



An  
Bord  
Pleanála

## Inspector's Report ABP-317575-23

---

<b>Development</b>	Water-Rock Linear Park development.
<b>Location</b>	Knockgriffin (Imokilly) and Broomfield West, Midleton, Co. Cork
<b>Local Authority</b>	Cork County Council
<b>Type of Application</b>	Application for approval made under Section 177(AE) of the Planning and Development Act, 2000 (local authority development requiring appropriate assessment)
<b>Prescribed Bodies</b>	Development Applications Unit Transport Infrastructure Ireland Inland Fisheries Ireland
<b>Observer(s)</b>	Una Twomey Willowbank Residents Association
<b>Date of Site Inspection</b>	04 <sup>th</sup> of April 2024
<b>Inspector</b>	Adrian Ormsby

## Contents

1.0 Introduction.....	3
2.0 Proposed Development .....	3
3.0 Site and Location .....	6
4.0 Planning History.....	7
5.0 Legislative and Policy Context.....	8
6.0 The Natura Impact Statement.....	14
7.0 Consultations .....	14
8.0 Assessment.....	18
8.1. Proper Planning and Sustainable Development of the area .....	18
8.2. The likely effects on the environment.....	19
8.3. The likely significant effects on a European site: .....	30
8.4. Entrance from Willowbank Estate .....	42
8.5. Other Matters .....	43
9.0 Recommendation.....	43
10.0 Conditions .....	46
11.0 Appendix 1- Form 1 EIA Pre-Screening [EIAR not submitted].....	50

## **1.0 Introduction**

- 1.1. Cork County Council is seeking approval from An Bord Pleanála to undertake development to provide the Water-Rock linear public park at Knockgriffin (Imokilly) and Broomfield West in Midleton. The site is located either side of the Owenacurra River which meanders through the site, southwards through Middleton and into the Great Island Channel SAC (001058) and the Cork Harbour SPA (004030). The site is c. 1.5km north of these designated sites.
- 1.2. A Natura Impact Statement (NIS) and application under Section 177AE was lodged by the Local Authority on the basis of the proposed development's likely significant effect on a European site.
- 1.3. Section 177AE of the Planning and Development act 2000 (as amended) requires that where an appropriate assessment is required in respect of development by a local authority, the authority shall prepare an NIS and the development shall not be carried out unless the Board has approved the development with or without modifications. Furthermore, Section 177V of the Planning and Development Act 2000 (as amended) requires that the appropriate assessment shall include a determination by the Board as to whether or not the proposed development would adversely affect the integrity of a European site and the appropriate assessment shall be carried out by the Board before consent is given for the proposed development.

## **2.0 Proposed Development**

- 2.1. The application comprises-
  - One primary vehicular entrance to the South from Northern Relief Road - The Northern Relief Road South Entrance (directly linked to the Ballinacurra to Midleton cycleway);
  - Two primary pedestrian and cycle entrances – One from the Northern Relief Road South Entrance (directly linked to the Ballinacurra to Midleton cycleway), the second from the Urban Expansion Area (UEA) to the west of the proposed park.

- One secondary pedestrian and cycle entrance to the proposed Local Infrastructure Housing Activation Fund infrastructure housing on the west of the park.
- Upgrade the existing access roadway from Willowbank for maintenance and emergency vehicles;
- Fully accessible paths with falls no greater than 1:21 and landings where appropriate will be provided to all entrances to overcome the existing differences in level.
- Two new pedestrian/cycle bridges crossing the Owenacurra River.
- 3m wide Primary asphalt paths for cycle/pedestrian use. Lighting on columns to Primary paths.
- 2m wide Secondary hoggin/self-binding gravel paths.
- Informal mown paths.
- Natural landscaping which will include a Sensory garden; Natural and Wildlife area; Kickaround areas - large areas of mown lawn for people to gather and Woodland area;
- River viewing platforms: 5 timber platforms located at various points along the Owenacurra River with integrated seating.
- The activity hub incorporating a playground, bike trails and MUGA, located to the South of the park, directly linked to the Ballinacurra to Midleton cycleway and in close proximity to the new car park for ease of access.
- A playground with a mix of traditional and natural play equipment, which cater for all age groups.
- Bike trails for BMX, cycle and scooter track and practice areas.
- Multi-use games area with an all-weather pitch.
- Car park with 34 parking spaces, including two number accessible parking bays and four number electrical vehicles charging bays and four number parent and child bays.

- SUDs will form an integral part of the design. Permeable surfaces are proposed where suitable. Any new areas of hardstanding will be laid to falls to allow surface water to drain to adjacent green areas. Larger areas of hardstanding will also be laid to falls and will be provided with soakaways.
  - New areas of hardstanding will occur throughout the park with the introduction of 3m wide primary paths with asphalt surface finish. The 3m wide asphalt paths will be laid to a cross fall to allow rainwater to run off into the adjacent green areas.
  - The proposed secondary paths will be finished in hoggin/self-binding gravel paths, providing a permeable finish to these areas.
  - The new carpark will be finished in asphalt. The carpark will be laid to falls and surface water run-off will be directed to gulleys and a petrol interceptor.
  - The proposed Children's play surfaces will use natural permeable finishes or will be laid to falls to allow the surface water to drain into adjacent green areas. The children's play surfacing is broken out into pockets with each pocket surrounded by vegetated/planted green space.
  - The proposed MUGA will use natural permeable finishes or will be laid to falls to allow the surface water to drain into adjacent green areas and soakaway.
  - The proposed skatepark will be laid to falls and surface water run-off will be directed to gulleys which in turn will be directed to a soakaway.

2.2. The stated site area is 10.5 ha<sup>1</sup>.

2.3. **Accompanying documents:**

- Project Report (A4 Booklet) prepared by MWP Engineering and Environmental Consultants including-
  - Appendix A- Ecological Impact Assessment Report

---

<sup>1</sup> As per EIA Screening Assessment Appendix B, section 2 and section 5.1

- Appendix B- Environmental Impact (Screening) Assessment Report
- Appendix C- Flood Risk Assessment Report
- Appendix D- Archaeological Assessment Report
- Appendix E- Underwater Archaeological Assessment Report
- Appendix F- Drawings
- Appendix G- Stakeholder Consultation - Summary
- Appendix H- Outline Construction Environmental Management Plan
- Appendix I- Natura Impact Statement
- Part VIII Summary of Design Proposals (A3 Booklet)
- Letter of Consent from Bauschraft Limited consenting to part of the proposal on their land folio number CK44783F.
- An “Environmental Impact Assessment (EIA) Screening Determination” by Cork County Council dated July 5<sup>th</sup> 2023. They note the EIA screening report carried out by MWP which considers the proposal sub threshold having regards to Schedule 5, Part 2, Class 12 and Class 15. The Council conclude the project does not correspond to any project type contained in Part 1 of Part 2 of Schedule 5 of the Planning and Development Regulations 2001 (as amended). As the development is for a public park, it is not considered urban in nature and on this basis it is considered that the proposed development does not comprise ‘sub-threshold development’. The Councils view is an EIA is not required.

### **3.0 Site and Location**

- 3.1. Middleton is located within the Metropolitan Cork Strategic Planning Area as designated in the NPF, the RSES and the CDP.
- 3.2. The subject site is located to the north west side of Middleton. It is located to the west side of existing residential estates known as Willowbank and Radharc Na Cora. It is located to the north side of the Northern Distributor Road and the Middleton Railway line. The site is located completely within the identified development boundary of Middleton.

- 3.3. The Owenacurra River meanders through the site flowing southwards. The river is generally treelined along its course. The site appears to be in limited agricultural use with horses evident in parts of the lands west of Willowbank. The site was generally soft underfoot with evidence of recent flooding throughout.
- 3.4. The west of the site includes recently completed infrastructure works including road and cycle lane works that open up these lands for further development as part of the designated Urban Expansion Area of Midleton as per the County Development Plan.
- 3.5. The Environmental Impact Assessment (EIA) Screening report section 2 page 1, states-

*“The total land take of the project is 10.5 hectares in area”.*

Section 5.1 states-

*“The total area of the development site is 10.5 hectares. This area encompasses the river corridor which, apart from two pedestrian bridges, does not form part of the proposed scheme. The area of the site to be developed, excluding the river corridor, is 9.6 hectares of which only 0.85 hectares is assigned to bridges, pathways, carparking and surfaced play areas. The project falls below the thresholds which would trigger mandatory EIA as defined under the Fifth Schedule of Planning and Development Regulations, 2001”*

## 4.0 Planning History

- 4.1. Section 2.4 of the Project Report submits a comprehensive consideration of permissions decided upon in the five years prior to submission of this application. I have reviewed these, Cork’s planning register and ABP own systems since the submission of this application. While a significant number of applications have been received in the wider area, other than the following, I am satisfied there are no significant developments that materially influence or are relevant to consideration of this case-

