contended that this is beyond the scope of the proposed development. The applicant is satisfied it has engaged with IÉ/CIÉ. UÉ cannot accept a condition for a shared access citing Section 7.3.2 of the Development Management Guidelines 2007. The applicant also notes the differing construction time-frames as well as the physical and operational difference between the two projects.
- No significant traffic impacts are expecting during construction or operational phases. The access is technically suitable. Traffic management plans will be implemented in full to mitigate any potential impacts.
- On other matters, the applicant submits a response, largely referencing the RFI submission, and summarising the status of information in relation to
 - There will be no material impacts on zoned lands
 - The zoning is accurate and based on current CCDP
 - Updated FRA and additional documents now submitted since the RFI
 - Boundary Treatments and scheme proposed as part of the RFI

7.4.1. Submissions on Applicant's Response

7.4.1.1. Cork County Council (08/09/2023)

No further comments are made however reference is given to previous technical reports provided which covers all relevant issues

7.4.1.2. Sheenvale. Ltd. (3rd Party) (11309/2023)

This submission reiterates many of the previous points set out in Section 7.1.1 and further defines the key issues of disjointed planning outcomes, two site entrances and freezing of zoned lands.

In respect of the Applicant's Response specifically. The appellants is of the view that: landscaping drawings are high level in terms of detail, the applicant is not addressing the impact of the site entrances, the design of entrances is within the Board's scope.

7.5. Other Correspondence

On the 24th of August 2023, correspondence was received from the Environment Protection Agency (EPA) and placed on the file in respect of a Consultation Notice in accordance with the European Union (Waste Water Discharge) Regulation 2007, as amended for a licence review from UÉ for agglomeration of Midleton. It requested comments on same. A response was made on the 29th of August by the Board setting out details of the subject appeal and that the EPA would be advised of a decision in due course.

8.0 Assessment

Having examined the application and appeal documentation on file and having regard to relevant policy and guidance, it is considered that the key issues in this appeal are those raised in the grounds of appeal namely:

- Access Arrangements and coordination with CIÉ
- Traffic Impacts
- Impact to Zoned Lands (north/west of the site)
- Flood Risk
- Impact to the Mill Race
- Boundary Treatments
- Adequacy of Condition

Technical matters relating to EIA and AA will also be addressed:

- Likely Effects on the Environment
- Likely Significant Effects upon a European Site

It is noted that no party to the appeal is questioning the principle of development in this instance. This report concurs with this and the principle is accepted. Plainly, It is a utility service which is required and ancillary to the zoned use of the residential lands and indeed residential and mixed uses of adjacent zoned lands.

8.1. Grounds of Appeal

8.1.1. Access Arrangements and coordination with CIÉ

A key concern for the appellant is the provision of access arrangements for the proposed development which impacts lands in its ownership. The impact to the landholding is exacerbated when considering another planning application by CIÉ for rail development. The appellant is of the view that the entrances could have been consolidated were there better engagement between parties – namely the appellant, CIÉ and UÉ.

For clarity, it should be noted that UÉ are proposing a permanent utility installation at the subject site which is contained in the south-east corner of the appellant's overall landholding and will be using an existing entrance. On the other hand CIÉ are proposing an access to a site compound which is intended as temporary to facilitate for the construction of the rail development. This is an important distinction.

On the face of it, design arrangements could have been made to ensure that the provision of construction entrances is consolidated – this would be good practice. However it is considered that the application the subject of this appeal is not the appropriate vehicle to achieve it at this point. It is more a matter for CIÉ and their application to design – it is their construction access which would cross the appellant lands.

This is because the UÉ facility is a permanent installation and the CIÉ works at this location will be temporary. It would also be more certain in terms of their development time-frames - this is less certain in the instance of CIÉ. It would be an incorrect to presume that both developments could occur at the same time.

It would also be the view that it is entirely possible for CIÉ to revise their temporary access arrangement if required. UÉ have stated they are open to facilitating a temporary access arrangement by CIÉ if the scenario arises, however, they consider that it should not hinder the progress of their permanent utility installation. This position is reasonable.

