



An
Bord
Pleanála

Inspector's Report

ABP-321177-24

Development

Construction of a boathouse and associated site works. Natura Impact Statement submitted with application.

Location

Rathcoursey West, Middleton, Co. Cork

Planning Authority

Cork County Council

Planning Authority Reg. Ref.

244597

Applicant(s)

Michael O'Riordan.

Type of Application

Permission.

Planning Authority Decision

Granted Permission

Type of Appeal

Third Party

Appellant(s)

Gillian Geasley.

Observer(s)

None.

Date of Site Inspection

15th May 2025.

Inspector

Oluwatosin Kehinde

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1.0 Site Location and Description

- 1.1. The 0.011 Ha site is in Rathcoursey West and located on the shores of the North Great Island Channel transitional waters. The site is approximately 4km south west of Middleton town and approximately 7.6km north east of Cobh. The site is bounded by single dwellings on the north east and south west. Ballynacorra River is within both the designated area for Cork Harbour SPA and Great Island Channel SAC.
- 1.2. The site is characterised by the overgrown vegetation and the remains of a structure. The site falls steeply north west towards Ballynacorra River and access is off East Ferry.
- 1.3. The north-eastern site boundary has a c.1.5m high stone wall; the south-western boundary has a c.1.8m high concrete post and timber panel fence; the south-eastern site boundary is open to the public road (East Ferry); and the north-western boundary is open to the Ballynacorra River.

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of a 54.36m² boat house on the site with associated site works. The boat house will be a two storey split level structure with a maximum height of 6.6m.
- 2.2. The application was accompanied by:
 - An Appropriate Assessment Screening Report
 - Natura Impact Statement Report
 - An Ecological Impact Assessment (EclA)
 - Architectural Heritage Impact Assessment

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority (PA) granted permission subject to 16 conditions. The conditions are generally standard in nature, but the following are noted:

Condition 5: Surface water is to be disposed of by means of soakaways.

Condition 8: Construction activities should be carried out in accordance with the Coastal and Marine Environmental Site Guide.

Condition 9: Method statement that incorporates the NIS mitigation measures to be agreed with the PA.

Condition 10: Measures specified in the EclA to be implemented and to be overseen by qualified personnel.

Condition 11: Mitigation measures in the NIS to be implemented.

Condition 13: works to be carried out in accordance with CEMP.

Condition 15: stone wall to be carefully dismantled and a sample panel to be provided for the approval of the conservation officer.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The PA decision to grant permission is consistent with the Planning Officer's (PO) report. Following the initial assessment of the application, the PO requested further information. The concerns raised are summarised as follows:

- Potential adverse impact on the European Sites adjoining the site.
- The architectural heritage value and the demolition of the pre-existing boat house on site.

3.2.2. The applicant's response to the further information request was considered acceptable by the PA and it included the following notable revision:

A retrospective Architectural Heritage Impact Assessment report was submitted for the demolished boat house.

3.2.3. Other Technical Reports

- Area Engineer – Report dated 13/05/24 stated no objections subject to conditions.
- Environment – Report dated 10/05/24 stated no objections subject to conditions.

- Ecology – Report dated 30/05/24 stated no objections subject to conditions. The ecologist reviewed the NIS submitted and was satisfied that the mitigation measures outlined therein are sufficient in ensuring that the proposed development will not adversely affect the integrity of the designated European Sites.
- Conservation – Report dated 09/09/24 stated no objections subject to conditions. The conservation officer had concerns about the heritage value of the pre-existing boat house. Following the review of the AHIA submitted as part of the RFI, the conservation officer had no objections to the development subject to conditions.

3.3. Prescribed Bodies

The application was referred to the following prescribed bodies and no submissions were received.

- DAU
- Heritage Council
- An Taisce

3.4. Third Party Observations

The PA received one submission regarding the development and the issues raised can be summarised as follows:

- Demolition of the original boat house was not specified in the application description.
- Lack of detail on drawings.
- Environmental reports out of date.
- No details on drainage

4.0 Planning History

ABP 313805-22 (PA 21/5077) – Permission refused for the construction of a boat house and associated site works. The development was refused for the following reasons:

Reason 1 – The Board was not satisfied that the applicant had sufficient legal estate or interest in the land that was the subject of the application to continue the existing use or carry out proposed works on the land.