- 226627 / ABP-318277-23 – **Grant** LRD 330 residential units and mixed use, appeal withdrawn. To west of site

- ABP-317065-23 and ABP-317064-23- Inclusion on Residential Zoned Land Tax Draft Map, Set aside the determination of the local authority and allow the appeal. Both to west of site
- 225839 / ABP-317031-23- Inclusion on Residential Zoned Land Tax Draft Map, Set aside the determination of the local authority and allow the appeal. To north west of site
- 225032 / ABP-316013-23- Construction of wastewater pumping station Grant 13/02/24

## 5.0 Legislative and Policy Context

- 5.1. **The EU Habitats Directive (92/43/EEC):** This Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Articles 6(3) and 6(4) require an appropriate assessment of the likely significant effects of a proposed development on its own and in combination with other plans and projects which may have an effect on a European Site (SAC or SPA).
- 5.2. **European Communities (Birds and Natural Habitats) Regulations 2011:** These Regulations consolidate the European Communities (Natural Habitats) Regulations 1997 to 2005 and the European Communities (Birds and Natural Habitats) (Control of Recreational Activities) Regulations 2010, as well as addressing transposition failures identified in CJEU judgements. The Regulations in particular require in Reg 42(21) that where an appropriate assessment has already been carried out by a 'first' public authority for the same project (under a separate code of legislation) then a 'second' public authority considering that project for appropriate assessment under its own code of legislation is required to take account of the appropriate assessment of the first authority.
- 5.3. **National nature conservation designations:** The Department of Culture, Heritage and the Gaeltacht and the National Parks and Wildlife Service are responsible for the designation of conservation sites throughout the country. The three main types of designation are Natural Heritage Areas (NHA), Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) and the latter two form part of the European Natura 2000 Network.



5.4. European sites located in proximity to the subject site include:

- c. 1.5km to the south- Great Island Channel SAC (001058) and
- c. 1.5km to the south- Cork Harbour SPA (004030)

5.5. **Planning and Development Acts 2000 (as amended):** Part XAB of the Planning and Development Acts 2000-2017 sets out the requirements for the appropriate assessment of developments which could have an effect on a European site or its conservation objectives.

- 177(AE) sets out the requirements for the appropriate assessment of developments carried out by or on behalf of local authorities.
- Section 177(AE) (1) requires a local authority to prepare, or cause to be prepared, a Natura impact statement in respect of the proposed development.
- Section 177(AE) (2) states that a proposed development in respect of which an appropriate assessment is required shall not be carried out unless the Board has approved it with or without modifications.
- Section 177(AE) (3) states that where a Natura impact assessment has been prepared pursuant to subsection (1), the local authority shall apply to the Board for approval and the provisions of Part XAB shall apply to the carrying out of the appropriate assessment.
- Section 177(V) (3) states that a competent authority shall give consent for a proposed development only after having determined that the proposed development shall not adversely affect the integrity of a European site.
- Section 177AE (6) (a) states that before making a decision in respect of a proposed development the Board shall consider the NIS, any submissions or observations received and any other information relating to:
  - The likely effects on the environment.
  - The likely consequences for the proper planning and sustainable development of the area.
  - The likely significant effects on a European site.

- Section 177AE (8) states that the Board may, in respect of an application for approval under this section of proposed development
  - (i) approve the proposed development,
  - (ii) make such modifications to the proposed development as it specifies in the approval and approve the proposed development as so modified,
  - (iii) approve, in part only, the proposed development (with or without specified modifications of it of the foregoing kind), or
  - (iv) refuse to approve the proposed development, and may attach to an approval under subparagraph (i), (ii) or (iii) such conditions as it considers appropriate

## **5.6. National Planning Framework**

- 5.6.1. The NPF sets out a high-level strategic plan for shaping future growth and development of Ireland for the period up to 2040. It seeks to develop a region-focused strategy to manage growth and environmentally focused planning at a local level. It contains several National Strategic Outcomes (NSOs) which include seeking to achieve empowered local economies and communities, enhanced amenity and heritage, and a transition to a low-carbon and climate resilient society.

## **5.7. The Regional Spatial & Economic Strategy for the Southern Region 2020**

- 5.7.1. This provides a framework for development at regional level. Midleton is identified within the areas designated as “Cork Metropolitan Area Spatial Plan (MASP)” (Map 3.3).

## **5.8. Ministerial and Other Guidelines-**

- Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment August 2018
- Interpretation of definitions of Project categories of Annex I and II of the EIA Directive, European Commission 2015
- The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009)
  - The Guidelines seek to avoid inappropriate development in areas at risk of flooding and avoid new developments increasing flood risk

elsewhere and they advocate a sequential approach to risk assessment and a justification test.

- Inland Fisheries Ireland (IFI) Guidelines on Protection of Fisheries during Construction Works in and adjacent to Waters (2016)

## 5.9. Local Planning Policy

### 5.9.1. Cork County Development Plan 2022-2028-

- Volume 1-
  - Chapter 18 deals with Zoning and Land Use. The site is zoned Green Infrastructure. The following objective relates-  
*“County Development Plan Objective ZU 18-13: Green Infrastructure-  
Three subcategories of Green Infrastructure zonings have been identified to*
    - a) *Retain and provide for open space and recreational amenities within Green Recreational (Open Spaces/Park) areas;*
    - b) *Retain and generally protect appropriate areas for their landscape, amenity or nature conservation value or their current or future flood management role, within Green Conservation (Landscape amenity/ nature conservation) area; and*
    - c) *Retain and provide for active recreational facilities within Green Active (Active Open Space) areas.*

*No development other than development which supports Green Infrastructure will be considered in these areas. Any proposals in Green Infrastructure areas will need to ensure the protection and enhancement of the integrity of biodiversity and to recognise the importance of wildlife corridors and sites of nature conservation and be in accordance with Article 10 of the Habitats Directive.”*

- Chapter 11- Water Management
  - Section 11.11 deals with Flooding. The following objectives are relevant-

- “WM 11-13: Flood plains and Wetlands

*a) Protect the County’s floodplains, wetlands and coastal areas subject to flooding as vital green infrastructure which provides space for storage and conveyance of floodwater, enabling flood risk to be more effectively managed and reducing the need to provide flood defences in the future.*

*b) Ensure that development does not impact on wetland sites within river / stream catchments and seek the restoration of degraded wetlands.*

- WM 11-15: Flood Risk Assessments

*To require flood risk assessments to be undertaken for all new developments within the County in accordance with The Planning System and Flood Risk Management – Guidelines for Planning Authorities (2009) and the requirements of DECLG Circular P12/2014 and the EU Floods Directive.*

*- For sites within Flood Zone A or B, a site specific Flood Risk Assessment will be required.....*

*....*

*- All proposed development must consider the impact of surface water flood risks on drainage design through a Drainage Impact Assessment. The drainage design should ensure no increase in flood risk to the site, or the downstream catchment.*

- Volume 4 South Cork-

- Midleton is also located in the East Cork Municipal District. Midleton is categorised as a ‘Main Town’. Section 3.3 deals with Midleton.

- The site is located within the Midleton Settlement Boundary and is zoned Green Infrastructure (Map on Page 247 of Volume 4).

- Section 3.3.117 of the CDP states-

“In accordance with the Midleton Zoning Map, the Water-Rock UEA is defined as comprising the following zonings: MDR- 06, MD-R-07, MD-R-08, MD-RFAP-09 MD-R-10, MD-R-11, MD-R-12, MD-R-13, MD-R-14, MD-RAP-15, MD-R-16, MD-RAP-17, MD-RAP-18, MD-RFAP-19, MD-RFAP-20, MD-RAP-21, MD-RAP-22, MD-RFAP-23, MD-C-01, MD-C-02, MD-C-03, **MD-GR-08**<sup>2</sup>, MD-GR-10, MD-GR-11 and MD-HT-02.

- Section 3.3.148 states-

*“The Owenacurra linear park, MD-GR-08, measuring approximately 9 hectares, is the most significant landscape asset of Water-Rock and will feature as the primary area of recreational open space complete with associated facilities and amenities, whilst additionally serving as an important ecological habitat along the banks of the River Owenacurra with its associated woodland.”*

- Section 3.3.153 details a number of ‘Specific Objectives’. The site benefits from a ‘Specific Development Objective’ MD-GR-08 (page 245) which states-

*“Provision of the Water-Rock Linear Park. This park will span both sides of the River Owenacurra and will include a cycle/pedestrian network with ancillary foot bridges.*

*Active Open space to include for the provision of a playground, playing pitches, ancillary facilities, parking and passive recreational areas which also protects its important ecological features.*

*Park Lighting is to be designed to minimize impacts on wildlife.*

*Any development on this site shall protect the riparian zone of the river and be in accordance with the IFI guidelines ‘Planning for Watercourses in Urban Environments’.*

*Proposals should also explore linking the site with Green Infrastructure sites to the south.*

---

<sup>2</sup> Emphasis added

*The Park shall be delivered in accordance with the delivery of the infrastructure described in Tables 4.3.5 and 4.3.6. \*<sup>3</sup>*

## **6.0 The Natura Impact Statement**

6.1. Cork County Council's application for the proposed development was accompanied by a Natural Impact Statement (NIS). This is located in Appendix I of the Project Report. It is prepared by Malachy Walsh and Partners (MWP) and examines the proposed development and the European sites. The NIS identifies and characterises the possible implications of the proposed development on the European sites, in view of the site's conservation objectives, and provided information to enable the Board to carry out an appropriate assessment of the proposed works.

