

An
Coimisiún
Pleanála

Inspector's Report ABP-320459-24

Development

10 year permission to construct rock armour and reclamation of foreshore. Construction of marina building, gym, bird hide, electrical vessel recharging facility and associated site works. A Natura Impact Statement will be submitted to the planning authority with the application.

Location

Lands adjacent to Cork Harbour Marina, Strand Road, Monkstown, Co. Cork

Planning Authority

Cork County Council

Planning Authority Reg. Ref.

235147

Applicant(s)

Monkstown Marina Company Limited

Type of Application

Permission

Planning Authority Decision

Refuse x 1

Type of Appeal

First Party

Appellant(s)

Monkstown Marina Company Limited

Observer(s)

Gary & Laura Hanrahan

	Michael & Noreen Murphy
	Nicholas O'Donoghue
	Padraigin O'Donoghue
	Denis McConnell
	Carroll O'Donoghue
	Peter Creighton
Public Representations	Cllr Seamus McGrath
	Seamus McGrath TD
	Cllr Una McCarthy
	Cllr Eoghan Fahy
Date of Site Inspection	31 st December 2024
	5 th August 2025
Inspector	Mary Crowley

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1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 1.389 ha is adjacent to the existing Cork Harbour Marina in Monkstown in the outer part of Cork Harbour, near the southern end of the West Passage and to the west of the main shipping channel to the inner harbour. Great Island, and the town of Cobh, Haulbowline Island and Ringaskiddy, lie to the east/southeast.
- 1.2. Monkstown Creek is to the south/south-west and adjacent to the 82 no marina berths that form the Cork Harbour Marina. The immediate land side western boundary to the site is formed by the Strand Road, R610, which is a coastal road linking Monkstown to the settlements of Passage West (north) and Ringaskiddy (south). Beyond the existing sea wall there is a footpath and grass verge.
- 1.3. On the western side of the R610, and on elevated ground, is an established low density residential area comprising detached and semi-detached housing that back onto Strand Road. Included in this area is Alta Terrace, a Victorian development of 10 no semi-detached residential properties and form part of the Lower Monkstown Architectural Conservation Area (ACA). Thorncliffe House a Protected Structure (RPS ID 573) is directly southwest of these houses and directly opposite the appeal site. Carlisle Place, a terrace of Victorian houses, is a short distance to the north.
- 1.4. Sand Quay, that includes a parking area for boats and a slipway, is located approximately 120m to the north of the site. It is stated that the Monkstown Bay Sailing Club operates from the Sand Quay. The Monkstown & Cork Harbour Rowing Club utilises a slipway located within the village centre c450m away.
- 1.5. The appeal site itself includes the reclamation of lands to the seaward side of the existing seawall. These lands are located within the Cork County Council owned foreshore and comprise a sandy / shaley beach at the foot of the sea wall. The reclamation process proposed involves the creation of a total developable area of 0.69 ha. The area from the footing for the rock armour to the sea wall is 1.15 ha.
- 1.6. I refer to the photos and photomontages available to view throughout the file. Together with a set of photographs of the site and its environs taken during the course of my site inspection serve to describe the site and location in further detail.

2.0 Proposed Development

- 2.1. On the 6th June 2023 a 10-year planning permission was sought for the construction of rock armour revetment protection and reclamation of the foreshore on lands adjacent to the Cork Harbour Marina, Strand Road, Monkstown, Co. Cork, to provide the following:
- a) Construction of a two-storey marina building to include a public restaurant/café, public and private offices, convenience store, chandlery, lounge/training area, and ancillary spaces including service and changing areas and storage spaces;
 - b) Construction of a single storey gym and rowing facility building including changing rooms, ancillary support spaces and public toilet;
 - c) Construction of single storey bird hide, 3 no. flagpoles and associated signage;
 - d) Provision of 1 no. floating electrical vessel recharging facility and 1 no. floating vessel refueling facility and associated gangways,
 - e) All ancillary associated works including demolition of sections of the existing seawall to provide for a new vehicular entrance from the R610-113 strand road and 4 no. pedestrian / bicycle entrances from the adjacent public footpath/permitted greenway, public and private car parking, campervan and bicycle parking, internal road network, pedestrian footpaths and public seating areas, landscaping and associated site services.
- 2.2. A Natura Impact Statement was submitted with the application. The stated gross floor space of proposed works is 898 sqm comprising a commercial marina building of 787 sqm and a commercial gym and rowing facility of 111 sqm. The development will be served by the public water mains and the public sewer.
- 2.3. It is stated that the proposed development is intended to provide the necessary onshore services to support the existing 82 no berth marina located to the northeast of the proposed development which was granted planning permission on appeal to An Bord Pleanála (Reg Ref 08/9317 and ABP PL04.236980).
- 2.4. It is stated that a foreshore lease was granted for the existing marina under Ref. MS/51/8/1340 in Sept 2016. This foreshore lease relates to the existing marina not the proposed development. The proposed development straddles the High Water Mark

(HWM) and land within the functional area of the Planning Authority and the nearshore maritime area / foreshore area.

2.5. The application was accompanied by the following:

- Cover Letter
- Planning Statement
- Architectural Design Statement
- Engineering Design Report that includes Construction Environmental Management Plan, Outline Construction Methodology, Irish Water Confirmation of Feasibility and details of Irish Waters Networks (map).
- Traffic & Transport Assessment Report that includes Vehicle Swept Paths and Road Safety Audit
- Appropriate Assessment Screening Report and Natura Impact Statement
- Ecological Impact Assessment Report (Marine and Terrestrial Ecology)
- Photomontages
- Letter of support from Monkstown Cork Harbour Rowing Club
- Letter of support from Monkstown Bay Sailing Club Ltd x 2
- Letter from the Port of Cork stating they will not object to the proposed expansion of the marina development
- Letter of Consent to make a planning application from Cork County Council on lands in their ownership

2.6. **Further Information**

2.7. A request for further information (FI) was issued on 28th July 2023. The applicant submitted a request for a time extension on 14th December 2023. Cork County Council confirmed the extension on the 18th of December 2023 allowing an additional period of three months to 7th May 2023. A response to further information was received on 30th April 2024. Cork County Council requested revised public notices on 9th May 2025. The applicant submitted the requested public notices advertisements on 13th May 2024.

2.8. The FI response can be summarised under the following headings (as per the FI request:)

- ***Ecology and Appropriate Assessment*** - The EclA and NIS have been revised to have regard to the up-to-date marine sediment chemical analysis. There is no potential for impacts on water quality within Cork Harbour from re-mobilised contaminants in the sediments. The Hydrodynamic Assessment concluded that the proposed alterations to the foreshore will not result in any significant change in the local tidal patterns nor a substantial change in the associated current speeds. No mitigation is required. No underwater piling is required as part of the proposed development. Screw piling will be used as a means of reducing noise and vibration levels. The actual disturbance impact of construction noise is extremely unlikely to cause complete displacement of waterbirds. The combined impact at receptor positions will generally range from 22 to 63 dB Laeq with the exception of Alta Terrace. Temporary acoustic barriers are recommended to be used should the need arise during limited phases of the works. There will be no habitat loss within the SPA but the proposed development will result in the loss of an area of 1.15 ha of inter-tidal habitat within the Monkstown Creek pNHA. The revised EclA and NIS includes proposals to mitigate this impact. One such measure is the use of Biohuts which are suspended cages filled with oyster or mussel shells and which act as refuges for juvenile fish.
- ***Underwater Archaeological Impact Assessment*** - Underwater Archaeological Impact Assessment submitted.
- ***Environmental Management Measures*** - No fuelling or fuel storage will be carried out on the pontoon. The fuelling pump will be relocated and surrounded by a catchment eco-drain which will be connected to the fuel interceptor.
- ***Visual Impact, Heritage and Landscape/Seascape*** - Impacts from the main approaches from Monkstown village and from Carrigaline direction on the buildings will not be appreciable and from the waterfront the impact will be moderate.
- ***Site Specific Flood Risk Assessment and Drainage Impact Assessment*** - Site Specific Flood Risk Assessment concluded there will be no changes in local flood water levels arising from the development. No residual impacts have been

identified, and no mitigation measures are required. No changes to building flood levels are proposed.

- **Engineering Matters** - Tideflex valve will be used. Uisce Eireann Confirmation of Feasibility Letter has been received and submitted. Wheel wash facility will be provided as detailed in the Outline CEMP.
- **Layout, Landscaping and Other Matters** - Planting proposal to mitigate views of car parking and hard surface. Site boundary details have been submitted with a 0.9m high steel railings proposed at the buildings. The planting palette is primarily native with the exception of the Cedar of Lebanon and a number of Juneberry shrubs. A public boardwalk / footpath along the entire perimeter of the proposed development is not proposed. Proposed development has been designed with the permitted greenway in mind. Concern raised that a public boardwalk had potential to result in some level of disturbance to the bird life. The Monkstown and Cork Harbour Rowing Club will use the proposed Rowing Facility Building to replace their existing inadequate facilities. During regattas visiting boats would be launched from the public slipway and car park at Paddys Point, Ringaskiddy.
- **EIA Screening Report having regard to Schedule 7 of the Act** - EIA Screening Report concluded that the project does not meet the thresholds as prescribed in Part 2, Class 1(g) of the 2001 Regulations and therefore the project does not require a mandatory EIA.
- **Traffic and Transportation** - The estimated 'worse case' construction traffic flows will have negligible impact on continued safe operation traffic flows outlined in Section 4 of the TTA. Details of junctions and access points from the pedestrian and cycleway are included with supporting drawings. All cycle parking provision outlined in the site layout plan. Stated that 100% of the land reclamation material will be brought by road.
- **Other** - Since the planning application was submitted in June 2023, the Cork Harbour Tourism Plan, in partnership with Cork County Council, Cork City Council and Port of Cork has been announced by Failte Ireland. The Plan aims to position Cork Harbour as a world class tourism destination. The provision of onshore facilities as proposed is in line with this plan as it will promote tourism in Monkstown and the wider Cork Harbour area.

2.9. The FI was accompanied by the following:

- Site Investigation Report (includes geotechnical site investigations together with marine sediment sampling and associated chemical analysis)
- Hydrodynamic Assessment (assesses the potential impact of the development on sediment erosion and accretion patterns) includes Bathymetric Survey Chart Datum Drawing
- Technical Engineering Report
- Confirmation of Feasibility Letter from Uisce Eireann
- Construction & Environmental Management Plan (CEMP) together with Site Compound Drawings
- Revised Appropriate Assessment Screening Report and Revised Natura Impact Statement
- Revised Ecological Impact Assessment Report (Marine and Terrestrial Ecology)
- Brochure and Letter providing details on Biohuts (artificial fish nursery)
- Environmental Noise Assessment Report
- Assessment of the Potential Impact of Noise Disturbance to Waterbird Populations
- Underwater Archaeological Impact Assessment (UAIA) Intertidal Foreshore
- Conservation Report & Heritage Impact Assessment
- Photomontages
- Flood Risk Assessment
- Drainage Impact Assessment & Surface Water Management Proposals (SuDS)
- Public Lighting Layout
- EIA Screening Report
- Traffic & Transportation FI Response Report together with Traffic Entrance Drawings
- Revised Site Layout Plan and Site Section, Landscape Drawings and Engineering Drawings (Drainage, Refueling Pontoon, Revetment Infill Details, Cross Section of Proposed Charging at Pontoon, Screw Pile Details and Underground Fuel Tank).

- Letter from Galvin Donegan Solicitors setting out position in relation to Marine Area Consent
 - Letter from Monkstown Cork Harbour Rowing Club
- 2.10. Unsolicited Further Information was submitted by McCutcheon Hally on behalf of Monkstown Bay Marina Company Ltd on 13th May 2024 enclosing a letter from Monkstown Cork Harbour Rowing Club dated 7th April 2008 and to be included with Appendix Q of the FI Response submitted above.
- 2.11. Further Unsolicited Further Information was submitted by Galvin Donegan LLP on behalf of Monkstown Bay Marina Company Ltd on 1st July 2024 stating that *the development is taking place on privately ownership of De Vesci Estate which sold it to Cork County Council which has leased it to the Developer.*

3.0 **Planning Authority Decision**

3.1. **Decision**

- 3.1.1. Cork County Council issued notification of decision to refuse permission on 8th July 2024 for a single reason as follows:

1) The proposed development would give rise to significant negative effects on the Monkstown Creek proposed Natural Heritage Area for which no meaningful mitigation has been proposed, and no alternatives appear to have been considered. The granting of permission for this development would therefore be contrary to Policy Objectives BE 15-2(a) and BE 15-6(f) of the County Development Plan 2022-2028 and contrary to the proper planning and sustainable development of the area.

3.2. **Planning Authority Reports**

3.3. **Planning Reports**

- 3.3.1. The planning application was submitted to Cork County Council on 6th June 2023.
- 3.3.2. The **Area Planner** in their first report and having considered the detail of the application recommended to the Case Planner (SEP) that further information is sought

in relation to the following items. A request for further information (FI) was issued on 28th July 2023.

- Ecology and Appropriate Assessment
 - a) Detailed site investigations including bathymetric, geotechnical and hydrographic surveys and any other necessary technical surveys
 - b) Construction Environmental Method Statement to be submitted
 - c) Updated survey of intertidal and subtidal habitats and species required
 - d) Up-to-date marine sediment chemical analysis covering the area likely to be disturbed by the proposed works
 - e) Up-to-date hydrodynamic modelling report
 - f) Map showing the locations of areas subject to ornithological survey together with details of the methodology used to complete survey
 - g) Details of predicted noise levels (both above and below water) which would be generated and an assessment of potential impacts to all relevant key ecological receptors including marine species and birds
 - h) Proposals to mitigate habitat loss and modification across Cork Harbour identified to be one of the most significant threats to the Cork Harbour SPA
 - i) Otter surveys
 - j) Invasive Alien Species survey completed and proposals / measures to prevent the spread of any noted species
 - k) Updated assessment of likely impacts of the proposed development on nature conservation sites including the pNHA and the SPA including an updated and revised EclA and NIS
 - l) Status of the foreshore lease application for this current development proposal
- Underwater Archaeological Impact Assessment to be submitted
- Environmental Management Measures regarding the proposed fuel line and proposals to protect the environment from fuel line leaks on land, on the gangway and on the pontoon.
- Visual Impact, Heritage and Landscape/Seascape – Submit an Architectural Heritage Impact Assessment which assesses the impact of the proposed

development upon the setting and views to/from Thorncliffe House (RPS no.20853065), the Lower Monkstown Architectural Conservation Area (ACA) and the overall Victorian character of Monkstown

- Site Specific Flood Risk Assessment and Drainage Impact Assessment
- Engineering Matters
 - a) Confirm details in relation to petrol interceptor for surface water run-off and flap valve and consider whether a tide flex valve would be more suitable?
 - b) Confirm connection agreement with Uisce Eireann
 - c) Confirm agreement that CEMP to include wheel wash facility
- Layout, Landscaping and Other Matters
 - a) Detailed hard and soft landscaping plan for the extensive car parking areas
 - b) Details of all site boundary treatments
 - c) Detailed lighting plan having regard to the site's sensitive marine location
 - d) Explore whether a public boardwalk/footpath along the entire perimeter of the proposed development could be integrated into the proposals.
 - e) Detail in terms of how the Rowing Club will access the water and where boats will be stored
- EIA Screening Report having regard to Schedule 7 of the Act
- Traffic and Transportation
 - a) Construction Environmental Management Plan.
 - b) Details of the frequency of HGV's on the site per day and the route of the fill material to the site.
 - c) Details of junctions, at all access points from the pedestrian and cycleway, to include tactile paving, dropped kerbs etc.
 - d) Details of how a figure of 0.6 spaces per berth provided was calculated.
 - e) Details of how the access barrier system will operate.
 - f) A swept path analysis of a car and rowing trailer to be provided.
 - g) Confirm if the larger boats on the Marina will be using this development
 - h) Details of how the use hours for the gym/rowing club was arrived at

- i) Consideration for the seasonal nature of the operation of the marina in terms of public car parking
- j) Clarification as to why no spaces are associated with the convenience store or gym / rowing club
- k) Details of opening hours for each facility
- l) Confirm that a right-hand lane is not required on the R610. As part of the proposed pedestrian and cycle route, the carriageway will be reduced in width to 6.2m at this location.
- m) Details to ensure that all trip hazards from the gangway are removed
- n) Gym – Clarification if it is public / private and is it for the Rowing Club only
- o) Rowing Club – Confirm where Monkstown rowing club, operate out of now, where are boats stored and how will they be transported to/from regattas
- p) Bicycle parking – Is it covered and is there a facility for charging e bikes
- q) Car parking – Demonstrate that there is enough parking provided to ensure no parking on the roadside/pedestrian cycle route
- r) CEMP – Confirm if land reclamation material will be brought by road
- s) Road Safety Audit – Confirm if all issues arising have been addressed

3.3.3. The **Senior Executive Planner** having considered the report of the Area Planner noted that there were a number of gaps within the application documents that make it difficult to complete a full assessment of the proposal. Recommended that further information be sought.

3.3.4. **Further information** was requested on the 28th July 2023. **Further information** was submitted on the 30th April 2024.

3.3.5. The **Area Planner** in their second report and having considered the Further Information submitted, recommended to the Case Planner (SEP) that permission be refused. While the specific wording for the reason for refusal has not been set out in the Area Planners report I note the following from their report:

The Planning Authority is not satisfied that the loss of intertidal habitat as proposed is justified particularly at scale proposed and having regard to some of the uses proposed which could potentially be accommodated elsewhere in the town (gym, shop, restaurant etc). Ultimately, based on the information

submitted, the applicant has failed to demonstrate that the proposed development will not give rise to significant negative effects on the Monkstown Creek proposed NHA and on that basis, planning permission is recommended for refusal.

- 3.3.6. The **Senior Planner** having considered the information on file agreed with the report of the Ecology Section and the Area Planner. They noted that no mitigation has been proposed to compensate for the proposed removal of intertidal habitat within a proposed Natural Heritage Area and agreed that the proposed development would be contrary to policy objectives BE 15-2(a) and BE 15-6(f) of the County Development Plan 2022-2028. Refusal recommended.

3.4. **Other Technical Reports**

3.4.1. **Planning Application**

- 3.4.2. The planning application was submitted to Cork County Council on 6th June 2023.

- **Traffic & Transport Engineer** – Requested FI in relation to the submission of a CEMP, frequency of construction HGV's, full details of junctions at all access points, details of how the barrier system will operate, swept path analysis of a car and rowing trailer needs, confirm if the larger boats will be using this development, consideration of gym/rowing club opening hours, consideration of the seasonal nature of car parking required, convenience store and gym / rowing club parking, opening hours for each facility, analysis to confirm that a right hand lane is not required on the R610, gym details, details of Rowing Club, bicycle parking, car parking provision, CEMP and Road Safety Audit. The FI request was included in the FI request issued by the Planning Authority to the applicant.
- **Area Engineer** – Recommended a number of conditions to be attached including a Special Planning Contribution for damage to the existing road network as a result of movements of approximately 6,000 vehicles delivering materials to site. The following FI was also requested requiring confirmation surface water capacity will be maintained as per the existing culvert and confirmation of suitability and location of foul connection with Irish Water. The recommended conditions and FI request was included in the FI request issued by the Planning Authority to the applicant.

- **Ecology** – Following a detailed assessment of the application requested FI in relation to detailed site investigations including bathymetric, geotechnical and hydrographic surveys, Construction Environmental Method Statement to be submitted, updated survey of intertidal and subtidal habitats and species, up-to-date marine sediment chemical analysis covering the area likely to be disturbed by the proposed works, up-to-date hydrodynamic modelling report, locations of areas subject to ornithological survey, details of predicted noise levels (both above and below water), proposals to mitigate habitat loss, otter surveys, invasive alien species survey, updated assessment of likely impacts on the pNHA and SPA, updated and revised EclA and NIS and status of the foreshore lease application. The FI request was included in the FI request issued by the Planning Authority to the applicant.
- **Environment** – Requested FI in relation to the proposed fuel line gangway to the refueling pontoon and the provision of a spill containment area on the floating refueling pontoon. The FI request was included in the FI request issued by the Planning Authority to the applicant.

3.4.3. Further Information

3.4.4. Further information was submitted to Cork County Council on the 30th April 2024.

- **Environment** – No objection subject to conditions as outlined in their report.
- **Engineering** - No objection subject to conditions as outlined in their report.
- **Traffic & Transport** - No objection subject to conditions as outlined in their report.
- **Ecology** – Stated that the proposed development will give rise to significant negative impacts on intertidal habitats within the Monkstown Creek pNHA for which no reasonable alternative proposals which would reduce this impact appear to have been considered. Furthermore, no meaningful mitigation to offset the impacts of habitat loss have been put forward and no biodiversity net gain proposals have been proffered. Recommended that permission be refused for the following reason:

The proposed development will give rise to significant negative effects on the Monkstown Creek proposed Natural Heritage area for which no meaningful mitigation has been proposed and no alternatives appear to have been

considered. The granting of permission for this development would therefore be contrary to policy BE 15-2(a) and BE 15-6(f).

3.5. Prescribed Bodies

3.5.1. Planning Application

- **Uisce Eireann** – No objection
- **Development Applications Unit (DHLGH) Architectural Heritage Advisory Unit – Underwater Archaeology Unit of National Monuments Services** - Requested an Underwater Archaeological Impact Assessment.
- **Inland Fisheries Ireland (3rd July 2023)** - The development would involve the loss of 1.15 hectares of intertidal habitat as a result of infilling. The ecological report submitted with the application contains no realistic proposals for the offsetting of this habitat loss. IFI would suggest that the proposals should be submitted for consideration clearly outlining how the habitat lost will be offset on a like for like basis. Additionally, a foreshore licence is likely to be required for the works set out.
- **Health and Safety Authority** - On the basis of the information supplied the Authority does not advise against the granting of planning permission in the context of Major Accident Hazards.

3.5.2. Further Information

- **Development Applications Unit (DHLGH) Architectural Heritage Advisory Unit – Underwater Archaeology Unit of National Monuments Services (29th May 2024)** - Noted the findings of the Underwater Archaeological Impact Assessment (UAIA) and broadly concurred with the recommended mitigation measures detailed in Section 6 therein. No further objection subject to conditions as set out in the report relating to compliance with mitigation measures as set out in the UAIA and archaeological monitoring.
- **Inland Fisheries Ireland (13th May 2024)** - Further information submitted does not fulfil the basic principles of no net habitat loss in respect of 1.15 ha of intertidal habitat because of infilling proposed by the developer. A basic requirement in this regard is the creation of a minimum of 1.15 ha of largely similar habitat at the closest possible remove from the development site.

3.6. **Third Party Observations**

3.7. **Planning Application**

3.7.1. The main comments raised may be summarised as follows:

welcome the proposed well thought out mixed-use development, brings substantial benefits locally and nationally, will allow boats to be refuelled in a safe environment, scheme integrates with the greenway and the Cork Cycle Network, development fits extremely well with the visions set out by Cork City and County Councils, will untap the amenity of cork harbour for maritime activities for local people and tourists, presence of a gym within the marina facility would further support the development of rowers and other athletes in the area, a well-maintained and thoughtfully operated marina can bring economic, recreational, social, and environmental benefits to a local community, wildlife is not impacted, and bird watching has been accommodated, proposed public and private parking will regularise parking, provide safer access for pedestrians and cyclists and prevent congestion, will enable the extension of the already successful greenway, café / restaurant will in time provide employment to the local area, EV charging points are welcomed, design takes account of the waterfront properties and will not impede views and the development will enhance and improve the personality of the town, development is not appropriable for the local area or the benefit the local community at large, project poses significant risks to the local environment, aesthetics, public safety, and pedestrian access, the scale of the scheme and the lack of consideration for the visual impact that such a development will have on the village of Monkstown and the amenity of the existing foreshore, public access from the foreshore should not be removed, the development is a continued privatisation of harbour space, the existing marina represents an unauthorised development and should be regularised before any new application, the status of the Foreshore Licence (Ref. FS005826) is queried, inadequate development description, project splitting, no good reason is given why a 10-year permission is requested, proposal appears to breach national and regional guidelines concerning coastal protection and environmental conservation, proposal fails to address local planning considerations such as development density, parking provision and potential traffic hazards, pedestrian and cycle access, integration with the surrounding area, no meaningful assessment of long-term hydrodynamic effects and suggested that the

development will cause deposition upstream of it, serious and unmitigated environmental impact, including habitat loss without any mitigation proposals, and an inadequate Environmental Impact Assessment, plans would also affect the tide in the area and make it much worse, impact on bird and animal populations and potential to disturb species and the Cork Harbour SPA both during construction and operation, use of rock armour poses a risk to the local environment and amenity including important coastal ecosystems and wildlife habitats and on the neighbouring SPA, loss of intertidal habitat and species as a result of the proposal, application does not consider cumulative impacts of developments around the harbour (i.e. the Ringaskiddy Deep Water Birth), potential impact on the eel population, the vast majority of the site area consists of a private car park and is contrary to intent of the planned greenway addition, the Junction analysis submitted is flawed and should be reviewed and resubmitted, public access to the foreshore along the proposed reclamation/revetments should be maintained and the walking path moved to the edge of the shoreline of the proposed development, proposal should be revised to provide a public boardwalk/footbath along the entire perimeter of the revetment immediately adjacent to the foreshore, a greater proportion of the parking should be for public use, proposal is not compatible with DMURS and the Cork County Council Development Plan 2022-28, development does not take account of the Cork County Council plans for age friendly walking in Passage and Monkstown, arrangement will result in a conflict between the entrance and the greenway, design and layout, proposed structure rock armour infill is not in keeping with the harbour's traditional quay wall, impact on the Lower Monkstown Architectural Conservation Area and neighbouring properties, rowing club building be relocated 26 meters south of its proposed location so that it is not obstructing any views of the properties above and alleviates the pinch point and poor access to the existing marina, aesthetic impact on the village, flooding risk, contradictory information provided in relation to flooding, the openings in the sea wall are concerning, the hydrodynamic analysis is inadequate and internally inconsistent, no details / consents on proposals to connect to the public sewer on the R610, lack of consideration of potential impacts on public health during the construction phase including air and noise pollution, waste management, etc., development will destroy visual, sporting, and other amenities in an Architectural Conservation Area, shore fishing not considered in the layout, impact on the retaining

wall and the houses on Alta Terrace, rowing boats cannot be launched by dropping them over rock armour, the plans would infill a very large area used by sailing courses and prevent younger sailors from using this area, phasing schedule is too vague, security bond to be provided and financial viability of project queried.