Reason 2 – The proposed development due to its height and bulk, would detract to an undue degree from the rural character and scenic amenities of the area and would constitute an undesirable precedent for development of this nature in a scenic, sensitive coastal landscape.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The Cork County Development Plan 2022 – 2028 is the pertinent statutory plan and the appeal site is located within an area of West Cork designated as a 'High Value Landscape'.

Objective GI 14-9: Landscape

- a) Protect the visual and scenic amenities of County Cork's built and natural environment.
- b) Landscape issues will be an important factor in all land-use proposals, ensuring that a pro-active view of development is undertaken while protecting the environment and heritage generally in line with the principle of sustainability.
- c) Ensure that new development meets high standards of siting and design.
- d) Protect skylines and ridgelines from development.
- e) Discourage proposals necessitating the removal of extensive amounts of trees, hedgerows and historic walls or other distinctive boundary treatments.

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

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

Objective GI 14-13: Scenic Routes

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

GI 14-14: Development on Scenic Routes

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

b) Encourage appropriate landscaping and screen planting of developments along scenic routes.

5.2. Natural Heritage Designations

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

The site is also partially within Proposed Natural Heritage Area (pNHA): Great Island Channel.

6.0 EIA Screening

The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended (or Part V of the 1994 Roads Regulations). No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. Refer to Form 1 in Appendix 1 of the report.

7.0 The Appeal

7.1. Grounds of Appeal

This is a Third Party appeal by Gillian Geasley and the grounds for appeal, as raised in the submission can be summarised as follows:

- The appellant acknowledges that the roof of the existing boat house had caved in. The original structure was in excess of 40 square meters and permission should have been sought for its demolition.
- All queries in the request for further information were not addressed by the planner's report.
- The application documents did not show floor levels and ridge levels and there are no details of the new waste water treatment system proposed to install.
- To accommodate the development, the site boundary wall on the eastern side has to be demolished. This is a party wall and no permission for its demolition has been granted by the appellant. Condition 15, therefore cannot be implemented.
- Surface water is proposed to be disposed of by way of soak pits on site and no details have been submitted.
- Section 5 of the application form was not completed.

7.2. Applicant Response

- No evidence has been provided to support the statements that the original structure was in excess of 40m².
- The planner's report clearly stated that the PA was satisfied with the further information, and details are clearly shown on the plans regarding the height of structures and ground level.
- It is not the intention to install a sewage system and section 2.21 of the Cork County Council planning forms has been pre-populated.

- The boundary wall is in the ownership of the applicant who has the legal right to access and work on the wall.
- Surface water from the proposed boathouse, the public road and the appellant's plot flows into the tide.
- Section 5 of the application form relates to other non-domestic development types and is not applicable to this application.

7.3. **Planning Authority Response**

- The PA is of the opinion that all relevant issues have been covered in the technical reports already forwarded to the Board and has no further comment to make in this matter.

8.0 **Assessment**

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

- Principle of Development.
- Legal Interest
- Drainage

8.2. **Principle of Development**

- 8.2.1. The proposed development consists of the construction of a boat house on the site. Having regard to the documentation submitted and the PA's Planner's report, I note that it is apparent that there was a boat house on the site up until 2018. It is now proposed to rebuild a boat house and, on this basis, I see no reason why the principle of the development would not be acceptable.
- 8.2.2. The site is located within a high value landscape and designated scenic route as set out in the Cork County Development Plan 2022-2028. I refer the Board to the last application on the site ABP 313805-22 which was for a boat house and I note that

one of the reasons for refusal was on the basis of height and bulk. The development had a gross floor area of 107m² with a maximum height of c.5.7m above ground level. The Board considered that the development would detract from the rural character and scenic amenities of the area.

8.2.3. Regarding this appeal, the proposed boat house still comprises of a split-level structure with a total floor area revised to 54.36m² and a maximum height of c.3.85m above ground level. I consider the proposal to be appropriately scaled and I am of the view that the proposal will not disrupt the scenic views associated with the area. The boat house will be finished in materials similar to the neighbouring properties. I therefore consider the proposed development to be acceptable, subject to the normal planning and environmental considerations.

8.2.4. I note that the appellant has raised concerns that planning permission should have been sought for the demolition of the pre-existing boat house as part of the proposal. In the response to RFI the applicant stated that the existing boat house collapsed as a result of a weather storm and as such it was not a pre-determined demolition. It is stated that the roof of the boat house collapsed and pushed over the wall due to a lack of maintenance. I note that the PA reviewed this response and did not express any concerns. I also note that the appellant has not provided any evidence to support the claim that the existing structure was demolished by the applicant and on this basis, I have no objection to the description of the proposal as submitted. Moreover, this is a matter for the Planning Authority enforcement department and not for the Board to consider.