6.2. The NIS identifies two designated sites for assessment

- the Great Island Channel SAC (001058) and
- the Cork Harbour SPA (004030)

both of which are detailed as lying 1.7km downstream from the southeastern corner of the proposed works area.

## **7.0 Consultations**

7.1. The application was circulated to the following bodies:

- An Chomhairle Ealaíon
- Fáilte Ireland
- An Taisce
- The Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media,
- Inland Fisheries Ireland
- Transport Infrastructure Ireland
- Irish Aviation Authority
- The Minister for Housing, Local Government and Heritage

7.2. Responses were received from-

---

<sup>3</sup> \* Flood Risk. See Objectives in Volume One, Chapter 11 Water Management

- Development Applications Unit
- Transport Infrastructure Ireland
- Inland Fisheries Ireland

7.3. These can be summarised as follows-

- Development Applications Unit-
  - 29/08/23- In relation to archaeology including underwater archaeology a number of conditions are recommended.
- Transport Infrastructure Ireland-
  - 26/07/23- No observations to make
- Inland Fisheries Ireland-
  - 03/08/23- IFI recognises the value of the proposal but it is essential it is undertaken in a manner that does not result in negative impacts on fisheries or water quality. A number of typical conditions are recommended.

#### 7.4. **Public Submissions:**

Three separate public submissions were received. These can be summarised as follows-

- Two submissions were received on the 23/08/23 from Dr. Gavan Deady, Chairperson of the Willowbank Residents Association with a stated address at 24 Willowbank Couty, Broomfield West Middleton. For the purpose of this stage I shall consider both submissions as one-
  - There are concerns regarding the access for emergency services from the Willowbank estate. Due to on street parking in the estate the roads can often be narrow or blocked and would pose an obstacle to any emergency or maintenance vehicles.
  - The entrance is not of sufficient scale and it is not possible to extend it.
  - Conditions are required so that current levels, scale and construction of the entrance shall not be altered so as not to increase risk of further challenges with flooding or water drainage.

- Any works to the entrance should not hamper the existing flood defence levee which protects the Willowbank estate and broader Mill Road.
- The construction, quality and integrity of the levee was not examined during any stage of the Park proposal development. The site is under water each year and the levee should not be altered, modified or in any way undermined. The project has not engaged with the Flood Relief Scheme.
- The entrance should be conditioned a secondary entrance/service entrance only. It should not become a de facto pedestrian entrance. The proposed entrance from the Northern Relief Road should be the primary entrance for maintenance and emergency services etc.
- A second gate is requested at the end of the access roadway to prevent the roadway becoming a cul de sac in order to avoid anti-social behaviour. Clarification is sought on the height and nature of the fencing along the roadway.
- Unhindered access to the park would need to be maintained at all times with the best guarantee of this from the Northern Relief Road.
- The entrance should be gated, constructed and secured to such an extent that children will not be able to access. The existing boundary from the estate should be maintained.
- Una Twomey of 14 Ivy Court, Broomfield, Middleton-
  - The site is home to rare bee orchids, rare grasshoppers hedgehogs and bats.
  - The impact of development in Middleton is impacting negatively on the environment and wildlife in the location. There is a sharp reduction in birds and insects in the last five years.
  - Concerns are raised in relation to impacts of construction in the Middleton area over the last few years.
  - The extensive plans near Broomfield West at the Owenacurra river will impact further on wildlife.



- The increase in car traffic and design around the car will impact further on the quality of life in the area.
- To have the best environmental impact, particularly on a riverside, it is best to leave it alone.
- The area is a habitat for hedgehogs. They won't cope with diggers and trucks, or bicycle paths and the extent of development planned.
- Loss of trees will impact roosting birds and bats.
- Car parking spaces and electric car charging bays do not belong. There are hundreds of parking spaces at Market Green in Midleton, where people would be more inclined to leave their cars for a long period of time. Locating charging stations to Market Green and to the town would be more in line with how people use cars.
- Riverside areas would be better left as they are to absorb the impact of flooding.
- There is too much emphasis on the car even with these new plans. Quieter roads are better for all users. It is requested to divert money for this plan to run school buses at either free or at very reduced rates.
- Improved sustainable transport is a quality-of-life measure that no tennis court or river-viewing platform could replicate.
- The gardens and parks in this plan are more like England in the twentieth century.
- The bird and other wildlife populations have been reduced by over 70% and counting.
- The proposed plans increase traffic queues and wait times from Broomfield all the way to the N25.
- Public transport is a better use of funds would lead to a significant improvement on the quality of life in East Cork over and above the parks plan here

- Being in a green space has been proven to benefit health. Pesticides, used in manicured public spaces, negate this effect. Pesticides have been linked to neurological disorders.
- Over-cutting grass and verges reduces water available to plants and thus impacts soil health and reduces the benefit of green spaces. Wild spaces would be better than managed green spaces to have this health benefit.

## 8.0 Assessment

### 8.1. Proper Planning and Sustainable Development of the area

- 8.1.1. The application proposes a linear park on zoned lands within the settlement boundary of Midleton as designated in the Cork County Development Plan 2022-28 (CDP). The site is zoned 'Green Infrastructure' and the following objective in Volume 1 of the CDP relates-

*“County Development Plan Objective ZU 18-13: Green Infrastructure-*

*Three subcategories of Green Infrastructure zonings have been identified to*

- a) Retain and provide for open space and recreational amenities within Green Recreational (Open Spaces/Park) areas;*
- b) Retain and generally protect appropriate areas for their landscape, amenity or nature conservation value or their current or future flood management role, within Green Conservation (Landscape amenity/nature conservation) area; and*
- c) Retain and provide for active recreational facilities within Green Active (Active Open Space) areas.*

*No development other than development which supports Green Infrastructure will be considered in these areas. Any proposals in Green Infrastructure areas will need to ensure the protection and enhancement of the integrity of biodiversity and to recognise the importance of wildlife corridors and sites of nature conservation and be in accordance with Article 10 of the Habitats Directive.”*

- 8.1.2. Volume 4 of the Development Plan deals with Midleton. A 'Specific Development Objective for Midleton is set out for the subject lands which are identified on the zoning map in Volume 4 on page 247 of the CDP as 'MD-GR-08'. The objective states-

*"Provision of the Water-Rock Linear Park. This park will span both sides of the River Owenacurra and will include a cycle/pedestrian network with ancillary foot bridges.*

*Active Open space to include for the provision of a playground, playing pitches, ancillary facilities, parking and passive recreational areas which also protects its important ecological features.*

*Park Lighting is to be designed to minimize impacts on wildlife.*

*Any development on this site shall protect the riparian zone of the river and be in accordance with the IFI guidelines 'Planning for Watercourses in Urban Environments'.*

*Proposals should also explore linking the site with Green Infrastructure sites to the south.*

*The Park shall be delivered in accordance with the delivery of the infrastructure described in Tables 4.3.5 and 4.3.6....."*

- 8.1.3. I am satisfied that the proposed development is consistent with the provision of the County Development plan and is therefore consistent with proper planning and sustainable development.

## **8.2. The likely effects on the environment**

### **8.2.1. The Need for EIA**

- 8.2.2. The Board are advised there are separate EIA Screening Reports (SR) and Screening Determinations submitted and on file. The first of these is included in Appendix B of the Project Report document. It is prepared MWP and dated June 2003. The second 'Screening Determination' is submitted by Cork County Council and is dated 05<sup>th</sup> of July 23.

8.2.3. Section 4.2 of MWP's SR considers legislative provisions for EIA. It concludes the proposal is not a class of development listed in Part 1 of Schedule 5 of the Planning and Development Regulations 2001 (as amended) (PDR's). The SR then considers the proposal against the thresholds set out in Part 2 of the PDR's and in particular-

- section 10 -*Infrastructure* (b) (ii) and (iv)
- section 12- *Tourism and Leisure* and
- section 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 the environment, having regard to the criteria set out in Schedule 7."*

8.2.4. The SR details the proposal does not fall within 10 (b) (ii) as the number of car parking spaces is 34 well below the 400 spaces detailed. In terms of 10 (b) (iv) the proposal does not constitute *urban development* i.e. recreational park facility. It is neither in the business district nor in a built-up area. It is zoned for green infrastructure in the CDP.

