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NOTIFICATION OF DECISION TO GRANT PERMISSION

PLANNING & DEVELOPMENT ACT 2000, AS AMENDED

Decision Order No. PF/1693/22	Decision Date 5 August, 2022
Register Ref. F21A/0368	Registered 13 June, 2022

Area: Howth Malahide

Applicant: Minister for Agriculture, Food and the Marine

Development: Proposed development works will consist of the following;

- (i) Dredging of the harbour.
- (ii) Stabilisation of dredge material.
- (iii) Reclamation of land on the west side of the West Pier using dredge material.
- (iv) Construction of an embarkment and rock armour revetment around the perimeter of the reclaimed area.
- (v) Landscaping of the reclaimed area and provision of pavements, including footways, roadways and parking areas.
- (vi) Construction of a slipway access to the water.
- (vii) Provision of storage areas for harbour activities; and
- (viii) Provision of services, including surface water drainage, mains water supply, lighting, and associated underground ducting.

The proposed development consists of work to the West Pier at Howth FCC, a protected structure (RPS 0595b/NIAH 11359040)). The proposed development will require an Industrial Emissions (IE) licence or waste licence from the Environmental Protection Agency. An Environmental Impact Assessment Report (EIAR) has been prepared and will be submitted to the Planning Authority with the application. A Natura Impact Statement (NIS) will be submitted to the Planning Authority with the application.

AI received 2/6/2022

AI deemed significant **

Revised public notices received 13/6/2022

Location: Howth Fishery Harbour Centre, Howth, Co. Dublin

Floor Area: Sq Metres

Time extension(s) up to and including 8 June, 2022

Additional Information Requested / Received 30-Aug-2021, 08-Jun-2022 / 02-Jun-2022, 13-Jun-2022

In pursuance of its functions under the above mentioned Act, as Planning Authority, the County Council for the County of Fingal did by Order dated as above make a decision to **GRANT PERMISSION** in respect of the above proposal.

Subject to the **(11)** conditions on the attached Pages.

Conditions and Reasons

1. The development shall be carried out in its entirety in accordance with the plans, particulars and specifications lodged with the application and Significant Additional Information submitted on the 13th June 2022 save as may be required by the other conditions attached hereto.

REASON: To ensure that the development shall be in accordance with the permission, and that effective control be maintained.

2. That all the mitigation measures proposed in the NIS, EIAR and Construction Environmental Management Plan (CEMP) supporting this application to minimise or avoid any potential effects arising from the proposed dredging and reclamation works on natural habitats, flora and fauna, including those which might threaten the integrity of European sites, shall be set out in a finalised CEMP to be submitted to the planning authority for their written agreement before the commencement of any works on site at Howth Harbour, and to be implemented in full.

REASON: To conserve natural habitats and biodiversity, and to avoid any detrimental effects on Qualifying Interest or Special Conservation Interest of European Sites which might threaten the integrity of such sites protected under the Habitats Directive (92/43/EEC) and the Birds Directive (2009/147/EC).

3. That before the commencement of the proposed dredging and reclamation works proposed, a Howth Harbour Bird Conservation Plan shall be submitted to the Fingal County Council Biodiversity Officer for written agreement, this plan to include:
 - (a) The details of the locations, fencing and screening of the roosting sites for waders and other water birds it is proposed to establish at the south west and northern ends of the area to be reclaimed at the rear of the West Pier, Howth, as part of the proposed works;
 - (b) The details of the locations, design and methodology and timing of installation six Black Guillemot nesting boxes/ tunnels to be installed in or on the existing pier structures at Howth Harbour before the commencement of the proposed works, and similar details relating to the installation of another six such boxes/ tunnels in the reclaimed area to the rear of the West Pier on completion of these works.
 - (c) Details of the timings and methodologies of the bird surveys to be carried out during the proposed works, and for at least three winters and three summers subsequent to these works' completion, to monitor the bird populations utilising the Howth Harbour area.

REASON: To conserve bird species frequenting Howth Harbour that might potentially be effected by the development works proposed, including species which are Special Conservation Interests for nearby European sites, and the breeding colony of Black Guillemots, and to assess the effectiveness of the mitigation measures to be implemented to minimise the impacts of the proposed developments on these bird species.