3.8. Further Information

3.8.1. The main additional comments raised may be summarised as follows:

a Marine Area Consent (MAC) in accordance with the Marine Area Planning Act 2021 is required, without the MAC no grant of permission is possible, complies with Passage West Strategic Plan 2018-2022, will contribute to the Monkstown Active Travel Link and Public Realm Enhancement, development would impact on the setting of the Thorncliffe House a Protected structure and therefore would be contrary to policy objective HE 16-14, Cork County Council cannot allow the transfer of ownership and reclamation of 1.389 ha of public foreshore as they would be in breach of their planning policy for the protection of historic structures as (HE 16-18), permission should be refused, no justification has been provided for the taking of such a large publicly owned ecologically valuable intertidal area, there is no commercial justification for the proposed development, a noise barrier would be required for the residents of Alta Terrace, rock armour is raised about road level and will dominate the seascape and block sea views, the industrial nature of the scheme is in brutish opposition to the Victorian character of Monkstown, negative visual impact of this has not been addressed, statement that a small stream flowing (along western side of Strand Rd) does not have potential to support fish is not true as eels and elvers enter and exit this stream, the Conservation Reports assessment of the impact of the proposed development on both Thorncliffe House and Monkstown Architectural Conservation Area is severely inadequate, the in combination effects are not adequately addressed, the proposed buildings are industrial warehouse looking in design showing very little appreciation for the local heritage/architecture or Victorian buildings behind the proposed development, proper protection will only be achieved if a sea wall is built to protect the marina, none of the documents included show how or whether the proposed rock armour would protect the marina, the existing sewer is not a gravity sewer as stated in the Engineering Report it is a rising main containing a flow which is pumped and under pressure, submitted documentation does not

demonstrate that there would be no adverse environmental impacts arising from the proposed development, development poses a threat to water quality, the development will add to traffic congestion and will worsen traffic on Strand Road and through Monkstown and onwards, the development area is an important site for winter foraging, there is insufficient economic or public health or safety benefits to justify this development under Article 6.4 of the Habitats Directive, there would be a loss of intertidal habitat associated with the proposed development, Eels are not mentioned in the EIAR report, neither mitigation nor alternative feeding grounds appear to be proposed for Oystercatcher, there is no consideration at all of the deposition of fine materials and Monkstown Harbour Rowing Club was disbanded over ten years ago.

4.0 Planning History

4.1. There have been a number of previous planning applications and appeals pertinent to the proposed development, both relating to the site itself as well as the existing marina infrastructure adjacent to the site. These may be summarised as follows:

- **APB PL04.223102 (Reg Ref 06/11584)** – Planning permission granted to Monkstown Bay Marina Company Ltd for an 82-berth marina with access deck at road level supported by piles and ancillary works adjacent to the current appeal site was appealed by 2 no third parties. The Planning Inspector recommended that permission be refused on the grounds of (1) lack of sufficient car parking and (2) perceived lack of connectivity to supporting facilities. The Board granted permission subject to conditions.
- **Reg Ref 08/5544** – Planning permission granted to Monkstown Bay Marina Company Ltd for minor amendments to the position of floating pontoons in relation to the seawall for the 82-berth marina permitted under APB PL04.223102 (Reg Ref 06/11584).
- **ABP PL04.236980 (Reg Ref 08/9317)** – Planning permission granted to Monkstown Bay Marina Company Ltd (following a request for FI and CFI) for the (a) Construction of a marina to provide 285 number berths, (b) construction of a three-storey over basement marina building to include cafe/bar/restaurant, gym, provision shop, public toilets, changing room, chandlery, marine training room, boat sales office, marina management office, public toilets, (c) dedicated gated

rowing club, (d) 174 car parking spaces (increased to 185 during the assessment), information/notice boards, viewing platform & public amenity walkway, bird hide, (e) rock armour protection, (f) diesel and petrol refuelling facilities, foul water pump out facilities, waste deposit facilities and associated infrastructure, (g) reclamation of foreshore to provide for the above, and (h) associated site works to include landscaping, pilling and underground bunded fuel tanks, and associated vents and ancillary site works. The reclaimed area (stated as being from the top of the rock armour revetment to the existing sea wall) was 0.86 ha.

- The decision was appealed by 4 no third parties. The Board granted permission subject to conditions. Conditions of note included that the walkway and car park was to be made available for all members of the public, free of charge. It was also stated that construction phase of the development was to be monitored by an ecologist. Noted that the CCC FI response included the submission of an EIS.
- **Reg Ref 15/4446** - Planning permission granted to Monkstown Bay Marina Company Ltd for extension of duration to permission granted under ABP PL04.236980 (Reg Ref 08/9317).

4.2. **Pre Planning Meeting**

4.3. It is stated that the planning application was developed on a number of formal and informal pre-planning consultations with various departments within Cork County Council including a formal pre-planning meeting on 21st March 2022 summarised as follows:

- **PPS21/1021** - Issues discussed include project splitting, justification for additional car parking, scale and nature of the proposal (extent of land reclamation appropriate, is the design suitable for a historic, predominantly residential, settlement like Monkstown and a visual impacts and landscape architectural assessment required), emphasis on environmental protection, reduction in car dependence, coastal zone management, ecology and sustainability required, detailed ecological impact assessment required to include nature of sediments to be dredged, disturbance impacts on overwintering birds and breeding terns and impacts on coastal processes from a post construction standpoint, in combination impact assessment in the NIS to be extended, detailed Construction and Environmental Management Plan required, cumulative impacts of recently

permitted developments in Cork Harbour (Expansion of Ringaskiddy Port & Marino Point) also need to be considered, while the concentration of moorings can be a positive in certain circumstances, the (ecological) sensitivity of an area also needs to be considered and how it may respond to the concentration of vessels / activity, traffic impact and safety, consideration of Servicing arrangements water, wastewater and surface water, full assessment of potential flood impacts will be required, landscaping shall primarily utilise native species and have regard to the All-Ireland Pollinator Plan. It is stated that this is not just a “tick box exercise” to extend the previous, lapsed, permission and that a completely fresh application and justification is required. Further stated that since the previous permission that there is more concern about allowing inter tidal reclamation and that this will be a particularly difficult argument as policy is moving towards sustainable transport options and the proposal may provide for excessive parking provision. The applicant was advised to reconsider the approach by audit of current activities / proposed activities and how can they be best accommodated on a reduced site.

5.0 Policy Context

5.1. National Planning Policy

5.1.1. Project Ireland 2040 - National Planning Framework (First Revision April 2025)

5.1.2. The NPF comprises the Government’s proposed long-term strategic planning framework to guide national, regional and local planning and investment decisions over the next 25 years. Chapter 7 Realising our Island and Marine Potential states that the *marine environment is a national asset that yields multiple commercial and non-commercial benefits in terms, of, for example, seafood, tourism, recreation, renewable energy, cultural heritage, and biodiversity*. National Policy Objective 41a seeks to *ensure that Ireland’s coastal resource is managed to sustain its physical character and environmental quality*.

5.1.3. Climate Action Plan 2024

5.1.4. The Climate Action Plan 2024 sets out the measures and actions that will support the delivery of Ireland’s climate action ambition. Climate Action Plan 2024 sets out the roadmap to deliver on Ireland’s climate ambition. It aligns with the legally binding

economy-wide carbon budgets and sectoral ceilings that were agreed by Government in July 2022. Ireland is committed to achieving climate neutrality no later than 2050, with a 51% reduction in GHG emissions by 2030. These legally binding objectives are set out in the Climate Action and Low Carbon Development (Amendment) Act 2021.

5.1.5. **Climate Action Plan 2025** builds upon last year's Plan by refining and updating the measures and actions required to deliver the carbon budgets and sectoral emissions ceilings and it should be read in conjunction with Climate Action Plan 2024.

5.1.6. **National Biodiversity Action Plan (NBPA) 2023-2030**

5.1.7. The 4th NBAP strives for a “whole of government, whole of society” approach to the governance and conservation of biodiversity. The aim is to ensure that every citizen, community, business, local authority, semi-state and state agency has an awareness of biodiversity and its importance, and of the implications of its loss, while also understanding how they can act to address the biodiversity emergency as part of a renewed national effort to “act for nature”. This National Biodiversity Action Plan 2023-2030 builds upon the achievements of the previous Plan. It will continue to implement actions within the framework of five strategic objectives, while addressing new and emerging issues:

- Objective 1 - Adopt a Whole of Government, Whole of Society Approach to Biodiversity
- Objective 2 - Meet Urgent Conservation and Restoration Needs
- Objective 3 - Secure Nature’s Contribution to People
- Objective 4 - Enhance the Evidence Base for Action on Biodiversity
- Objective 5 - Strengthen Ireland’s Contribution to International Biodiversity Initiatives

5.1.8. **Project Ireland 2040 – National Marine Planning Framework (NMPF)**

5.1.9. The EU’s Maritime Spatial Planning Directive, adopted in 2014, provides a framework for Marine Spatial Planning and requires a coordinated, integrated and transboundary approach to promote the sustainable development and growth of the maritime and coastal economies.

5.1.10. The NMPF is intended as the marine equivalent to the National Planning Framework and covers Ireland's maritime area, including internal waters (sea area), territorial seas, exclusive economic zone (EEZ) and continental shelf. The maritime area comprises approx. 490,000 km² and extends from the mean high-water mark at the coast seaward to in excess of 200 nautical miles in parts. Currently, the NMPF consists of a single plan for the entire maritime area, and it is envisaged that more detailed regional plans will be made at a later date.

5.1.11. The NMPF details how marine activities will interact with each other in an ocean space that is under increasing spatial pressure, ensuring the sustainable use of our marine resources to 2040. This approach will enable the Government to:

- set a clear direction for managing our seas
- clarify objectives and priorities
- direct decision makers, users and stakeholders towards strategic, plan-led, and efficient use of our marine resources

5.1.12. Infrastructure Policy 1 states that *appropriate land-based infrastructure which facilitates marine activity (and vice versa) should be supported. Proposals for appropriate infrastructure that facilitates the diversification or regeneration of marine industries should be supported.*

5.1.13. Chapter 21 Sports and Recreation sets out the following objectives:

- Increased participation in a range of water-based sports and recreation activities for the benefit of public health and wellbeing,
- Increased provision of physical activity and recreation amenities in our coastal and marine environment.
- Continued and improved access to marine and coastal resources sport and recreation.
- Sustainable development of outdoor recreation facilities, promoting access for people of all ages, backgrounds and abilities, while encouraging the sharing of facilities where appropriate.
- Due consideration to be given to the environmental sensitivities of each site, such as increased visitor or infrastructural pressures on the environment.

- 5.1.14. Planning Policy Sport and Recreation Policy 1 states that *proposals that promote sustainable development of water-based sports and marine recreation, while enhancing community health, wellbeing and quality of life, should be supported, provided that due consideration is given to environmental carrying capacities and tourism pressures.*
- 5.1.15. Planning Policy Sport and Recreation Policy 4 states that *proposals that improve access to marine and coastal resources for tourism activities, and sport and recreation should be supported, where appropriate, at the applicable scale and aligned with existing development plans.*

5.2. Section 28 Ministerial Guidelines

- 5.2.1. The following national policy, statutory guidelines, guidance and circulars are also relevant:
- Appropriate Assessment Guidelines (2009)
 - Architectural Heritage Protection Guidelines (2011)
 - Environmental Impact Assessment Guidelines (2018)
 - Flood Risk Management Guidelines (2009)

5.3. Regional Guidelines

- 5.3.1. **Southern Regional Assembly - Regional Spatial and Economic Strategy (SRA-RSES)**
- 5.3.2. The Southern Regional Assembly Regional Spatial Economic Strategy 2019 published its Regional Spatial Economic Strategy (RSES) in 2019. The purpose of the Strategy is to support the implementation of Project Ireland 2040 through providing a long-term strategic planning and economic framework for the development of the Regions.
- 5.3.3. Regional Planning Objective (RPO) 78 First Mover under the National Marine Planning Framework states that *it is an objective to support the sustainable development of the potential of the marine environment foster opportunities for innovation in the maritime economy and drive forward the Region as a first mover under marine spatial planning while preserving the environmental and ecological conservation status of our marine natural resource.* It is further states that *initiatives arising from this objective shall be*

subject to robust feasibility and site selection, which includes flood risk assessments and explicit consideration of likely significant effects on European sites and potential for adverse effects on their integrity in advance of any development.

5.4. Development Plan

- 5.4.1. The operative plan for the area is the **Cork County Development Plan 2022-2028 (CCDP)**.
- 5.4.2. The appeal site located within Monkstown which is identified in Volume 4 of the CCDP as forming part of three key linked settlement of Passage West / Glenbrook and Monkstown. These settlements are designated as a main town in the southern planning region of the county, within the Carrigaline Municipal District (MD). Each of these settlements offer different functions relative to their historic roles as a maritime settlement. Monkstown has a small number of community and commercial facilities and remains a popular residential location in its attractive coastal and wooded setting. It has retained many of its period dwellings dating back to the 19th century as suburban life was made possible following the advent of the railway. Monkstown also is a significant centre for water-based leisure activities including Monkstown Bay Sailing Club and the marina.
- 5.4.3. The appeal site is located almost entirely waterside of the settlement boundary of Monkstown Village and therefore not subject to any specific land use zoning objective. Figure 4.1.9: Map of Passage West/Glenbrook/Monkstown of Volume 4 of the CCDP refers. Objective PW-GO-02 Development Boundary of Volume 4 states that new development *should be sensitively designed and planned to provide for the protection of Monkstown Creek and will only be permitted where it is shown that it is compatible with the requirements of nature conservation directives and with environmental, biodiversity and landscape protection policies as set out in Volume One Main Policy Material and Volume Two Heritage and Amenity*. This objective further states that *provision for screening or buffering may be necessary where new development is proposed in areas adjoining the Cork Harbour SPA and adjacent to Monkstown Creek pNHA including lands within existing residential/mixed residential and other use areas and existing mixed business/general business/industrial uses areas*.

- 5.4.4. Section 14.9 Landscape Views and Prospects of Chapter 14 Green Infrastructure and Recreation (Volume 1) states that the Plan identifies specific Scenic Routes consisting of important and valued views and prospects within the County and that *it is important to protect the character and quality of those particular stretches of scenic routes that have special views and prospects particularly those associated with High Value Landscapes*. All proposals should be assessed on their merits taking into account the overall character of the scenic route including the elements listed in Volume 2 Heritage and Amenity Chapter 5 Scenic Routes of the Plan and the Landscape Character Type through which the route passes. The proposed site is located adjacent to S54 Scenic Route, which includes the R610 Regional Road. Table 2.5.1 of Volume 2 of the CCDP states that the key characteristics of land use along this route are “*industry, residential, amenity, maritime, commercial and agriculture*”.
- 5.4.5. Chapter 7 Marine, Coastal and Islands of Volume 1 of the Development Plan states that the Local Authority supports the potential of the marine environment by nurturing opportunities for innovation in the Maritime economy but also to support and preserve the environmental and ecological conservation status of our natural marine resource.
- 5.4.6. Section 7.6.12 (Cork Harbour Study) sets out the following:

There has been a significant level of development to facilitate the marine leisure sector, to defend land, and to develop other marine activities within Cork Harbour. Some of this increases human activity within or close to intertidal habitats and reduces the area of undeveloped intertidal habitat which is available for species of birds for which the Special Protection Area (SPA) has been designated. There is a concern that any further development which increases the level of access to estuarine habitats or reduces the area of intertidal habitat available to birds within the SPA, may be unsustainable, having regard to the potential for such development to give rise to impacts on birds. The assessment of future proposals for development which could cause increases in human activity on shoreline habitats within the Great Island Channel SAC and Cork Harbour SPA or which could reduce the area of intertidal habitat available to birds, must take account of the overall capacity of the SPA to absorb such development, and that future development of coastal recreation facilities in the harbour should only be permitted where it is found

that they can be accommodated without causing significant disturbance to sensitive species or significant damage to habitats or conservation value.

5.4.7. Section 7.6.17 (Coastal Recreation) states that *marine leisure facilities should be sited, designed and managed to avoid the visual intrusion, pollution, and conflicts with other uses with which they can otherwise be associated.*

5.4.8. Passage West/Glenbrook/Monkstown of Volume 4 of the CCDP set out the following objectives in relation to walking and cycling:

▪ **Objective PW-GO-05 Walking and Cycling**

Develop a network of designated walking and cycling routes will be established to provide safe, convenient and pleasant routes between the town's main residential areas, schools and the town centre in line with the Metropolitan Cycling Strategy.

Support and implement the provision of the Cork Harbour Greenway to connect Passage West / Glenbrook/Monkstown, Carrigaline and Ringaskiddy, subject to the outcomes of environmental assessments and the planning process.

The Council over the lifetime of the plan will look at options to connect the town centre with the upper parts of the town and improve east to west connections and connections between Passage West, Glenbrook, and Monkstown.

▪ **Objective PW-U-02 Pedestrian Walk**

Develop and maintain pedestrian walk along Monkstown Creek as part of the network from Rochestown to Carrigaline. Development along this route will be subject to Habitats Directive Assessment and will only be progressed, where it is found to be compatible with the requirements of the Birds and Habitats Directives.

The Habitats Directive Assessment will focus on the potential for development and use of the new route to result in disturbance impacts on birds. Future upgrades or extensions to the route will be considered / designed / developed taking account of the birds that use the estuary as well as other values including landscape and biodiversity values.

5.4.9. Relevant policies and objectives set out in Volume 1 are as follows:

▪ **MCI 7-1: National and Regional Marine Planning Policy**

a) *Work with the appointed Implementation Groups for the National Marine Planning Framework (NMPF) 2021.*

- b) *Support the potential of the marine environment by nurturing opportunities for innovation in the Maritime economy while ensuring that its ecosystems are managed sustainably*
- **MCI 7-2: Development in Coastal Areas**
 - a) *Sustainably manage development within the coastal zone taking account of its environmental, ecological, heritage and landscape values*
 - b) *Encourage development generally to be located in accordance with the settlement policies of this Plan and in particular to recognise the limited capacity of many coastal areas for accommodating development on a large scale.*
 - c) *Reserve sufficient land in the various settlements to accommodate the particular requirements of coastal ports, harbour development, boat storage and other coastal industry and to improve access to and support the continued development of the ports in County Cork as marine related assets in accordance with the RSES. Also support the provision of infrastructure for the renewable energy sector. The identification of any such lands will need to be subject to environmental, nature conservation and other heritage considerations*
 - **MCI 7-3: Integrated Coastal Zone Management**
 - a) *Support the development of an integrated approach to coastal zone management in Ireland generally and in particular to foster the application of this concept in appropriate coastal zones throughout the County including Cork Harbour.*
 - b) *Where the sensible identification of coastal zone units involves crossing local administration boundaries, to co-operate with adjoining local / planning authorities in promoting integrated coastal zone management in a particular area.*
 - c) *Continue to work with the relevant Government Departments and other relevant stakeholders in the promotion of integrated coastal zone management and following the adoption of the NMPF to identify those coastal areas that may have particular coastal zone management requirements and, where*

appropriate set out any requirement that may exist for special coastal management plans.

▪ **MCI 7-5: Marine Leisure**

- a) *Support the development of rural Cork's coastal marine leisure facilities, where they are compatible with other objectives and policies in this Plan and any Natura 2000 designations.*
- b) *Proposals for development of marine leisure facilities will be subject to ecological impact assessment and, where necessary, Appropriate Assessment, with a view to ensuring the avoidance of negative impacts on designated sites, protected species and on-sites or locations of high biodiversity value.*

▪ **MCI 7-6: Coastal Amenities**

- a) *Maintain and improve County Cork's beaches to a high standard and develop their recreational potential as publicly accessible seaside amenity facilities where appropriate (including facilities such as toilets and changing areas) , as appropriate to individual site conditions and in accordance with the principles of proper planning and sustainable development.*
- b) *Proposals for development of marine leisure facilities will be subject to ecological impact assessment and, where necessary, Appropriate Assessment, with a view to ensuring the avoidance of negative impacts on designated sites, protected species and on-sites or locations of high biodiversity value.*
- c) *Support the enhancement of existing Coastal Amenities to include parks and harbours along the coastline, including improved or if required new access arrangements for the general public for recreational purposes where safe and possible to do so and in accordance with MCI 7-6 (b)*

▪ **GI 14-9: Landscape**

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

- c) *Ensure that new development meets high standards of siting and design.*
- d) *Protect skylines and ridgelines from development.*
- e) *Discourage proposals necessitating the removal of extensive amounts of trees, hedgerows and historic walls or other distinctive boundary treatments*

- **GI 14-12: General Views and Prospects**

Preserve the character of all important views and prospects, particularly sea views, river or lake views, views of unspoilt mountains, upland or coastal landscapes, views of historical or cultural significance (including buildings and townscapes) and views of natural beauty as recognized in the Draft Landscape Strategy.

- **GI 14-13: Scenic Routes**

Protect the character of those views and prospects obtainable from scenic routes and in particular stretches of scenic routes that have very special views and prospects identified in this Plan. The scenic routes identified in this Plan are shown on the scenic amenity maps in the CDP Map Browser and are listed in Volume 2 Heritage and Amenity Chapter 5 Scenic Routes of this Plan.

- **GI 14-14: Development on Scenic Routes**

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

b) *Encourage appropriate landscaping and screen planting of developments along scenic routes (See Chapter 16 Built and Cultural Heritage).*

- **GI 14-15: Development on the Approaches to Towns and Villages**

Ensure that the approach roads to towns and villages are protected from inappropriate development, which would detract from the setting and historic character of these settlements.

- **TO 10-4: Developing the Marine Leisure Sector**

- a) *Develop the marine leisure sector in the County in a coherent and sustainable manner making the best use of existing and planned infrastructure and resources, in a manner that is sensitive to the natural and cultural heritage resources of our coastal zone, and complies with relevant environmental legislation including the Habitats, Birds, Water Framework, Floods, SEA and EIA Directives.*
- b) *Support the development of sustainable recreation and activity-related marine tourism developments at appropriate locations along the coastline and in the vicinity of the inland waterways and lakes where these are compatible with the environmental and heritage sensitivities of identified sites*

- **TO 10-5: Protection of Natural, Built and Cultural Facilities**

Protect and conserve those natural, built, and cultural heritage features that form the resources on which the County's tourist industry is based. These features will include areas of important landscape, coastal scenery, areas of important wildlife interest, historic buildings and structures including archaeological sites, cultural sites including battlefields, the Gaeltacht areas, arts and cultural sites, the traditional form and appearance of many built up areas and promote access and interpretation of archaeological sites in State and Local Authority ownership

- **TO 10-8: Walking/Cycling and Greenways**

Promote the development of greenways, walking and cycling routes throughout the County as an activity for both international visitors and local tourists in a manner that is compatible with nature conservation and other environmental policies.

- **TO 10-9: Greenways**

Support the development of a county-wide greenway strategy in Cork, building on the feasibility studies that have already been carried out to date and having regard to the changing national and regional policy context. The strategy would identify and prioritise suitable greenway routes to be progressed through the relevant environmental and ecological impact assessment/design/consent processes and to support the funding and delivery of such projects.

- **HE 16-3: Underwater Archaeology**

Protect and preserve the archaeological value of underwater archaeological sites and associated underwater and terrestrial features. In assessing proposals for development, the development will take account of the potential underwater archaeology of rivers, lakes, wetlands, intertidal and sub-tidal environments through appropriate archaeological assessment by a suitably qualified archaeologist.

▪ **HE 16-14: Record of Protected Structures**

- a) *The identification of structures for inclusion in the Record will be based on criteria set out in the Architectural Heritage Protection Guidelines for Planning Authorities (2011).*
- b) *Extend the Record of Protected Structures in order to provide a comprehensive schedule for the protection of structures of special importance in the County during the lifetime of the Plan as resources allow.*
- c) *Seek the protection of all structures within the County, which are of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest. In accordance with this objective, a Record of Protected Structures has been established and is set out in Volume Two Heritage and Amenity, Chapter 1 Record of Protected Structures.*
- d) *Ensure the protection of all structures (or parts of structures) contained in the Record of Protected Structures.*
- e) *Protect the curtilage and attendant grounds of all structures included in the Record of Protected Structures.*
- f) *Ensure that development proposals are appropriate in terms of architectural treatment, character, scale and form to the existing protected structure and not detrimental to the special character and integrity of the protected structure and its setting.*
- g) *Ensure high quality architectural design of all new developments relating to or which may impact on structures (and their settings) included in the Record of Protected Structures.*
- h) *Promote and ensure best conservation practice through the use of specialist conservation professionals and craft persons.*

- i) *In the event of a planning application being granted for development within the curtilage of a protected structure, that the repair of a protected structure is prioritised in the first instance i.e. the proposed works to the protected structure should occur, where appropriate, in the first phase of the development to prevent endangerment, abandonment and dereliction of the structure.*

▪ **HE 16-18: Architectural Conservation Areas**

Conserve and enhance the special character of the Architectural Conservation Areas included in this Plan. The special character of an area includes its traditional building stock, material finishes, spaces, streetscape, shopfronts, landscape and setting. This will be achieved by;

- a) *Protecting all buildings, structures, groups of structures, sites, landscapes and all other features considered to be intrinsic elements to the special character of the ACA from demolition and non-sympathetic alterations.*
- b) *Promoting appropriate and sensitive reuse and rehabilitation of buildings and sites within the ACA and securing appropriate infill development.*
- c) *Ensure new development within or adjacent to an ACA respects the established character of the area and contributes positively in terms of design, scale, setting and material finishes to the ACA.*
- d) *Protect structures from demolition and non sympathetic alterations.*
- e) *Promoting high quality architectural design within ACAs.*
- f) *Seek the repair and re-use of traditional shopfronts and where appropriate, encourage new shopfronts of a high quality architectural design.*
- g) *Ensure all new signage, lighting advertising and utilities to buildings within ACAs are designed, constructed and located in such a manner they do not detract from the character of the ACA.*
- h) *Protect and enhance the character and quality of the public realm within ACAs. All projects which involve works within the public realm of an ACA shall undertake a character assessment of the said area which will inform a sensitive and appropriate approach to any proposed project in terms of design and material specifications. All projects shall provide for the use of suitably qualified conservation architects / designers.*

- i) *Protect and enhance the character of the ACA and the open spaces contained therein. This shall be achieved through the careful and considered strategic management of all signage, lighting, utilities, art works/pieces/paintings, facilities etc to protect the integrity and quality of the structures and spaces within each ACA.*
- j) *Ensure the protection and reuse of historic street finishes, furniture and features which contribute to the character of the ACA.*
- **BE 15-2: Protect sites, habitats and Species**
 - a) *Protect all natural heritage sites which are designated or proposed for designation under European legislation, National legislation and International Agreements. Maintain and where possible enhance appropriate ecological linkages between these. This includes Special Areas of Conservation, Special Protection Areas, Marine Protected Areas, Natural Heritage Areas, proposed Natural Heritage Areas, Statutory Nature Reserves, Refuges for Fauna and Ramsar Sites. These sites are listed in Volume 2 of the Plan.*
 - b) *Provide protection to species listed in the Flora Protection Order 2015, to Annexes of the Habitats and Birds Directives, and to animal species protected under the Wildlife Acts in accordance with relevant legal requirements. These species are listed in Volume 2 of the Plan.*
 - c) *Protect and where possible enhance areas of local biodiversity value, ecological corridors and habitats that are features of the County's ecological network. This includes rivers, lakes, streams and ponds, peatland and other wetland habitats, woodlands, hedgerows, tree lines, veteran trees, natural and semi-natural grasslands as well as coastal and marine habitats. It particularly includes habitats of special conservation significance in Cork as listed in Volume 2 of the Plan.*
 - d) *Recognise the value of protecting geological heritage sites of local and national interest, as they become notified to the local authority, and protect them from inappropriate development*
 - e) *Encourage, pursuant to Article 10 of the Habitats Directive, the protection and enhancement of features of the landscape, such as traditional field boundaries,*

important for the ecological coherence of the Natura 2000 network and essential for the migration, dispersal and genetic exchange of wild species.