8.2.5. The SR details the proposal does not fall within any of the thresholds outlined under section 12- *Tourism and Leisure*.

8.2.6. The SR then considers section/category 15 of the PDR's and a subthreshold assessment. They consider it prudent to carry out an EIA screening assessment. This assessment is set out in section 5 of the EIA SR and is detailed as the criteria listed in Annex III of the EIA Directive (2014/92/EU). This is also the criteria for determining whether development listed in part 2 of schedule 5 should be subject to an environmental impact assessment or Schedule 7 of the PDR's- characteristics of the proposed development, the location of the proposal and the types and characteristics of potential impacts.

8.2.7. Section 6 of the SR sets out an overall conclusion which states- *"there is no real likelihood of significant effects on the environment arising from the proposed development and that an EIA is not required in this instance"*. The reasons for this conclusion are set out and can be summarised as-

- the project is below the mandatory threshold for EIA;

- Having regard to the characteristics of the development, the works are not considered complex in nature and is not of a scale that would introduce significant or complex environmental effects;
- A stage 2 Appropriate Assessment was completed and concluded that with the implementation of mitigation measures there will be no significant direct or indirect impact on qualifying habitat or species associated with Natura 2000 sites resulting from the proposed development;
- Significant cumulative effects on the environment are not likely; and
- it is concluded that there is no real likelihood of significant effects on the environment arising from the proposed development.

8.2.8. The Planning Authority's 'Screening Determination' details Cork County Council as the Competent Authority must determine whether this project individually, or in combination with other plans and projects requires an Environmental Impact Assessment. It refers to MWP's SR and notes the finding of same. However, the Council's view is the proposal does not correspond to any project type contained in Part 1 or Part 2 of Schedule 5. They detail the project is a public park and is not considered urban in nature and on this basis the proposal does not compromise 'subthreshold development' and therefore an EIA is not required.

#### 8.2.9. **EIA Screening**

8.2.10. Having regard to the above the following sets out my own consideration of the proposed development for the purposes of EIA. The Board are referred to Appendix 1 of this report where I have completed- Form 1 Pre-Screening (EIAR not submitted).

8.2.11. The proposed development for a public park is not considered a class of development under the classes listed in Schedule 5 of the Planning & Development Regulations 2001 (as amended) and therefore neither a Preliminary Examination nor EIA screening is required.

#### 8.2.12. **Other likely effects on the environment**

8.2.13. Notwithstanding the conclusion I have reached in relation to the requirement for EIA it is appropriate to consider other matters and likely effects pertinent to the environment. I am satisfied the substantive matters in this regard relate to-

- Ecological Impact Assessment (EcIA)
- Cultural Heritage- Archaeology
- Designated European Sites
- Flooding

#### 8.2.13.1. **Ecological Impact Assessment (EcIA)**

- a) The Application is accompanied by an EcIA report and is set out in Appendix A of the Project Report. This describes the existing biodiversity and ecological characteristics of the development site.
- b) One public submission raises a number of broad ecology related concerns including how development in Middleton is impacting negatively on the environment and wildlife. It generally details the site is home to a number of species with the loss of trees will impact roosting birds and bats.
- c) Section 3 of the EcIA sets out the Methodology implemented which includes a review of legislation and guidance, a desk top study, database searches and field surveys. Habitats identified were defined in accordance with Fossitt 2000 and assessed for their suitability for terrestrial mammal species. The survey focussed specifically on protected species such as badger and otter etc. Bird species were also identified and the site surveyed for bats. Surveying included for potential invasive species.
- d) Section 3.6.2 discusses the methodology employed for consideration of Impact Assessment with the criteria employed based on EPA 2002 standards as set out in Table 3-1 and 3-2. Criteria for bats are set out in Table 3-3 and derived from CIEEM 2016 guidance.
- e) Section 4.3 of the EcIA discusses habitat and flora identification with a Figure 4.6 displaying the habitats encountered based on Fossitt classification.
- f) Section 4.3.3 discusses invasive species with only high impact non-native species recorded on site Japanese Knotweed and Himalayan Balsam. It is

detailed that these are being actively managed through eradication by the County Council. These are mapped in Figure 4-7.

g) Table 4-4 lists all recorded rare and protected mammals on site

- Section 4.4.1 detailing the only clear evidence of protected mammal activity encountered being a single otter along the southern bank. The EclA details there are records of an otter holt, a couch and numerous incidences of sprinting along the river. The EclA considers it is likely otter will continue to use the area for foraging. There was no evidence recorded of any other protected species.
- The EclA details the site is located within an area rated as medium to high favourability for bats. Six bat species have been recorded in previous studies. The EclA identified a number of bat species through 4-minute spot surveys and on static units with 'Soprano Pipistrelle' described as the most frequently recorded. The report concludes bat populations recorded are of local importance and a precautionary principle dictates that vegetation removal should be treated as causing a potential loss of habitat for the species encountered.
- In terms of birds a number of species are detailed to frequent the area and site including flyovers by Heron and Cormorant, dippers and kingfishers nesting upstream. Grey wagtails nesting on the river and during floods Teal, little Egret, mallard and Snipe all forage in the flooded grasslands. There are occasional sightings of redshank and green shank.
- In terms of Fish, historical records show Brown/Sea Trout with salmon absent. Recent studies show the good nursery opportunities for larval lamprey species with salmonoid nursery potential, spawning and holding habitat also considered good.
- The EclA also discusses amphibians and invertebrates with no frogs identified on site but historical records showing recordings of frog and dragonfly.

- h) Section 5 evaluates habitats and faunal species based on their ecological value. Tables 5.1 and 5.2 summarises the rationale for each and if they are considered a Key Ecological Receptor.
- i) Section 7 discusses the potential impacts of the project during construction and operation with an assessment of effects set out in section 8. Considerations of European Sites are set out in section 8.3 below but impacts are generally considered extremely low with mitigation measures further reducing such impacts. In terms of sites of national importance and implementation of mitigation significant impacts are not identified.
- j) Impacts are detailed in relation to Direct Habitat Loss/Alteration during construction and set out in Table 8-1 and during operation as set out in Table 8-2.
- k) Impacts to water quality and indirect habitat alteration during construction and operation are described in section 8.4.1 and 8.4.2. Construction impacts are generally considered typical related works that can be adequately mitigated. The SUDs proposal generally addressed operational impacts with stormwater discharged designed to drain away from the river to green areas.
- l) Section 8.5 discusses the impacts to Fauna such as disturbance and displacement. Table 8.3 summarises same for the identified Key Ecological Receptor during construction. Generally all unmitigated impacts are described as temporary non-significant negative effects for all with slight negative and moderate negative predicted for birds and bats. No significant disturbance or displacement impacts is expected to birds or mammals during operation. Impacts to bats are described as long term, moderate negative effects such as from human activity during the day and light at night.
- m) Section 9 sets a number of proposed mitigation measures such as avoidance by design, submission of an Outline Construction Environmental Management Plan (OCEMP) (Appendix H) and implementation of detailed best practise measures, engagement of Environmental manager/Ecological Clerk of Works, Protection measures for water quality, protection of bats- tree removal and



landscaping to include new tree planting (see Masterplan Drawing WR (90) LP101 and Figure 9.1), derogation licence etc, adherence to BRT Lighting Guidelines 2018 and other detailed measures.

- n) Section 10 considers cumulative impacts with regard to recent planning history in the area and concludes the risk of significant effects in combination with other plans and projects is negligible.
- o) Section 11 deals with Residual Effects. It details unavoidable loss of low value grassland as a permanent imperceptible effect but plans to increase the overall biodiversity value of the site leading to moderate positive effect. The increased human presence will lead to increase in noise with no significant negative impacts identified.
- p) Overall the EclA concludes the application of construction and operational phase mitigation and protection measures will ensure that no residual ecological impacts, either alone or cumulatively with plans or projects will arise from the project.
- q) I have considered the matters raised in the public submission. Having reviewed the information set out above and on the file, I am satisfied the submitted EclA provides a detailed, robust and thorough consideration and overall conclusion of all matters pertinent to an EclA. In the absence of specific information supporting the detailed concerns of the public submission I see no reason why the proposed development subject to the mitigation measures as set out in the EclA would adversely impact upon local ecology. In reaching this conclusion I note the sites zoning and specific objective to provide for a public park at this location. I also note the CDP 2022-2028 with its provision for Middleton including the sites zoning was subject to Strategic Environmental Assessment.

#### **8.2.13.2. Cultural Heritage- Archaeology**

- a) The Application has been accompanied by an Archaeological Assessment Report (AAR) and is set out in Appendix D of the Project Report. An

Underwater Archaeological Assessment Report (UAAR) is also provided and set out in Appendix E.