The appellant consider there to be a short term impact on their lands, however, provide no material detail on nature of this impact in respect of the subject application other than the provisions of access. There are no immediate planning applications in relation to this site noted. Regardless, this is not an issue for the

subject appeal and it would be incorrect to conflate issues in respect of the CIÉ planning application with that of UÉ. In respect of perceived or actual lack of engagement between parties, this is not a matter for the Board to foster or facilitate in the circumstances of this appeal.

It is considered a condition compelling both UÉ and CIÉ to facilitate a shared access would be inappropriate also. Again, the application the subject of this appeal is not the appropriate vehicle to achieve this at this point. It is more a matter for CIÉ and their application to consider and design. UÉ cannot compel CIÉ to use its access. The Board should not impede the progress of UÉ either by way of indeterminable condition. A solution may be found under Ref: ABP-315087-22 to this issue.

In conclusion, it is not considered that this is material planning ground and is primarily a matter between the appellant and CIÉ.

8.1.2. Traffic Impacts

It is considered that issues related to traffic impact are not significant in the context of the proposed development. The design of the entrance has addressed the primary issue of left-turning by creating a bell design to allow vehicles to egress the roadway entirely so as not to create delays at the level crossing. It is also noted that the development does not generate significant traffic volumes and access during the operational phase will be negligible. Any construction measures required are addressed in the TMP which should be implemented in full.

Should both developments (UÉ and CIÉ) occur at the same time and both entrances come into use, due to lack of cooperation or otherwise, then respective TMPs would need to be agreed with CCC and factor in any cumulative traffic impacts. In any case, it is considered that these can be reasonably mitigated through good practice and several construction entrances would not be uncommon in a built up area undergoing development. The road network has the capacity to accommodate it.

The TMP should be finalised prior to the commencement of the proposed development. Regardless, these impacts will be temporary and short-term and would be controlled as part of standard and best practice construction measures included in the TMP. During the operational phase there will be some use of the road network, however, it will be similar if not the same as the existing level of use.

It is considered unlikely, subject to mitigation measures, that significant impacts would arise on the road network.

8.1.3. Impact to Zoned Lands (north/west of the site)

As discussed above, the design of the proposed development by CIÉ is not a matter for the subject appeal and it is incorrect to conflate issues in respect of that planning application with that of UÉ. The proposed development of the subject site would not result in the sterilization or freezing of the zoned lands so as to render them undevelopable – the CIÉ access is temporary and short term.

In conclusion, it is not considered that this is material planning ground and is primarily a matter between the appellant and CIÉ.

8.1.4. Flood Risk

Both the Owenacurra River and the mill race are at risk of flooding and the site is largely located in Flood Zone A. The Middleton FRS is at an early stage of development but the pumping station site may benefit in time from the emerging option currently being considered. However, this cannot be factored in at this time.

The proposed development is considered a highly vulnerable development and as such a justification test is required under the Planning System and Flood Risk Management Guidelines for Planning Authorities (2009).

The design of the pumping station in particular which is most vulnerable to flooding includes for an increase in site levels to ensure that it is above a 100-year flood level. The FRA submitted by the applicant considers that this design would result in a negligible flood risk – this is considered a reasonable approach.

While no additional measures are provided to minimise flood risk to adjacent land and uses receptors the applicant considers the risks to be low. Any residual risk has been factored into the design however addition measures such as awareness plans and emergency response plans have been prepared and will be developed in more detail as the design progresses.

It is considered unlikely, subject to mitigation measures, that significant impacts would arise from flood risk.

8.1.5. Impact to the Mill Race

The proposed development cross the mill race on the NRR, east of the Owenacurra River. The race travels in a north-south direction through the brownfield site. The appellant raises does not consider that the impacts to the race are fully assessed. However, the consideration given to it in the Archaeological Screening Assessment is considered appropriate. It is important to note that the race has been largely backfilled and covered over in the 20th century. In addition, during the construction of the NRR it would have been excavated and preserved in situ. Given the location and depth of the proposed pipeline and the likely depth of the road it is unlikely that significant impacts would occur to the mill race. This being said, it is considered that the recommendation to maintain 'an archaeological watching brief' is not firm and it is recommended archaeological monitoring is carried out when works are occurring in the vicinity of the mill race.