▪ **BE 15-6: Biodiversity and New Development**

Provide for the protection and enhancement of biodiversity in the development management process and when licensing or permitting other activities by:

- a) Providing ongoing support and guidance to developers on incorporating biodiversity considerations into new development through preplanning communications and the Council's guidance document 'Biodiversity and the Planning Process – guidance for developments on the management of biodiversity issues during the planning process' and any updated versions of this advice;*
- b) Encouraging the retention and integration of existing trees, hedgerows and other features of high natural value within new developments;*
- c) Requiring the incorporation of primarily native tree and other plant species, particularly pollinator friendly species in the landscaping of new developments;*
- d) Fulfilling Appropriate Assessment and Environmental Impact Assessment obligations and carrying out Ecological Impact Assessment in relation to development and activities, as appropriate;*
- e) Ensuring that an appropriate level of assessment is completed in relation to wetland habitats subject to proposals which would involve drainage or reclamation. This includes lakes and ponds, watercourses, springs and swamps, marshes, heath, peatlands, some woodlands as well as some coastal and marine habitats;*
- f) Ensuring that the implementation of appropriate mitigation (including habitat enhancement, new planting or other habitat creation initiatives) is incorporated into new development, where the implementation of such development would result in unavoidable impacts on biodiversity - supporting the principle of biodiversity net gain.*

6.0 The Appeal

6.1. Grounds of Appeal

6.2. The first party appeal against the decision to refuse permission has been prepared and submitted by McCutcheon Halley Chartered Planning Consultants on behalf of the applicant and may be summarised as follows:

6.3. The Council have been overly conservative in the ecological assessment of the proposal, have not considered the cumulative merits of the proposed scheme, its potential benefits on the Monkstown and Cork Harbour Area, nor the history of the site both in terms of precedent set under previous planning applications as well as the ecological designation context of the site. Borad requested to assesses the proposed development de novo based on the details of the submitted planning application as well as the stated grounds of appeal set out in the following sub sections:

- Benefits of the proposed development on Monkstown Area
- Proposed Natural Heritage Area Designation
- Requirement for Sub threshold Environmental Impact Assessment

6.4. While the refusal outlined is based solely on the impact of the proposed development on the pNHA, there are additional points of interest identified in the supporting departmental assessment of the application documentation which require addressing as follows:

- **Benefits to Area** - The proposed development will have a considerable positive impact on the existing and proposed recreational and marine based leisure and tourism offering in Monkstown. It will support the provision and servicing of the permitted Part 8 Glenbrook to Raffeen Greenway which bounds the subject site.
- **Visual Impact** - All CCC Technical Reports (other than Ecology and Planning) recommend that the application be granted subject to appropriate conditions. The perceived issues identified relating to built heritage (i.e. the setting of and views to / from, Thorncliffe House (RPS No 20853065) in the Planners Report are not substantial to warrant refusal on those grounds and could be addressed by way of condition. This is confirmed by the Area Planner in their assessment.

- **pNHA** - The refusal appears to relate to a difference in opinion regarding the classification and qualification of impacts on the pNHA, particularly in relation to the intertidal habitat on site. Both the Monkstown Creek pNHA and the Cork Harbour SPA have the same qualifying interests which are of an ornithological nature. The boundary of the SPA, which previously mirrored the pNHA, was successfully appealed in 2009, removing the subject lands. This confirmed that the area in the vicinity of the Monkstown Marina and currently within the pNHA is not of high significance in terms of wintering waterfowl. The CCC Ecology Report confirmed that they are satisfied that the applicants have demonstrated that the proposed development will not give rise to direct effects on the adjoining Cork Harbour SPA.
- **Intertidal Habitat Loss** - The Addendum in Appendix II confirms that fish holts are not the only mitigation measures proposed. The rock armour will act as a passive mitigation measure and the placement, material selection (i.e. limestone) and finish of the individual units will have a significant mitigatory impact and will produce the same biotope as the baseline natural shoreline at the site. Passive measures are widely regarded as being preferable as they require little to no maintenance and are generally more sustainable. The calculation in Appendix III conservatively estimated that the area of the proposed rock armour, which is of optimum quality for colonisation, is in excess of the site / habitat area lost. Furthermore, the diversion of the stream through the site and inclusion of a freshwater outfall will continue to provide a place for otters to bathe, and otter holts can easily be incorporated into the rock armour should the Board deem same to be required. Where other specific issues are identified, the applicant is willing to accept the agreement of mitigation measures and any other conditions that the Board considers may be required to address same.
- **EIAR** - The Sub Threshold EIA Screening that was undertaken by CCC only identified one issue relating specifically to ecology (i.e. the pNHA). Under all other criteria, no other significant impacts were identified. It is reasonable to conclude that the potential social, economic and health impacts of the development were deemed “not significant” by CCC and would not require the completion of an EIAR. The EIA Screening Report does reference the sites location within the pNHA and

has fully considered the impact of the proposed development on the environment. A Sub Threshold EIAR is not required for the proposed development.

- **Alternative Development** - Options as set out above were considered for the proposed development and these scenarios include:

- (i) Do nothing
- (ii) Build a smaller development
- (iii) Alternative layout and
- (iv) Alternative location

Having regard to these scenarios, alternatives were considered but no viable alternatives were identified.

- **Foreshore License** - The renewal of the applicant's foreshore lease relating to the existing Marina berths is reliant on the provision of the landslide facilities subject to this application.

6.5. Conclusion

6.6. The specific policy objectives in the Councils reason for refusal of permission are identified as follows:

- Policy Objectives BE 15-2(a) – Protect Sites, Habitats and Species
- Policy Objective BE 15-6(f) – Biodiversity and New Development

6.7. Submitted that having regard to these policy objectives, the CCDP, regional or national policy does not preclude development within natural heritage sites.

6.8. The subject site forms a minor part of the overall pNHA and having regard to the ecological policy context, its history, interaction and shared ornithological interests with adjacent SPA, as well as the development strategy and mitigation set out in the application documents, submitted that the proposed development would not have any significant impact on the pNHA. The applicant is proposing a scheme which will utilise best practise measures to ensure the protection and cultivation of a biodiverse rich scheme. The applicant is willing to accept any additional conditions that the Board might consider appropriate in order to ensure the appropriate construction and operation of the proposed development in light of its ecological context.

6.9. The appeal was accompanied by the following:

- Copy of decision to refuse

- Addendum Ecology report in response to refusal
- Rock Armour Calculation
- Notification from DoHLGH confirming successful appeal of SPA area
- Appeal of Cork Harbour SPA Boundary

6.10. Planning Authority Response

6.10.1. No response recorded on the appeal file. Noted that a response was received outside the statutory time limit and was returned as invalid.

6.11. Observations

6.11.1. There are 7 no observations recorded on the appeal file from (1) Gary & Laura Hanrahan, (2) Michael & Noreen Murphy, (3) Nicholas O'Donoghue, (4) Padraigin O'Donoghue, (5) Denis McDonnell, (6) Carroll O'Donoghue and (7) Peter Creighton.

6.11.2. The issues raised relate to

- Adverse impact given the sites immediate proximity to the SPA with >20,000 birds and the “direct hydrological link”. The development should be considered under Article 6.4 of the Habitats Directive as a project justified on the grounds of “imperative reasons of overriding public importance” (IROPI). In this case there is not sufficient economic or public health or safety benefits to justify this development under Article 6.4 of the Habitats Directive.
- There has been an “underestimation of the likely effects / significance of the loss” in the applicants Ecological Report and that a full EIAR will be required to fully address the scientific lacunae in the application.
- Marine Area Consent is required and is not exempt. A written determination from the Marine Area Regulatory Authority (MARA) is required.
- The development poses threats to water quality through a range of sources both during the construction and operational phases.
- The limitations of data present because the spring water bird counts are from the years 2017 – 2018, meaning they are outdated and do not reflect present trends.

- There is no means of confirming the tidal model's analysis or calibrating results to ensure close alignment with tidal and channel flow and sedimentation patterns in Cork Harbour.
- No information is provided in relation to the nature of dispersion of sediments as well as the form and composition of those sediments. Dispersion of sediments would be an issue during a piling stage.
- The applicants acknowledge that a noise barrier would be required for the residents of Alta Terrace. No details of such a barrier have been provided.
- It is unacceptable that the deliberate loss of intertidal area used for foraging by designated species would be permitted without compensation, substitution or Environmental Impact Assessment.
- There is no examination of possible structural impacts to the integrity of the adjacent 14 Victorian houses that may arise from a programme of large scale, dredging, piling and land filling during construction of a proposed infill.
- The Conservation Assessment report on impact to Thorncliffe House, a Protected Structure, and the Monkstown Architectural Conservation Area is severely inadequate.
- The NPWS have identified water pollution as being one of the main threats to the Monkstown Creek part of the Cork Harbour SPA.
- The Hydrodynamic Assessment describes the site as "sheltered and not exposed to significant wind or wave action". Submitted that a Windrose analysis hides the fact that the most destructive storms / flooding encountered in this region in recent years have been from the east.
- The proposed marina has no slipway to launch rowing boats.
- There is no commercial justification for the additional ancillary commercial development.
- The in-combination effects are not adequately addressed. Particular reference is made to the development of the Ringaskiddy Deep Water Berth and how the construction phases would have negative effects on the designated habitat Monkstown Creek SPA.
- "Short stopping" by migratory birds is a new development in response to climate change and is scientifically documented. Data was not provided on the impact on

Monkstown / Raffeen Creek re birds now arriving / no longer present due to climate change induced stopping. Therefore, additional impact of bird displacement onto the Creek from the proposed site of the Marina cannot be evaluated.

- The proposed redirection of the culvert adjacent to Thorncliffe and Cronody does not provide for the eels that traverse the existing culverts. The AA Screening Report and NIS failed to review the impact the proposed development will have on the eel.
- The development is a continued privatisation of harbour space.
- There are serious pedestrian risks in the current plans, which do not seem to have considered the heavy movement of pedestrians that occurs in this area, especially in the summer months and at weekends.
- The proposed gym is directly in line from the front of Thorncliffe and the impact should be minimised by moving it to the south-south-west c50m – 100m. anything that diminishes its viewing should be treated with the utmost delicacy.
- The culvert planned for the redirection the stream running from Thorncliffe under the road to the sea is so convoluted that a back up of storm waters will undermine the retaining wall.
- There is a serious risk that tidal effects around the proposed rock armour will cause either a build up of silt in Monkstown Creek or alternatively cause the removal of silt from the area.
- Queried how will future flooding be resolved with increased traffic via the 95 car spaces in the proposed application.
- Anticipated that the development will take three years to complete. A ten-year permission will leave all affected residents in the area unclear about outcomes over time.
- Monkstown is a Historic Harbour Village. The scale and nature of the proposed development are in complete juxtaposition to the surrounding architecture and environment.
- Support the decision to refuse permission.
- The inclusion of a letter form “Environment, Heritage and Local Government” dated 14th August 2009 with the appeal has no relevance. The are to be infilled however,

is directly beside the SPA and therefore the loss of intertidal habitat is inevitable regardless of the SPA boundary.

- Almost all of the observations against the development refer to potential negative effects on the ecology in the surrounding area. They do not take into account that prior to the marina pontoon infrastructure which was installed in 2011 there was an average of 4 or 5 boats each season swamped or sunk at this location while using their swing mooring system.
- Since the early 2000 the rowing club committee have been collaborating with the developer to make sure that the Rowing Club is facilitated with the development.
- It is vital for the Monkstown Bay area of the harbour that planning is granted for this essential piece of marine leisure infrastructure to offset against all the existing commercial industrial developments in the bay.

6.12. Public Representation(s)

6.12.1. In addition, the following submissions were received on file:

- Cllr Seamus McGrath - supports the proposed development and seeks a decision at the earliest.
- Seamus McGrath TD – supports the proposed development and seeks a decision at the earliest.
- Cllr Una McCarthy - supports the proposed development and seeks a decision at the earliest.
- Cllr Eoghan Fahy - supports the proposed development and seeks a decision at the earliest.

6.13. Further Responses

6.13.1. None

7.0 Assessment

7.1. On the 6th June 2023 Monkstown Marina Company Limited sought a 10-year planning permission for the construction of rock armour revetment protection and reclamation

of the foreshore on lands adjacent to the Cork Harbour Marina, Strand Road, Monkstown, Co. Cork, to provide a two-storey marina building, single storey gym and rowing facility building, single storey bird hide, signage, floating electrical vessel recharging facility, floating vessel refueling facility and all ancillary associated works including a new vehicular entrance from the R610-113 Strand Road, 4 no. pedestrian / bicycle entrances from the adjacent public footpath/permitted greenway, public and private car parking, campervan and bicycle parking, landscaping and associated site services. A Natura Impact Statement was submitted with the application. A full description of the scheme is set out in Section 2.0 Proposed Development of this report above.

- 7.2. A request for further information (FI) was issued on 28th July 2023. A response to further information was submitted to Cork County Council (CCC) on 30th April 2024. The applicant submitted public notices on 13th May 2024. A summary of the FI plans and particulars submitted is provided in Section 2.0 Proposed Development of this report above.
- 7.3. This assessment is based on the plans and particular submitted with the application on the 6th June 2023, as amended by further plans and particulars submitted by way of FI on the 30th April 2024 and public notes submitted on the 13th May 2024 together with the documentation submitted in the appeal on the 2nd August 2024.
- 7.4. **An Coimisiun Pleanála (ACP) Internal Specialist Report (Marine Ecology)** – An internal Specialist Report was sought, by way of Memo, from Connor Donnelly, Marine Ecologist, ACP, in relation to this appeal and the impact of the proposed development on Cork Harbour SPA, Monkstown Creek pNHA, the requirement for an EIAR and if an otter survey and derogation license is necessary. A Specialist Report has been received providing a response to the forgoing issues together with additional comments in relation to the Greenshank (QI of the Cork Harbour SPA), Marine Mammal Mitigation and impacts on intertidal and subtidal habitats. Significant concerns were raised and refusal of permission was recommended in relation to the adverse effects on the integrity of Cork Harbour SPA. This report is referenced throughout this assessment. The Specialist Report are available to the Commission as an appendix to this report; Appendix 5 refers.

7.5. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the report/s of the local authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Principle
- Reason for Refusal – Impact to Monkstown Creek pNHA
- Visual Impact
- Traffic Impact, Pedestrian Safety and Car Parking
- Marine Area Consent
- Ecology
- Other Issues

7.6. Principle

7.6.1. The appeal site is located adjacent to the existing Cork Harbour Marina in Monkstown, Co Cork. The settlement of Monkstown is steeped in maritime history and is significant centre for water-based leisure activities in the Cork Harbour Area. The application represents one of a number of planning applications by the applicant relating to the marina development overall. Please refer to Section 4.0 Planning History above for further details.

7.6.2. It is submitted that the terms of the applicant's foreshore lease for the existing 82-berth marina requires that shore-based facilities are provided to serve the existing berths (i.e. WC's, shower and changing facilities, marina office accommodation etc). It is stated that this is the primary reason for the current planning application as there is a risk that the current foreshore lease will not be renewed if the stipulated facilities are not developed

7.6.3. The Cork County Development Plan (CCDP) 2022 – 2028 recognises that Cork Harbour has an important role in the continuing success of the marine – leisure, recreation and tourism sectors in the Southern Region. Monkstown forms part of the “Passage West / Glenbrook / Monkstown” designated settlement. As set out in Volume 4 of the CCDP, these three linked settlements are identified as having

“different functions reflective of their historic roles ... to enhance and nurture the owns attractive waterfront setting, its rich architecture, with emphasis on regenerating its historic town centre” (Volume 4, DDCP, Section 1.5.1). The settlements strong maritime heritage is also acknowledged with Section 1.5.25. Furthermore paragraph 1.5.57 of the CCDP acknowledges the recent development of the existing marina to the east of the appeal site and emphasises that *“additional marine activity can help stimulate additional retail services within the town and it is important that the Plan looks at supporting these facilities”*. Policy T0-4 supports the development of sustainable recreation and activity related marine tourism developments at appropriate locations along the coastline.

7.6.4. It is evident that the CCDP supports the important the marine - leisure, recreation and tourism role of Cork Harbour and that Monkstown as an established centre for water-based leisure activities where it seeks to encourage and support additional marine activities in the area. Therefore, having regard to the nature of the development comprising a marina (restaurant / café, offices, convenience store, training area, changing area and storage), gym and rowing facility together with electric vessel recharging facility and vessel refuelling facility, bird hide and public and private car parking together with the clear policy support for such developments as set out in the Development Plan above I am satisfied that the uses proposed at this location are to be supported.

7.6.5. In terms of the general design and layout of the scheme it is evident from the plans and particulars submitted, that there are two main areas within the scheme. The first comprises new Marina Building with controlled private parking spaces and the second comprises the Gym & Rowing Facility Building with public parking area. The design and layout reflect a marine harbour style in its architectural treatment whereby the functionality and uses within the scheme are clearly legible. The scale and size of the proposed development is considered to be acceptable in the context of its wider surroundings as it will not interfere with documented views of the St. Coleman's Cathedral, the Martelo Tower and the Naval Base, as identified in Table 2.5.1 of Volume 2 of the CCDP. Furthermore, it promotes the maritime heritage of the town and represents an appropriate architectural design response at this location. I agree with the Case Planner that there is no objection to the proposed scale, nature and types of uses at this location. The issue of visual impact of scheme on the Thorncliffe

House (RPS no. 20853065), the Lower Monkstown Architectural Conservation Area (ACA) and the overall Victorian character of Monkstown is discussed separately below.

- 7.6.6. Having regard to the policies and objectives of the Cork County Development Plan 2022 – 2028 including Objectives TO 10-4, MCI 7-2, MCI 7-4 and MCI 7-6, I am satisfied that the proposed development complies with the CCDP as it will provide shore-based facilities to support the existing 82 berth marina in line with policy objectives and that the architectural design response and layout is acceptable. Overall, I am satisfied that the proposed principle of development for marine uses is therefore in keeping with the proper planning and sustainable development of the area.

7.7. Reason for Refusal – Impact to Monkstown Creek pNHA

- 7.7.1. Cork County Council issued notification of decision to refuse permission on 8th July 2024 for a single reason as follows:

The proposed development would give rise to significant negative effects on the Monkstown Creek proposed Natural Heritage Area for which no meaningful mitigation has been proposed, and no alternatives appear to have been considered. The granting of permission for this development would therefore be contrary to Policy Objectives BE 15-2(a) and BE 15-6(f) of the County Development Plan 2022-2028 and contrary to the proper planning and sustainable development of the area.

- 7.7.2. Policy Objectives BE 15-2(a) and BE 15-6(f) of the County Development Plan 2022-2028 are set out in full in Section 5.4 Development Plan of this report above and may be summarised as follows:

BE 15-2: Protect sites, habitats and Species

(a) Protect all natural heritage sites which are designated or proposed for designation under European legislation, National legislation and International Agreements. This includes proposed Natural Heritage Areas.

BE 15-6: Biodiversity and New Development

(f) Ensure that the implementation of appropriate mitigation (including habitat enhancement, new planting or other habitat creation initiatives) is incorporated into new development, supporting the principle of biodiversity net gain.

- 7.7.3. This single reason for refusal is based on the impact of the development on the pNHA and the justification for same is set out in the Ecologists Report on the Further Information Response (FI) dated 8th July 2024 and supported in the Case Planners Report of 4th July 2024 and Senior Planners Report also dated 4th July 2024.
- 7.7.4. Cork Harbour is identified as containing specific areas with species (both flora and fauna) of ecological value and accordingly there are a number of both national and European designated sites located throughout the harbour including a proposed Natural Heritage Areas (pNHA).
- 7.7.5. The appeal site is located within the Monkstown Creek pNHA and to the northeast (outside) of the Cork Harbour SPA. The original boundaries of the Cork Harbour SPA in the vicinity of the appeal site were successfully appealed to the DoH LGH in 2008, with the area of the appeal site being excluded from the SPA on the basis that the habitat did not provide significant feeding grounds for wintering waterfowl. The pNHA was not revised as part of this process and has remained unchanged in terms its original designated status. Accordingly, the boundary of the pNHA is unchanged such that the proposed development site remains within it.
- 7.7.6. The conservation interests for the Monkstown Creek pNHA are the same as those of the Cork Harbour SPA with the main interest of the pNHA being ornithological, with the mudflats acting as winter refuge to, at least, locally important numbers of waterfowl, including shelduck, teal, redshank and dunlin. The mudflats are a natural part of Cork Harbour which, as a complete unit, is of international importance for waterfowl. The special conservation interests for the Cork Harbour SPA include the species listed for the pNHA in addition to a number of other species and wetland. There are no additional species or habitats listed for the pNHA which are not covered by the SPA.
- 7.7.7. As stated, the proposed development site is within this pNHA boundary and the foreshore reclamation element of the development would result in the loss of this area of intertidal shoreline from within the site. The applicant has concluded that this loss

would not be significant as the area does not constitute a significant feeding ground for wintering waterfowl and due to its limited extent and the nature of the substrate. The applicant submits in their appeal that the Local Authority reporting of the development has been overly conservative, does not consider the merits of the proposed scheme nor the history of the site both in terms of precedent set under previous planning applications as well as the ecological designation context of the site. It is further stated that the DoHLGH, who are the principal body regarding the identification of nature conservation issues / concerns and as a statutory consultee, were notified of this application and neither of their submissions identify any issue relating to the pNHA (o the SPA).

7.7.8. In relation to the reason for refusal and proposed mitigation in relation to loss of intertidal habitat the applicant submits that:

- While the provision of fish holts is identified as the primary measure in addressing the loss of habitat, the proposed rock armour itself can and will be developed to maximise biodiversity value and opportunity for habitat creation.
- The design of the rock revetment fringing the proposed development is based on informed selection and placement of armour units to maximise the physical complexity of the structure which in turn will maximise its suitability for the settlement of organisms.
- Limestone has been selected for the revetment as it is both soft and porous, fostering erosion by sea water over time, which further promotes colonisation of providing rough edges to allow species to settle and attach to the rock.
- Passively enhanced rock revetments provide a much larger habitat surface area than the existing shore platform, including large numbers of cryptic spaces that provide importance intertidal habitat for prey species.
- Further enhancement of the rock is proposed by the creation of indentations in the rock armour to provide additional niches, as sea water can remain in the pockets allowing for greater colonisation time in these crevices.

7.7.9. It is submitted that the rock armour has far more biodiversity value than the existing man-made vertical wall on site. While it is accepted that it is almost impossible to define the actual area available for colonisation of organisms, attempts to conservatively quantify the surface area of the proposed rock armour revetment are included. It demonstrates that the proposed rock armour, which is of the optimum

quality for colonisation, is in excess of the site / habitat area lost. It is contended that the proposed mitigation in relation to loss of intertidal habitat in the pNHA together with the passive measures regarding placement, material selection and finish, will have a significant mitigatory impact and will produce the same biotope as the baseline natural shoreline at the site and therefore provide meaningful mitigation.

7.7.10. I refer to the ACP Internal Specialist Report (Marine Ecology). It is noted that the NPWS provide a Site Synopses for pNHA's on their website but that synopses are not available for all pNHAs. In the case of Monkstown Creek (Site Code 001979) the pNHA listing instead refers to the SPA. I agree that this indicates that the importance of the pNHA aligns with the Cork Harbour SPA and relates to the bird species present and its value as a supporting wetland habitat.

7.7.11. The Cork County Development Plan 2022-2028 describes the features of interest of the pNHA as follows:

“the area is of value because its mudflats provide an important feeding area for waterfowl including Shelduck, Teal, Redshank and Dunlin. The pNHA also supports a Cormorant roosting site. The site forms part of Cork Harbour SPA.”

7.7.12. In the revised EclA the applicant's consultant states that the pNHA does not warrant evaluation as a site of national importance and is assigned a value of county importance. This is on the basis that the area of the pNHA in which the proposed development occurs has been excluded from the SPA. The consideration of the pNHA as of national importance is pertinent to the consideration of this reason for refusal.