4. A suitably qualified ecologist & environmental consultants shall be engaged by the applicant for the duration of the works to monitor & record the impacts of the proposed works on marine and terrestrial ecology and to liaise with the relevant authorities.

REASON: To conserve natural habitats and biodiversity.

5. The following requirements shall be strictly adhered to:

- (i) Documentation shall be provided for the file on the different options considered to address Item 2 of the request of Additional Information and the rationale for the chosen option, along with the comments of the Conservation Architect engaged to assist with the design.
- (ii) Exact details and images (or samples) of the proposed finish and the capping for the parapet wall to the new area, particularly to the road bridge and the water channel shall be submitted to the planning authority for agreement prior to work commencing. Consultation shall take place with the Architectural Conservation Officer prior to submission to discuss suitable finishes. Elevation drawings at a suitable scale shall be included with the details. Information on any fencing or security measures to curtail public access to the water channel, particularly at the southern/inner end shall be set out with the details, if they are intended.
- (iii) Exact details of the break being formed in the wall of the West Pier at the point of connection needs to be provided and the changes to the layout of the area on the West Pier at this junction. Consultation shall take place with the Architectural Conservation Officer prior to submission of the proposed design which shall be agreed with the Planning Authority prior to commencement of works. Elevation drawings at a suitable scale shall be included with the details.
- (iv) Where elements on the West Pier such as bin or fuel storage need to be relocated on foot of the proposed breach then the opportunity shall be taken to create well-designed enclosed spaces for these. The design and materials for such elements shall be submitted to the Planning Authority for agreement prior to work commencing. Elevation drawings at a suitable scale shall be included with the details.
- (v) The applicant shall submit details on the design and operation of the water channel outlining the functionality of the water channel, how it will be managed in relation to access and cleaning, the expected depth of the water being retained in the channel at low tide at the southern end, and whether the northern half will retain water within it at low tide due to the slope of the channel.
- (vi) The design of the fencing and any storage structures to be provided for agreement with the Planning Authority prior to works commencing.

REASON: In the interest of visual amenity and to protect the historic context of the existing pier.

6. Prior to commencement of works a landscape plan prepared by a professional landscape designer shall be submitted to the Planning Authority for their agreement. The landscape plan shall include details of:
- Planting species, quantities and planting sizes. The Howth SAAO Design Guidelines may be of particular relevance given the proximity of the site to the Special Amenity Area.
 - Cross section details of the proposed open space. The height & gradient of mounds shall be agreed with the Planning Authority as part of the landscape plan submission.
 - Clarify the proposed soft landscaping finish to the 'Natural Amenity Area' and its suitability for recreational use.
 - Boundary treatment details (materials, heights, finish) on the landscape plan with an emphasis on salt resistant metal fencing where proposed and planting to screen car parking/industrial areas.
 - Details of street furniture including large capacity litter bins and benching.
 - Details of proposed art work/outdoor sculpture/recreational facilities with a theme linked to the site.
 - All paths to be hard surfaced in the interest of durability (bounded grit not acceptable in this location).
 - A 5 year Landscape Maintenance Schedule to ensure proposed planting become established and clarify responsibility for landscape maintenance.
 - Clarify the extent of the proposed 'R.C. Crest Wall with limestone masonry facing' (some differences in drawings) and confirm a guard rail or similar along footpaths crossing the proposed bridge. It is advised that a Designer's Risk Assessment is performed to identify any additional safety measures e.g. lifebuoys or similar.
 - Details of or a template for all proposed signage (informative, directional, statutory and identification) to also be provided.

REASON: In the interest of visual amenity.

7. The following requirements shall be strictly adhered to:
- (i) All traffic associated with the proposed works shall be restricted to access directly to and from Sutton Cross. No HGV activity associated with the proposed development shall use Harbour Road east of the junction at the main access to the West Pier.
 - (ii) HGV activity shall be restricted to periods either side of the AM & PM traffic peaks as well as the school drop-off and collection times. This shall be agreed in writing with the Planning Authority prior to construction of the proposed development.
 - (iii) A revised Construction Management Plan shall be agreed in writing with the Planning Authority prior to construction of the proposed development. The Construction Management Plan shall identify all temporary traffic measures required during the course of the works.