It is considered unlikely, subject to mitigation measures, that significant impacts would arise on the mill race.

8.1.6. Boundary Treatments

The specific issue in this respect relates to the treatment of the boundary between the pumping station and the lands zoned MD-X-01. The applicant in their further information response does provide a revised landscaping plan which includes planting on the western side of the pumping station. It is considered that the applicant has endeavoured to propose a boundary treatment which is appropriate for the current situation - where the applicant does not know the design of the adjacent mixed use development. The appellant, should they develop the lands in future, may propose additional landscaping to complete the boundary screening. Regardless, it is considered that the proposed development is unlikely to give rise to significant impacts on the adjacent lands and the landscaping as proposed is appropriate in current situation. The final details for the landscaping plan should be agreed with CCC prior to commencement of the proposed development with particular consideration given to the northern and western boundaries of the site.

In conclusion, it is not considered that this is material planning ground.

8.1.7. Adequacy & Number of Conditions

The observer to the file makes a valid point that conditions cannot give rise to scientific doubt as to the effects of the works on European sites. In examining the

conditions in this respect it is considered that there is no conditions that would give rise to doubt in the context of European sites. The conditions cited, Condition 4 (Implementation of NIS Mitigation Measures) and Condition 5 (Implementation of CEMP Measures) are effectively additional mitigation measures and will improve the existing environment at the site and minimise effects to hydrological connections and in turn European sites. The mitigation set out in the NIS are stand-alone measures and are simply ensured by way condition – it also ensures compliance with same is enforceable. Should the Board be minded to grant permission the condition set out below have been considered in this context also and it is considered their implementation would not give rise to adverse effects on qualifying interest species and habitats respect to its attributes and targets in of themselves. They enhance the scientific certainty on impacts rather than create doubt in this instance.

A total of no. 46 conditions were attached the grant of permission by CCC. While the majority are valid conditions, this is considered excessive and obscuring the legibility of the planning permission. In this respect and should the Board be minded to grant permission, efforts have been made to consolidate the conditions many of which are incorporated into the plans submitted or set out by the applicant as mitigation measures. As always, the development shall be carried out and completed in accordance with the plans and particulars lodged with the application and CCC should ensure this in the compliance phase of development.

The Board's attention should be drawn to the condition attached by CCC related to development contributions. It has been included in the conditions set out below for the subject appeal should the Board be minded to grant permission. Consideration was given to omitting it in its entirety from the recommendations below in this instance as the proposed development is the "public infrastructure" required for and benefiting development in the area. Without it, as CCC and UÉ agree, the area may not be developed at all due to constraints in the waste water network.

However, in considering the reports of the Housing Implementation Team in CC there seems to be some resource spent by CCC in the planning, design and implementation of the wider Water-Rock LIHAF scheme which benefits this specific UÉ development. CCC request that this be recouped by way of special contribution. Although not cited by CCC, this is presumably sought under Section 48 (2) (c) of the

PDA as a 'special exceptional cost'. This is considered reasonable, even though UÉ and CCC are both agencies of the state and are working to the same end.

8.2. Likely Effects on the Environment

8.2.1. EIA Screening

An EIA Screening Report was submitted by UÉ to support the application, where it was concluded that there is no real likelihood of significant effects on the environment arising from the proposed development and that an EIA Report is not required in respect of the proposed development.

The following matters are considered relevant in the assessment of whether the submission of an EIA Report is required:

- Assessment of project type/class of development under Schedule 5 of the PDR, relevant to the proposed development.
- Assessment of relevant thresholds under Part 2 of Schedule 5 of the PDR.
- Assessment of proposed development including its likely effects on the environment as set out below in Section 8.1.2.

8.2.2. Project Types / Class of Development

The applicant in their submissions have indicated the classes in Schedule 5 within which the development is considered to fall, including:

- Schedule 5, Part 2, Class 11 (c) Waste Water Treatment Plants

In addition to those categories listed above, the following is considered for completeness.

- Schedule 5, Part 2, Class 10 (b) (iv) Urban Development
- Schedule 5, Part 2, Class 15 'Sub-Threshold' Projects

Having reviewed the details of the proposed development, the relevant legislation and guidance, and the documentation on file, it is considered that the following classes of development may be applicable.