7.7.13. The CCC Ecologist notes that this is contrary to guidance which states that pNHAs should be assigned national importance. The views of the CC Ecologist aligns with the report of the ACP Internal Specialist Report (Marine Ecology) where they reference the following national guidance:

- In the Guidelines for Assessment of Ecological Impacts of National Roads Schemes (NRA, 2008), Table 1 “*Examples of valuation at different geographical scales*” lists “*site designated or proposed as a Natural Heritage Area (NHA)*” as of national importance.
- CIEEM (2018) states, “*in Ireland, a suite of proposed Natural Heritage Areas (pNHAs) were published on a non-statutory basis in 1995. These should be considered important at the national scale, although they are not currently formally*

proposed for designation, and are generally given protection through statutory licensing restrictions and planning policies”.

7.7.14. Having regard to the foregoing I agree with the CCC Ecologist and the ACP Internal Specialist Report (Marine Ecology) that NHAs and pNHA's should be treated as of national significance. I further agree with the ACP Internal Specialist Report (Marine Ecology) that in this case, the applicant has not sufficiently shown why the pNHA should be treated as of less than national importance, i.e. beyond that the area of the pNHA in which the proposed development is located is no longer aligned with the SPA. For example, they have not adequately considered the reasons for its proposal as a pNHA, no evidence has been submitted indicating that there are no habitats of ecological value within the application site, or how might these be affected by the proposed development and the significance of these effects.

7.7.15. In the consideration of the proposed development on the pNHA it is noted that the impacts upon the pNHA have been identified in the revised EclA and are similar to those identified for the SPA. However, unlike the SPA, as the proposed development is within the pNHA, it will have a direct impact upon the site in that it will result in the loss of 1.15ha of intertidal habitat within the pNHA. Other impacts identified include potential disturbance to foraging birds, potential impacts to water quality, tidal regime and sedimentation. Mitigation has been proposed to address these potential impacts and included the following:

- A CEMP and Pollution Plan are to be prepared by the contractor who will be responsible for its implementation.
- An Environmental Officer is to be appointed who will be responsible for the implementation of the CEMP.
- Phasing of works into two phases. Phase 1 excavations and reclamation (18 months) to be restricted to the summer months; Phase 2 remaining construction (12 months) to comprise screw piled foundations to be used for buildings, construction of buildings, installation of drainage and final finishes.
- Standard pollution controls to be implemented to ensure the minimization of risk of release of toxic contaminants to the marine environment and include the following:
 - Contractor to ensure workers are aware of sensitivity of site and responsible for good housekeeping;

- Emergency shut off design incorporated into fuel pump system to minimise risk of fuels to the marine environment;
- Emergency operating plan to be developed to inform management of accidental spillages of oil;
- Stormwater to be passed through a hydrocarbon interceptor prior to discharge to the estuary;
- Design measures including hydrocarbon interceptors and grease traps to be incorporated into surface and waste-water drainage systems;
- Controlled low level lighting of the site to prevent light pollution;
- Signage to be used to inform marina users of environmental sensitivities of the area;
- Ecologist to be engaged to prepare an IAS;
- Marine Mammal Observer to be appointed to monitor site during screw piling operations.
- Silt curtains to be installed during construction to minimise movement of sediments. Curtains to be maintained and monitored for duration of project.
- Rock revetment edge to be placed on a designed geotextile membrane to create a stable slope.
- Installation of 8 biohuts providing fish nursery habitat.
- Reef habitat will develop around the rock armour which will partially offset the loss of intertidal habitat.
- Fill material to be tested and graded to prevent importation of invasive species to site.
- The freshwater stream on site to be diverted under the site, with the outfall to be located on the upper shore level and will remain available to wetland birds.

7.7.16. I agree with the ACP Internal Specialist Report (Marine Ecology) that the mitigation measures proposed in relation to construction and operational disturbance to birds and potential impacts to water quality are satisfactory. With regards hydrological effects, based on the information presented, I would agree that no mitigation is required due to limited predicted impact on tidal regime and sedimentation.

7.7.17. However, with regards the habitat loss impact, I note that the CCC Ecologist states that the applicants have not fully assessed the significance of impact of removing intertidal habitat at this location and have not demonstrated that their proposed

compensatory measures will mitigate the impact of same (in the context of impacts upon the SPA and pNHA). In particular, the ACP Internal Specialist Report (Marine Ecology) notes the following concerns raised by the CCC Ecologist:

- The revised EclA contains no evaluation of the quality, condition or ecological value of the intertidal habitat which will be lost and the significance of the impact of loss of this habitat has not been properly assessed.
- Mitigation proposals do not adhere to the principle of achieving ecological equivalence.
- It is suggested that reef habitat will develop around the rock armour over time and it is proposed to install fish nursery habitat (biohuts). No evaluation of the likely efficacy of this proposal has been provided in terms of mitigating the loss of the existing intertidal habitat.
- With regards the biohuts, it is not clear what the proposals are intended to mitigate since no impact to fish nursery is identified in the revised EclA.
- Whilst the applicants are relying on development of reef habitat around rock armour to compensate for the impact of removing intertidal habitat no specific design interventions are proposed which would maximise the ecological value of same or which would encourage development of reef habitat, which in itself does not provide direct mitigation for loss of the existing intertidal habitat.

7.7.18. The ACP Internal Specialist Report (Marine Ecology) agrees with the CCC Ecologist that the proposed mitigation is not satisfactory.

7.7.19. Having regard to the foregoing I am concerned that the applicant has not sufficiently shown why the pNHA should be treated as of less than national importance. I further agree with the ACP Internal Specialist Report (Marine Ecology) and the CCC Ecologist that in the absence of meaningful mitigation to offset the impacts of habitat loss and no biodiversity net gain proposals is contrary to Cork County Development Plan policies BE 15-2(a) and BE 15-6(6). Refusal is recommended

7.8. Visual Impact

7.8.1. The site is located along Strand Road (designated scenic route S54 in the CCDP), a popular walking, cycling and leisure route. On the western side of the road there is an established residential area located on higher ground which includes Alta Terrace,

comprising 10 no semi-detached dwellings which back onto Strand Road and form part of the Lower Monkstown Architectural Conservation Area (ACA). Thorncliffe House is directly southwest of these houses and is designated a Protected Structure (RPS ID 573).

- 7.8.2. The Planning Authority in their request for FI sought the submission of an Architectural Heritage Impact Assessment of the impact of the proposed development upon the setting and views to/from Thorncliffe House (RPS no.20853065), the Lower Monkstown Architectural Conservation Area (ACA) and the overall Victorian character of Monkstown. This assessment together with additional photomontages was submitted by way of FI.
- 7.8.3. The Case Planner having considered the FI was concerned that parts of the assessment were weak and that improvements could be made to the proposed development to improve the visual impact possibly by way of condition where it relates to material. However, in the absence of a report from the CCC Conservation Officer at the time of writing their report, the Case Planner concluded that as the scheme was to be refused on ecological grounds any visual impacts were not so substantial or severe as to warrant a refusal on the grounds of impact to the setting and views to/from Thorncliffe House (RPS no. 20853065), the Lower Monkstown Architectural Conservation Area (ACA) and the overall Victorian character of Monkstown.
- 7.8.4. I refer to the Planning Statement (Section 6.8 Landscape & Visual Impact) Architectural Heritage Impact Assessment (AHIA) and associated photomontages submitted with the application. In terms of visual impact, the two most significant aspects of the project are firstly the construction of rock armour revetment protection and reclamation of the foreshore on lands adjacent to Strand Road, and secondly the construction of two new buildings being constructed on this land. I agree with the applicant that most of the other aspects (walkway/parking/ connections through quay/river wall etc) have relatively minimal impact and are likely to be of less concern from 'Heritage Impact' point of view. For example, while the car parking areas are extensive and have the potential for considerable visual impacts, the proposed landscaping plan should for the most part mitigate against any perceived significant negative visual impact.

7.8.5. With regard to the reclamation of land, to create the site, there are two elements to this comprising the volume of new ground being created in front of the backdrop of Monkstown and the proposed perimeter 'rock armour' protection. I agree with the applicant that this "rock armour" is an essential element of the scheme and that it is far more prominent than the stone wall behind on the other side of the road. The AHIA states that:

- The impact from the roadside of the waterfront walkway and path will be quite prominent but this is certainly enhanced by the new improved walkway and public amenity, and that
- The rock armour is far less visible from the land-side, except when standing on the outer edge of new path, where the contrasting bands of paving, gravel perimeter, kerb to key wall and the rock armour below create an interesting layer of detail to the ground.

7.8.6. Having regard to the foregoing I share the views of the Case Planner that the AHIA suggests that the land reclamation and associated rock armour will have an impact which is 'prominent'. However, having regard to the type of development proposed I do not consider that same would not be out of context in this coastal/marine environment and consider that to permit same will not give rise a significant negative visual impact.

7.8.7. With regard to the new buildings proposed, comprising a two-storey marina and single storey gym, the AHIA sets out the following:

- The new buildings are clearly visible from the road and views along the waterfront plainly reveal them.
- The line of proposed new trees outside the new path will partially obscure the new buildings.
- The new buildings are very deliberately contrasting although not completing with the existing buildings to the rear.
- The new intervention is a more contemporary addition in design and finish and is appropriate for the setting.
- A combination of new and traditional mirror materials are proposed. The three main materials externally are standing-seam cladding, and dark grey brick base and glazing

- Landscaping plan to create a landscaped setting for the buildings and to enhance the walkway and approaches with the opportunities offered by this new landmass.
- Impacts from the main approaches from Monkstown village and from Carrigaline direction on the buildings above will not be appreciable from the roadside, given existing level differences and with the existing mature vegetation buffer to boundaries of upper properties.
- From the waterfront the impact will be moderate, when the new and existing structures behind are viewed from offshore, and this is the justification for the contrasting new structures at lower levels
- The views from opposite shore are quite distant and impact, as a result, is minimal.

7.8.8. The AHIA concludes that *Monkstown is a well-established centre for sailing and other marine leisure activities, as recognised by the Development Plan, and Cork Harbour is characterised by a mix of urban / industrial / maritime development so the proposed development would not significantly impact on the character of the area.*

7.8.9. Having regard to the type of development proposed it would not be out of context in a coastal/marine environment such as this. However, the impact of the development on the Victorian character and appearance of Monkstown is an important consideration. This character is of intrinsic value to Monkstown and is recognised in the relevant RPS and ACA development plan designations.

7.8.10. Having considered the AHIA and photomontages submitted I share the concerns raised by the Case Planner that the conclusions reached appear to be contradictory and that there are deficiencies in the robust assessment of the visual impact of the scheme in relation to the impact of the proposed development upon the setting and views to/from Thorncliffe House (RPS no.20853065), the Lower Monkstown Architectural Conservation Area (ACA) and the overall Victorian character of Monkstown.

7.8.11. I further agree that the proposed development will clearly result in a significant and highly visible alteration to coastline/seascape particularly when approaching Monkstown from the south. In the absence of a robust assessment on the impact of the proposed development upon the setting and views to/from Thorncliffe House (RPS

no.20853065), the Lower Monkstown Architectural Conservation Area (ACA) and the overall Victorian character of Monkstown it cannot be concluded that this impact is acceptable.

7.8.12. In line with the conclusions reached by the Case Planner I am concerned with the visual impact of the scheme as set out above. However as permission is recommended to be refused on grounds of impact to the pNHA and Cork Harbour SAC I am satisfied that the impact on of the proposed development upon the setting and views to/from Thorncliffe House (RPS no. 20853065), the Lower Monkstown Architectural Conservation Area (ACA) and the overall Victorian character of Monkstown, is not so substantial as to warrant a refusal on those particular grounds. However, any future application at this location should include a comprehensive and robust visual impact assessment.

7.9. Traffic Impact, Pedestrian Safety and Car Parking

7.9.1. The site bounds the R610 Strand Road along its western boundary, which is a coastal road linking Monkstown to the settlements of Ringaskiddy and Passage West. On the seaward side of this roadway there is a seawall, footpath and grass verge. This footpath is due to be upgraded to a c3– 4m shared greenway path by Cork County Council as part of the permitted Part 8 Glenbrook to Raffeen Bridge Greenway Scheme.

7.9.2. The development proposes a singular vehicular entrance from the R610-113 Strad Road, along with 4 no. pedestrian/bicycle entrances from the adjacent public footpath/permitted greenway. To facilitate each proposed entrance, four different areas of the existing wall adjacent to Strand Road will be demolished. The remainder of the existing wall is to be retained in situ.

7.9.3. The vehicular entrance will link to the internal road network within the scheme, which will enable access to the private car park containing 76 no. spaces designated for users of the Marina Building at the southern end of the site, and the public car park of 19 no. spaces at the northern end of the site. The private car park contains 4 no. disabled spaces and 4 no. Electric Vehicle spaces. It is the intention that the private carpark will be accessed via a barrier system and intended to primarily serve the users of the marina and on-site facilities. However, it will also be accessible to members of

the public via a ticketed/payment system with the exact system to be confirmed. The public car park will be free to access and will also contain 2 no. campervan spaces, 1 no. Electric Vehicles space and 1 no. disabled space.

- 7.9.4. A Traffic and Transport Assessment (TTA) Report has been in support of the planning application. There are no capacity, queuing or delay issues predicted at the proposed development access junction on R610 in either the weekday or weekend AM, PM or peak hour for the future design year 2040. The results also show that the proposed site access and the R610 road have significant reserve capacity available to cater for any unforeseen traffic demands or alternative future traffic scenarios. The junction will operate significantly below the maximum allowable capacity of 85% (0.85) for all traffic scenarios. The TTA concluded that the proposed development can be accommodated onto the local road network with minimal impact on other road users and the local road network well into the future.
- 7.9.5. The proposed site access junction is a standard priority T junction designed to take into account DMURS standards; it achieves the required sightlines in both directions, and accommodates the potential future Greenway Design and also takes into account the recommendations put forward in the Road Safety Audit (RSA). No visual obstructions such as landscaping, signage etc are proposed within the required sightlines (visibility splays).
- 7.9.6. The allocation of private car parking is based on the uses provided within the proposed development and the maximum car parking allocations identified within the CCDP. The public parking is provided in addition to same, to meet the identified requirement for additional off-street parking within the village. It is stated that the provision of car parking facilities on this site will not only address CCDP Policy Objective PW-GO-07 but will also contribute towards eradicating existing road safety issues. The proposed car parking is at or below the maximum provisions set out in Table 12.6 of the CCDP and is therefore acceptable.
- 7.9.7. It is proposed to construct 20 no. bicycle spaces on site. This exceeds the minimum amount of bicycle parking required and is therefore acceptable.
- 7.9.8. There will be 3 no. pedestrian only access points to the site: The first is proposed at the south of the site, which will lead directly to the proposed Marina Building via two elevated crossings. The second comprises of stairs further north and these will lead

up to the entrance to the Proposed Gym and Rowing Facility Building. The third pedestrian entrance is located at the northern end of the site and will lead to a footpath/viewing area to the rear of the rock armour revetment. There will also be a shared surface pedestrian/bicycle entrance adjacent to the proposed vehicular entrance to the site. This shared surface will continue eastwards and will lead to the proposed bicycle parking area, along with the footpath/viewing area.

7.9.9. I am satisfied that the site layout has been designed to take into account the overarching policies, guidelines and principles of the Design Manual for Urban Roads and Streets (DMURS) and is in accordance with the principles of safety, connectivity, permeability, accessibility, and sustainability. This is reflected through the use of raised crossing points, while dropped kerbs and tactile paving are proposed at several uncontrolled crossing locations throughout the development to match the likely desire lines of pedestrians and cyclists. The proposed site layout also encourages low vehicle speeds through using measures such as 'slow zone' 30km/h signage (if required), raised tables, reduced junction radii, and more.

7.9.10. The Road Safety Audit put forward several recommendations to ensure vehicular and pedestrian safety across the site. As identified above, these recommendations have been incorporated in the design layout. A Vehicle Swept Path analysis was also undertaken during the site layout design process to ensure that multiple vehicle types including emergency, service and waste/delivery vehicles can access, egress and turn safely within site and also safely negotiate the internal road layout and all junctions.

7.9.11. The proposed development also integrates appropriately with the future Glenbrook to Raffeen Greenway, which will run adjacent to the development site. A green buffer area is proposed within the site boundary, alongside the R610 Road. This will ensure that there will not be a hard boundary separating the site from the R610 road, which will minimise the impact of different levels in and out of the site. I note from the CCC Traffic & Transport report in relation to the FI submitted that they had no objection subject to conditions as outlined in their report including the following condition:

A 4m wide pedestrian and cycle path will run along the R610 boundary with this development, consisting of a 3.5m path and 0.5m verge, between the path and carriageway. The pedestrian and cycle path will have priority, at entrances. Junction details will be agreed with the Local Authority prior to commencement.

Reason: In the interest of sustainable travel and orderly development.

- 7.9.12. I am satisfied that the proposed development has been developed with the permitted greenway in mind and that subject to the foregoing condition no issues arise in this regard.
- 7.9.13. I note as part of the FI request issued by CCC the applicant was requested to explore whether a public boardwalk / footpath along the entire perimeter of the proposed development immediately adjacent to the foreshore could be integrated into the proposals. The applicant's response references the proposed footpath upgrade to a shared greenway path as permitted under Part 8 Glenbrook to Raffeen Bridge Greenway Scheme. It states that the proposed development has been designed with the permitted greenway in mind. The four proposed access points to the site are connected to the eastern boundary of the application site vis internal footpaths and allow access to the Marina building and Gym and Rowing Facility Building which will facilitate walking along the eastern boundary and between the different elements of the proposal. There was also concern raised that a public boardwalk had potential to result in some level of disturbance to the bird life and to compromise the functionality of the proposed bird hide in the south-west of the site.
- 7.9.14. While the introduction of a perimeter boardwalk / footpath could be considered a suitable development at this location particularly having regard to the uses proposed I accept the applicant's position that the proposed development offers a balanced approach taking into account the ecological concerns, the greenway and access to the site. I agree that a public boardwalk / footpath along the entire perimeter of the proposed development immediately adjacent to the foreshore is not deemed necessary on this occasion.
- 7.9.15. Given the location of the appeal site together with the layout of the proposed scheme I am satisfied that the vehicular movements generated by the scheme would not have a significant material impact on the current capacity of the road network in the vicinity of the site or conflict with traffic or pedestrian movements in the immediate area. Overall, I consider the proposal for parking and access to be acceptable and I am satisfied that the proposed development will not result in the creation of a traffic hazard.

7.10. Marine Area Consent

- 7.10.1. The site has a total area of 1.389ha (is all lands within the redline application boundary), which includes the reclamation of lands on the seaward side of the existing seawall. These lands are located within the Conty Council owned foreshore and comprise a sandy / shaley beach at the foot of the sea wall. The reclamation process involves the creation of a total developable area of 0.69 ha. The area from the footing for the rock armour to the sea wall is 1.15 ha.
- 7.10.2. It is noted that significant legislative changes have been introduced since 2023 in relation to the regulation of activities on the foreshore whereby activities on the foreshore require a Marine Area Consent in advance of applying for planning permission. However, it is stated that the extent of the foreshore which is included in the application boundary is within the ownership of Cork County Council and is privately owned. Therefore, a MAC is not required prior to seeking planning permission in this case.

7.11. Ecology

7.12. Otters

- 7.12.1. An Otter survey was completed in accordance TII Ecological Survey Techniques (2009 Guidelines). Spraints were recorded at Carlisle Place (to the south of the proposed development) and it is stated that Otter are likely to periodically use the stream which discharges through the existing quay wall. The EclA notes that otter are likely to range throughout the area and are considered likely to use the proposed development site for foraging (there is reference to otter being attracted to feed on mussel) and to use the stream emerging from the culvert under Strand Road for washing their pelts. The EclA further notes that the intertidal habitat is not suitable for providing breeding or resting places for otter as the habitats within the site consist of intertidal habitat bounded by a seawall. It is concluded that the development will not impact negatively on this species.
- 7.12.2. The CCC Ecologist raised concerns over the lack of detail in the revised EclA regarding the otter survey, the age of the survey information and the absence of proposed mitigation measures. It was recommended that at a minimum a detailed pre-construction survey is required, and that a derogation license may also be required

should a breeding site or resting area be identified. The CCC Ecologist noted that it was outside recommended best practice to grant planning permission in advance of the obtainment of any such license where so required. However, given that an otter survey has been previously undertaken, this could be dealt with by way of condition, should all other outstanding issues be resolved.

- 7.12.3. The applicant, in their appeal, submitted that the diversion of the stream through the site and inclusion of a freshwater outfall will continue to provide a place for otters to bath, and that otter holts can easily be incorporated into the rock armour should the Commission deem same to be required. The applicant concluded that this addresses the concerns outlined in the CCC Ecology Report relating to habitat loss and compensatory measures.
- 7.12.4. As pointed out by the ACP Internal Specialist Report (Marine Ecology), the EclA provides little detail of the survey, beyond providing when the survey was undertaken and that TII guidance was followed. The results of the survey are not clearly set out either, except for a reference to otter spraints “recorded at Carlisle Place to the north of the site in 2022”. I agree that given the presence of the road adjoining the appeal site, the vertical seawall and intertidal habitat which is exposed for a short period of time, it is unlikely to support suitable breeding or resting places for otter.
- 7.12.5. However, in light of the time passed since the survey of the site, both the CCC Ecologist and the ACP Internal Specialist Report (Marine Ecology), consider that a detailed pre-construction survey of the proposed development site and its disturbance zone should be undertaken. Both reports recommended that this can be dealt with by way of condition.
- 7.12.6. As noted above, given the unsuitability of the habitat within the proposed development site, I consider it unlikely that the survey would identify a holt. However, as recommended by the ACP Internal Specialist Report (Marine Ecology), should a holt be discovered, the applicant will need to agree appropriate mitigation with the Planning Authority in accordance with the NRA 2006 guidance and secure a derogation under Regulation 54 of the European Communities (Birds and Natural Habitats) Regulations 2011-2021. A derogation would need to be secured in advance of agreement of any required mitigation by the Planning Authority.

7.12.7. The Commission will be aware that the EC (Birds and Natural Habitats) Regulations 2011-2021 provide strict protection for all of the Irish species listed on Annex IV of the EU Habitats Directive, European Communities (Birds and Natural Habitats) Regulations 2011 (as amended). Otters are listed under Annex IV. In July 2023, the Court of Justice of the European Union High Court issued a Judgment¹⁴ relating to the relationship between the systems of development consent and the provision of derogations regarding the strict protection of species under the EU Habitats Directive. On the basis of this judgment, where a proposed activity requires consent from another statutory authority, and it appears that such an activity, if permitted, by that appropriate public authority, will also require a derogation from the Minister, then it is necessary that the derogation should be granted before the approval of the consent to the proposed activity. Previously these licenses would have been managed at the condition's compliance phase. As such, projects with a likely need for otter derogation licenses should plan to have otter surveys completed and the license received before lodging a planning application

7.12.8. In light of the time passed since the survey of the site, both the CCC Ecologist and the ACP Internal Specialist Report (Marine Ecology), consider that a detailed pre-construction survey of the proposed development site and its disturbance zone should be undertaken. I agree with this recommendation. While it is considered unlikely that the survey would identify a holt, should a holt be discovered a derogation license will be required from the National Parks and Wildlife Service (NPWS) for works on site in advance of lodging a planning application.

7.12.9. The foregoing concerns are noteworthy. However, given the significant concerns raised in relation to impacts to the pNHA and Cork Harbour SPA it is not considered necessary to recommend a refusal of permission on these grounds. It is strongly recommended that any future application at this site should have regard to the foregoing.

7.13. Intertidal & Subtidal Habitats

7.13.1. I refer to the ACP Internal Specialist Report (Marine Ecology), that has considered impacts on intertidal and subtidal habitats in the vicinity of the proposed development area.

- 7.13.2. The report notes that in its description of the baseline marine environment in Section 3.3.1, the EclA refers very briefly to the existence of a large mussel bed on a gravelly section of intertidal shore approximately 200m south of the site boundary at a distance of about 90m from the shore. There does not appear to be any further consideration of this mussel bed as a feature in its own right (e.g. as biogenic reef) and as a supporting habitat for feeding birds which may be impacted by the proposed development. It is also not clear how the location of this bed relates to the boundaries of the SPA or pNHA (i.e. is it within or outside one or both of these sites). The EclA also refers to subtidal habitats in deeper waters (>5m) off the site being dominated by peacock worm with an associated community of sponges, anemones, crustaceans and fish. Again, this subtidal habitat doesn't seem to have been considered further in the EclA.
- 7.13.3. The ACP Internal Specialist Report (Marine Ecology) notes that mitigation has been proposed to address potential impacts on water quality which will limit sediment dispersion from the proposed works through use of silt curtains. The hydrodynamic study also predicts that once-constructed the project will have a limited impact on tidal regime and sedimentation (small increase in current speeds at southeastern corner of the revetment and local build-up of coarser sand and shell where the proposed revetment meets the existing seawall).
- 7.13.4. While the mitigation proposed addresses potential impact on water quality I agree with the conclusions of the ACP Internal Specialist Report (Marine Ecology), that potentially sensitive intertidal and subtidal habitats have been identified in the EclA but that they do not appear to have adequately assessed. Given the significant concerns raised in relation to impacts to the pNHA and Cork Harbour SPA it is not considered necessary to recommend a refusal of permission on these grounds. However, any future application at this site should have regard to the foregoing.

7.14. **Marine Mammals**

- 7.14.1. The proposed development involves underwater piling and extensive works on the foreshore which may generate significant noise which could result in avoidance / disturbance related impacts to birds and marine ecological receptors including fish and marine mammals. Screw piling is proposed rather than pile driving for installation of revetments to minimise potential for noise related disturbance.