8.3. Legal Interest

8.3.1. Upon the RFI, the applicant submitted a retrospective Architectural Heritage Impact Assessment report for the pre-existing boat house and details therein show the wall remains of the boat house and the appellant has stated that this is a party wall and any works proposed require permission from the appellant. In response to the appeal, the applicant argued that the appellant has no evidence to indicate the remains are a party wall and has reiterated that the wall is in their ownership. Upon site inspection and review of submitted photographic evidence, I conclude that the remains of the original boat house bound the site to the north east and as such form a boundary wall. Notwithstanding the above, this is a matter to be resolved between

the relevant parties, having regard to the provisions of S.34(13) of the 2000 Planning and Development Act. On the basis of the information available, I am satisfied that there is no clear information presented to conclude that the applicant does not have sufficient legal interest in the appeal site and I am satisfied that the applicant has provided sufficient evidence of their legal interest for the purposes of the planning application.

8.4. Drainage

- 8.4.1. I note the appellant's concerns about the lack of details of the wastewater treatment system and surface water runoff soak pits at the site. Firstly, having reviewed the documentation submitted, the applicant does not propose to install any wastewater treatment plant as part of the development, notwithstanding the information provided within the planning application form. I note that it is stated within the NIS submitted with the application that foul water will be collected by means of an on-site storage tank during the construction phase.
- 8.4.2. Regarding surface water runoff from the site, the applicant indicated in their application form that surface water disposal would be through soakaways. While upon appeal, it is stated that surface water runoff from the site would be discharged into Ballynacorra River. The applicant argued that because of the natural levels, surface water from the proposed boat house will flow into the tide. I note that the applicant also stated that the surface water from the public road and the appellant's site also flows into the tide. Having regard to the elevated nature of the site, I consider the proposal to discharge surface water runoff from the site into the river as pragmatic.
- 8.4.3. The site was overgrown during site inspection, and I could not properly investigate whether there are soakpits on site. I do, however note the inspector's report of the previous appeal on the site that stated that there was no evidence of soakpits on site. I consider that the surface water from the development can be adequately disposed of to the river and I am satisfied that there will be no significant water quality impacts as a result of the development. I note that the PA included a condition (Condition 5) requiring surface water to be disposed of by means of soakaways at the site but I do not consider this to be practical or necessary in this case.

9.0 Appropriate Assessment

9.1. Screening Determination

- 9.1.1. In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that it is not possible to exclude that the proposed development alone [or in combination with other plans and projects] will give rise to significant effects on two European Site(s) in view of the site's conservation objectives. Appropriate Assessment is required.

This determination is based on:

- Having regard to the nature and scale of the proposed development.
- The site partially within European sites and the hydrological connections.
- The NIS report that was submitted with the application.
- Taking into account the ecological report by the Planning Authority.

9.2. Appropriate Assessment Conclusion: Integrity Test

- 9.2.1. In screening the need for Appropriate Assessment, it was determined that the proposed development could result in significant effects on Great Island Channel SAC and Cork Harbour SPA in view of the conservation objectives of those sites and that Appropriate Assessment under the provisions of S177U was required.
- 9.2.2. Following an examination, analysis and evaluation of the NIS submitted, I consider that adverse effects on site integrity of the Great Island Channel SAC and Cork Harbour SPA can be excluded in view of the conservation objectives of these sites and that no reasonable scientific doubt remains as to the absence of such effects.
- 9.2.3. My conclusion is based on the following:
- Detailed assessment of construction and operational impacts.
 - The proposed development will not affect the attainment of conservation objectives for the Great Island Channel SAC and Cork Harbour SPA.
 - Effectiveness of mitigation measures proposed including footprint of works, timing of works, water quality protection, biosecurity and lighting.

- Application of planning conditions to ensure these measures.

9.3. Refer to the attached appendix for detail stage 1 and 2 Appropriate Assessments.

10.0 Water Framework Directive (WFD)

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 seeks to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. 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.

The reason for this conclusion is as follows:

- Having regard to the small scale and nature of the development.
- Taking into account the mitigation measures contained in the NIS.