- b) The AAR details that no visible archaeological features or monuments were encountered during the site inspection. However it generally considers that given the nature and size of the site that subsurface archaeological features or monuments cannot be ruled out. It details the Owenacurra River, its banks, riverbed and approaches are areas of archaeological potential. Section 7 of the AAR proposes mitigation measures including-
- Archaeo-Geophysical Survey and possible test trenching in advance of construction works
  - Archaeological Assessment of the Watercourses to include monitoring under licence from the National Monuments Service
  - Archaeological Monitoring of construction works
- c) The submitted UAAR focussed on likely impact of the development at the location of the two proposed bridges within the site. The methodology employed included a desktop study, a metal detection study and a dive/wade survey. These are detailed in section 4 of the UAAR with results set out in section 5. Two features of interest were identified-
- A stone revetment wall on the eastern bank at Bridge 1 and
  - A possible abutment or pillar at the northeast end of the north bank in the area of Bridge 2.
- d) Section 7 of the report proposes mitigation measures to include-
- all ground disturbance with the construction of the bridges to be monitored under licence from the National Monument Service
  - revisions to the bridge design may alter impacts on cultural heritage and the UAAR should be updated with further mitigation measures possible.
- e) A report has been received the Development Applications Unit setting out observations in relation to Archaeology including Underwater. It generally

summarises the finding of the AAR and UAAR and recommends a condition be granted to any grant of permission for Archaeological Monitoring.

- f) The AAR, UAAR and DAU report make reference to the bridge design being at preliminary stage. The application drawings 21573-MWP-BR-01-DR-S-5001-5005 provide location, plans, elevations and sections. I am satisfied the proposed bridge designs has been clearly set out in this application.
- g) Having reviewed both the AAR and UAAR in full and considered the content and findings of same it is recommended archaeological conditions should be included should the Board decide to grant permission.

#### **8.2.13.3. Designated European Sites**

- a) The application is accompanied by a Natura Impact Statement in which concerns relating to impacts from changes in water quality from contaminated surface water runoff during construction and operation are set out with mitigation measures proposed.
- b) Consideration of this matter is set out in section 8.3 below.

#### **8.2.13.4. Flooding**

- a) The site is located either side of the Owenacurra River in Middleton. The application is accompanied by a Flood Risk Assessment (FRA) in Appendix C of the Project Report.
- b) The majority of the site is located in Flood Zone A and B as set in the Cork County Development Plan 2022-28 (CDP). Section 4.2 of the FRA details Hydraulic Modelling was developed with section 4.3 detailing the model was used to establish design flood levels and to produce a flood zone map for the proposed development and surrounding areas. The produced map is shown in Figure 4.5 and is one I consider to be generally consistent with the flood zone mapping as set out in the CDP.
- c) The submitted FRM refers to the Planning System and Flood Risk Management Guidelines (PSFRM). Table 3.1 of these Guidelines details vulnerability of different types of development and the suitability of certain

land use types. This clearly details “Amenity open space” such as that proposed as a ‘Water Compatible development’. Table 3.2 then provides a matrix table showing such a use as appropriate in all three flood zone types A, B and C. In this regard a Justification Test for the proposal is not required.

- d) Public observations on the proposal raise concerns in relation to the impact of the proposed development from Flooding. In this regard the submission highlights the presence of an existing flood defence levee near the proposed temporary entrance and at the rear of Willowbank estate. They argue the proposal does not consider the construction, quality and integrity of this levee and as the site is under water each year it should not be altered, modified or in any way undermined. The submission also argues the proposal does not engage with the Flood Relief Scheme. It must be highlighted that Midleton suffered significant flooding during Storm Babet in October 2023 and in this context the concerns set out in the public submissions are fully acknowledged.
- e) Section 2.4 of the FRM discusses the Midleton Flood Relief Scheme which the site is located within. It details that information available at the time of writing suggested the scheme would commence in 2025. I have reviewed the most recent update on this scheme<sup>4</sup> published in May 2024 which indicates the proposal is still only at stage 2 and suggests it has not yet entered the planning stage. In this regard, I am satisfied that the proposed development has reasonably considered the Midleton Flood Relief Scheme which is not yet finalised or approved.
- f) The existing levee which the public submission refers was observed on site. It is shown in Figure 4.9 of the FRA and is discussed in Section 4.5.3. It details the mound reduces floodplain conveyance and storage therefore it is preferable to remove it in conjunction with the development of the proposed park.
- g) Section 4.6.1 discusses the Hydraulic Modelling Results in which the increase in flood extent from the proposal is described as insignificant with new areas

---

<sup>4</sup> <https://www.floodinfo.ie/frs/en/midleton/news/update-on-midleton-frs-may-2024/> accessed 21/05/24

of flooding highlighted in blue on Figure 4.14. The small area shown relates to the removal of the mound and demonstrates increased conveyance and floodplain storage. This clearly shows the development as proposed will not lead to flooding encroaching upon the existing Willowbank estate nor will it significantly impact upon the existing flood plain.

- h) I accept the removal of this 'levee' may seem counter intuitive where known flooding occurs however I see no reason to dispute its removal would not increase conveyance and flood plain storage. In the absence of any detailed explanation of why the submitted modelling is not accurate or how the proposal would increase the likely flood extent into lands of Willowbank estate I see no reason to question the findings of the submitted FRA having regard to the established Flood Zones of the CDP and the submitted FRA.
- i) As the majority of the site is located in flood zone A and given the proximity of the site to the Owenacurra River the risk to safety in a public park is evident. Section 4.7 of the FRA set out a number of measures to mitigate the risk to users of the park. It details users of the park are unlikely to do so during heavy rain and the pathways all lead to higher ground where there is no risk of flooding of flood hazard is low. A number of management and operation procedures for the park are also detailed.
- j) Section 4.8 sets out a summary of mitigation measures proposed which includes the removal of the existing mound.
- k) Having considered all of the above and have particular regard to the sites zoning, its site specific zoning objective, the water compatible nature of the proposed development in Flood Zones A and B as per the 2009 Flood Risk Guidelines and subject to the details submitted with the application and proposed mitigation measures which should form a condition of any grant of permission, I am satisfied the proposal is acceptable in the context of public safety, risk to property and proper planning.

### 8.3. The likely significant effects on a European site:

#### 8.3.1. Introduction

The areas addressed in this section are as follows:

- Compliance with Articles 6(3) of the EU Habitats Directive
- The Natura Impact Statement
- Appropriate Assessment

#### 8.3.2. Compliance with Articles 6(3) of the EU Habitats Directive:

8.3.3. 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.

#### 8.3.4. The submitted Natura Impact Statement (NIS)

8.3.5. The application is accompanied by an NIS in Appendix H of the Project Report. It describes the proposed development, the project site and the surrounding area. The NIS details a Stage One Screening for Appropriate Assessment is provided. I have not been able to identify a dedicated Stage One Screening Report within the documentation on file nor have I identified a clear stage one conclusion.

8.3.6. I do note section 1 of the Ecological Impact Assessment Report (EclA) Appendix A of the Project Report states-

*"It was concluded that the proposed works have the potential to impact on the Qualifying Interests of two Natura 2000 sites, Great Island Channel SAC and Cork Harbour SPA; a Natura Impact Statement was prepared and submitted as part of the application."*

- 8.3.7. Section 3 of the submitted NIS outlines the methodology used including reference to guidelines followed and contributory fieldwork in accordance with DoEHLG Guidelines 2009. It refers to the desk study carried out and review of available data from a number of listed sources. Section 3.5.1 of the EclA details-

*“The ecological walkover surveys were undertaken on the 5th of October 2021 and 20th of January 2022. The walkover survey had regard to 'Best Practice Guidance for Habitat Survey and Mapping' (Smith et al., 2011) and 'A Guide to Habitats in Ireland' (Fossitt, 2000). As part of this survey, habitats within and bounding the development site were categorised according to Fossitt (2000).”*

- 8.3.8. Section 4 discusses the Receiving Environment with section 4.2.1 identifying habitats with reference appearing to be made to habitat identification in section 4.3.1 of the EclA.

- 8.3.9. Section 4.2.1 of the EclA details sites of international importance including Natura 2000 sites within 15km or the zone of influence (ZOI) from the proposed development. These are shown in Figure 4.2 of the EclA. Section 4.2.4 states-

*“An Appropriate Assessment (NIS) was prepared for this project and concluded that, given the nature and scale of the works, and the distance to the works area, the risk of significant impact on Natura 2000 sites within the Zone of Influence (ZOI) is considered to be extremely low and that with the implementation of appropriate mitigation the risk will be further reduced so that the integrity of these sites will not be adversely affected.”*

- 8.3.10. It is not entirely clear to me why a Stage 2 Assessment has been considered necessary. However, I accept the proposed clear span bridges set back from the Owenacurra River with direct hydrological connectivity to designated European Sites could reasonably be considered a site specific Mitigation Measure to address potential impacts to the European sites beyond what can be considered normal best practice. In such circumstances, it is appropriate to proceed to a Stage 2 Appropriate Assessment.