- 7.14.2. The applicant submits that works which will cause underwater noise (screw piling) is to be undertaken under the supervision of a Marine Mammal Observer and in accordance with NPWS Guidance to Manage the Risk to Marine Mammals from Man-made Sound Sources in Irish Waters in order to prevent noise related disturbance to marine mammals. The CCC Ecologist concurs that there will be a requirement for the implementation of a marine mammal protocol during the Screw Piling phases should it be decided to grant permission for this development and that this can be dealt with by way of condition.
- 7.14.3. The Noise Assessment focused on airborne noise emissions and associated disturbance on waterbirds. There has been no assessment of underwater noise and its impact on marine species.
- 7.14.4. I refer to the ACP Internal Specialist Report (Marine Ecology). Marine mammals are present in the vicinity. The revised NIS refers to 3 Harbour seal haul-outs around Haulbowline and an observation of a single Grey seal during ecological surveys. The revised EclA notes cetacean activity is not anticipated in the area but episodic occurrences cannot be ruled out. A search of information from the IWDG Casual Cetacean Sightings database shows Common dolphin and Harbour porpoise sightings in the vicinity of the proposed development area in recent years, including an observation of c.13 Common dolphin at Ringaskiddy on the 9th November 2025.
- 7.14.5. Grey and Harbour seals and Harbour Porpoise and Bottlenose dolphin are listed under Annex II of the Habitats Directive and both seal species and all cetaceans are protected species listed under Annex IV of the Habitats Directive and the 5th Schedule to the Wildlife Act 1976. In the revised NIS, no impacts upon marine mammal QIs of SACs have been identified. I agree with the ACP Internal Specialist Report (Marine Ecology), that impacts on seals and cetaceans as protected species under Annex IV of the Habitats Directive and the Wildlife Acts (Wildlife Act 1976 as amended and Wildlife (Amendment) Act 2000 as amended) are relevant here.
- 7.14.6. The ACP Internal Specialist Report (Marine Ecology) set out the following important information with regards the NPWS Guidance:
- The Guidance states that sound sources with the potential to induce TTS in a receiving marine mammal have the potential to cause both disturbance and injury. This guidance has a statutory basis under Regulation 71 of SI No. 477

of 2011 and refers to the “offence to injure” under the Wildlife Act, 1976, noting that TTS “may constitute such an injury”.

- There have been improvements in the understanding of marine mammals sensitivity to noise since the NPWS Guidance was published. Of relevance here, is that Harbour porpoise have been assigned to a new Very High Frequency (VHF) hearing group which has significantly lower thresholds for onset of injury (e.g. TTS for impulsive noise is 140 dB re 1 μ Pa²s SEL). It is therefore important that mitigation measures should be applied consistently with latest understanding of marine mammal sensitivity to noise.
- The NPWS are currently in the process of updating their Guidance and mitigation measures should adhere to the new Guidance when it is published.

7.14.7. I agree with the ACP Internal Specialist Report (Marine Ecology) that in the absence of noise modelling, it is not possible to define the PTS and TTS and behavioural impact zones due to the proposed works to ensure mitigation can be effectively applied. Such information may indicate the need for other mitigation measures beyond what is currently set out in the NPWS Guidance (e.g. noise abatement systems). Also, consideration should also be given to cumulative effects on marine mammals from underwater noise arising from any other developments in the vicinity of the proposed works.

7.14.8. The ACP Internal Specialist Report (Marine Ecology) concludes that if there is the potential for deliberate disturbance of Annex IV species, which include all dolphin, whales and porpoise species, this will require a derogation issued under Regulation 54 of the European Communities (Birds and Natural Habitats) Regulations 2011-2021. This derogation should be secured in advance of decision-making. I agree with this recommendation.

7.14.9. Similar to the assessment of impact to otters above the foregoing concerns are noteworthy. However, given the significant concerns raised in relation to impacts to the pNHA and Cork Harbour SPA it is not considered necessary to recommend a refusal of permission on these grounds. It is strongly recommended that any future application at this site should have regard to the foregoing.

7.15. Other Issues

- 7.15.1. **Development Contribution** - I refer to Cork County Council Development Contribution Scheme. The proposed scheme is not exempt from the contribution scheme. Accordingly, it is recommended that should the Commission be minded to grant permission that a Section 48 Development Contribution condition is attached.
- 7.15.2. **Special Development Contribution** – I note that the CCC Area Engineer recommended that a number of conditions to be attached including a Special Planning Contribution for damage to the existing road network as a result of movements of approximately 6,000 vehicles delivering materials to site. The payment of this special development contribution has not been raised in the appeal. The Coimisiun will be aware that a special development contribution may be imposed under Section 48 (2) (c) of the Act, (or the relevant section of subsequent Act(s)) where exceptional costs not covered by this Scheme are incurred by the Council in the provision of a specific public infrastructure or facility. I do not consider payment *for damage to the existing road network as a result of movements of approximately 6,000 vehicles delivering materials to site* qualifies as an exceptional cost in this instance. However, it is not unreasonable that the full cost of repair in respect of any damage caused to the adjoining road / footpath arising from the construction work associated with this development shall either be made good by the applicant to the satisfaction of the Local Authority or that the applicant pays the Local Authority the cost of making good any such damage. I am satisfied that this can be dealt with by means of a suitably worded condition.
- 7.15.3. **Foul Water & Water Supply** - It is proposed to connect to the public sewerage network. Following concerns raised by the CCC Area Engineer in relation to the suitability and location of this connection a Confirmation of Feasibility Letter from Uisce Éireann was submitted by way of FI. It is proposed to connect to the public water supply network. Uisce Eireann have raised no objection. No issues arise in relation to foul water disposal and water supply.
- 7.15.4. **Underwater Archaeology** – The Development Applications Unit (DHLGH) Architectural Heritage Advisory Unit – Underwater Archaeology Unit of National Monuments Services requested an Underwater Archaeological Impact Assessment (UAIA). The UAIA was submitted by way of FI and referred to the DHLGH for

comment. The Department noted the findings of the UAIA and broadly concurred with the recommended mitigation measures detailed in Section 6 therein. It was recommended that Archaeological Monitoring, be included as a condition of any grant of planning that may issue. Noted that these recommended conditions align with Sample Conditions C.4 and C.5 as set out in the OPR Practise Note PN03: Planning Conditions (October 2022), with appropriate site specific additional / adaptations based on the particular characteristics of this development and the findings of the UAIA. It is therefore recommended that should the Commission be minded to grant permission that this or similar conditions be attached.

7.15.5. **Flooding** - The site partially overlaps with Flood Zone A (high probability of flooding) as identified in the County Development Plan. The CCDP mapping does not extend seaward beyond the high-water mark. The site is in the harbour intertidal area and is located adjacent to and south of the existing Cork Harbour (Monkstown) marina. A Site-Specific Flood Risk Assessment was submitted by way of FI. The proposed development is considered to be 'less vulnerable development' in accordance with Table 3.1 of the 2009 Ministerial Guidelines for Planning. Stated that the development as proposed is flood resilient as the finished floor levels of the buildings are at a level of 4.05m OD and all services are above 3.85m OD giving a minimum freeboard of 0.5m during the 0.5%AEP MRFS event. Charging and fuelling floating pontoons are attached to tubular guide piles and are not impacted by water levels. The SSFRA concluded there will be no changes in local flood water levels arising from the development. No residual impacts have been identified, no mitigation measures are required and no changes to building flood levels are proposed. I am satisfied that no issues arise with regard to flooding.

7.15.6. A Drainage Impact Assessment has also been submitted together with Surface Water drainage drawings by way of FI. I am satisfied that the surface water drainage system for the site has been designed in accordance with Cork County Council requirements to implement a SuDS nature-based solution. The key feature of the proposals is the provision of linear soakpits to infiltrate rainfall runoff to the ground. These soakpits have been designed to accommodate 10mm first flush and runoff up the 10-year MRFS event. Discharge to the estuary will only occur for excess flows and then will be routed through a bypass separator. The existing stream which enters the site area from the west under the R610 will be diverted and will flow in a large diameter culvert

to the southwestern corner of the site from where it will discharge directly to the foreshore. Road runoff from the R610 that presently flows directly into the estuary will be collected and routed through a separate soakpit within the site redline. The drained roadside area is approximately 1600 m², and the soakpit will be sized to accommodate 5mm first-flush volume (8 m³). All rainfall will be contained within the site. There will be no outflow onto the public roadway and the drainage proposals will not impact nearby properties or the surrounding areas. The provision of grassed swales, downpipe planters and infiltration to ground will ensure that stormwaters from within the site do not present any pollution risk. The inclusion of the existing roadside drainage in the site's storm water management plans will improve the runoff quality and reduce the risk of pollution from this source. I am satisfied that the proposed drainage design should ensure no increase in flood risk to the surrounding area.

7.15.7. **Invasive Species** – I refer to the revised EclA. Evidence of occurrence of Winter Heliotrope and Three Cornered on site was noted during general terrestrial survey undertaken in September 2021. These species were noted at the outfall of the freshwater stream which is proposed to be diverted. No mitigation measures proposed in EclA. Undertaking in CEMP to engage the services of an ecologist develop an IAS plan if necessary. I agree with the comments of the CCC Ecologist that an IAS plan will be necessary, as invasive alien plant species have been recorded at the outlet to the stream where diversion works are proposed, and that the same can be dealt with by way of a standard condition should the Commission be minded to grant permission.

8.0 Environmental Impact Assessment Screening

8.1. Concern has been expressed by the Planning Authority and the ACP Internal Marine Ecologist that an EIAR is required. In this regard I would draw the Commission's attention to the following:

- A Screening Determination was carried out by the Planning Authority that considered that the proposed development would likely have significant effects on the environment and that the preparation and submission of an environmental impact report was therefore required having regard to the following:
 - a) the scale of the proposed development and the associated loss of intertidal habitat,

- b) the location of the site in the pNHA which is used by qualifying interests of the Cork Harbour SPA,
- c) the underestimation of the likely effects/significance of the loss,
- d) the lack of alternatives considered,
- e) the lack of meaningful mitigation to offset the impacts of habitat loss and where no biodiversity net gain has been demonstrated,

- The Specialist Report from the ACP Internal Marine Ecologist agreed with the Planning Authority's determination above that the information and assessment provided by the application in relation to these areas is insufficient and consequently there is a real likelihood of significant effects on the environment and that the preparation and submission of an environmental impact report is required.

8.2. Whilst a significant effect may arise for an individual environmental topic or topics, this does not of itself trigger a requirement for EIA. EIA deals with the potential for impacts across a range of environmental parameters and the potential for effects on a European site does not of itself generate a requirement for EIA. In this instance the issues raised in relation to the classification of the pNHA, loss of intertidal habitat, loss of ex situ habitat and proposal for biodiversity net gain or quantifiable / meaningful compensatory measures to offset loss of habitat are addressed under Appropriate Assessment in Appendix 3 and 4 of this report.

8.3. An EIA Screening Statement was submitted with the planning application by way of further information. The proposed development has been subject to preliminary examination and screening for environmental impact assessment (refer to Form 1 and Form 3 in the Appendices of this report).

8.4. It has been concluded that there is potential for significant effects on the qualifying Interests of the Cork Harbour SPA by reason that the impact of the proposed mitigation has not been properly evaluated to determine the extent to which natural colonisation of the rock armour will offset the impact of the existing intertidal habitat at the proposed development site and if it doesn't (or doesn't fully) the availability of sufficient similar quality ex situ habitat elsewhere for the SCI to use. Impacts on European sites can be addressed under Appropriate Assessment, which I have addressed in Appendix 3 and 4 of my report.

8.5. The screening carried out for environmental impact assessment (Appendix 2) has addressed the characteristics of the proposed development, its location and the types and characteristics of potential impacts, and has also had regard to the mitigation measures proposed. On this basis, I am satisfied that there is a real likelihood of significant effects on the environment. The proposed development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

9.0 **Appropriate Assessment**

9.1. In screening the need for Appropriate Assessment, it was determined that the proposed development could result in significant effects on Cork Harbour Special Protection Area (SPA) (Site Code: 004030) in view of the conservation objectives of those sites and that Appropriate Assessment under the provisions of S177U/ 177AE was required.

9.2. Following an examination, analysis and evaluation of the NIS (as revised), all associated material submitted and taking into account observations of the CCC Ecologist and the ACP Internal Specialist Report (Marine Ecology, I consider that adverse effects on site integrity of the Cork Harbour Special Protection Area (SPA) (Site Code: 004030) cannot be excluded in view of the conservation objectives of this site and that reasonable scientific doubt remains as to the absence of such effects.

9.3. My conclusion is based on the following:

- The proposed development site is an important ex situ winter feeding site for water birds and in particular the Oystercatcher and Shelduck population, both of which are qualifying interests for the adjacent Cork Harbour Special Protection Area (site code 004030).
- The availability of suitable nearby terrestrial feeding sites is essential to maintain the favourable conservation condition of winter water birds which are qualifying interests for the adjacent Cork Harbour Special Protection Area (site code 004030).
- The removal of intertidal habitat at this location will reduce the availability of habitat which is used as a feeding resource for wetland bird species, that are

qualifying interests of the Cork Harbour SPA. The impacts of the removal of this intertidal habitat have not been fully assessed in the NIS (as revised).

- The impact of the proposed mitigation has not been properly evaluated to determine the extent to which natural colonisation of the rock armour will offset the impact of the existing intertidal habitat at the proposed development site and if it doesn't (or doesn't fully) the availability of sufficient similar quality habitat elsewhere for the SCI to use.
- The NIS as submitted has not established beyond reasonable scientific doubt based on available evidence that the development would not constitute an adverse impact on the Cork Harbour SPA and in particular the Oystercatcher and Shelduck population.

9.4. It has not been demonstrated beyond reasonable scientific doubt that the development would not constitute an adverse impact on integrity of the Cork Harbour Special Protection Area (SPA) (Site Code: 004030) and ex situ winter feeding sites and that the proposed development individually, or in combination with other plans or projects would not adversely affect the integrity of Cork Harbour Special Protection Area (Site Code 004030), in view of the site's Conservation Objectives. Refusal is recommended.

10.0 Water Framework Directive Screening

10.1. I have assessed the proposed development and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface and ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively. Refer to Appendix 5: Water Status Impact Assessment – Screening Form of this report.

10.2. I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or

permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

10.3. This conclusion is based on:

- Nature of the project, site and receiving environment.
- Objective information presented in the case documentation.
- Hydrological and hydrogeological characteristics of proximate waterbodies.
- Standard pollution controls and project design features.

11.0 Recommendation

11.1. Having considered the contents of the application the provision of the Development Plan, the grounds of appeal and the responses thereto, my site inspection and my assessment of the planning issues, I recommend that permission be **REFUSED** for the following reason and considerations and subject of the conditions outlined below.

12.0 Reasons and Considerations

1. The proposed development site is an important ex situ winter feeding site for water birds that are qualifying interests for the adjacent Cork Harbour Special Protection Area (site code 004030). The availability of suitable nearby terrestrial feeding sites, including this site, is essential to maintain the favourable conservation condition for these qualifying interest species. This development site is therefore fundamentally connected to the Cork Harbour SPA and is of significant importance as an ex-situ winter feeding habitat. On the basis of the information provided with the application, including the Natura Impact Statement and the Ecological Impact Statement the Coimisiun is not satisfied that it has been demonstrated beyond reasonable scientific doubt that the development would not constitute an adverse impact on the qualifying interests of the Cork Harbour SPA in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting permission under the provisions of Article 6(3) of the Habitats Directive (92/43/EEC).
2. The proposed development would give rise to significant negative effects on the Monkstown Creek proposed Natural Heritage Area, a site of national significance,

for which no meaningful mitigation has been proposed, and no alternatives appear to have been considered. The granting of permission for this development would therefore be contrary to Policy Objectives BE 15-2(a) and BE 15-6(f) of the County Development Plan 2022-2028 and contrary to the proper planning and sustainable development of the area.

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

Mary Crowley

Senior Planning Inspector

19th February 2026

Appendix 1 - Form 1 - EIA Pre-Screening

Case Reference	ABP-320459-24
Proposed Development Summary	10 year permission to construct rock armour and reclamation of foreshore. Construction of marina building, gym, bird hide, electrical vessel recharging facility and associated site works..
Development Address	Lands adjacent to Cork Harbour Marina, Strand Road, Monkstown, Co. Cork
	In all cases check box /or leave blank
<p>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</p> <p>(For the purposes of the Directive, "Project" means:</p> <ul style="list-style-type: none"> - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources) 	<p><input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.</p> <p><input type="checkbox"/> No further action required.</p>
<p>2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?</p>	
<p><input type="checkbox"/> Yes, it is a Class specified in Part 1.</p> <p>EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP</p>	
<p><input type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3</p>	

3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?

No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994.
No Screening required

Yes, the proposed development is of a Class and meets/exceeds the threshold.
EIA is Mandatory. No Screening Required

Yes, the proposed development is of a Class but is sub-threshold.
Preliminary examination required. (Form 2) OR If Schedule 7A information submitted proceed to Q4. (Form 3 Required)

Schedule 5, Part 2, Class 1 (g) - "Reclamation of land from the sea, where the area of reclaimed land would be greater than 10 hectares".

4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?

Yes **Screening Determination required**

No

Inspector _____

Date _____

Appendix 2 - Form 3 - EIA Screening Determination

A. CASE DETAILS		
An Coimisiun Pleanála Case Reference	ABP-320459-24	
Development Summary	<p>10-year permission to construct rock armour and reclamation of foreshore, construction of marina building, gym, bird hide, electrical vessel recharging facility and associated site works.</p> <p>The proposal involves the reclamation of the foreshore and the construction of onshore services. It is intended that the works will be constructed in 2 phases. The initial phase will cover the excavation and reclamation of the proposed site. The second phase will involve the remaining construction of the proposed marina building and all associated site works.</p>	
Sub-threshold development class referred to under Schedule 5 of Planning and Development Regulations 2001 (as amended) or Article 8 of Roads Regulations 1994:	<p>Schedule 5, Part 2, Class 1 (g) - "Reclamation of land from the sea, where the area of reclaimed land would be greater than 10 hectares".</p> <p>The site has a total area of 1.389ha (all lands within the redline application boundary), which includes the reclamation of lands on the seaward side of the existing seawall. The reclamation process involves the creation of a total developable area of 0.69 ha. The area from the footing for the rock armour to the sea wall is 1.15 ha.</p>	
	Yes / No	Comment (if relevant)
	N/A	
1. Was a Screening Determination carried out by the PA?	Yes	

2. Has Schedule 7A information been submitted?	Yes	
3. Has an AA screening report or NIS been submitted?	Yes	AA Screening Report & NIS submitted with the application.
4. Is a IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?	No	
5. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA	Yes	<p>An SEA and SFRA was undertaken in respect of the Cork County Development Plan 2022-2028 (CCDP).</p> <p>I refer to the EIA Screening Statement submitted with the application by way of FI. I also refer to the main environmental considerations addressed where relevant through the various reports and assessments submitted with the planning application, FI and the appeal which include inter alia:</p> <ul style="list-style-type: none"> ▪ Planning Statement ▪ Architectural Design Statement ▪ Engineering Design Report ▪ Construction Environmental Management Plan ▪ Outline Construction Methodology

		<ul style="list-style-type: none"> ▪ Traffic & Transport Assessment Report that includes Vehicle Swept Paths and Road Safety Audit ▪ Appropriate Assessment Screening Report and Natura Impact Statement (as revised) ▪ Ecological Impact Assessment Report (Marine and Terrestrial Ecology) (as revised) ▪ Site Investigation Report (includes geotechnical site investigations together with marine sediment sampling and associated chemical analysis) ▪ Hydrodynamic Assessment (assesses the potential impact of the development on sediment erosion and accretion patterns) includes Bathymetric Survey Chart Datum Drawing ▪ Technical Engineering Report ▪ Environmental Noise Assessment Report ▪ Assessment of the Potential Impact of Noise Disturbance to Waterbird Populations ▪ Underwater Archaeological Impact Assessment (UAIA) Intertidal Foreshore ▪ Conservation Report & Heritage Impact Assessment ▪ Photomontages ▪ Flood Risk Assessment ▪ Drainage Impact Assessment & Surface Water Management Proposals (SuDS) ▪ Public Lighting Layout ▪ EIA Screening Report
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		I also refer to the first party appeal where alternative development options are considered.
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B. EXAMINATION

Yes/ Uncertain	No/ Uncertain	Briefly describe the nature and extent and Mitigation Measures (where relevant) <i>(having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact)</i> Mitigation measures –Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect.	Is this likely to result in significant effects on the environment? Yes/ No/ Uncertain
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1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)

1.1 Is the project significantly different in character or scale to the existing surrounding or environment?

No	This is a sensitive location from an ecological, built heritage and coastal landscape perspective. Given that Monkstown is a well-established centre for sailing and other marine leisure activities, as recognised by the CCDP, and that Cork Harbour is characterised by a mix of urban / industrial / maritime development, the proposed development for marine uses is considered in keeping with the pattern of development in the area and is not considered to be out of character with the existing and emerging surrounding pattern of development.. No significant effects are predicted	No
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1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?		
Yes	<p>The proposal involves the reclamation of the foreshore and the construction of onshore services. It is intended that the works will be constructed in 2 phases. The initial phase will cover the excavation and reclamation of the proposed site. The second phase will involve the remaining construction of the proposed marina building and all associated site works.</p> <p>Minor demolition works are proposed as part of the proposed development and comprise removal of upper capping sections of the existing seawall to provide for a new vehicular entrance and pedestrian access points from the R610-113 Strand Road. In terms of footprint, the extent of the area covered by the demolition comprises of 10 m2.</p> <p>Provision has also been made for the collection and diversion of a stream which currently discharges through the existing quay wall.</p> <p>The construction methodology including the management of demolition waste is provided in greater detail in the CEMP. The CEMP has been prepared having regard to the environmental and ecological sensitivities of the area and appropriate mitigation measures are included.</p> <p>The proposed development is not considered to be out of character with the surrounding pattern of development at this coastal location. There will be no likely significant adverse effects on the environment with regard to the geographic location of the scheme..</p>	No

1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?

<p>Yes</p>	<p>The CEMP provides a detailed description of the phase 1 and phase 2 construction methodology.</p> <p>To facilitate reclamation of the foreshore, softer mud deposits will have to be relocated within the site. The excavated material will be stockpiled in a designated area of the site compound where it will be allowed to dry. This excavated material (once dry) will then be incorporated into the fill material for the land reclamation works.</p> <p>The foreshore reclamation involves the creation of a total of 1.15ha between the footing of the rock revetment and the existing sea wall. Achieving this will require approximately 50,000 m³ (approx. 3,300 loads assuming 15 m³ capacity lorries) of fill material. The fill material will be sourced locally from Roadstone's Ballygarvan Quarry at Killanully, Co. Cork.</p> <p>The design of the new buildings incorporates energy efficiency measures to provide a sustainable, renewable, energy efficient and environmentally friendly building. It will thus positively contribute to a reduction in fossil fuel use and associated greenhouse gas emissions.</p> <p>Construction materials will be typical of a costal environment and does not require the use of substantial natural resources or give rise to significant risk of pollution or nuisance. The loss of natural resources or local biodiversity as a result of the development of the site are not regarded as significant.</p>	<p>No</p>
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1.4 Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?

Yes	Construction activities will require the use of potentially harmful materials, such as fuel and other substances. Such use will be typical of construction sites. Any impacts would be local and temporary in nature, and the implementation of a Construction Environmental Management Plan will satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated.	No
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1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?