Waste water treatment plants with a capacity greater than 10,000 population equivalent as defined in Article 2, point (6), of Directive 91/271/EEC not included in Part 1 of this Schedule.

It is not considered that this class of development is applicable. This is not a treatment plant; it is a pumping station and associated pipeline connecting into a wider existing network.

Schedule 5, Part 2, Class 10 (b) (vi) Urban development which would involve an area greater than 2hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere. (In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.)

It is considered that this class of development may be applicable. The proposed development is on zoned lands in the CCDP and will be connected to existing infrastructure. In the following section the relevant threshold is examined.

8.2.3. Project Thresholds

As set out above, it is considered that the proposed development is of a class for the purposes of EIA, including:

- Schedule 5, Part 2, Class 10 (b) (iv) Urban Development
- Schedule 5, Part 2, Class 15 ‘Sub-Threshold’ Projects

The threshold cited under Class 10 (b) (iv) is 10 hectares. It is noted the proposed development is on a site of approximately 1.8 hectares. Therefore, it is ‘subthreshold’, and a mandatory EIA is not required.

In such instances where the development is ‘subthreshold’, an assessment should be made against the criteria for determining whether development listed in Part 2 of Schedule 5 which are set out in Schedule 7 of the PDR.

8.2.4. Assessment of the Characteristics, Location and Potential Impacts

The adopted development plan has been subject to SEA and AA and considered the land use and specific objectives for this site. The SEA for the plan concluded that its implementation would not result in significant effects on the environment.

It is also noted that the development is on serviced lands in a built up area and does not constitute a significant urban development in the context of the wider town and the other projects which may occur in the vicinity.

The development is not associated with any significant loss of habitat or pollution which could act in a cumulative manner to result in significant negative effects to any ecological site.

The applicant has included a significant volume of information in relation to the proposed development and the likely significant effects on the environment -this is noted along with the assessment of various technical experts within CCC (who considered the impacts of the proposed development acceptable).

Should the construction of the proposed development occur in tandem with other development, in particular the CIÉ development, any impacts would be of a temporary nature and short-term given:

- the limited nature of works (i.e., no significant structures),
- the expected duration of the works,
- the location of lands to be developed (zoned lands),
- the location and distance to the other existing and/or approved projects.
- the likelihood of temporal overlap of construction works between projects.
- the implementation of standard and best practice construction and operation measures.

It is considered unlikely that cumulative impacts with other existing and/or approved projects would arise.

Having regard to the nature and scale of the proposed development, the environmental impacts are not complex or intense. Furthermore, the implementation of standard best practice methodologies during the construction and operation phase of the proposed development will result in a reasonable possibility of effectively reducing potential impacts.

Having regard to the nature and scale of the proposed development, it is expected that the impacts will be on-going, long term and will generally only be reversible if the constructed elements of the scheme are removed. The construction phase impacts, will be of relative short duration and limited frequency.

On this basis and when considering:

1. Characteristics of proposed development.
2. Location of proposed development.

3. Types and characteristics of potential impacts.

it is considered unlikely that there would be significant effects on the environment arising from the proposed development.

8.3. Likely Significant Effects upon a European Site

The NIS submitted with the application concluded that the proposed development would not either alone or in combination with other plans or projects, adversely affect any European Site.

The application documentation includes information required in respect of the methodology applied, a description of the existing sites and 'Stage 1' and 'Stage 2' assessments. The areas addressed in this assessment includes the following:

- Screening for AA
- Natura Impact Statement
- AA of implications of the proposed development on the integrity each European site

The applicant has submitted an AA Screening Report and NIS which is dated March 2022 as part of the particulars supporting the application. There is additional information submitted as part the RFI which is also noted. The documentation is in line with current best practice guidance and allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites. The documentation was prepared by Atkins and the qualifications and experience of the main author of the report is suitable and relevant.

This assessment has had regard to relevant guidance including:

- Department of the Environment Heritage and Local Government (DoEHLG) (2009), AA of Plans and Projects in Ireland: Guidance for Planning Authorities.
- European Commission (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.