11.0 Recommendation

11.1. I recommend that permission should be granted subject to conditions as outlined below.

12.0 Reasons and Considerations

Having regard to the nature and scale of the proposed development, the pattern of development in the area and the provisions of the Cork County Development Plan 2022-2028, it is considered that the proposed development would not significantly impact on the scenic views of the area and would not be prejudicial to public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

13.0 Conditions

1.	The development shall be carried out in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 15th day of August 2024, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars. Reason: In the interest of clarity.
2.	All mitigation measures outlined in the Natura Impact Statement and Ecological Impact Assessment shall be carried out in full, except where otherwise required by conditions attached to this permission. Reason: In the interest of protecting the environment and in the interest of public health.
3.	A Construction and Environmental Management Plan (CEMP) shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The CEMP shall include but not be limited to construction phase controls for dust, noise and vibration, waste management, protection of soils, groundwaters, and surface waters, site housekeeping, emergency response planning, site environmental policy, and project roles and responsibilities. Reason: In the interest of environmental protection
4.	Site development and building works shall be carried out only between the hours of 0700 and 1800 Mondays to Fridays inclusive, between 0800 to 1300 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

	Reason: In order to safeguard the amenities of properties in the vicinity.
5.	All necessary measures be taken by the contractor to prevent the spillage or deposit of clay, rubble, or other debris on adjoining roads, including responsibility and repair for any damage to the public road to the satisfaction of the planning authority, during the course of the works. Reason: To protect the amenities of the area.
6.	The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme. Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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.

Oluwatosin Kehinde
Senior Planning Inspector

13th June 2025

Appendix 1 – Form 1 - EIA Pre-Screening

Case Reference	ABP 321177-24
Proposed Development Summary	Construction of a boat house
Development Address	Rathcoursey West, Midleton, Co. Cork
	In all cases check box /or leave blank
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (For the purposes of the Directive, "Project" means: - 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)	☒ Yes, it is a 'Project'. Proceed to Q2.
	☐ No, No further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
☐ Yes, it is a Class specified in Part 1.	
☒ No, it is not a Class specified in Part 1. Proceed to Q3	
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.	
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Inspector: _____ Date: _____

Appendix 2 – AA screening Determination

Screening for Appropriate Assessment Test for likely significant effects	
Step 1: Description of the project and local site characteristics	
Brief description of project	Construction of a boathouse
Brief description of development site characteristics and potential impact mechanisms	It is proposed to construct a split-level boathouse consisting of an overall floor area 54.36m ² . Proposed works will take place on the landward side of the site. Construction works is be carried out within 6 months. During the construction phase, foul water is to be collected via an onsite storage tank and surface water will be discharged into Ballynacorra River during the operation of the site. The full details of the proposed development provided in section 3.2 of the AA screening report submitted.
Screening report	Yes
Natura Impact Statement	Yes

Relevant submissions	One submission has been received by the Board on foot of the appeal and no issue has been raised in relation to impacts on European sites.
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Step 2. Identification of relevant European sites using the Source-pathway-receptor model

Two European sites were identified as being located within a potential zone of influence of the proposed development as detailed in the Table below. I note that the applicant included a greater number of European sites in their initial screening consideration with sites within 15km of the development site considered. There is no ecological justification for such a wide consideration of sites, and I have only included those sites with any possible ecological connection or pathway in this screening determination.

European Site (code)	Qualifying interests¹ Link to conservation objectives (NPWS, date)	Distance from proposed development (km)	Ecological connections²	Consider further in screening³ Y/N
Great Island Channel SAC (001058)	Mudflats and sandflats not covered by seawater at low tide [1140] Atlantic salt meadows (Glauco-Puccinellietalia maritima) [1330] Great Island Channel SAC National Parks & Wildlife Service	0km	The Great Island Channel SAC adjoins the proposed development site, therefore, there is potential for direct and indirect effects on the SAC resulting from run off of pollutants during the construction and operational phases of the proposed development. A source pathway receptor chain was identified and in the absence of mitigation, there is potential for the proposed development to result in likely significant effects on this European Site. Therefore, the European Site is located within the Likely Zone of Impact and is considered further in this assessment.	Yes
Cork Harbour SPA (004030)	Little Grebe (Tachybaptus ruficollis) [A004] Great Crested Grebe (Podiceps cristatus) [A005]	0km	The Cork Harbour SPA adjoins the proposed development site, therefore, there is potential for direct and	Yes