Yes	<p>The excavated material on site will be reused and incorporated into the fill material for the land reclamation works. Additional fill material will be sourced locally. The proposed development will not result in any significant change in the local tidal current patterns, nor a substantial change in the associated speeds and erosion will not occur. Appropriate measures have been incorporated into the proposal to manage stormwater runoff and ensure no pollution risk. The proposal will not increase flood risk for the roadway or adjoining properties and the development will connect to existing services, ensuring no risk to water quality.</p> <p>The CEMP outlines mitigation measures in regard to the management of waste. A detailed CEMP and Construction Waste Management Plan will be prepared by the contractor upon engagement and prior to the commencement of works of the proposed development to ensure appropriate mitigation measures are implemented onsite to reduce / manage</p>	No
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	<p>waste throughout the construction phase. Any waste arising during construction will be managed based on the Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Development Projects.</p> <p>Construction activities will require the use of potentially harmful materials, such as fuels and other substances and will give rise to waste for disposal. Such use will be typical of construction sites. The implementation of a Resource and Waste Management Plan and Construction Environmental Management Plan will satisfactorily mitigate potential impacts. Operational waste will be managed via a Waste Management Plan. Significant operational impacts are not anticipated.</p> <p>Following the detailed assessments undertaken and together with the application of the prescribed mitigation measures, no significant effects are likely in respect of production of waste during either the construction or operational phases</p>	
<p>1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?</p>		
<p>No</p>	<p>Potential risks associated with the proposed development include uncontrolled release of pollutants to the surrounding environment via uncontrolled construction works.</p> <p>The water supply will be connected to the local mains system and extended to reach the northern section of the development. A Confirmation of Connection Feasibility from Uisce Eireann has been provided with the application. The proposed development intends to connect to the existing wastewater pipeline</p>	<p>No</p>

	<p>adjoining the development at the planned entry point to the development for ease of connection and possible maintenance.</p> <p>An Outline CEMP has been prepared and includes proposed best practice construction methods to prevent negative impacts to designated areas, habitats, birds, mammals, water quality and sedimentation. The main contractor will be responsible for implementing standard proven mitigation measures to prevent the risk of major accidents or disasters arising during the construction phase. An emergency-operating plan will also be developed prior to the commencement of construction works, which will outline the procedures for preventing, containing, and responding to incidents or accidents during construction that may give rise to pollution within Cork Harbour. This will include means of containment in the event of accidental spillage of hydrocarbons or other pollutants (including oil booms and soakage pads). The plan will include spill response procedures, and the roles and responsibilities of employees and contractors.</p> <p>No significant emissions during operation are anticipated. The operational development will connect to public mains services. There is sufficient infrastructural capacity to service the development. Stormwater runoff from the development will be collected in a dedicated stormwater drainage system for discharge to the harbour waters via a series of silt traps, oil interceptors and outfalls. In addition to the surface drainage within the proposed site, provision has also been made for the collection and diversion of</p>	
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	<p>a stream which currently discharges through the existing quay wall.</p> <p>Car-parking at the site presents a minor risk of giving rise to hydrocarbon run-off, though this is considered very slight. Nonetheless, the development proposal includes collection of surface water drainage from the carpark area and treatment through a hydrocarbon interceptor prior to disposal.</p> <p>No significant risk identified. During the construction and operational stage, it is considered that the proposed development would not have any negative impact in terms of pollution or nuisance. Operation of a Construction Environmental Management Plan will satisfactorily mitigate emissions from spillages during construction.</p>	
<p>1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?</p>		
<p>Yes</p>	<p>An Environmental Noise Assessment has been prepared for the construction phase of the development. It is noted that it focused on airborne noise emissions and associated disturbance on waterbirds. There has been no assessment of underwater noise and its impact on marine species.</p> <p>The report concludes that the worst-case noise emissions operating simultaneously will ensure that the combined impact at receptor positions will generally range from 22 to 63 dB Laeq, with the exception of Alta Terrace. Temporary acoustic barriers are recommended to be used should the need arise during limited phases of the works.</p> <p>It is not expected that relevant dust or noise environmental quality standards will be exceeded by</p>	<p>o</p>

	<p>construction, or operational phases of this proposed development.</p> <p>Noise and light emissions during construction are likely. Such emissions will be localised and short term in nature and their impacts will be suitably mitigated by the operation of a Construction Environmental Management Plan. Management of the scheme in accordance with an agreed Management Plan will mitigate potential operational impacts.</p>	
<p>1.8 Will there be any risks to human health, for example due to water contamination or air pollution?</p>		
No	<p>Construction activity is likely to give rise to dust emissions. Such construction impacts would be temporary and localised in nature and the operation of a Construction Environmental Management Plan would satisfactorily address potential impacts on human health. No significant operational impacts anticipated.</p>	No
<p>1.9 Will there be any risk of major accidents that could affect human health or the environment?</p>		
No	<p>To reduce the potential for health and safety risks, a Health and Safety Plan will be developed by the main contractor which will inform those on-site of the measures to take in the event of an emergency and will be maintained for the duration of the construction phase.</p> <p>There are no SEVESO/COMAH sites in the vicinity of this location. The development, by virtue of its type and scale, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health</p> <p>It is concluded that subject to the proper implementation of the mitigation measures described</p>	No

	in the various reports accompanying the application, including compliance with other codes and construction of the proposed development in line with the plans and particulars submitted, the proposed development would not pose a risk to human health. Any risk arising from construction will be localised and temporary in nature. During the operational phase the risk to human health is considered to be negligible.	
1.10 Will the project affect the social environment (population, employment)		
Yes	The development of the site will increase employment in the area and the local population. This not regarded as significant given the coastal / edge of Monkstown location of the site. The scheme will have a positive impact on the long-term coastal recreation and amenity needs of the area.	No
1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?		
No	This is a stand-alone development, comprising the development of a coastal site and is not part of a wider large scale change. Permitted developments within the vicinity of the site have been subject to separate assessments. No significant cumulative impacts are anticipated.	No
2. Location of proposed development		
2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:		
<ul style="list-style-type: none"> ▪ European site (SAC/ SPA/ pSAC/ pSPA) ▪ NHA/ pNHA ▪ Designated Nature Reserve ▪ Designated refuge for flora or fauna 		

<p>Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan</p>		
No	<p>The site is within the proposed Monkstown Creek proposed Natural Heritage Area (pNHA 001979) and adjoins the Cork Harbour Special Protection Area (SPA) (Site code no.004030).</p> <p>The proposed development will result in a loss of intertidal habitat within the footprint of the proposed development (1.15ha in extent). These works are within the pNHA and is outside of the SPA. The loss of this habitat may reduce the available ex-situ foraging habitat for various SCI species listed for the Cork Harbour SPA, in particular those species which utilise intertidal habitats for foraging.</p> <p>Impacts on European sites are addressed under Appropriate Assessment, in Section 9.0 and Appendix 3 and 4 of this report.</p> <p>It has been concluded that the site is an important ex situ winter feeding site for water birds that are qualifying interests for the adjacent Cork Harbour Special Protection Area (site code 004030) and that that it has been demonstrated beyond reasonable scientific doubt that the development would not constitute an adverse impact on the qualifying interests of the Cork Harbour SPA in view of the site's Conservation Objectives.</p> <p>It was also concluded that the proposed development would give rise to significant negative effects on the Monkstown Creek proposed Natural Heritage Area, a site of national significance, for which no meaningful mitigation has been proposed, and no alternatives</p>	No

	<p>appear to have been considered. Refusal of permission is recommended.</p> <p>Whilst a significant effect may arise for an individual environmental topic or topics, this does not of itself trigger a requirement for EIA. EIA deals with the potential for impacts across a range of environmental parameters and the potential for effects on a European site does not of itself generate a requirement for EIA. In this instance AA has been addressed under Appropriate Assessment, in Section 9.0 and Appendix 3 and 4 of this report.</p> <p>Having regard to the characteristics and location of the proposed development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development, therefore, does not trigger a requirement for environmental impact assessment and an EIAR is not required.</p>	
<p>2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be affected by the project?</p>		
No	<p>Impacts on European sites and the loss of ex situ winter feeding habitat are addressed under Appropriate Assessment, in Section 9.0 and Appendix 3 and 4 of this report. Impact to otters, marine mammals and intertidal and subtidal habitats are addressed under Section 7.11 Ecology of this report above. It was concluded as follows:</p> <p>Otter – further survey required and that derogation license may be necessary</p>	No

	<p>Marine Mammals – under water noise assessment required and that a derogation license may be necessary</p> <p>Intertidal & Subtidal Habitats – further assessment of sensitive habitats required.</p> <p>Whilst a significant effect may arise for an individual environmental topic or topics, this does not of itself trigger a requirement for EIA. EIA deals with the potential for impacts across a range of environmental parameters and the potential for effects on a European site does not of itself generate a requirement for EIA. In this instance impacts to ecology have been addressed under Section 7.11 of this report. The proposed development, therefore, does not trigger a requirement for environmental impact assessment and an EIAR is not required.</p>	
<p>2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</p>		
<p>Yes</p>	<p>There are no records of protected structures within the site, and it is not located within an Architectural Conservation Area (ACA).</p> <p>The Lower Monkstown Conservation Area is situated on the opposite side of the Strand Road to the north of the site. There are seven Protected Structures in the immediate Monkstown area with Thorncliffe House Structure (RPS ID 573) immediately adjacent to the site.</p> <p>Visual impact is addressed in the Planning Statement (Section 6.8 Landscape & Visual Impact) Architectural Heritage Impact Assessment (AHIA) and associated photomontages submitted with the application and is assessed in Section 7.8 of this</p>	<p>No</p>

	<p>report. The type of development proposed would not be out of context in a coastal/marine environment such as this. However, the available assessment of impact of the development on the setting and views to/from Thorncliffe House (RPS no.20853065), the Lower Monkstown Architectural Conservation Area (ACA) and the overall Victorian character of Monkstown is considered efficient. Whilst a significant effect may arise for an individual environmental topic or topics, this does not of itself trigger a requirement for EIA. Impacts to features of; landscape and historic importance have been addressed under Section 7.8 of this report.</p> <p>An Underwater Archaeological Impact Assessment (UAIA) has been prepared and submitted. The Department of Housing, Local Government and Heritage recommended that an Archaeological Impact Assessment condition attached to ensure the protection of the archaeological heritage. It is considered that the proposed development would not have a significant effect on archaeology.</p> <p>Whilst a significant effect may arise for an individual environmental topic or topics, this does not of itself trigger a requirement for EIA. In this instance impacts to features of; landscape and historic importance have been addressed under Section 7.8 of this report.</p> <p>The proposed development, therefore, does not trigger a requirement for environmental impact assessment and an EIAR is not required.</p>	
<p>2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?</p>		
No	No such features arise in this location.	No

2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?

No	<p>A Site-Specific Flood Risk Assessment has been prepared for the proposed development and identifies that the site is partially located in a flood zone A. The proposed levels of the reclaimed land have been prepared having regard to detailed site investigations including the flood risk assessment and the ground floor level of the buildings and the car park ground level that are higher than the MRFS 0.5%AEP coastal flood level. The FRA has taken account of climate change impacts on sources of flooding. The FRA concludes that there will be no changes on local flood water levels during extreme events, that the existing road drainage will be maintained and that there will be no impact on adjoining properties and the access on Strand Road will not be impaired.</p>	No
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2.6 Is the location susceptible to subsidence, landslides or erosion?

No	<p>The potential impacts of the proposed development on the tidal regime, sediment transport and coastal processes in the area are assessed in the Hydrodynamic Assessment.</p> <p>Following detailed site investigations, it was concluded that the proposed alterations to the foreshore will not result in any significant change in the local tidal current patterns, nor a substantial change in the associated speeds. Furthermore, the seabed sediments have been found to comprise predominantly a cohesive silt material which requires a threshold shear stress of about 1.8 Pa1 to initiate erosion. This is not reached and therefore erosion will not occur.</p>	No
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2.7 Are there any key transport routes (e.g National primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?

No	The site is served by a local urban road network. No significant contribution to traffic congestion is anticipated. No significant effects are predicted	No
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2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?

No	The development is compatible with adjoining land uses.	No
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3. Any other factors that should be considered which could lead to environmental impacts

3.1 Cumulative Effects: Could this project together with existing and/or approved development result in cumulative effects during the construction/operation phase?

No	<p>There are a number of established and operating harbour and industrial activities in the surrounding area including the marine berth adjacent to the proposed development site and industry type uses on the Ringaskiddy and Rushbrooke.</p> <p>There is a proposal from Cork County Council to construct a pedestrian/cycle path greenway along the river Lee. A section of this Greenway between the Cross River Ferry at Glenbrook to Raffeen Bridge, was subject to a Part 8 planning application. The marina development would be constructed directly adjoining the proposed greenway route, roughly halfway between the two villages of Glenbrook and Raffeen. The Greenway.</p> <p>No developments have been identified in the vicinity which will involve reclamation of additional foreshore in the area that could give rise to significant cumulative environmental effects.</p>	No
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	The potential cumulative impacts have also been considered in the AA Screening & NIS which accompany the application. No significant effects are likely in cumulation with other existing or approved projects.	
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3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?

No	No transboundary considerations arise.	No
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3.3 Are there any other relevant considerations?

No		
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C. CONCLUSION

No real likelihood of significant effects on the environment.	X	EIAR Not Required
Real likelihood of significant effects on the environment.		EIAR Required

D. MAIN REASONS AND CONSIDERATIONS

Having regard to:

- 1) The criteria set out in Schedule 7, in particular
 - a) the nature and scale of the proposed development, which is below the threshold in respect of Class 1 (g) of Schedule 5, Part 2 of the Planning and Development Regulations, 2001 (as amended)
 - b) the location of the site,
 - c) the pattern of development on the lands in the surrounding area,
 - d) the availability of mains water and wastewater services to serve the development,
 - e) the location of the development outside of any sensitive location specified in article 109(4)(a) of the Planning and Development Regulations 2001 (as amended)
- 2) the guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-Threshold Development” issued by the Department of the Environment, Heritage and Local Government (2003),

- 3) the criteria set out in Schedule 7 of the Planning and Development Regulations, 2001 (as amended),
- 4) the results of other relevant assessments of the effects on the environment submitted by the applicant
- 5) the features and measures proposed by the applicant to avoid or prevent what might otherwise be significant effects on the environment,

The Commissioners concluded that the proposed development would not be likely to have significant effects on the environment and that an environmental impact assessment report is not required.

Inspector _____

Date _____

Approved (DP/ADP) _____

Date _____

Appendix 3 – Appropriate Assessment Screening Determination

Screening for Appropriate Assessment	
Test for likely significant effects	
Step 1: Description of the project and local site characteristics	
Case file: ABP 30459-24	
Brief description of project	10 year permission to construct rock armour and reclamation of foreshore. Construction of marina building, gym, bird hide, electrical vessel recharging facility and associated site works at lands adjacent to Cork Harbour Marina, Strand Road, Monkstown, Co. Cork
Brief description of development site characteristics and potential impact mechanisms	<p>A description of the proposed development is provided in Section 2.0 of this report above and detailed specifications of the proposal are also provided in the AA Screening Report and NIS together with other planning documents provided by the applicant.</p> <p>Drinking water is proposed to be provided from the public supply and it is proposed to connect into the public sewer. Stormwater is proposed to be collected in a system of drainage channels and gullies and will be discharged to the sea after being passed through a hydrocarbon interceptor.</p> <p>The site has a total area of 1.389ha and involves 1.15ha foreshore reclamation between the footing of the rock revetment and the existing quay wall. As the rock revetment recedes from an estimated bed level of +0.8m CD to a crest height of +6.14m CD, the resultant developable</p>

area at the top of the rock armour will be approximately 0.69ha. Achieving this level of development will require a significant amount of engineering fill material of approximately 50,000 m³.

A small stream discharges to Cork Harbour to the north of the site. This stream runs through Monkstown Glen and is culverted under the R610 where it discharges through the existing quay wall using a culvert into the harbour within the proposed development site. The construction phase will require the diversion of a freshwater stream.

The development is within a Flood Zone A as identified in the County Development Plan. It is stated in the planning documentation that the development has been designed to ensure the avoidance of flooding, taking account of projected future sea level rise.

The nearest European Site is the Cork Harbour Special Protection Area (SPA) (Site Code No 004030). The appeal site is located in the intertidal zone in the west passage of Cork Harbour just north of Monkstown Creek, which forms part of the Cork Harbour SPA. The original boundaries of the Cork Harbour SPA in the vicinity of Monkstown Creek extended to include the proposed development site (corresponding with the low water mark) and mirrored the boundaries of the Monkstown Creek pNHA which predates the designation as an SPA. The SPA boundary in the vicinity of the appeal site was successfully appealed to the

	<p>DoHLGH in 2009, with the area of the appeal site being excluded from the SPA.</p> <p>The basis for the appeal was that the intertidal zone within the proposed site does not provide good foraging for waterfowl due to the coarseness of the substrate. It was stated that it was generally unsuited to probing by wintering waders other than small numbers of curlew oystercatcher and turnstone that feed amongst coarse substrates and weed.</p> <p>Construction works are to be implemented in accordance with a Construction and Environmental Management Plan (CEMP) (draft provided with Planning Application).</p>
Screening report	Yes
Natura Impact Statement	Yes
Relevant submissions	<p>CCC Ecologist (x 2 reports) – Identified the following potential ecological impacts:</p> <ul style="list-style-type: none"> ▪ Impact of direct loss of habitat due to reclamation of land with particular reference to estuarine habitats and its associated benthic community complexes. ▪ Potential impacts on water quality e.g. increased turbidity, resuspension of solids and an increased risk of release of contaminants into the marine/estuarine environment from either disturbed benthic sediments or anthropogenic sources. ▪ Potential effects that the proposal may have on qualifying species of Cork Harbour SPA known to utilise the adjacent Monkstown Creek, River Lee West Passage and the

	<p>harbour as a whole – both construction and post construction stages.</p> <ul style="list-style-type: none">▪ Cumulative effects on qualifying species of the SPA, and fauna in general that utilise the harbour. Particular focus should be on the operational phase given the expansion of Ringaskiddy Port and Marino Point. <p>Following a detailed request for FI and further detailed consideration of the response the Ecologist recommended that planning permission be refused as the proposed development will give rise to significant negative effects on the Monkstown Creek proposed Natural Heritage Area for which no meaningful mitigation has been proposed and no alternatives appear to have been considered.</p> <p>ACP Internal Specialist Report (Marine Ecology) – An internal Specialist Report was sought, by way of Memo, from Connor Donnelly, Marine Ecologist in relation to this appeal and the impact of the proposed development on Cork Harbour SPA, Monkstown Creek pNHA, the requirement for an EIAR and if an otter survey and derogation license is necessary. A Specialist Report has been received providing a response to the forgoing issues together with additional comments in relation to the Greenshank (QI of the Cork Harbour SPA), Marine Mammal Mitigation and impacts on intertidal and subtidal habitats. Significant concerns were raised and refusal of permission</p>
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	<p>was recommended in relation to the adverse effects on the integrity of Cork Harbour SPA.</p> <p>The Specialist Report are available to the Commission as an appendix to this report; Appendix 5 refers.</p>
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Step 2. Identification of relevant European sites using the Source-pathway-receptor model

Cork Harbour Special Protection Area (Site Code No 004030) is identified as being located within the potential zone of influence of the proposed development as detailed in the table below.

There is only one other designated European Site within c10km radius of the appeal site, namely the Great Island Channel Special Area of Conservation (SAC) (Site Code No 001058), most of which overlaps with the boundaries of the Cork Harbour SPA. This SAC is located in the northern part of Cork Harbour in the vicinity of Little Island and Fota Island and is included in the AA Screening Report. In view of the distance between the proposed development and this SAC there is no ecological justification to consider this site, as there are no direct hydrological connections or identified pathways for impact on the receptors (Qualifying Interests (QI)) for this European Site. Great Island Channel SAC is therefore excluded from further consideration in this screening determination.

Cork Harbour is of international importance for wintering waterfowl as it regularly supports in excess of 20,000 birds and is one of the top five wintering sites in the country. It supports internationally important numbers of redshank (5 year mean= 1,614) along with nationally important numbers of a further 15 species. A nationally important Common Tern (Annex I listed) breeding colony (maximum of 102 pairs in 1995) is also present, and in addition the site hosts numerous Annex

I listed species (including Whooper Swan, Golden Plover, Bar-Tailed Godwit, Ruff and Little Egret). Monkstown Creek forms an isolated part of the Cork Harbour SPA on account of its importance for wintering waterfowl. The SPA extends to include most of the main intertidal areas in Cork Harbour including all the North Channel, the Douglas Estuary, Lough Beg, Whitegate Bay and the Rostellan inlet. The Monkstown Creek pNHA (Site No 001979) has for the most part been subsumed into the Cork Harbour SPA (SPA No 004030). However, as set out above the, the original boundaries of the Cork Harbour SPA and Monkstown Creek pNHA mirrored each other. However, the SPA boundary was successfully appealed in 2009 and the area of the appeal site was excluded from the SPA. The appeal site remains within this pNHA.

European Site (code)	Qualifying interests (summary) Link to conservation objectives (NPWS, date)	Distance from proposed development	Ecological connections	Consider further in screening Y/N
Cork Harbour SPA (Site Code No 004030)	<u>Species</u> <ul style="list-style-type: none"> ▪ 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 	Adjoining site	Hydrological Connection – impact on water quality from construction and / or operation of the proposed development. Atmospheric Connection – impact from noise disturbance and light pollution from the construction and / or operation of the proposed development.	Yes

	<ul style="list-style-type: none"> ▪ Black-headed Gull ▪ Common Gull ▪ Lesser Black-backed Gull ▪ Common Tern ▪ Greenshank <p><u>Habitat</u></p> <ul style="list-style-type: none"> ▪ Wetlands <p>(NPWS 16th December 2014)</p> <p>https://www.npws.ie/protected-sites/spa/004030</p>		<p>Ornithological Connection – impact from the loss of ex situ intertidal foraging habitat as a result of the proposed foreshore reclamation works.</p>	
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Step 3. Describe the likely effects of the project (if any, alone or in combination) on European Sites

There will be no direct impacts on wetland habitats within the Cork Harbour SPA as the appeal site is located outwith this European site.

However, there may be indirect impacts from hydrological, atmospheric or ornithological connection to this SPA during the construction and operation phase by way of impact to water quality (siltation and pollution), noise impact, light pollution and loss of ex situ foraging area for wintering birds. Therefore, impacts generated by the construction and operation of the development require consideration. Sources of impact and likely significant effects are detailed in the Table below.

Screening Matrix

Site Name	Possibility of significant effects (alone) in view of the conservation objectives of the site	
	Impacts	Effects

<p>Cork Harbour SPA (Site Code No 004030)</p>	<p>Water Quality - Discharge / run off of surface waters containing sediment, silt, oils and / or other pollutants and construction related compounds including hydrocarbons during the construction phase and increased turbidity, resuspension of solids and an increased risk of release of contaminants into the marine/estuarine environment from either disturbed benthic sediments or anthropogenic sources during the reclamation of the foreshore.</p> <p>Disturbance – Noise / vibration disturbance and light pollution at the construction and operational phase of development.</p> <p>Habitat Loss - Impact of loss of ex situ winter feeding habitat for QIs species (wetland birds) of the nearby Cork Harbour SPA due to foreshore reclamation.</p>	<p>Decline in water quality by way of emissions to surface water together with changes to the hydrological regime and patterns of erosion or accretion of sediments has the potential to affect the supporting intertidal habitat of QI species associated with the Cork Harbour SPA..</p> <p>Noise / vibration disturbance and light pollution associated with the construction and operational phase of development while generated outside the SPA site could potentially disrupt QIs within the designated site.</p> <p>The proposed development will result in a loss of intertidal habitat within the footprint of the proposed development (1.15ha in extent) While outside of the SPA, the loss of this habitat may reduce the available ex-situ foraging habitat for various QIs species listed for the Cork Harbour SPA, in particular those species which utilise intertidal habitats for foraging, as follows:</p> <ul style="list-style-type: none"> ▪ Shelduck ▪ Wigeon ▪ Teal ▪ Oystercatcher
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		<ul style="list-style-type: none"> ▪ Golden Plover ▪ Grey Plover ▪ Lapwing ▪ Dunlin ▪ Black-tailed Godwit ▪ Bar-tailed Godwit ▪ Curlew ▪ Redshank ▪ Greenshank
	<p>Likelihood of significant effects from proposed development (alone): Yes - Consequently, the potential for indirect impacts on the Annex species associated with the SPA requires further assessment.</p>	
	<p>If no, is there likelihood of significant effects occurring in combination with other plans or projects?</p>	

Step 4. Conclude if the proposed development could result in likely significant effects on a European site

Based on the information provided in the screening report, my site visit, a review of the conservation objectives and supporting documents, I consider that in the absence of mitigation measures beyond best practice construction methods, the proposed development has the potential to result in significant effects on the Cork Harbour SPA and its Qualifying Interests.

I concur with the applicants' findings that such impacts could be significant in terms of the stated conservation objectives of the SPA. These impacts when considered on their own and in combination with other projects and plans in relation to pollution related pressures and disturbance on qualifying interest habitats and species.

Screening Determination

Finding of likely significant effects

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of objective information provided by the applicant, I conclude that the proposed development could result in significant effects on the Cork Harbour SPA in view of the conservation objectives of a number of qualifying interest features of those sites.

It is therefore determined that Appropriate Assessment (Stage 2) under Section 177V of the Planning and Development Act 2000 of the proposed development is required.

Appendix 4 – Appropriate Assessment

Appropriate Assessment

The requirements of Article 6(3) as related to appropriate assessment of a project under part XAB, sections 177V [or S 177AE] of the Planning and Development Act 2000 (as amended) are considered fully in this section.

Taking account of the preceding screening determination, the following is an appropriate assessment of the implications of the proposal to construct rock armour and reclamation of foreshore, and the construction of marina building, gym, bird hide, electrical vessel recharging facility and associated site works in view of the relevant conservation objectives of Cork Harbour SPA (Site Code No 004030) based on scientific information provided by the applicant. The information relied upon includes the following:

- Appropriate Assessment Screening Report and Natura Impact Statement (as revised)
- Ecological Impact Assessment Report (Marine and Terrestrial Ecology) (as revised)
- Engineering Design Report
- Construction Environmental Management Plan
- Outline Construction Methodology
- Site Investigation Report (includes geotechnical site investigations together with marine sediment sampling and associated chemical analysis)
- Hydrodynamic Assessment (assesses the potential impact of the development on sediment erosion and accretion patterns) includes Bathymetric Survey Chart Datum Drawing
- Technical Engineering Report
- Environmental Noise Assessment Report

- Assessment of the Potential Impact of Noise Disturbance to Waterbird Populations
- Drainage Impact Assessment & Surface Water Management Proposals (SuDS)
- Public Lighting Layout
- EIA Screening Report

As mentioned previously a Specialist Internal Report (Marine Ecology) was sought to assist in the assessment of this development. The Specialist Report prepared by Connor Donnelly, Marine Ecologist, is also relied upon in this Appropriate Assessment. The Specialist Report are available to the Commission as an appendix to this report; Appendix 5 refers.

Submissions / Observations

A summary of the relevant submissions and observations are set out in the foregoing Screening Determination and in the main body of this report. They are summarised here for ease of reference. The concerns raised are referenced and addressed in the following assessment and findings.

- **CCC Ecologist** - Refusal recommended as the proposed development will give rise to significant negative effects on the Monkstown Creek proposed Natural Heritage Area for which no meaningful mitigation has been proposed and no alternatives appear to have been considered.
- **ACP Internal Specialist Report (Marine Ecology)** –Significant concerns were raised and refusal of permission was recommended in relation to the adverse effects on the integrity of Cork Harbour SPA.