- 8.3.11. The submitted NIS report concludes that, subject to the implementation of best practice and the recommended mitigation measures-

*“the project, individually or in combination with other plans and projects, will not have an adverse effect on the integrity of any Natura 2000 site, in view of their conservation objectives and in view of best scientific knowledge.”*

8.3.12. Having considered the nature of the proposed development, the extent of works proposed and having reviewed information on file, I am satisfied that the NIS and supporting documentation provides adequate information in respect of the baseline conditions, reasonably identifies the potential impacts in the context of the proposal and would appear to use best scientific information and knowledge. Details of mitigation measures are provided and they are summarised in Section 5 of the NIS. I am satisfied that the information is sufficient to allow for appropriate assessment of the proposed development (see further analysis below).

### 8.3.13. **Stage 1 Appropriate Assessment**

8.3.14. The proposed development of a linear park as described in section 2.0 is not directly connected with or necessary to the management of any European site.

8.3.15. Having regard to the information and submissions available, nature, size and location of the proposed development and its likely direct, indirect and cumulative effects, the source pathway receptor principle and sensitivities of the ecological receptors the following European Sites are considered relevant to include for the purposes of initial screening for the requirement for Stage 2 appropriate assessment on the basis of likely significant effects.

European site (SAC/SPA)	Qualifying Interests	Distance
Great Island Channel SAC (001058)	Mudflats and sandflats not covered by seawater at low tide [1140], Atlantic salt meadows ( <i>Glauco-Puccinellietalia maritimae</i> ) [1330]	c. 1.5km to the south
Cork Harbour SPA (004030)	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]	c. 1.5km to the south



European site (SAC/SPA)	Qualifying Interests	Distance
	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] Greenshank ( <i>Tringa nebularia</i> ) [A164] 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]	

8.3.16. Based on my examination of the submitted NIS report and supporting information (in particular, the information contained within the EclA), and having regard to the precautionary principle, it is considered appropriate to carry out a Stage 2 Appropriate Assessment for the European sites referred to above.

8.3.17. In conclusion, having regard to the nature and scale of the proposed development, to the proximity of the subject site to the European sites, to the nature of the qualifying interests and conservation objectives of the European sites and to the available information as presented in the supporting documentation regarding the degree of interconnection between qualifying interests and habitat types within the affected

European sites, it is considered the proposed development has the potential to affect 2 No. European sites having regard to their conservation objectives, and that progression to a Stage 2 Appropriate Assessment is required.

### **8.3.18. Stage 2 Appropriate Assessment**

#### **8.3.18.1. Great Island Channel SAC (001058)**

##### **a) Introduction**

- The site is located c. 1.5km north of the SAC. The site is benefits from indirect hydrological connectivity via the Owenacurra River which flows through the site southwards and into the SAC.

##### **b) Conservation Objectives**

- To maintain the favourable conservation condition of Mudflats and sandflats not covered by seawater at low tide in Great Island Channel SAC.
- To restore the favourable conservation condition of Atlantic salt meadows (*Glauco-Puccinellietalia maritimae*) in Great Island Channel SAC

##### **c) Potential direct effects:**

- None

##### **d) Potential indirect effects:**

- Mudflats and sandflats are vulnerable to changes in water quality from contaminated surface water runoff during construction and operation (e.g. unbound materials used in paving/pathways) etc.

##### **e) Potential in-combination effects:**

- Section 5.2 of the NIS considers a number of relevant developments. I have reviewed these as well as carrying out a more update to date consideration of permissions granted and development in the general area.

- I have also considered the Middleton Flood Relief Scheme which I understand is only at design and development stage (see footnote 4). As this project is not finalised, I am satisfied that there are no in-combination impacts that can be considered at this time.

**f) Mitigation measures:**

- During Construction stage works to be carried out during dry weather, ideally during the summer months to minimise risk
  - of washout of exposed soils/stockpiles on site and
  - the river might rise and flood the works area, with subsequent washing of silt/sediment and nutrients into the river and on to designated site.
- Bridge design (span), with no instream works necessary.
- River banks to be protected using silt fencing in areas where works are in proximity to the watercourse.
- SuDS to be implemented as designed to ensure that permeable surfaces and soakaways are used to prevent surface water washout into the watercourse.
- Best practice tree felling measures in riparian zones to ensure that debris and other material does not enter the river or interfere with the streambed.
- All other treelines and riparian vegetation to be left undisturbed to protect the watercourse.
- All other measures as laid out in the CEMP to be adhered to.
- Periodic inspection of the site by an ECOW to ensure on site practices and mitigations are sufficient.

**g) Residual effects/Further analysis:**

- These are discussed in section 5.1 of the NIS. None expected to arise

**h) NIS Omissions:**

- There are no drawing and specific details provided for the five River Viewing Platforms along the Owenacurra River and the extent of encroachment of same into the river. Impacts from such works to water quality are not considered.

#### **8.3.18.2. Cork Harbour SPA (004030)**

##### **a) Introduction**

- The site is located c. 1.5km north of the SPA. The site benefits from indirect hydrological connectivity via the Owenacurra River which flows through the site southwards and into the SPA.
- The NIS details-
  - the site contains grassland habitat that is not typically used for forage by any of the QI species for which it is designated.
  - When the site is in flood, it is opportunistically utilised by small numbers of waterfowl, in particular Teal; one or two Redshank individuals have been noted there also. Teal have not been recorded as breeding in Cork Harbour, nor is this suitable habitat for the species.
  - Grey Heron and Cormorant have been observed overflying the site, and the heron in particular may well opportunistically forage when the grasslands are flooded.
  - The proposed works will not alter the flooding regime in the works area post construction; the removal of one mounded area in fact should increase flood retention in parts of the area.
  - The potential use of the works area for bird species associated with the European site therefore should not be altered by the proposed development.
  - Wetland and Waterbirds habitat is potentially vulnerable to changes in water quality resulting from contaminated surface water runoff or construction materials directly entering the area. This QI is found

throughout the SPA but the risk of significant impact on this feature is considered to be extremely low.

#### **b) Conservation Objectives**

- To maintain the favourable conservation condition of the following-
  - Little Grebe
  - Great Crested Grebe
  - Cormorant
  - Grey Heron
  - Shelduck
  - Wigeon
  - Teal
  - Pintail
  - Shoveler
  - Red-breasted Merganser
  - Oystercatcher
  - Golden Plover
  - Grey Plover
  - Lapwing
  - Dunlin
  - Black-tailed Godwit
  - Bar-tailed Godwit
  - Curlew
  - Redshank
  - Greenshank
  - Black-headed Gull
  - Common Gull

- Lesser Black-backed Gull
- Common Tern

in Cork Harbour SPA

- To maintain the favourable conservation condition of the wetland habitat in Cork Harbour SPA as a resource for the regularly occurring migratory waterbirds that utilise it.

**c) Potential direct effects:**

- None

**d) Potential indirect effects:**

- Potential for Disturbance during construction stage impacting protected birds frequenting the site. There is a small potential disturbance during operation stage.
- Potential for changes in water quality resulting from contaminated surface water runoff or construction materials (e.g. unbound materials used in paving/pathways) from the site directly entering the SPA impacting protected habitats. This is considered possible during construction and operation.

**e) Potential in-combination effects:**

- Section 5.2 of the NIS considers a number of relevant developments. I have reviewed these as well as carrying out a more update to date consideration of permissions granted and development in the general area.
- I have also considered the Middleton Flood Relief Scheme which I understand is only at design and development stage (See footnote 4). As this project is not finalised.
- I am satisfied that there are no in-combination impacts to the SPA that can be considered at this time.

**f) Mitigation measures:**

- Works to be carried out during the summer months, reducing chance that the site may be disturbed during times of flood when bird species are utilising it i.e. the majority of the protected bird species are winter migrants thereby removing the possibility for impact.
- In terms of the protected wetland habitat risks associated with water quality can be mitigated by those measures already detailed for the SAC above.

**g) Residual effects/Further analysis:**

- These are discussed in section 5.1 of the NIS. None expected to arise

**h) NIS Omissions:**

- It is noted Section 5 Table 3 of the submitted NIS refers to the Courtmacsherry Bay SPA but the bird and habitats listed are those for the Cork Harbour SPA (save the Greenshank which I have included). This is likely a simple typing error and does not have a material influence on this assessment.
- Impacts to water quality impacts upon wetland habitats from works associated with river viewing platforms are not detailed.