At a high level and to put the documentation in context:

- The proposed development will not be located within a European site and the closest European 2000 site is approximately 1.3 km from the site. There are four European sites within 15 km of the site.
- The site is partially within a flood zone adjacent to the Owenacurra River. There is a culverted mill race also. A direction drill is proposed under the Owenacurra River.
- The site is hydrologically connected to the Cork Harbour and associated European sites. The connection is through the Owenacurra River which flows from the site at the south. It meets the Dungourney River in Midelton before entering the estuary, Great Island Channel and wider harbour area.

8.3.1. Screening for Appropriate Assessment

The AA Screening Report describes the proposed development, its receiving environment and relevant European Sites in the zone of influence of the development.

No habitats or species listed as qualifying interests for any nearby European Sites or corresponding with Annex I are identified on the site in the AA Screening Report. The proposed development 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 any European sites.

The AA Screening Report considers European sites within a 15 km range with a hydrological connection. This Zone of Influence was established based on the extent at which potential impacts may be carried via identified pathways (i.e., watercourses). Having regard to the nature of the proposed development, the nature of the receiving environment and the source-pathway-receptor model. It is considered that this is a reasonable Zone of Influence.

Having regard to:

- the information and submissions available.
- the nature, size and location of the proposed development.
- its likely direct, indirect and in-combination effects.
- the source-pathway-receptor model; and
- the sensitivities of the ecological receptors.

It is considered that:

- Great Island Channel SAC (site code: 001058)
- Cork Harbour SPA (site code; 004030)
- Ballycotton SPA (site code: 002170)
- Blackwater River SAC (site code: 002170)

are relevant to include for the purposes of initial screening for the requirement for Stage 2 AA on the basis of likely significant effects.

Table 1 below lists the qualifying interests of these sites, their conservation objectives, and possible connections between the proposed development (source) and the sites (receptors).

8.3.1.1. Sites *unlikely to be Significantly Effected*

On consideration of the European Sites set out in Table 1 and the source-pathway-receptor model which indicates any potential or meaningful connectivity between the proposed development. It is reasonable to conclude, on the basis of the information on the file, that the proposed development, either individually or in combination with other plans or projects would not be likely to have a significant effect on any European Site, in view of the conservation objectives of the following sites:

- Ballycotton SPA (site code: 002170)
- Blackwater River SAC (site code: 002170)

This is because there is no potential for meaningful biological or relevant hydrological connectivity to these sites. Given the separation of the proposed development from this site, it is considered that the potential for impacts to arise from the construction and operation phase of the proposed development is unlikely.

8.3.1.2. Sites *likely to be Significantly Effected*

However, as the proposed development is located upstream of:

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

This raises the potential for indirect effects on it and its qualifying interests during the construction and operation phase. It is noted that the no instream works proposed and there is a reasonable separation between the proposed development and river.

Notwithstanding this, potential impacts could arise from any deterioration in water quality as a result of the uncontrolled or unmitigated release of pollutants, including sediments and invasive species to the drains and streams that are hydrologically connect the site to the river. This in turn could have adverse impacts on European Sites

On this basis, it is considered that it cannot be excluded, on the basis of the information before the Board, that the proposed development, individually or in combination with other plans or projects, would have a significant effect on the following European Site:

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

Therefore, it is determined that an AA of the proposed development is required. This conclusion is consistent with the documentation submitted by UÉ.

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.