	Cormorant (<i>Phalacrocorax carbo</i>) [A017] Grey Heron (<i>Ardea cinerea</i>) [A028] Shelduck (<i>Tadorna tadorna</i>) [A048] Wigeon (<i>Anas penelope</i>) [A050] Teal (<i>Anas crecca</i>) [A052] Pintail (<i>Anas acuta</i>) [A054] Shoveler (<i>Anas clypeata</i>) [A056] Red-breasted Merganser (<i>Mergus serrator</i>) [A069] Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Golden Plover (<i>Pluvialis apricaria</i>) [A140] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Lapwing (<i>Vanellus vanellus</i>) [A142] Dunlin (<i>Calidris alpina</i>) [A149] Black-tailed Godwit (<i>Limosa limosa</i>) [A156] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Curlew (<i>Numenius arquata</i>) [A160] Redshank (<i>Tringa totanus</i>) [A162] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] Common Gull (<i>Larus canus</i>) [A182] Lesser Black-backed Gull (<i>Larus fuscus</i>) [A183] Common Tern (<i>Sterna hirundo</i>) [A193] Wetland and Waterbirds [A999] Cork Harbour SPA National Parks & Wildlife Service		indirect effects on the SAC resulting from run off of pollutants during the construction and operational phases of the proposed development. A source pathway receptor chain was identified and in the absence of mitigation, there is potential for the proposed development to result in likely significant effects on this European Site. Therefore, the European Site is located within the Likely Zone of Impact and is considered further in this assessment.	
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Ecological surveys were undertaken by the applicant at an appropriate season and frequency, using best practice survey methods.

Step 3. Describe the likely effects of the project (if any, alone or in combination) on European Sites

AA Screening matrix

Site name Qualifying interests	Possibility of significant effects (alone) in view of the conservation objectives of the site*	
	Impacts	Effects
Great Island Channel SAC (001058) Great Island Channel SAC National Parks & Wildlife Service	Potential direct impact as the proposed works is adjoining the SAC.	Construction and operational activities related to the proposed development have the potential for likely significant effects on the SAC. Given the location of the appeal site within the designated area there is potential for invasive

		species to spread and potential for a pollution event to affect the mudflats at both construction and operational phases.
	Likelihood of significant effects from proposed development (alone): Yes	
	Possibility of significant effects (alone) in view of the conservation objectives of the site* Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following are likely significant effects on European sites: • Habitat loss, • Surface water run-off during both the construction and operational phases, and • The spread of invasive species.	
	Impacts	Effects
Cork Harbour SPA (004030) Cork Harbour SPA National Parks & Wildlife Service	Potential direct impact as the proposed works is adjoining the SPA.	Construction and operational activities related to the proposed development have the potential for likely significant effects on the SPA. Potential pathways for impacts are through the potential for noise disturbance at the construction phase impact on the foraging ability of the SCI bird species and by lighting during the operational phase.
	Likelihood of significant effects from proposed development (alone): Yes	
	Possibility of significant effects (alone) in view of the conservation objectives of the site* Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following are likely significant effects on European sites: • Habitat loss, • Disturbance, • Surface water run-off during both the construction and operational phases, and • The spread of invasive species.	

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

It is not possible to exclude the possibility that proposed development alone would result significant effects on Great Island Channel SAC [site code: 001058] and Cork Harbour SPA [site code:004030] from effects associated with construction and operational activities. An appropriate assessment is required on the basis of the possible effects of the project 'alone'. Further assessment in-combination with other plans and projects is not required at screening stage.

Based on the information provided in the NIS report, site visit, 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 significant effects on the Great Island Channel SAC and Cork Harbour SPA.

Screening Determination

Significant effects cannot be excluded

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that it is not possible to exclude that the proposed development alone [or in combination with other plans and projects] will give rise to significant effects on two European Site(s) in view of the sites conservation objectives. Appropriate Assessment is required.

This determination is based on:

- Having regard to the nature and scale of the proposed development
- Distance from European sites and the hydrological connections
- The NIS report that was submitted with the application
- Taking into account the ecological report by Planning Authority

Appendix 3 - 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 proposed development of a boat house in view of the relevant conservation objectives of Great Island Channel SAC [site code: 001058] and Cork Harbour SPA [site code:004030] based on scientific information provided by the applicant

The information relied upon includes the following:

- Natura Impact Statement prepared by ECOFACT Environmental Consultants
- Ecological Impact Assessment Report

I am satisfied that the information provided is adequate to allow for Appropriate.

Assessment. I am satisfied that all aspects of the project which could result in significant effects are considered and assessed in the NIS and mitigation measures designed to avoid or reduce any adverse effects on site integrity are included and assessed for effectiveness.