**8.3.18.3. Assessment**

- a) It is considered the potential impacts on European sites arising from the proposed development relates primarily to water quality and disturbance during both construction and operation.
- b) In terms of impacts to water quality upon the SAC and SPA, I am generally satisfied the mitigation measures proposed and typical best standard construction measures such as those detailed in the Construction Environmental Managemnt Plan (Appendix H of the Project Report) are sufficient to alleviate concerns over adverse impacts to the SAC and SPA

protected habitats. However, the proposal includes for pathways close to and traversing the Owenacurra River. The application details propose asphalt paths, hoggin/self-binding gravel paths and informal mown paths throughout the site. Having particular regard to the majority of the site's location in flood zone A and B<sup>5</sup> with the flooding history of the site evident through the documentation submitted, it is considered appropriate that a condition is applied ensuring all non-grassed surfaces within the flood zone should comprise material and/or paving slabs and that no loose gravel or other unbound materials shall be used.

- c) I have considered the design of the two proposed bridges crossing the Owenacurra River. Section 4.4.3 of the NIS details both bridges are single span with supports set back 9m from the river bank. This is consistent with sections 6.2 and 9.1 of Inland Fisheries Ireland (IFI) Guidelines on Protection of Fisheries during Construction Works in and adjacent to Waters (2016) i.e. the preferred position is clear span crossing structures so as not to interfere in any way with the bed or bank of watercourses. This also avoids the need for works and associated risks of sediment, silt or other suspended solids escaping to the river. It is considered appropriate that a condition requiring adherence to Inland Fisheries Ireland's published guidelines and a programme of water quality monitoring be applied.
- d) The proposal includes five River Viewing Platforms along the Owenacurra River with a central timber bench and handrail and will give a direct view of the river and allow for resting and contemplation. There is very little detail and no drawings of these platforms in the application documents. It is considered they may require a boardwalk type structure spanning in part over the river banks in order to access the required/intended views. This would appear to conflict with IFI's requirement for a 5m buffer zone from the Banks of the river. In the absence of detailed drawings and specifications and/or proposed mitigation measures to address impacts on water quality and possible

---

<sup>5</sup> See Appendix C of Project Report- Flood Risk Assessment Page 24 Figure 4.5



adverse impacts to the designated European Sites, it is considered appropriate that these platforms should not be permitted at this time and a condition applied accordingly.

- e) The submitted NIS is silent on Invasive Species which can have adverse impacts to protected sites. However these are addressed in the EclA with Japanese Knotweed and Himalayan Balsam<sup>6</sup> identified on the site and in the riparian zone (see Figure 4.7 of the EclA). The EclA details these are currently being managed through eradication by the Council. Section 9.7 of the EclA details proposed mitigation measures. It is considered appropriate these mitigation measures should also be employed to address adverse risks to the European Sites.
- f) The NIS details the occasional use of the site during flooding events by winter migratory birds with a small number of observations noted during the surveys. It proposes mitigation measures including carrying out the works during summer months and dry weather. In terms of the construction stage these mitigation measures are considered appropriate. In terms of the operational stage I do not consider disturbance likely as the proposed linear park would not be in active use at such times as flooding events.

#### **8.3.18.4. Appropriate Assessment Conclusion**

- a) Having regard to the foregoing assessment and the nature of the proposed development, I consider that it is reasonable to conclude on the basis of the information on the file, which I consider adequate in this context in order to carry out a Stage 2 Appropriate Assessment, that the proposed development, subject to conditions, individually or in combination with other plans and projects would not adversely affect the integrity of the European site no.

---

<sup>6</sup> When this dies back in autumn it can leave the ground bare and vulnerable to erosion increasing risk of sediment laden water potentially impacting designated sites. See- <https://assets.gov.ie/79141/2ab13421-3a95-480b-b358-5eeb9f726137.pdf>

001058 or site no. 004030, or any other European site, in view of the site's Conservation Objectives.

b) Should the Board agree with this conclusion it is recommended that additional conditions be applied including-

- The five proposed viewing platforms are not permitted
- All non-grassed surfaces within the park should comprise material and/or paving slabs and that no loose gravel or other unbound materials shall be used.

in the interests of protecting the environment and the designated European Sites.

#### **8.4. Entrance from Willowbank Estate**

8.4.1. Public submissions raise concerns relation to the proposed works and use of the existing entrance to the site from Willowbank Estate. The concerns generally relate to the potential use of the entrance as a primary entrance to the park and for use by pedestrians etc. Concerns are also raised in relation to potential for antisocial behaviour and children's safety with the existing boundary retained.

8.4.2. The development description clearly sets out the primary vehicular entrance to the development will be from the Northern Relief Road to the south of the site with primary pedestrian and cycle entrances from the same entrance with another from the Urban Expansion Area to the west side of the park.

8.4.3. The development description only proposes upgrading the existing access roadway from Willowbank for maintenance and emergency vehicles.

8.4.4. The Masterplan drawing No. WR(90) LP101 shows vehicular and primary entrances and clearly none of these are from Willowbank estate. The drawing shows a proposed asphalt surfaced road at the existing access from Willowbank linking into the site. However this is clearly labelled Maintenance and Emergency use only and forms part of the proposed upgrade works. This asphalt road does not meet the identified 3m wide primary asphalt path or the secondary Hoggins/self-binding gravel paths. The asphalt road instead meets 'grasscrete' before linking up to the 3m asphalt paths. The 'Summary of Design Proposals' booklet submitted with the application also clearly details the entrance from Willowbank is not for public use.

Section 3.3 'Entrances to the Park' discusses entrances to the Park with the eastern maintenance access detailed as "for maintenance and emergency vehicles only". Section 3.10 details that "Grasscrete or similar will be the primary material used for the access route"

- 8.4.5. The proposed development does not propose any public access from the Willowbank estate whether pedestrian, cyclist or by car. In this regard I am satisfied the concerns set out in the public submission are misplaced and a condition in this regard is not necessary.
- 8.4.6. I have not been able to identify any specific proposal for the proposed gateway at Willowbank to the maintenance and emergency route. However, I note the existing treatment is a concrete post and wooden rail style gate and fence c. 2m in height which reasonably secures the site from public access. This gate has a padlock on the Willowbank estate side with a warning sign detailing entry is prohibited. In this regard I do not share the concerns of the public that this route will be legitimately used by the public as a result of the proposed development.

## **8.5. Other Matters**

- 8.5.1. I note other concerns raised in public submissions relating to traffic impacts and the provision of car parking and availability of parking within the town. I do not share concerns that this proposal would significantly increase traffic queues and wait times from Broomfield all the way to the N25 and know evidence has been submitted to support same. I am satisfied the provision of 34 spaces is a reasonable provision for a park of this scale and will cater for all user types including those with disabilities, young families with buggies and bikes etc. The provision of electric car charging bays is climate progressive and will encourage and contribute to modal shift from fossil fuel powered vehicles.
- 8.5.2. Concerns over diverting funds from this plan to public transport are not ones for consideration in this assessment or the planning process.

## **9.0 Recommendation**

On the basis of the above assessment, I recommend that the Board approve the proposed development subject to the reasons and considerations below and subject

to conditions including requiring compliance with the submitted details and with the mitigation measures as set out in the EclA, FRA and NIS.

### **Reasons and Considerations**

In coming to its decision, the Board had regard to the following:

- (a) the EU Habitats Directive (92/43/EEC),
- (b) the European Union (Birds and Natural Habitats) Regulations 2011-2015,
- (c) the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the likely significant effects of the proposed development on a European Site,
- (d) the conservation objectives, qualifying interests and special conservation interests for the Great Island Channel SAC (001058) and the Cork Harbour SPA (004030)
- (e) the policies and objectives of the Cork County Development Plan 2022-2028,
- (f) the nature and extent of the proposed works as set out in the application for approval,
- (g) the information submitted in relation to the potential impacts on habitats, flora and fauna, including the Natura Impact Statement,
- (h) the submissions and observations received in relation to the proposed development,
- (i) the report and recommendation of the person appointed by the Board to make a report and recommendation on the matter

### **Appropriate Assessment:**

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

The Board considered the Natura Impact Statement and associated documentation submitted with the application for approval, the mitigation measures contained therein, the submissions and observations on file, and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed development for the affected European Sites, namely the Great Island Channel SAC (001058) and the Cork Harbour SPA (004030), in view of the site's conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment. In completing the appropriate assessment, the Board considered, in particular, the following:

- i. the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- ii. the mitigation measures which are included as part of the current proposal, and
- iii. the conservation objectives for the European Sites.

In completing the appropriate assessment, the Board accepted and adopted the appropriate assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the integrity of the aforementioned European Sites, having regard to the site's conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Sites, in view of the site's conservation objectives.

### **Proper Planning and Sustainable Development/Likely effects on the environment:**

It is considered that, subject to compliance with the conditions set out below, the proposed development would not have significant negative effects on the environment or the community in the vicinity, would not give rise to a risk of pollution, would not be detrimental to the visual or landscape amenities of the area, would not seriously injure the amenities of property in the vicinity, would not adversely impact on the cultural, archaeological and built heritage of the area and would not interfere

with the existing land uses in the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity

2. All the mitigation and monitoring measures outlined in the plans and particulars relating to the proposed development, including those relating to management of Invasive Species. or as may be required in order to comply with the following conditions shall be implemented. Prior to the commencement of development, details of a time schedule for implementation of mitigation measures and associated monitoring shall be prepared by the local authority and placed on file and retained as part of the public record.