Table 1: European Sites considered for Stage 1 Screening				
European Site (Code)	Distance	Qualifying Interest(s)	Conservation Objectives	Source-Pathway-Receptor and Potential for Likely Significant Effects
Great Island Channel SAC (site code: 001058)	1.3 km (1.6 km instream) S	Mudflats and sandflats not covered by seawater at low tide [1140], Atlantic salt meadows (<i>Glauco-puccinellietalia maritima</i>) [11330]	To maintain or restore the favourable conservation condition of the Annex I habitats for which the SAC has been selected	The site is hydrologically connected to the Owenacurra River.
Cork Harbour SPA (site code: 004030)	1.3 km (1.6 km instream) S	Little Grebe (<i>Tachybaptus ruficollis</i>) [A004], Great Crested Grebe (<i>Podiceps cristatus</i>) [A005], Cormorant (<i>Phalacrocorax carbo</i>) [A017], Grey Heron (<i>Ardea cinerea</i>) [A028], Shelduck (<i>Tadorna tadorna</i>) [A048], Wigeon (<i>Anas penelope</i>) [A050], Teal (<i>Anas crecca</i>) [A052], Pintail (<i>Anas acuta</i>) [A054], Shoveler (<i>Anas clypeata</i>) [A056], Red-breasted Merganser (<i>Mergus serrator</i>) [A069], Oystercatcher (<i>Haematopus ostralegus</i>) [A130], Golden Plover (<i>Pluvialis apricaria</i>) [A140], Grey Plover (<i>Pluvialis squatarola</i>) [A141], Lapwing (<i>Vanellus vanellus</i>) [A142], Dunlin (<i>Calidris alpina</i>) [A149], Black-tailed Godwit (<i>Limosa limosa</i>) [A156], Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157], Curlew (<i>Numenius arquata</i>) [A160], Redshank (<i>Tringa totanus</i>) [A162], Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179], Common Gull (<i>Larus canus</i>) [A182], Lesser Black-backed Gull (<i>Larus fuscus</i>) [A183], Common Tern (<i>Sterna hirundo</i>) [A193], Wetland and Waterbirds [A999]	To maintain or restore the favourable conservation condition of the Annex I habitats for which the SAC has been selected	The site is hydrologically connected to the Owenacurra River.
Ballycotton SPA (site code: 002170)	9.2 km N	Teal (<i>Anas crecca</i>) [A052], Ringed Plover (<i>Charadrius hiaticula</i>) [A137], Golden Plover (<i>Pluvialis apricaria</i>) [A140], Grey Plover (<i>Pluvialis squatarola</i>) [A141], Lapwing (<i>Vanellus vanellus</i>) [A142], Black-tailed Godwit (<i>Limosa limosa</i>) [A156], Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157], Curlew (<i>Numenius arquata</i>) [A160], Turnstone (<i>Arenaria interpres</i>) [A169], Common Gull (<i>Larus canus</i>) [A182], Lesser Black-backed Gull (<i>Larus fuscus</i>) [A183], Wetland and Waterbirds [A999]	To maintain or restore the favourable conservation condition of the Annex I habitats for which the SAC has been selected	No potential for meaningful biological or relevant hydrological connectivity to this site. Given the separation of the proposed development from this site. It is considered that the potential for impacts to arise from the construction and operation phase of the proposed development is unlikely.
Blackwater River SAC (site code: 002170)	9.3 km S	Estuaries [1130], Mudflats and sandflats not covered by seawater at low tide [1140], Perennial vegetation of stony banks [1220], <i>Salicornia</i> and other annuals colonising mud and sand [1310], Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330], Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410], Water courses of plain to montane levels with the <i>Ranunculus fluitans</i> and <i>Callitriche-Batrachion</i> vegetation [3260], Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0], Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i> , <i>Alnion incanae</i> , <i>Salicion albae</i>) [91E0], <i>Margaritifera margaritifera</i> (Freshwater Pearl Mussel) [1029], <i>Austropotamobius pallipes</i> (White-clawed Crayfish) [1092], <i>Petromyzon marinus</i> (Sea Lamprey) [1095], <i>Lampetra planeri</i> (Brook Lamprey) [1096], <i>Lampetra fluviatilis</i> (River Lamprey) [1099], <i>Alosa fallax fallax</i> (Twait Shad) [1103], <i>Salmo salar</i> (Salmon) [1106], <i>Lutra lutra</i> (Otter) [1355], <i>Trichomanes speciosum</i> (Killarney Fern) [1421]	To maintain or restore the favourable conservation condition of the Annex I habitats for which the SAC has been selected	No potential for meaningful biological or relevant hydrological connectivity to this site. Given the separation of the proposed development from this site. It is considered that the potential for impacts to arise from the construction and operation phase of the proposed development is unlikely.