Submissions

One submission has been received by the Board on foot of the appeal and no issue has been raised in relation to impacts on European sites.

Great Island Channel SAC [site code: 001058]

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

- Change in water quality during construction/operation of development.
- Transport of invasive species on site during construction/operation of development.

See Table 6 NIS

Qualifying Interest features likely to be affected	Conservation Objectives Targets and attributes (summary- inserted)	Potential adverse effects	Mitigation measures (summary) NIS Section 7
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[illegible]

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

(i) Water quality degradation

Construction run-off could enter the water column and result in increased suspended solids, accidental spillages of hydrocarbons from machinery required for the works as well as concrete/cement spillages. The site is steeply sloped north west towards the water edge. Spillages entering the water column can reduce dissolved oxygen levels and alter PH, which can adversely affect the mudflats and sandflats habitats directly adjacent the site. If excavation is required for works, this can lead to run-off soil and denuded areas resulting in turbidity and suspended solids, which could alter the natural dynamics of this habitat type in the SAC.

During operation of the site, spillages such as hydrocarbons and fuel from boats using the boathouse have the potential to enter the water column and could adversely impact the protected habitat downstream.

(ii) Spread of invasive species

During construction phase, invasive species impact could arise. Winter Heliotrope *Petasites fragrans* and Buddleia *Buddleja davidii* have been recorded on the site previously and this could further spread during construction. Other invasive species not present on the site could be brought in on machines and recolonize the area in the SAC adjacent to the site. This could affect the mudflats and sandflats habitats.

Operation – Boats entering and leaving the proposed development site could be considered as vectors for the transport of invasive species. Invasive species can quickly take over an ecosystem and could result in negative impacts on the mudflats and sandflats habitats.

Mitigation measures and conditions

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

- A site-specific Construction & Environmental Management Plan and Method Statement will be put in place for carrying out the works.
- The site compound will be 5m back from the high tide mark and silt fences will be erected above the high tide mark.
- The works will be carried out between March and September.
- Refuelling of vehicles will be carried out away from the high tide mark.
- Concrete mixing will take place away from the water edge in a designated area.
- Portalooos will be provided and regularly maintained.
- Any invasive species on the site will be removed by an expert prior to commencement of construction. Biosecurity measures in line with NRA guidelines (NRA 2010) and IFI guidelines (IFI 2010) to be used on site.

I am satisfied that the preventative measures which are aimed at interrupting the source-pathway-receptor are targeted at the key threats to protected aquatic species and by arresting

these pathways or reducing possible effects to a non-significant level, adverse effects can be prevented. Mitigation measures related to water quality and spread of invasive species are captured in Planning condition 2 of my Inspector's Report.

In-combination effects

I am satisfied that in-combination effects have been assessed adequately in the NIS. The proposed development was considered in-combination with other plans and projects in the area that could result in cumulative impacts on designated Sites. No other plans and projects could combine to generate significant effects when mitigation measures are considered. I am satisfied that the applicant has demonstrated that no significant residual effects will remain post the application of mitigation measures.

Findings and conclusions

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.

Based on the information provided, I am satisfied that adverse effects arising from the proposed development can be excluded for the Great Island Channel SAC (site code: 001058). Direct and Indirect impacts would be temporary in nature, the mitigation measures are described to prevent ingress of silt laden surface water and other construction related pollutants. I am satisfied that the mitigation measures proposed to prevent such effects have been assessed as effective and can be implemented and conditioned if permission is granted.

Reasonable scientific doubt

I am satisfied that no reasonable scientific doubt remains as to the absence of adverse effects.

Site Integrity

The proposed development will not affect the attainment of the Conservation objectives of the Great Island Channel SAC. Adverse effects on site integrity can be excluded and no reasonable scientific doubt remains as to the absence of such effects.

Cork Harbour SPA (Site Code 004031)

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

- Invasive species on site as a result of construction/operation impacting on wetlands/birds.
- Changes in water quality during construction/operation impacting on wetlands/birds.
- Noise disturbance impacting on birds.
- Light emissions impacting on birds.