European Sites

Cork Harbour SPA (Site Code No 004030)

Summary of Key issues that could give rise to adverse effects (from screening stage):

- Water quality degradation (construction and operation)
- Construction & Operational Disturbance (noise / vibration and light)
- Loss of ex situ winter feeding area for QIs

Qualifying Interest features likely to be affected	Conservation Objectives Targets and attributes (summary inserted)	Potential adverse effects
Little Grebe Great Crested Grebe Cormorant Grey Heron Pintail Shoveler Red-breasted Merganser Black-headed Gull Common Gull Lesser Black-backed Gull Common Tern	<p>Maintain favourable conservation condition which is defined by the following attributes and targets:</p> <p><i>Population Trend - Long term population trend stable or increasing</i></p> <p><i>Distribution - No significant decrease in the range, timing or intensity of use of areas by the QI, other than that occurring from natural patterns of variation</i></p> <p><i>Common Tern - Foraging range: max. 37km, mean max. 33.81km, mean 8.67km.</i></p>	<p>Habitat modification, disturbance and ex-situ factors resulting in the displacement of these species from areas within the SPA and ex situ winter feeding sites and / or a reduction in their numbers.</p> <p>Water quality degradation and/ or alteration of habitat quality by reason of construction and / or operational impacts.</p> <p>Construction & Operational noise and light impacts including underwater noise by reason of underwater piling and extensive works on the foreshore.</p> <p>QIs as listed (with exception of Common Tern) - Given the nature of the proposed development and the seasonality and foraging nature of this QI, there are considered to be no risk of impacts occurring to this species.</p> <p>Common Tern - Given the distance between the nesting locations and the proposed development, the unsuitability of the nesting location for maritime</p>

		recreational activity arising from the marina and the extent of waters utilised by foraging terns there are considered to be no risk of impacts occurring on this species.
Shelduck Wigeon Teal Oystercatcher Golden Plover Grey Plover Lapwing Dunlin Black-tailed Godwit Bar-tailed Godwit Curlew Redshank Greenshank* (see note below)	Maintain favourable conservation condition which is defined by the following attributes and targets: <i>Population Trend - Long term population trend stable or increasing</i> <i>Distribution - No significant decrease in the range, timing or intensity of use of areas by the QI, other than that occurring from natural patterns of variation</i>	Habitat modification, disturbance and ex-situ factors resulting in the displacement of these species from areas within the SPA and ex situ winter feeding sites and / or a reduction in their numbers. Water quality degradation and/ or alteration of habitat quality by reason of construction and / or operational impacts. Construction & Operational noise and light impacts including underwater noise by reason of underwater piling and extensive works on the foreshore. In view of the utilisation of intertidal habitat by this QI, there is a potential for loss of ex situ habitat for this species as a result of the proposed development. There is also a risk of disturbance during both construction and operation of the proposed development as well as potential effects on water quality within the SPA.
Wetlands	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. This is defined by the following attribute and target: <i>Habitat Area - The permanent area occupied by the wetland habitat should be stable and not significantly less than the area of 2,587 hectares, other than that occurring</i>	Habitat modification, disturbance and ex-situ factors resulting in the displacement of these species from areas within the SPA and ex situ winter feeding sites and / or a reduction in their numbers. Water quality degradation and/ or alteration of habitat quality by reason of construction and / or operational impacts. Construction & Operational noise and light impacts including underwater noise by reason of underwater piling and extensive works on the foreshore.

	<p><i>from natural patterns of variation</i></p>	<p>The loss of intertidal habitat within the footprint of the proposed development (1.15ha in extent) while outside of the SPA may reduce the suitable foraging ex situ habitat for various SCI species and requires further consideration. There is also a risk of potential effects on water quality within the SPA and a potential for changes to the hydrological regime and in particular on patterns of erosion or accretion of sediments in the adjacent Monkstown Creek.</p>
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***Greenshank** – I refer to the ACP Internal Specialist Report (Marine Ecology). Greenshank is an SCI of the Cork Harbour SPA but appears to have been omitted from the revised NIS. As pointed out in the Internal Specialist Report the Greenshank has a Conservation Objective (page 26 of the NPWS Cork Harbour SPA Conservation Objectives document), it is not included on the list of Qualifying Interests on page 4 of the document, which might be why it has been overlooked by the applicant’s consultants. The Greenshank over-winters in the site and is present in nationally important numbers. Whilst impacts in terms of disturbance are not considered to give rise to adverse effects, the potential impacts arising from loss of habitat also applies to Greenshank.

Mitigation Measures

The CEMP details the proposed construction methodology for the development including embedded mitigation to avoid, reduce or remedy potential impacts on the natural environment both during construction and operation. It is stated that the CEMP has been developed in conjunction with the specified mitigation within the EclA and NIS for the proposed development.

A CEMP and Pollution Plan are to be prepared by the contractor who will be responsible for its implementation. An Environmental Officer is to be appointed who will be responsible for the implementation of the CEMP.

Phasing of works into two phases. Phase 1 excavations and reclamation (18 months); Phase 2 remaining construction (12 months) to comprise screw piled foundations to be used for buildings, construction of buildings, installation of drainage and final finishes. Timing of Phase 1 works (including screw piling) to be restricted to the summer months to minimise risk of causing noise or visual disturbance to wetland birds during winter periods of peak numbers. Phase 2 - screw piled foundations to be used for buildings, construction of buildings, installation of drainage and final finishes

It is stated in the EclA that the contractor may need to use Cofferdams and/or pump water to create a dry working space and may need to create temporary roads to access the works site. It is stated that any such works will be carried out to a high standard as required and in accordance with unspecified permits and approvals;

Standard pollution controls to be implemented to ensure the minimization of risk of release of toxic contaminants to the marine environment. These are included in the CEMP and are to be implemented under the supervision of an Environmental Officer and include the following:

- Contractor to ensure workers are aware of sensitivity of site and responsible for good housekeeping;
- Emergency shut off design incorporated into fuel pump system to minimise risk of fuels to the marine environment;
- Emergency operating plan to be developed to inform management of accidental spillages of oil;
- Stormwater runoff from the development will be collected in a dedicated stormwater drainage system and will be passed through a hydrocarbon

interceptor and a series of silt traps, oil interceptors and outfalls prior to discharge to the estuary;

- Design measures including hydrocarbon interceptors and grease traps to be incorporated into surface and waste-water drainage systems;
- Controlled low level lighting of the site to prevent light pollution;
- Signage to be used to inform marina users of environmental sensitivities of the area;
- Ecologist to be engaged to prepare an IAS;

Marine Mammal Observer to be appointed to monitor site during screw piling operations. Works to proceed in accordance with 2014 Guidelines. It is proposed that works causing significant underwater noise would be paused in the event that marine mammals are identified proximal to the site

Silt curtains to be installed during construction to minimise movement of sediments within the marine environment outside the footprint of the development. The screens trap sediment and suspended particles within the reclamation area, preventing them from spreading to other areas and reducing the impact on the surrounding environment. Curtains to be maintained and monitored for duration of project. Upon the completion of the land reclamation process, the silt curtains will be removed.

Rock revetment edge comprising 7,000m³ of primary armour and 2,400m³ of underlayer rock to be placed on a designed geotextile membrane to create a stable slope. Rock to be sourced from Ballygarvan Quarry. Revetments to be kept in place using screw piles which will support a continuous pile cap. Geotextil member to be installed between underlayer and primary armour rock layers. Reinforced concrete edge beam to be constructed around the perimeter of the reclaimed area. Pre cast concrete to be used to create bankseat to provide stable base to gangway.

The loss of habitat will be partially compensated for with the rock armour functioning as a reef type habitat which will provide niches for a variety of sessile

organisms and seaweeds. It is additionally proposed to install 8 no biohuts (constructed fish habitats) which will be slung below the surface of the water from the underside of walkways (2 per each of four walkways).

Fill material to be sourced from Ballygarvan Quarry and will comprise crushed rock up to a level above mean high water spring tide and an additional capping layer of recycled material in accordance with TII Specification for Road Works. Fill material to be tested and graded to prevent importation of invasive species to site.

1500m³ soft sediments in southwest corner of the site to be relocated within the site to facilitate construction using an excavator. Excavated material to be stockpiled in a designated area to be allowed to dry and will then be incorporated into fill material for land reclamation works;

In addition to the surface drainage within the proposed site, provision has also been made for the collection and diversion of a stream which currently discharges through the existing quay wall. The freshwater stream which flows into the site is used by gulls and waders. While it is proposed to divert this under the site, the outfall is to be located on the upper shore level where it will discharge and will remain available to wetland birds. The culvert will match the existing culvert dimensions.

Waste-water is to be directed to the public WWTP at Shanbally.

NIS Conclusion – The revised NIS concludes that with the implementation of the mitigation measures identified, no adverse effects on site integrity of Cork Harbour SPA remain.

Assessment of issues that could give rise to adverse effects view of conservation objectives

There are three distinct potential adverse impacts on the Cork Harbour SPA associated with this development, namely (1) water quality degradation (construction and operation), (2) Construction & Operational Disturbance (noise / vibration and light) and (3) Loss of ex situ winter feeding area for QIs. These are discussed separately below.

(1) Water quality degradation (construction and operation)

The focus of mitigation measures proposed are at preventing disturbance and ingress of pollutants and silt into surface water and receiving waters. This is to be achieved via design (avoidance), application of specific mitigation measures and monitoring effectiveness of measures. Standard pollution controls to be implemented to ensure the minimization of risk of release of toxic contaminants to the marine environment. These are included in the revised CEMP which is to be implemented under the supervision of an Environmental Officer. Further, the potential for foul waters generated at the proposed development to reach this European site and cause significant effects, during the Construction and Operational Phases, is deemed to be negligible due to the confirmation by Irish Water that a wastewater connection is feasible without infrastructure upgrade. No potential for impacts to water quality and resource exists for European sites from surface water runoff or drainage from the Proposed Development.

Revised NIS and EclA submitted include results of updated intertidal survey and sediment core sampling completed in November 2023. The hydrodynamic assessment includes results of modelling of predicted sediment distribution associated with the proposed development. No significant changes in local tidal patterns, nor a substantial change in the associated current speeds are predicted. No effect on the finer sediment erosion or accretion patterns in the surrounding area is predicted. Coarse sediments are likely to accrete at the southwestern corner of the proposed development over time. This is not predicted to have wider significance. Morphological impacts predicted to be negligible. Therefore, the risk of the development resulting in mobilisation of toxic contaminants within the marine

environment is ruled out on the basis of the information provided in the Hydrodata report.

(2) Construction & Operational Disturbance (noise / vibration and light)

Noise – Environmental Noise Assessment Report and Disturbance Impact Assessment submitted to assess the potential for construction-related activities to cause noise-related disturbance to birds. This includes an analysis of the potential for construction related works to give rise to noise related disturbance impacts at the Common Tern breeding site within Monkstown Creek, at known Grey Heron and Cormorant Roost sites, at high tide roost sites and on intertidal mudflats within the Creek. It is stated that waterbird roosts and breeding colonies (Common Tern) are outside the potential noise disturbance zone. The potential for construction related activities to give rise to noise related impacts to birds using the Cork Harbour SPA is assessed to be negligible taking account of the predicted noise levels which will be generated (noise modelling report) which will not impact roost sites, and the low density of relevant species or proportion of the Cork Harbour populations of relevant species which are predicted to be using intertidal or subtidal habitats within areas likely to be exposed to noise associated with construction activities.

Note - The focus of the noise assessment was on air borne emissions. There hasn't been an assessment of underwater noise and its impact on marine species. This is addressed in Section 7.11 Ecology of this report above.

Lighting - Controlled low level lighting of the site to prevent light pollution is proposed. As per the lighting plan, light spill appears to be contained within the site and will not illuminate intertidal areas. I am satisfied on this basis that the proposed development does not pose a risk of causing significant disturbance of wetland birds using intertidal mudflats around the site.

(3) Loss of ex situ winter feeding area for QIs

The revised NIS and EclA show that the intertidal area in the vicinity of the proposed development site, is used as foraging habitat by SCIs of the SPA including a range of waders, shelduck and black-headed gull. Whilst present in small numbers, they can represent a relatively significant proportion of the local population for Oystercatcher (e.g. maximum count of 10 birds representing c. 25% of the maximum number recorded for Monkstown Creek during winter counts undertaken in 2021/2022) and Shelduck (maximum count of 12 birds representing c. 36% of the maximum number recorded for Monkstown Creek during winter counts undertaken in 2021/2022).

The development will result in the loss of 1.15ha of inter-tidal habitat. Mitigation measures which are proposed to offset the loss of this habitat include the installation of 8 biohuts providing fish nursery habitat. It is also stated that reef habitat will develop around the rock armour will partially offset the loss of intertidal habitat. No specific measures are proposed to encourage the development of reef habitat and no measures are proposed to achieve a net gain for biodiversity.

I agree with the concerns raised by the County Ecologist that the removal of intertidal habitat at this location will reduce the availability of habitat which is used as a feeding resource for wetland bird species, including species which are qualifying interests of the Cork Harbour SPA, and that the impact of same has not been fully assessed in the NIS. I also share her concerns that no attempt has been made to evaluate the likely efficacy of the emplacement of rock-armour within the site to offset predicted impacts to wetland and gull species. The availability of suitable nearby terrestrial feeding sites is essential to maintain the favourable conservation condition of winter water birds and in particular in particular the Oystercatcher and Shelduck population, both of which are qualifying interests for the adjacent Cork Harbour Special Protection Area (site code 004030).

I further agree with the County Ecologist and the ACP Marine Specialist that the impact of the proposed mitigation has not been properly evaluated to determine the

extent to which natural colonisation of the rock armour will offset the impact of the existing intertidal habitat at the proposed development site and if it doesn't (or doesn't fully) the availability of sufficient similar quality habitat elsewhere for the SCI to use. For this reason reasonable scientific doubt remains as to the absence of adverse effects on the integrity of Cork Harbour SPA in view of its conservation objectives.

Conclusion

Under Article 6(3) of the EU Habitats Directive there is an obligation on the Applicant to prove beyond reasonable scientific doubt, and under the precautionary principle, that the proposed development of these ex situ inter tidal foraging grounds for waterbirds will not result in significant effects on the Conservation Objectives of the Special Conservation Interests for Cork Harbour SPA.

The NIS (revised) as submitted has not established beyond reasonable scientific doubt based on available evidence that the development would not constitute an adverse impact on the Cork Harbour SPA and in particular the Oystercatcher and Shelduck population.

In-Combination Effects

This revised NIS references a search of the Cork County Council planning register for all applications for development within 10km of the proposed development which identified primarily small scale residential proposals. Industrial and port activities in the area and proposals to construct an active travel link (cycleway) along the coastline are also referenced in this section.

I acknowledge that other developments have a potential cumulative impact on the surface water drainage network. However, consistent with the current application,

I am satisfied that they have demonstrated that there would be no significant residual effects on hydrology and designated site.

Having regard to the foregoing, I consider that the potential for in-combination effects is limited due to the cumulative impact of surface / storm water drainage associated with other developments in the area.

Findings and Conclusions

Noted that the impact of removing intertidal habitat in the area adjoining the SPA which is used as a foraging resource by a number of wetland and gull species including those which are qualifying features of the Cork Harbour SPA, is predicted to be non-significant based on the low numbers of birds and the limited range of species which use the area. Concerned that no attempt has been made to quantify or calculate the likely efficacy of the emplacement of rock-armour within the site to offset predicted impacts to wetland and gull species

The applicant determined that following the implementation of mitigation measures, the construction and operation of the proposed development alone, or in combination with other plans and projects, will not adversely affect the integrity of this European site.

However, having regard to the foregoing assessment I disagree with this conclusion. Based on the information provided, I am not satisfied that adverse effects arising from aspects of the proposed development can be excluded for the European site considered in the Appropriate Assessment, namely the Cork Harbour SPA.

The proposed development will not give rise to direct effects on wetland habitats within the Cork Harbour SPA. Also, the activities associated with the construction

and operation of the development will not result in water degradation nor do they pose a risk of causing noise or light related disturbance to birds at a level which would give rise to significant effects.

However, there are indirect impacts by way of the loss of a significant and important ex situ winter feeding area for water birds and in particular the Oystercatcher and Shelduck population, which are qualifying interests for the adjacent Cork Harbour Special Protection Area (site code 004030).

Further, I am not satisfied that the information provided is adequate to allow for Appropriate Assessment. Not all aspects of the project which could result in significant effects are considered and assessed in the NIS, including suitable mitigation measures designed to avoid or reduce any adverse effects on site integrity have been included and assessed for effectiveness.

The proposed development could affect the attainment of the Conservation objectives of the Cork Harbour Special Protection Area (SPA) (Site Code: 0040320). Adverse effects on site integrity cannot be excluded, and reasonable scientific doubt remains as to the absence of such effects.

Appropriate Assessment Conclusion: Integrity Test

In screening the need for Appropriate Assessment, it was determined that the proposed development could result in significant effects on Cork Harbour Special Protection Area (SPA) (Site Code: 004030) in view of the conservation objectives of those sites and that Appropriate Assessment under the provisions of S177U/177AE was required.

Following an examination, analysis and evaluation of the NIS as revised, all associated material submitted and taking into account the ACP Internal Specialist Report (Marine Ecology), CCC Ecologist and third-party observations I consider

that adverse effects on site integrity of the Cork Harbour Special Protection Area (SPA) (Site Code: 004030) and ex situ winter feeding sites cannot be excluded in view of the conservation objectives of this SPA and therefore reasonable scientific doubt remains as to the absence of such effects.

My conclusion is based on the following:

- 1) The proposed development site is an important ex situ winter feeding site for water birds and in particular the Oystercatcher and Shelduck population, both of which are qualifying interests for the adjacent Cork Harbour Special Protection Area (site code 004030).
- 2) The availability of suitable nearby terrestrial feeding sites is essential to maintain the favourable conservation condition of winter water birds which are qualifying interests for the adjacent Cork Harbour Special Protection Area (site code 004030).
- 3) The removal of intertidal habitat at this location will reduce the availability of habitat which is used as a feeding resource for wetland bird species, that are qualifying interests of the Cork Harbour SPA. The impacts of the removal of this intertidal habitat have not been fully assessed in the NIS (as revised).
- 4) The impact of the proposed mitigation has not been properly evaluated to determine the extent to which natural colonisation of the rock armour will offset the impact of the existing intertidal habitat at the proposed development site and if it doesn't (or doesn't fully) the availability of sufficient similar quality habitat elsewhere for the SCI to use.
- 5) The NIS as submitted has not established beyond reasonable scientific doubt based on available evidence that the development would not constitute an adverse impact on the Cork Harbour SPA and in particular the Oystercatcher and Shelduck population.

Appendix 5 - Water Framework Directive Impact Assessment

Stage 1 Screening			
Step 1: Nature of the Project, the Site and Locality			
ABP Ref.	ABP-320459-24	Townland, address	Lands adjacent to Cork Harbour Marina, Strand Road, Monkstown, Co. Cork
Description of project		10 year permission to construct rock armour and reclamation of foreshore. Construction of marina building, gym, bird hide, electrical vessel recharging facility and associated site works..	
Brief site description, relevant to WFD Screening		The subject site is located adjacent to the existing Cork Harbour Marina in Monkstown, Co. Cork and forms part of the foreshore which is under the ownership of Cork County Council. The site itself has a total area of 1.389ha (i.e. all lands within the redline application boundary). which includes the reclamation of lands on the seaward side of the existing seawall. These lands are located within the County Council owned foreshore and comprise a sandy/shaley beach at the foot of the sea wall. The reclamation process involves the creation of a total developable area of 0.69ha. The area from the footing for the rock armour to the sea wall is 1.15ha.	

<p>Proposed surface water details</p>	<p>Stormwater runoff from the development will be collected in a dedicated stormwater drainage system. The stormwater drainage system will collect rainwater from the storm incident upon the development for discharge to the harbour waters via a series of silt traps, oil interceptors and outfalls.</p> <p>In addition to the surface drainage within the proposed site, provision has also been made for the collection and diversion of a stream which currently discharges through the existing quay wall. In line with best practice, it is proposed to retain this feature as part of the proposed development by capturing this stream outfall and diverting it to a different position on development.</p>
<p>Proposed water supply source & available capacity</p>	<p>Uisce Eireann mains water connection. No capacity issues identified.</p>
<p>Proposed wastewater treatment system & available capacity</p>	<p>Uisce Eireann Wastewater connection. No capacity issues identified.</p>
<p>Other</p>	<p>The foreshore reclamation involves the creation of a total of 1.15ha between the footing of the rock revetment and the existing sea wall. Achieving this will require approximately 50,000 m³ (approx. 3,300 loads assuming 15 m³ capacity lorries) of fill material. The fill material will be sourced locally from Roadstone's Ballygarvan Quarry at Killanully, Co. Cork.</p>

	<p>The construction methodology including the management of demolition waste is provided in greater detail in the CEMP. The CEMP has been prepared having regard to the environmental and ecological sensitivities of the area and appropriate mitigation measures are included. An emergency-operating plan will also be developed prior to the commencement of construction works, which will outline the procedures for preventing, containing, and responding to incidents or accidents during construction that may give rise to pollution within Cork Harbour.</p> <p>The site is located in Flood Zone A. The SSFRA concluded there will be no changes in local flood water levels arising from the development. No residual impacts have been identified; no mitigation measures are required and no changes to building flood levels are proposed.</p>
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Step 2: Identification of relevant water bodies and Step 3: S-P-R connection

Identified Waterbody	Distance to (m)	Waterbody name(s) (code)	WFD Status	Risk of not achieving WFD Objective	Identified pressures on the waterbody	Pathway linkage to water feature
River Waterbody	1.75 km	Hilltown (IE_SW_19H050470)	Good	Review	Non identified	Surface water run off

Groundwater Waterbody	Underlying site	Ballinhassig East (IE_SW_G_004)	Good	Not at risk	Non identified	Drainage to groundwater
Transitional Waterbody	Partly within this waterbody	Lough Mahon IE_SW_060_0750	Moderate	At risk	Urban wastewater	Wastewater
Coastal Waterbody	c185m	Cork Harbour IE_SW_060_0000	Good	At risk	Urban wastewater Urban runoff	Surface water runoff and wastewater

Step 4: Detailed description of any component of the development or activity that may cause a risk of not achieving the WFD Objectives having regard to the S-P-R linkage.

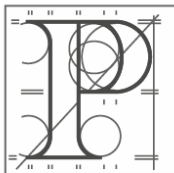
CONSTRUCTION PHASE

No.	Component	Waterbody receptor	Pathway (existing and new)	Potential for impact/ what is the possible impact	Screening Stage Mitigation Measure	Residual Risk (yes/no) Detail	Determination to proceed to Stage 2. Is there a risk to the water
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							environment ?
1.	Site clearance / construction	Hilltown	None	Water Pollution	Implement CEMP	No	Screened out
2.	Site clearance / construction	Ballinhassig East	Drainage through soil / bedrock	Reduction in groundwater quality	Implement CEMP	No	Screened out
3.	Site clearance / construction	Lough Mahon	Direct	Water Pollution	Implement CEMP	No	Screened out
4.	Site clearance / construction	Cork Harbour	Direct	Water pollution	Implement CEMP	No	Screened out
OPERATIONAL PHASE							
1.	Surface water run-off	Hilltown	None	Deterioration of water quality	Incorporation of silt and oil interceptors to ensure clean discharge	No	Screened out

2.	Groundwater discharges	Ballinhassig East	Drainage through soil / bedrock	Reduction in groundwater quality	SuDS and greenfield discharge rates	No	Screened out
3.	Surface water run-off	Lough Mahon	None	Deterioration of water quality	SuDS features and standard pollution controls	No	Screened out
4.	Surface water run-off	Cork Harbour	None	Deterioration of water quality	SuDS Features and standard pollution controls	No	Screened out
DECOMMISSIONING PHASE							
1.	Decommissioning is not anticipated as this is a permanent development.						

Appendix 6 – ACP Specialist Report Marine Ecologist



An
Coimisiún
Pleanála

Specialist Report

R320459_Appx

Development

10-year permission to construct rock armour and reclamation of foreshore. Construction works include a marina building, gym, bird hide, electrical vessel recharging facility and associated site works at lands adjacent to Cork Harbour Marina, Strand Road, Monkstown, Co. Cork

Type of Application

Normal Planning Appeal

Topic

Marine Ecology: Matters relating to impacts on Cork Harbour SPA, Monkstown Creek pNHA, EIA and others

Ecologist/Scientist/Engineer

Conor Donnelly, Marine Ecologist, B.Sc. (Hons)

Planning Inspector

M.Res.

Date

Mary Crowley

15 January 2026

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13.0 Introduction

13.1. Scope of Report to Inspector

13.1.1. This report to the Planning Inspector and available to the Commission is a written record of my review and examination of the submitted information provided by the applicant, addressing the following questions raised by the Inspector:

Cork Harbour SPA

- Is there an indirect impact to the Cork Harbour SPA?
- Are the mitigation measures proposed satisfactory?

Monkstown Creek proposed Natural Heritage Area

- Is the pNHA of County or National Importance?
- Will the development works have a direct or indirect impact on the pNHA
- Are the mitigation measures proposed satisfactory

Environmental Impact Assessment

- Is the submission of an EIA required?

Otters

- Can the requirement for an Otter survey and, if necessary, a derogation license for same, be dealt with by way of condition.

In my capacity of Marine Ecologist with over 25 years professional experience, I have the relevant expertise to provide a professional opinion as to the adequacy of the

information provided and the assessment undertaken by the applicant in relation to the matters raised by the Inspector.

13.1.2. I have reviewed and examined the following documents including relevant appendices and figures (plans and particulars):

- Revised Appropriate Assessment Screening Report and NIS (April 2024)
- Revised Ecological Impact Assessment (April 2024)
- EIA Screening Report (April 2024)
- Monkstown Marina: Assessment of the Potential Impact of Noise Disturbance to Waterbird Populations (5 March 2024)
- Environmental Noise Assessment (19 April 2024)
- Construction and Environmental Management Plan (30 April 2024)
- Site plans
- County Ecologist Primary Report (12 July 2023) and Review of Applicant's FI Response (2 July 2024)
- Planners Report (4 July 2024)
- Cork Harbour SPA (004030) documents including site synopsis, Conservation Objectives and CO Supporting Document

13.1.3. The Department of Housing, Local Government and Heritage submissions (12 July 2023, 29 May 2024) did not include comments relating to biodiversity or nature conservation.

13.1.4. The documents have been reviewed with respect to the following current best practice guidance including:

- European Commission (2019). Managing Natura 2000 sites – the provisions of Article 6 of the 'Habitats' Directive 92/43/EEC.
- European Commission (2021). Assessment of plans and projects in relation to Natura 2000 sites – Methodological guidance on the provisions of Article 6(3) and 6(4) of the Habitats Directive 92/43/EEC. 2021/C 437/01.

- OPR (2021). OPR Practice Note PN01. Appropriate Assessment Screening for Development Management.
- OPR (2021). OPR Practice Note PN02. Environmental Impact Assessment Screening.
- CIEEM (2018) Guidelines for Ecological Impact Assessment in the UK and Ireland: Terrestrial, Freshwater, Coastal and Marine version 1.3.

14.0 **Cork Harbour SPA**

14.1. **Is there an indirect impact to the Cork Harbour SPA?**

14.1.1. Potential indirect impacts to the Cork Harbour SPA are identified in the revised Appropriate Assessment Screening Report and NIS (April 2024) (hereafter referred to as the 'revised NIS').

14.1.2. Cork Harbour is a large, sheltered bay system, with several river estuaries - principally those of the Rivers Lee, Douglas, Owenboy and Owennacurra. The SPA site comprises most of the main intertidal areas of Cork Harbour, including all of the North Channel, the Douglas River Estuary, inner Lough Mahon, Monkstown Creek, Lough Beg, the Owenboy River Estuary, Whitegate Bay, Ringabella Creek and the Rostellan and Poul nabibe inlets¹.