8.3.2. Appropriate Assessment ('Stage 2')

8.3.2.1. *Potential Adverse Effects*

The proposed development is not directly connected with or necessary to the management of the Great Island Channel SAC (site code: 001058), Cork Harbour SPA (site code; 004030) or any other European sites in the surrounding area. It is noted that the no instream works proposed and there is a reasonable separation between the proposed development and river.

However, as the proposed development is located upstream of and hydrologically connected to the two European sites, this raises the potential for indirect effects on it and its qualifying interests during the construction and operation phase.

The potential impacts could arise from any deterioration in water quality as a result of the uncontrolled or unmitigated release of pollutants, including sediments, invasive species to the drains and streams that are hydrologically connect the site to the River. This in turn could have adverse impacts on qualifying interests.

The potential likely significant impacts that could arise during the construction and operational phases of the proposed development on the European site's qualifying interests habitats and species are:

- the release of pollutants, including sediments to surface and ground water.
- the loss of or damage to habitats, including breeding resting, foraging places, used by qualifying interest species.
- the dispersal of invasive species with resultant impacts on qualifying interest habitats and species in particular downstream bank destabilisation.

8.3.2.2. *Potential In-Combination Effects*

In combination effects are examined within Section 5.4.2 of the NIS submitted. The proposed development is considered in combination with mixed use development in the Midleton area, other infrastructure projects including the wider sewage treatment works, FRS and the CIÉ twin tracking project.

Based on scientific analyses of best available scientific information, no other European sites in the area are relevant to the screening assessment and NIS.

The conclusion that with the implementation of mitigation measures, the in-Combination effect of the proposed development will not be significant is considered

reasonable. It can therefore be concluded that there would be no in-combination effects on the European sites or their qualifying interests.

8.3.2.3. Mitigation Measures

Mitigation Measures identified in the NIS

The mitigation measures that are proposed in the NIS to address the potential adverse effects of the construction and operation are primarily for

- Pollution control and Spill Prevention
- Biosecurity Protocols (Invasive Species)

It should be restated and emphasised that the proposed development is of itself, is a key mitigation measure as it involves the installation of wastewater infrastructure which is a wider improvement to ensure continued isolation of wastewater from the waterbody. This will protect wider ground quality and ensure appropriate management of the existing WWTP in Midleton. The proposed development will effectively improve the existing environment at the site and minimise effects to hydrological connections and in turn European sites.

Subject to the implementation of the mitigation measures, there would be no resultant adverse effects on qualifying interest species and habitats respect to its attributes and targets.

Additional Mitigation Measures

In addition to the mitigation measures outlined above, it is recommended that all works shall be monitored by an ECoW.

8.3.2.4. Residual Effects

None anticipated post mitigation.

8.3.2.5. Conclusion

Having regard to the foregoing and taking account of the scale and nature of the proposed development and on the basis of the information on the file, it can be reasonably concluded on the basis of best scientific knowledge, therefore, that the proposed development, individually or in combination with other plans and projects, will not adversely affect the integrity of the Great Island Channel SAC (site code: 001058), Cork Harbour SPA (site code; 004030) in view of the sites' Conservation

Objectives, subject to the implementation of the mitigation measures and any recommended conditions.

9.0 Recommendation

It is recommended that the Board grant planning permission for the proposed development subject to the reasons and considerations below and subject to the conditions set out.

10.0 Reasons and Considerations

Having regard to the following:

- the nature and scale of the proposed development,
- the consideration of main grounds of appeal and observations in relation to the proposed development set out in Section 8.1 of this report,
- the likely significant effects on the environment arising from the proposed development set out in Section 8.2 of this report,
- the likely significant effects on European sites arising from the proposed development set out in Section 8.3 of this report, including
 - the location of the proposed development and the separation distance from the Natura 2000 sites,
 - the hydrological connection between the site and the European site via an adjacent watercourse,
- the likely consequences for the proper planning and sustainable development in the area arising from the proposed development and the location of the site on lands zoned residential in the Cork County Development Plan 2022-2028, other related policies and objectives and the results of the Strategic Environmental Assessment and Appropriate Assessment of this plan undertaken in accordance with the SEA Directive (2001/42/EC),
- the planning application particulars submitted by the applicant including the response to Further Information and submissions on the appeal,
- the submissions made by the CCC and prescribed bodies in respect of the proposed development,
- the report and recommendation of the Inspector.