See Table 7 NIS

Qualifying Interest	Conservation Objectives	Potential adverse effects	Mitigation measures (summary)
			NIS Section 7

features likely to be affected	Targets and attributes (summary-inserted)		
Little Grebe (Tachybaptus ruficollis) [A004] Great Crested Grebe (Podiceps cristatus) [A005] Cormorant (Phalacrocorax carbo) [A017] Grey Heron (Ardea cinerea) [A028] Shelduck (Tadorna tadorna) [A048] Wigeon (Anas penelope) [A050] Teal (Anas crecca) [A052] Pintail (Anas acuta) [A054] Shoveler (Anas clypeata) [A056] Red-breasted Merganser (Mergus serrator) [A069] Oystercatcher (Haematopus ostralegus) [A130] Golden Plover (Pluvialis apricaria) [A140] Grey Plover (Pluvialis squatarola) [A141] Lapwing (Vanellus vanellus) [A142] Dunlin (Calidris alpina) [A149] Black-tailed Godwit (Limosa limosa) [A156] Bar-tailed Godwit (Limosa lapponica) [A157] Curlew (Numenius arquata) [A160]	To maintain favourable conservation condition as defined by long term population trend being stable or increasing. No significant decrease in the range, timing or intensity of use of areas by the SCI birds other than that occurring from natural patterns of variation. To maintain favourable conservation condition as defined by: No increase in barriers, No significant decline in breeding population, productivity rate, prey biomass Human activities at levels that do not adversely affect the population. To maintain permanent extent of Habitat area.	Water Quality – The site is within and hydrologically linked to the SPA/habitat via the existing surface water drainage system which discharges directly to the river. There is potential for effects through run off during both construction and operation. Noise - There is potential for birds to be disturbed from noise emissions during construction. Lighting emission from the development during operational phase.	A site-specific construction and Environmental Management Plan and Method Statement to be prepared prior to commencement of works. Footprint of works to be defined and set back by at least 5m from the high tide mark and access to be limited to single access rout to minimise footprint of works. Works shall take place outside the wintering season of birds. Machinery to operate away from the high tide in a designated site compound. Any fuels or oils required for machinery to be stored in bunded tanks. Operation – Low pressure sodium lights are preferred for use. External lighting is limited to one single light as part of the proposed development. Any invasive species on the site will be removed by an expert prior to commencement of construction. Operation – Surface water will drain directly to the river as per the existing arrangement.

Redshank (<i>Tringa totanus</i>) [A162] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] Common Gull (<i>Larus canus</i>) [A182] Lesser Black-backed Gull (<i>Larus fuscus</i>) [A183] Common Tern (<i>Sterna hirundo</i>) [A193] Wetland and Waterbirds [A999]			
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Assessment of issues that could give rise to adverse effects in view of conservation objectives:

(i) water quality degradation

Adverse water quality impacts may arise from construction activities. Due to the steep slope of the site and the use of construction machinery adjacent to the water, construction phase run-off could result in increased suspended solids as well as accidental spillages of hydrocarbons from machinery required for the works. Concrete/cement entering a water column can reduce dissolved oxygen levels and alter PH, which can adversely affect the wetland and waterbirds habitats.

Operation – Spillages from boats using the boathouse, such as hydrocarbons and fuel, have the potential to enter the water column and could adversely impact the protected habitat downstream.

(ii) Invasive species

Construction – Plant material and seeds could be transported via machinery and personnel working on site. This could adversely affect the wetland and waterbirds habitat.

Operation – Boats entering and leaving the proposed development site could be considered as vectors for the transport of invasive species.

(iii) Disturbance

There is potential for disturbance of birds species to occur during construction resulting from increased noise and human disturbance from construction personnel and machinery.

Mitigation measures and conditions

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

- A site-specific Construction & Environmental Management Plan and Method Statement will be put in place for carrying out the works.
- The site compound will be 5m back from the high tide mark and silt fences will be erected above the high tide mark.

- The works will be carried out between March and September.
- Refuelling of vehicles will be carried out away from the high tide mark.
- Concrete mixing will take place away from the water edge in a designated area.
- Portalos will be provided and regularly maintained.
- Any invasive species on the site will be removed by an expert prior to commencement of construction. Biosecurity measures in line with NRA guidelines (NRA 2010) and IFI guidelines (IFI 2010) to be used on site.
- There will be one external light installed as part of the proposed works.

I am satisfied that the preventative measures which are aimed at interrupting the source-pathway-receptor are targeted at the key threats to protected aquatic species and by arresting these pathways or reducing possible effects to a non-significant level, adverse effects can be prevented. Mitigation measures related to water quality, noise and lighting are captured in Planning condition 2 of my Inspectors Report.