14.1.3. Whilst the proposed development site is outside the boundary of the SPA at Monkstown Creek the revised NIS shows potential impacts include loss of ex-situ foraging habitat, disturbance during construction and operation, and water quality and hydrological effects. Mitigation is proposed to address these potential impacts including:

- Habitat loss: natural colonisation of rock armour by food species. Introduction of biohuts to provide fish habitat.

¹ Site Synopsis Cork Harbour SPA (004030) <https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY004030.pdf>

- Disturbance to birds: Restriction on land reclamation and piling activities to the May to September period to avoid wintering birds.
- Water quality: CEMP with suite of measures including in relation to pollution prevention and use of silt curtains during construction.
- Hydrological effects: None required due to limited predicted impact on tidal regime and sedimentation.

14.1.4. The revised NIS concludes that with the implementation of the mitigation measures identified, no adverse effects on site integrity of Cork Harbour SPA remain.

14.1.5. The County Ecologist in her review of the applicant's response to the FIs, raises concerns that the removal of intertidal habitat at this location will reduce the availability of habitat which is used as a feeding resource for wetland bird species, including species which are Special Conservation Interests (SCIs) of the Cork Harbour SPA, and that the impact of same has not been fully assessed in the NIS.

14.1.6. She also raises concerns with the approach to mitigation of this impact. In particular, that no attempt has been made to evaluate the likely efficacy of the emplacement of rock-armour within the site to offset predicted impacts to wetland and gull species and that no in-combination assessment has been completed in respect of this likely impact.

14.1.7. The revised NIS and EclA show that the intertidal area in the vicinity of the proposed development site, is used as foraging habitat by SCIs of the SPA including a range of waders, shelduck and black-headed gull. Whilst present in small numbers, they can represent a relatively significant proportion of the local population at Monkstown Creek for Oystercatcher (e.g. maximum count of 10 birds representing c. 25% of the maximum number recorded for Monkstown Creek during winter counts undertaken in 2021/2022) and Shelduck (maximum count of 12 birds representing c. 36% of the maximum number recorded for Monkstown Creek during winter counts undertaken in 2021/2022).

14.1.8. I agree with the County Ecologist that the impact of the proposed mitigation has not been properly evaluated to determine the extent to which natural colonisation of the rock armour will offset the impact of the loss of the existing intertidal habitat at the proposed development site and if it doesn't (or doesn't fully) the availability of

sufficient similar quality habitat elsewhere for the SCI to use. For this reason, and given the value of this ex-situ foraging habitat for SCI birds, reasonable scientific doubt remains as to the absence of adverse effects on the integrity of Cork Harbour SPA in view of its conservation objectives.

15.0 Monkstown Creek proposed Natural Heritage Area

15.1. Is the pNHA of County or National Importance?

- 15.1.1. The NPWS host an archive of Site Synopses for pNHAs on their website. These Synopses describe the site and the reasons for its conservation importance. Synopses are not available for all pNHAs on the NPWS website, and in the case of Monkstown Creek (Site Code 001979) the pNHA listing² instead refers to the SPA. This indicates that the importance of the pNHA aligns with the Cork Harbour SPA and relates to the bird species present and its value as a supporting wetland habitat. The Cork County Development Plan 2022-2028³ describes the features of interest of the pNHA as follows: *“the area is of value because its mudflats provide an important feeding area for waterfowl including Shelduck, Teal, Redshank and Dunlin. The pNHA also supports a Cormorant roosting site. The site forms part of Cork Harbour SPA.”*
- 15.1.2. The revised EclA notes that the boundary of Cork Harbour SPA at Monkstown Creek was originally aligned with the boundary of the Monkstown Creek proposed Natural Heritage Area (pNHA) and included the area of the proposed development site. Following a successful appeal in 2008, the area around the proposed development site was excluded from the SPA on the basis that the habitat did not provide significant feeding grounds for wintering waterfowl. However, the boundary of the pNHA is unchanged such that the proposed development site remains within it.
- 15.1.3. In the revised EclA the applicant’s consultant states that the pNHA does not warrant evaluation as a site of national importance and is assigned a value of county

² <https://www.npws.ie/protected-sites/nha>

³ Volume 2. Table 2.3.4

importance. This is on the basis that the area of the pNHA in which the proposed development occurs has been excluded from the SPA.

15.1.4. The County Ecologist in her review of the applicant's FI response, notes that this is contrary to guidance which states that pNHAs should be assigned national importance.

15.1.5. I agree with the County Ecologist that the guidance does state NHAs and pNHAs should be treated as of national significance:

- In the Guidelines for Assessment of Ecological Impacts of National Roads Schemes (NRA, 2008⁴), Table 1 "*Examples of valuation at different geographical scales*" lists "*Site designated or proposed as a Natural Heritage Area (NHA)*" as of national importance.
- CIEEM (2018)⁵ states, "*in Ireland, a suite of proposed Natural Heritage Areas (pNHAs) were published on a non-statutory basis in 1995. These should be considered important at the national scale, although they are not currently formally proposed for designation, and are generally given protection through statutory licensing restrictions and planning policies*".

15.1.6. The CIEEM guidance notes that significant effects should be qualified with reference to an appropriate geographic scale. For example, an NHA is likely to be of national importance. It goes on to state that the scale of significance of an effect may not be the same as the geographic context in which the feature is considered important. It gives an example, where an effect on a species which is on a national list of species of principal importance for biodiversity may not have a significant effect on its national population. Other relevant scales may be regional or county. However, it

⁴ NRA (2008). Guidelines for Assessment of Ecological Impacts of National Roads Schemes. Revision 2, 1st June, 2009.

<https://www.tii.ie/media/kzldoawo/guidelines-for-assessment-of-ecological-impacts-of-national-road-schemes.pdf>

⁵ CIEEM (2018) Guidelines for Ecological Impact Assessment in the UK and Ireland: Terrestrial, Freshwater, Coastal and Marine version 1.3. Chartered Institute of Ecology and Environmental Management, Winchester. <https://cieem.net/wp-content/uploads/2018/08/EcIA-Guidelines-v1.3-Sept-2024.pdf>

also notes that even effects at the local scale may be significant, particularly in view of policies for no net loss of biodiversity.

15.1.7. In this case, the applicant has not sufficiently shown why the pNHA should be treated as of less than national importance, i.e. beyond that the area of the pNHA in which the proposed development is located is no longer aligned with the SPA. For example, they have not considered the reasons for its proposal as a pNHA, how might these be affected by the proposed development and the significance of these effects.

15.2. Will the works have a direct impact upon the pNHA

15.2.1. Impacts upon the pNHA have been identified in the revised EclA and are similar to those identified for the SPA as referred to in section 2.1.1 above. Unlike the SPA, as the proposed development is within the pNHA, it will have a direct impact upon the site in that it will result in the loss of 1.15ha of intertidal habitat within the pNHA. Other impacts identified include potential disturbance to foraging birds, potential impacts to water quality, tidal regime and sedimentation. Mitigation has been proposed to address these potential impacts as referred to in section 2.1.1 above.

15.3. Are the mitigation measures proposed satisfactory?

15.3.1. In my view, the mitigation measures proposed in relation to disturbance to birds and potential impacts to water quality are satisfactory. With regards hydrological effects, based on the information presented, I would agree that no mitigation is required due to limited predicted impact on tidal regime and sedimentation.

15.3.2. With regards the habitat loss impact, The County Ecologist in her review of the applicant's FI response, states that the applicants have not fully assessed the significance of impact of removing intertidal habitat at this location and have not demonstrated that their proposed compensatory measures will mitigate the impact of

same (in the context of impacts upon the SPA and pNHA). In particular, she raises the following concerns:

- The revised EclA contains no evaluation of the quality, condition or ecological value of the intertidal habitat which will be lost and the significance of the impact of loss of this habitat has not been properly assessed.
- Mitigation proposals do not adhere to the principle of achieving ecological equivalence.
- It is suggested that reef habitat will develop around the rock armour over time and it is proposed to install fish nursery habitat (biohuts). No evaluation of the likely efficacy of this proposal has been provided in terms of mitigating the loss of the existing intertidal habitat.
- With regards the biohuts, it is not clear what the proposals are intended to mitigate since no impact to fish nursery is identified in the revised EclA.
- Whilst applicants are relying on development of reef habitat around rock armour to compensate for the impact of removing intertidal habitat no specific design interventions are proposed which would maximise the ecological value of same or which would encourage development of reef habitat, which in itself does not provide direct mitigation for loss of the existing intertidal habitat.

15.4. I agree with all the points made above. For these reasons, in my view the proposed mitigation is not satisfactory.

15.5. As noted by the Planner's Report, the absence of meaningful mitigation to offset the impacts of habitat loss and no biodiversity net gain proposals is contrary to Cork County Development Plan policies BE 15-2(a) and BE 15-6(6).

16.0 Environmental Impact Assessment

16.1. Is the submission of an EIA required?

16.1.1. The EIA screening report prepared by the applicant's consultant, states that EIA is not required for the following reasons:

- The proposed development does not fall within development classes set out in Part 1 of Schedule 5 of the Planning and Development Regulations, 2001 (as amended).
- Mandatory EIA is not required because the proposed project does not meet the thresholds as prescribed in Schedule 5, Part 2, Class 1(g) of the 2001 Regulations
- Having regard to the nature, extent and the characteristics of the likely impacts identified for the construction and operational phases, it is considered the proposed development will not give rise to a likely significant environmental effect and accordingly a sub-threshold EIA is not required.

16.1.2. A screening determination was carried out by the Planning Authority which concluded that the proposed development would likely have significant effects on the environment and that the preparation and submission of an environmental impact report is therefore required.

16.1.3. The screening determination found there to be a significant impact on biodiversity, in relation to the loss of 1.15ha of intertidal habitat within Monkstown Creek pNHA. It noted that the site has been incorrectly classified as of county importance when it should be classified as of national importance and as a consequence the assessment of likely effects matrix significantly underestimates the extent of the impact of the proposed development on biodiversity. It further notes that explanation was not provided of what reasonable alternatives were considered which would have a lesser effect on the environment; no proposals put forward for biodiversity net gain or quantifiable / meaningful compensatory measures to offset loss of habitat.

16.1.4. In my view the basis for the Planning Authority's determination and conclusion reached are valid. I agree that the information and assessment provided by the applicant in relation to these areas is insufficient and consequently there is a real likelihood of significant effects on the environment such that the preparation and submission of an environmental impact report is required.

17.0 Otters

17.1. Can the requirement for an Otter survey and, if necessary, a derogation license for same, be dealt with by way of condition?

- 17.1.1. The County Ecologist in her review of the applicant's FI response raised concerns over a lack of detail in the revised EclA regarding Otter survey, the age of the survey information and the absence of proposed mitigation measures. She considers that a detailed pre-construction survey is required, and a derogation license may be required should a breeding site or resting area be identified.
- 17.1.2. I agree that the EclA provides little detail of the survey, beyond providing when the survey was undertaken and that TII guidance was followed; namely the Ecological Surveying Techniques for Protected Flora and Fauna during the Planning of National Road Schemes (NRA, 2008) and Guidelines for the Treatment of Otters Prior to the Construction of National Road Schemes (NRA, 2006). The results of the survey are not clearly set out either, except for a reference to otter spraints "recorded at Carlisle Place to the north of the site in 2022".
- 17.1.3. The EclA notes that otter are likely to range throughout the area and are considered likely to use the proposed development site for foraging (there is reference to otter being attracted to feed on mussel) and to use the stream emerging from the culvert under Strand Road for washing their pelts.
- 17.1.4. The EclA further notes that the intertidal habitat in the development site is not suitable for providing breeding or resting places for otter as the habitats within the proposed development site consist of intertidal habitat bounded by a seawall.
- 17.1.5. Having reviewed the EclA, plans, photos and aerial imagery of the proposed development site I agree with this assessment. As noted elsewhere in the EclA the intertidal area is relatively narrow (35-140m) and only exposed for a 'couple of hours either side of low water'. Given the presence of the road adjoining the proposed development site, the vertical seawall and intertidal habitat which is exposed for a

short period of time, it is unlikely to support suitable breeding or resting places for otter.

17.1.6. In light of the time passed since the survey of the site, a detailed pre-construction survey of the proposed development site and its disturbance zone (the NRA (2006) guidance on the Treatment of Otters has details of this) should be undertaken. This can be dealt with by way of condition.

17.1.7. As noted above, given the unsuitability of the habitat within the proposed development site, I consider it unlikely that the survey would identify a holt. However, should a holt be discovered, the applicant will need to agree appropriate mitigation with the Planning Authority in accordance with the NRA 2006 guidance and secure a derogation under Regulation 54 of the European Communities (Birds and Natural Habitats) Regulations 2011-2021. The derogation would need to be secured in advance of agreement of any required mitigation by the Planning Authority. NPWS have recently issued Guidance to Applicants on applying for Regulation 54 Derogations⁶ which should be referred to.

18.0 Other matters

18.1. Greenshank, *Tringa nebularia*

18.1.1. Greenshank is an SCI of the Cork Harbour SPA but appears to have been omitted from the revised NIS. It over-winters in the site and is present in nationally important numbers⁷.

18.1.2. I note that although Greenshank has a Conservation Objective (page 26 of the Cork Harbour SPA Conservation Objectives document⁸), it is not included on the list of

⁶ Applications for Regulation 54 Derogations for Annex IV species. Guidance for Applicants. Version 1.0. 1 July 2025. Department for Housing Local Government and Heritage.

<https://www.npws.ie/sites/default/files/files/Applications-for-Regulation-54-Derogations-for-Annex-IV-species-Guidance-for-Applicants.pdf>

⁷ Cork Harbour SPA. Site Synopsis. 21 January 2015. <https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY004030.pdf>

⁸ NPWS (2014) Conservation Objectives: Cork Harbour SPA 004030. Version 1. National Parks and Wildlife Service, Department of Arts, Heritage and the Gaeltacht. https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004030.pdf

Qualifying Interests on page 4 of the document, which might be why it has been overlooked by the applicant's consultants.

- 18.1.3. Table 8 and 9 of the revised NIS show Greenshank have been recorded in Monkstown Creek during I-WeBS high tide peak counts over the winters 2019/2020 to 2022/2023 and from "various low tide count datasets" and also in the proposed development site during low tide surveys of both the site and Monkstown Creek undertaken over the period October 2021 to March 2022 by the applicant's consultants. In both areas numbers observed were relatively low; the I-WeBS counts showed peak counts of 9 birds at high tide and 4 at low tide in Monkstown Creek which corresponds to 6% and 3% respectively of the Cork Harbour peak population (Table 8). The maximum count during the surveys by the applicant were 2 individuals on the proposed development site and 4 individuals in Monkstown Creek (Table 9).
- 18.1.4. Greenshank was considered in the Monkstown Marina water disturbance assessment prepared by Tom Gittings for the applicant⁹. The assessment was based on a desk review of available information about waterbird occurrence patterns in Monkstown Creek; a literature review of information about waterbird sensitivities to noise disturbance; noise modelling carried out for the proposed development; analyses of mapping and tidal data to assess exposure patterns of intertidal habitat in Monkstown Creek; and calculations of the potential exposure of the Cork Harbour populations of relevant waterbird species to construction noise generated by the proposed development. The report included a species-specific assessment of the potential impact on Greenshank which considered the assumptions made regarding exposure to construction noise and the absence of information on disturbance sensitivity for the species in the Waterbird Disturbance Mitigation Toolkit. It calculated 0.1-0.4% of the Cork Harbour Greenshank population could be exposed to potentially disturbing construction noise levels from the proposed development. It concluded that if this caused complete displacement, it would be a very slight impact, but it is a large overestimate of the likely displacement impact.

⁹ Monkstown Marina: Assessment of the Potential Impact of Noise Disturbance to Waterbird Populations. Tom Gittings. 5 March 2024.

18.1.5. Whilst impacts in terms of disturbance are not considered to give rise to adverse effects, the potential impact arising from loss of habitat referred to Section 2.1.6 also applies to Greenshank and as such a reasonable scientific doubt remains as to the absence of adverse effects on the integrity of Cork Harbour SPA in relation to Greenshank.

18.2. Marine mammal mitigation

18.2.1. The County ecologist in her review of the applicant's FI response noted potential disturbance from the proposed works to marine ecological receptors including fish and marine mammals and requested "details of predicted noise levels (both above and below water) which would be generated by the required physical works and an assessment of potential for such noise to give rise to impacts to all relevant key ecological receptors including marine species". I note a noise assessment was undertaken by Moloney and Associates¹⁰ which informed an assessment of noise disturbance on waterbirds (Gittings, 2024). However, the focus of the assessment by Moloney & Associates was on airborne noise emissions and there hasn't been an assessment of underwater noise and its impact on marine species.

18.2.2. Marine mammals are present in the vicinity. The revised NIS refers to 3 Harbour seal haul-outs around Haulbowline and an observation of a single Grey seal during ecological surveys (not marine mammal-specific surveys) undertaken for the proposed development by the applicant's consultants.

18.2.3. The revised EclA notes cetacean activity is not anticipated in the area but episodic occurrences cannot be ruled out. A search of information from the IWDG Casual Cetacean Sightings database (available on the IWDG and also National Biodiversity Data Centre websites) shows Common dolphin and Harbour porpoise sightings in the vicinity of the proposed development area in recent years, including an observation of c.13 Common dolphin at Ringaskiddy on the 9th November 2025.

¹⁰ Environmental Noise Assessment for the Proposed Development at Lands Adjacent to Cork Harbour Marina, Strand Road, Monkstown, Co. Cork. Moloney and Associates. 19 April 2024.

18.2.4. Grey and Harbour seals and Harbour Porpoise and Bottlenose dolphin are listed under Annex II of the Habitats Directive and both seal species and all cetaceans are protected species listed under Annex IV of the Habitats Directive and the 5th Schedule to the Wildlife Act 1976. In the revised NIS, no impacts upon marine mammal QIs of SACs have been identified. However, impacts on seals and cetaceans as protected species under Annex IV of the Habitats Directive and the Wildlife Acts (Wildlife Act 1976 as amended and Wildlife (Amendment) Act 2000 as amended) are relevant here.

18.2.5. The applicant proposes to use mitigation, including screw piling rather than hammer driven piles, restricting activity outside of the wintering bird period and implementation of the measures set out in the Guidance to Manage the Risk to Marine Mammals from Man-made Sound Sources in Irish Waters (NPWS, 2014)(the 'NPWS Guidance')¹¹.

18.2.6. With regards the NPWS Guidance, it is important to note the following:

- The Guidance states that sound sources with the potential to induce TTS in a receiving marine mammal have the potential to cause both disturbance and injury. This guidance has a statutory basis under Regulation 71 of SI No. 477 of 2011 and refers to the “offence to injure” under the Wildlife Act, 1976, noting that TTS “may constitute such an injury”.
- There have been improvements in the understanding of marine mammals sensitivity to noise since the NPWS Guidance was published. For example, the noise exposure criteria referred to in it, Southall *et al.*, 2007, have been updated by Southall *et al.* 2019¹². Of relevance here, Harbour porpoise have been assigned to a new Very High Frequency (VHF) hearing group which has significantly lower thresholds for onset of injury (e.g. TTS for impulsive noise is 140 dB re 1 µPa²s SEL). It is therefore important that mitigation measures

¹¹ https://www.npws.ie/sites/default/files/general/Underwater%20sound%20guidance_Jan%202014.pdf

¹² Southall *et al.* (2019). Marine Mammal Noise Exposure Criteria: Updated Scientific Recommendations for Residual Hearing Effects. *Aquatic Mammals*, 45(2): 125-232.

should be applied consistently with latest understanding of marine mammal sensitivity to noise, including Southall *et al.*, 2019.

- NPWS are currently in the process of updating their Guidance and mitigation measures should adhere to the new Guidance when it is published.

18.2.7. In the absence of noise modelling, it is not possible to define the PTS, TTS and behavioural impact zones due to the proposed works to ensure mitigation can be effectively applied. This information may then indicate the need for other mitigation measures beyond what is currently set out in the NPWS Guidance (e.g. noise abatement systems). Consideration should also be given to cumulative effects on marine mammals from underwater noise arising from any other developments in the vicinity of the proposed works.

18.2.8. If there is the potential for deliberate disturbance of Annex IV species, which include all dolphin, whales and porpoise species, this will require a derogation issued under Regulation 54 of the European Communities (Birds and Natural Habitats) Regulations 2011-2021. This derogation should be secured in advance of decision-making.

18.3. Impacts on intertidal and subtidal habitats in the vicinity of the proposed development area

18.3.1. In its description of the baseline marine environment in section 3.3.1, the EclA refers very briefly to the existence of a large mussel bed on a gravelly section of intertidal shore approximately 200m south of the site boundary at a distance of about 90m from the shore. There does not appear to be any further consideration of this mussel bed as a feature in its own right (e.g. as biogenic reef) and as a supporting habitat for feeding birds which may be impacted by the proposed development. It is also not clear how the location of this bed relates to the boundaries of the SPA or pNHA (i.e. is it within or outside one or both of these sites).

18.3.2. The EclA also refers to subtidal habitats in deeper waters (>5m) off the site being dominated by peacock worm *Sabella pavonina* with an associated community of

sponges, anemones, crustaceans and fish. The EclA defines this habitat as *Sabella pavonina* with sponges and anemones on infralittoral mixed sediment (SS.SMx.IMx.SpavSpAn) biotope using the JNCC Marine Habitat Classification. This subtidal habitat doesn't seem to have been considered further in the EclA, for example subtidal habitats aren't considered in the 'Section 5. Assessment of Impacts' section of the report and only very briefly referred to in 'Section 6. Mitigation', where it is proposed that "*loss of intertidal and sub-tidal habitat at the site will be partially compensated for by the use of rock armour which will function as a reef-type habitat*".

- 18.3.3. Both of these habitats have the potential to be impacted by sediments released from the proposed works into the water column and transported to surrounding habitats.
- 18.3.4. Information on the sensitivity of marine habitats in the UK and Ireland to a range of pressures, including physical pressures such as smothering by sediment, is available from MarESA¹³. Assessments are biotope-specific and the EclA does not identify a biotope for the mussel bed, but for the purposes of providing an example of potential sensitivity, the *Mytilus edulis* beds on littoral mixed substrata (LS.LBR.LMus.Myt.Mx) biotope appears to align with the description of the substrate¹⁴. MarESA assesses both the SS.SMx.IMx.SpavSpAn¹⁵ and LS.LBR.LMus.Myt.Mx biotopes as having medium sensitivity to both light and heavy smothering (where the benchmark threshold for light smothering is deposition of up to 5 cm of fine material added to the seabed in a single discrete event and heavy smothering is deposition of up to 30 cm of fine material added to the seabed in a single discrete event).
- 18.3.5. Whilst these potentially sensitive intertidal and subtidal habitats do not appear to have been adequately assessed in the EclA, mitigation has been proposed to address potential impacts on water quality which will limit sediment dispersion from the proposed works through use of silt curtains. The hydrodynamic study also

¹³ Marine Evidence based Sensitivity Assessment (MarESA)
https://www.marlin.ac.uk/sensitivity/sensitivity_rationale

¹⁴ *Mytilus edulis* beds on littoral mixed substrata (LS.LBR.LMus.Myt.Mx)
<https://www.marlin.ac.uk/habitats/detail/1165>

¹⁵ *Sabella pavonina* with sponges and anemones on infralittoral mixed sediment
<https://www.marlin.ac.uk/habitats/detail/1088>

predicts that once-constructed the project will have a limited impact on tidal regime and sedimentation (small increase in current speeds at southeastern corner of the revetment and local build-up of coarser sand and shell where the proposed revetment meets the existing seawall).

19.0 Conclusion

19.1. Cork Harbour SPA

- The applicant, in their revised Appropriate Assessment Screening Report and Natura Impact Statement (NIS), considered that the proposed development could result in significant effects on Cork Harbour SPA in view of the conservation objectives of that site and that Appropriate Assessment was required. Their NIS concluded that, with the application of mitigation, the proposed mitigation would not result in adverse effects on the integrity of Cork Harbour SPA in view of its conservation objectives, either alone or in combination with other plans or projects.
- Contrary to the conclusion reached by the applicant in their revised NIS, I consider that reasonable scientific doubt remains as to the absence of adverse effects on the integrity of Cork Harbour SPA from the proposed development. Consequently, adverse effects on the integrity of Cork Harbour SPA in view of its conservation objectives cannot be excluded.
- The Commission can give consent for proposed development only after having determined that the proposed development shall not adversely affect the integrity of a European site. Since adverse effects on the integrity of Cork Harbour SPA cannot be excluded, I recommend refusal.

In my view there are a number of other significant issues with the assessment undertaken by the applicant including:

19.2. Monkstown Creek pNHA

- Guidance states that pNHAs should be treated as of national significance. The applicant has assessed it as having significance at the county level. In my view the applicant has not sufficiently justified why the pNHA should be treated as of less than national importance. This risks significantly

underestimating the extent of the impact of the proposed development on the site.

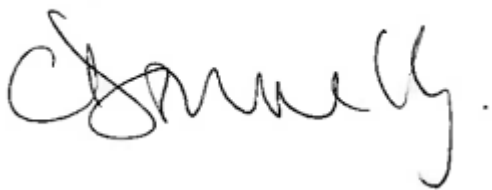
- The proposal will have a direct impact upon Monkstown Creek pNHA and the proposed mitigation is inadequate.
- The absence of meaningful mitigation to offset the impacts of habitat loss and no biodiversity net gain proposals is contrary to Cork County Development Plan policies BE 15-2(a) and BE 15-6(6).

19.3. Marine mammals

- An information gap exists in relation to the applicant's assessment of potential impacts from underwater noise on marine mammals. There hasn't been an assessment of underwater noise and its impact on marine mammals. In the absence of noise modelling, it is not possible to define the PTS, TTS and behavioural impact zones arising from the proposed works which is required to ensure mitigation can be effectively applied

19.4. Intertidal and subtidal habitats

- Potentially sensitive intertidal and subtidal habitats are identified in the EclA but do not appear to have been adequately assessed.



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