It is considered that:

- the proposed development would not be likely to have significant effects on the environment
- the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Site, in view of the site's conservation objectives
- the proposed development would be in accordance with the proper planning and sustainable development of the area

It is considered reasonable to conclude that on the basis of the information available, which is considered adequate to issue a screening determination, that the proposed development, either individually and in-combination with other plans or projects, would not be likely to have a significant effect on the identified Natura 2000 sites, in view of the conservation objectives of these sites.

Appropriate Assessment

The Board agreed with the screening assessment, Appropriate Assessment and conclusions contained in the Inspector's report that the Great Island Channel SAC (site code: 001058), Cork Harbour SPA (site code; 004030) are European sites for which there is a likelihood of significant effects.

The Board considered the submitted Natura Impact Statement and all other relevant submissions and carried out an Appropriate Assessment in relation to the potential effects of the proposed development on the above referenced European site in the vicinity of the application site. The Board noted that the proposed development is not directly connected with or necessary for the management of a European site and considered the nature, scale and location of the proposed development, as well as the report of the inspector. In completing the Appropriate Assessment, the Board adopted the report of the inspector and concluded that the proposed development, by itself, or in combination with other plans or projects in the vicinity, would not be likely to have a significant effect on any European site in view of the site's conservation objectives.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 6th of May 2022, 23rd of June 2022 and 9th of

December 2022 by the further particulars received by An Bord Pleanála on the 5th of April 2023, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity

2. All mitigation, environmental commitments and monitoring measures identified in the planning particular submitted shall be implemented in full as part of the proposed development, including *inter alia*:

- a) Construction Environmental Management Plan (CEMP)
- b) Design Process Traffic Management Plan (TMP)
- c) Flood Risk Assessment (FRA) including Flood Awareness Plan and Flood Emergency Response Plan
- d) Archaeology Screening Assessment
- e) Tree and Landscape Plan

Where such measures 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.

Reason: In the interest of development control, public information, and clarity.

3. All mitigation and environmental commitments identified in the Natura Impact Statement and Ecological Impact Assessment shall be implemented in full as part of the proposed development. All works shall be monitored by an Ecological Clerk of Works to ensure implementation of mitigation and environmental commitments.

Reason: In the interest of environmental protection.

4. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works in respect of both the construction and operation phases of the proposed development. Where such measures 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.

Reason: In the interest of environmental protection and public health.

5. A final boundary treatment and landscaping scheme, in accordance with that submitted, shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following:
 - a) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development;
 - b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;
 - c) details of proposed gates, CCTV, street furniture, including bollards, lighting fixtures;
 - d) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

Reason: In the interest of visual amenity

6. The final details of the access arrangements, in accordance with that submitted, shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. The gates shall open inwards only.

Reason: In the interests of traffic safety.

7. Site development and building works shall be carried out only between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

8. The developer shall facilitate the archaeological appraisal of the mill race and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:
- a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the historic mill race, and
 - b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works at the mill race. The assessment shall address the following issues:
 - i. the nature and location of archaeological material on the site, and
 - ii. the impact of the proposed development on such archaeological material.
 - iii. A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

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

Reason: In order to conserve the archaeological heritage of the mill race and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

9. Prior to commencement of development, the developer shall lodge with Cork County Council a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion/reinstatement of public roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer

or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.

10. The developer shall pay a financial contribution of €309,865.00 (three hundred nine thousand, eight hundred sixty-five euro) to the planning authority as a special contribution under Section 48(2)(c) of the Planning and Development Act 2000, as amended, in respect of the Water Rock Local Infrastructure Housing Activation Fund (LIHAF), which benefits the proposed development. The contribution shall be paid prior to commencement of development or in such phased payments as may be agreed prior to the commencement of the development and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the terms of payment of this financial contribution shall be agreed in writing between the planning authority and the developer.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority in respect of public services, which are not covered in the Development Contribution Scheme or the Supplementary Development Contribution Scheme and which will benefit the proposed development.

Professional Declaration

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.

Tomás Bradley,
Senior Planning Inspector
20th September 2023