In-combination effects

I am satisfied that in-combination effects have been assessed adequately in the NIS. The proposed development was considered in-combination with other plans and projects in the area that could result in cumulative impacts on designated Sites. No other plans and projects could combine to generate significant effects when mitigation measures are considered. I am satisfied that the applicant has demonstrated that no significant residual effects will remain post the application of mitigation measures.

Findings and conclusions

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.

Based on the information provided, I am satisfied that adverse effects arising from the proposed development can be excluded for the Cork Harbour SPA (Site Code 004031). Direct and Indirect impacts would be temporary in nature, the mitigation measures are described to prevent ingress of silt laden surface water and other construction related pollutants. I am satisfied that the mitigation measures proposed to prevent such effects have been assessed as effective and can be implemented and conditioned if permission is granted.

Reasonable scientific doubt

I am satisfied that no reasonable scientific doubt remains as to the absence of adverse effects.

Site Integrity

The proposed development will not affect the attainment of the Conservation objectives of the Cork Harbour SPA. Adverse effects on site integrity can be excluded and no 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 Great Island Channel SAC and Cork Harbour SPA in view of the conservation objectives of those sites and that Appropriate Assessment under the provisions of S177U was required.

Following an examination, analysis and evaluation of the NIS submitted, I consider that adverse effects on site integrity of the Great Island Channel SAC and Cork Harbour SPA can be excluded in view of the conservation objectives of these sites and that no reasonable scientific doubt remains as to the absence of such effects.

My conclusion is based on the following:

- Detailed assessment of construction and operational impacts.
- The proposed development will not affect the attainment of conservation objectives for the Great Island Channel SAC and Cork Harbour SPA.
- Effectiveness of mitigation measures proposed including footprint of works, timing of works, water quality protection, biosecurity and lighting.
- Application of planning conditions to ensure these measures.

Appendix 3 – Water Framework Directive

WFD IMPACT ASSESSMENT STAGE 1: SCREENING			
Step 1: Nature of the Project, the Site and Locality			
An Bord Pleanála ref. no.	321177-24	Townland, address	Rathcoursey West, Middleton, Co Cork
Description of project		Construction of a boathouse	
Brief site description, relevant to WFD Screening,		The site is located c.3.1km south west of Ballinacurra and is located on the shores of the Great Island Channel transitional waters, downstream of the Owennacurra estuary.	
Proposed surface water details		Roofwater will be discharged into the river (Ballynacorra River)	
Proposed water supply source & available capacity		Not applicable	
Proposed wastewater treatment system & available capacity, other issues		Not applicable	

Others?			No			
Step 2: Identification of relevant water bodies and Step 3: S-P-R connection						
Identified water body	Distance to (m)	Water body name(s) (code)	WFD Status	Risk of not achieving WFD Objective e.g.at risk, review, not at risk	Identified pressures on that water body	Pathway linkage to water feature (e.g. surface run-off, drainage, groundwater)
Ballynacorra River	0m	<u>Catchment</u> Lee, Cork Harbour and Youghal Bay_19 <u>Sub catchment</u> Farrannamanagh_SC_01 0 Tibbotstown_010	Good	Farrannamanagh_SC_01 0 – Not at risk Tibbotstown_010 – review	No pressures	Hydrologically connected to the river
Knockadoon East	Underlying site	IE_SW_G_045	Good	Not at risk	No pressures	Surface run-off
North Channel Great Island transitional waterbody	0m	IE_SW_060_0300	Moderate	At risk	Agriculture	Hydrologically connected to the waterbody
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	Water body receptor (EPA Code)	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 environment? (if 'screened' in or 'uncertain' proceed to Stage 2.
1.	Site clearance/Construction	Farrannamanagh_SC_010 Tibbotstown_010	Hydrologically connected	Hydrocarbon spillages	Standard construction measures/conditions	No	Screened out
2.	Site clearance/Construction	IE_SW_G_045	Drainage through soil/bedrock	Hydrocarbon spillages	Standard construction measures/conditions	No	Screened out
3.	Site clearance/Construction	IE_SW_060_0300	Hydrologically connected	Hydrocarbon spillages	Standard construction measures/conditions	No	Screened out
OPERATIONAL PHASE							
4.	Surface run-off	Farrannamanagh_SC_010	surface water run-off to be discharged into the river	Surface water from rainfall and there is no	None	No	Screened out

		Tibbotstown_01 0 IE_SW_G_045 IE_SW_060_0 300		significant risk from Hydrocarbons			
DECOMMISSIONING PHASE							
5.	NA	NA	NA	NA	NA	NA	NA