Reason: In the interest of protecting the environment, the protection of European Sites and in the interest of public health.

3. The following additional mitigation measure shall be incorporated: -
  - a) All non-grassed surfaces within the park shall comprise bound material and/or paving slabs and no loose gravel or other unbound materials shall be used.

Reason: In the interest of protecting the environment and the designated European Sites.

4. The five proposed river viewing platforms shall be omitted from the development. Prior to the commencement of development revised plans and details in this regard shall be provided and kept on file as part of the public record.

Reason: In the interest of the protection of the environment and the protection of European Sites.

5. Prior to the commencement of development, details of measures to protect fisheries and water quality of the river systems shall be outlined and placed on file. Full regard shall be had to Inland Fisheries Ireland's published guidelines for construction works near waterways (Guidelines on Protection of Fisheries during Construction Works in and Adjacent to Waters, 2016). A programme of water quality monitoring shall be prepared in consultation with the contractor, the local authority and relevant statutory agencies and the programme shall be implemented thereafter.

Reason: In the interest of the protecting of receiving water quality, fisheries and aquatic habitats.

6. The County Council and any agent acting on its behalf shall ensure that all plant and machinery used during the works should be thoroughly cleaned and washed before delivery to the site to prevent the spread of hazardous invasive species and pathogens.

Reason: In the interest of the proper planning and sustainable development of the area and to ensure the protection of the European sites.

7. A suitably qualified Ecologist/Environmental Manager/Ecological Clerk of Works shall be retained by the local authority to oversee the site set up and construction of the proposed development and implementation of mitigation measures relating to ecology set out in EclA and NIS. The person shall be present during site construction works. Upon completion of works, an ecological report of the site works shall be prepared by the appointed person to be kept on file as part of the public record.

Reason: In the interest of nature conservation and the protection of terrestrial and aquatic biodiversity.

8. The County Council and any agent acting on its behalf shall facilitate the preservation, recording, protection or removal of archaeological materials or features that may exist within the site.
  - a. A suitably qualified archaeologist shall be appointed by the County Council to oversee the site set-up and construction of the proposed development and the archaeologist shall be present on site during construction works including all subsurface ground works.
  - b. Archaeological monitoring shall be carried out under a Section 26 (National Monuments Act 1930) licence and in accordance with an approved method statement. The method statement shall lay out the monitoring strategy for each location where works are proposed. Should human remains be identified during the course of archaeological monitoring the services of a suitably qualified osteoarchaeologist should be on hand to provide professional advice and assistance.
  - c. Licensed metal detection shall be undertaken in tandem with the monitoring. The method statement shall contain a Finds Retrieval Strategy that includes provision for the spreading, systematic searching and metal detection of a representative sample of excavated deposits in order to retrieve archaeological objects. The proposed percentage of spoil assessed should reflect the scale of proposed works for the Park and should be across the site. This should be set out in the submitted method statement. It can allow for the scaling down of metal detection if after an agreed timeframe there is minimal artefactual evidence forthcoming. A Detection Device consent (Section 2 1987 National Monuments Act) will be required for the metal detecting works. Note a period of 3-4 weeks should be allowed to facilitate processing and approval of licence applications and method statement.
  - d. In order to ensure full communication is in place between the monitoring archaeologist and the works contractor at all times, a communication strategy shall be implemented that provides the monitoring archaeologist with adequate notice of all forthcoming works



that require their attendance. Sufficient, suitably experienced and qualified, archaeological personnel shall be in place to cover all aspects of the monitoring works.

Prior to the commencement of development, details of the method statement and a time schedule for implementation of all measures above and associated monitoring shall be prepared by the local authority and placed on file and retained as part of the public record.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

---

Adrian Ormsby  
Planning Inspector

23<sup>rd</sup> of May 2024

## 11.0 Appendix 1- Form 1 EIA Pre-Screening [EIAR not submitted]

<b>An Bord Pleanála</b> <b>Case Reference</b>	ABP-317575-23		
<b>Proposed Development</b> <b>Summary</b>	Water-Rock Linear Park development		
<b>Development Address</b>	Knockgriffin (Imokilly) and Broomfield West, Midleton, Co. Cork		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	<b>X</b>
		<b>No</b>	
<b>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?</b>			
<b>Yes</b>		N/A	EIA Mandatory EIAR required
<b>No</b>	<b>X</b>	<p><b>Class 10 Infrastructure Project</b></p> <p>(ii) <i>Construction of a car-park providing more than 400 spaces, other than a car-park provided as part of, and incidental to the primary purpose of a development.</i></p> <p>The proposal is for a public park. The provision of 34 spaces is clearly incidental to the primary purpose of the development therefore the proposal <u>is not a class on this basis.</u></p> <p>(iv) <i>Urban development which would involve an area greater than 2 hectares 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.)</i></p> <p>I note-</p> <ul style="list-style-type: none"> <li>the site is located within Midleton which is a town that falls within the definition of built-up area as set out in the regs i.e. <i>a city or town (where "city" and "town" have the meanings assigned to them by the Local Government Act, 2001) or an adjoining developed area</i></li> </ul>	Proceed to Q.3

		<ul style="list-style-type: none"> <li>the stated 'total site area' as detailed in section 5.1 of MWP Screening Report is 10.5 ha and is therefore in excess of the stated 10 ha for 'built-up areas'.</li> <li>The site is included within the definition of the 'Urban Expansion Area' as designated in section 3.3.117 of Volume 4 of the CDP i.e.-          "In accordance with the Middleton Zoning Map, the Water-Rock UEA is defined as comprising the following zonings: MDR- 06, MD-R-07, MD-R-08, MD-RFAP-09 MD-R-10, MD-R-11, MD-R-12, MD-R-13, MD-R-14, MD-RAP-15, MD-R-16, MD-RAP-17, MD-RAP-18, MD-RFAP-19, MD-RFAP-20, MD-RAP-21, MD-RAP-22, MD-RFAP-23, MD-C-01, MD-C-02, MD-C-03, <b>MD-GR-08 (proposed park)</b><sup>7</sup>, MD-GR-10, MD-GR-11 and MD-HT-02."</li> <li>The site is zoned 'Green Infrastructure' with a specific objective for the <i>"Provision of the Water-Rock Linear Park...."</i></li> </ul> <p>The application is for a public park. If the proposal is considered 'Urban Development' having regard to the considerations set out above then the proposal would appear to require mandatory EIA based on the site size and its location within Middleton.</p> <p>I have considered the provisions of "Interpretation of definitions of project categories of annex I and II of the EIA Directive" published by the European Commission in 2015 and as referred to in the Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment August 2018. When discussing matters under 10 (b) and urban development a number of examples are provided and when interpreting same it details the '<i>wide scope and broad purpose</i>' of the EIA Directive should be borne in mind. It discusses a Court Case ruling of EU member state in which consideration was given to the meaning of 'Urban Development' in this context. It concludes an urban development project should be seen as a project that is urban in nature regardless of its location.</p> <p>Having considered the above, I acknowledge the site is in excess of 10ha, is within a defined 'built-up area' and is located in a designated Urban Expansion Area within the Middleton Settlement Boundary as per the County Development Plan. However the site is zoned 'Green Infrastructure' where typical urban type developments are not generally permitted and there is a specific objective for a public park at this site. CDP Objective ZU 18-13 states- <i>"No development other than development which supports Green Infrastructure will be considered in these areas"</i>. I therefore tend to share the opinion of Cork County Council that</p>	
--	--	--	--

<sup>7</sup> Emphasis and 'proposed park' added

		<p>the proposed development is not urban development in nature and should not reasonably be considered 'Urban Development' for the purpose of the EIA Directive. <u>The proposal is not a class on this basis.</u></p> <p><b>Class 12 Tourism and leisure</b></p> <p>Having considered guidance set out in "Interpretation of definitions of project categories of annex I and II of the EIA Directive" and in particular the '<i>wide scope and broad purpose</i>' as well as the nature of the proposed development, I do not consider the proposal to fall into this category. <u>The proposal is not a class on this basis.</u></p> <p><b>Class 15</b></p> <p><i>"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 the environment, having regard to the criteria set out in Schedule 7."</i></p> <p>I do not consider the proposed development to be a project listed in Part 2 of Schedule 5 of the PDR's and <u>therefore is not a class on this basis.</u></p>	
--	--	---	--

**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	X			No EIAR or Screening required
Yes		Class/Threshold.....		Proceed to Q.4

Inspector: \_\_\_\_\_

Date: 23/05/24