REASON: In the interest of traffic and pedestrian safety.

8. The following requirements shall be strictly adhered to:
- (i) No surface water / rainwater is to discharge into the foul water system

under any circumstances.

(ii) The surface water drainage must be in compliance with the 'Greater Dublin Regional Code of Practice for Drainage Works, Version 6.0, FCC, April 2006.

REASON: In the interest of Public Health.

9. The following requirements shall be strictly adhered to:

(i) During the construction phase no heavy construction equipment/machinery (to include pneumatic drills, construction vehicles, generators, etc) shall be operated on or adjacent to the construction site before 8.00a.m. or after 7.00p.m., Monday to Friday, and before 8.00 a.m. and after 1.00p.m. on Saturdays. No activities shall take place in site on Sundays or Bank Holidays. No activity, which would reasonably be expected to cause annoyance to residents in the vicinity, shall take place on site between the hours of 7.00p.m. and 8.00a.m. No deliveries of materials, plant or machinery shall take place before 8.00a.m. in the morning or after 7.00p.m. in the evening.

If there is any occasion when work must be carried on outside daytime hours, this department, local residents and businesses in areas which are likely to be affected by noise from the proposed works should be notified in advance e.g. in letter or leaflet or advertisement form, of:

- Name, address and telephone number of the company carrying out works
- Nature of and reason for works
- Likely duration and times of work

(ii) All construction work carried out on site shall have regard to B.S.5228: 2009+A1:2014 'Noise and Vibration control on construction and open sites to minimize noise from construction operations. All equipment used on site shall be fitted with effective silencers and/ or sealed acoustic covers. Should noise levels exceed the threshold level, steps shall be taken by the contractor to review the works and implement additional mitigation measures where practicable. Noise attenuation measures such as shrouding and/or the use of acoustic enclosures shall be used for noisy construction activities.

(iii) During the construction phase all necessary steps shall be taken to contain dust and airborne pollutants arising from the site and to prevent nuisance to persons in the locality. This shall include i) covering skips, ii) covering slack heaps, iii) netting of scaffolding, iv) regular road and pavement damping and sweeping, v) use of water spray to suppress dust, vi) proper paved or hard stand access for trucks and vehicles to and from the site to prevent dirt and dust from the site being carried from the site on to public roads etc.

(iv) Dust monitoring shall be carried out during the demolition and construction phases in accordance with the TA luft dust deposition limit value of 350mg/m² /day measured at the site which includes both soluble and insoluble matter. Monitory points shall be set up at the sensitive locations to measure total dust deposition rates. The amount of dust deposited anywhere outside the proposed development, when averaged over a 30-day period, should not exceed

limit value of 350mg/m² /day

(v) All activities on site shall be carried out in such a manner to ensure that air emissions and/or odours do not result in significant impairment of, or significant interference with amenities or the environment beyond the site boundary.

(vi) Noise and vibration monitoring shall be carried out by a competent person for the duration of the site works. Copies of which shall be made available to this department on request.

(vii) Noise emissions due to the operation of the development shall not cause a noise nuisance to nearby noise sensitive location i.e. shall not exceed the background level by 10dB(A) or more or exceed the limits below whichever is lesser.

Daytime (07:00 to 19:00 hrs) – 55dB LAr, 30mins

Evening (19:00 to 23:00 hrs) – 50dB LAr, 30mins

Night-time (23:00 to 07:00 hrs) – 45dB Laeq, 15mins

As measured 1 metre from the boundary of the nearest noise sensitive location/s. Clearly audible and impulsive tones at noise sensitive locations during evening and night shall be avoided irrespective of the noise level.

(viii) The cumulative noise from the site including once the development is in operation shall not cause significant impairment of, or significant interference with amenities or the environment beyond the site boundary.

REASON: In the interest of Public Health.

10. Prior to commencement of the development, the applicant shall confirm details of the various waste streams, including expected tonnages, which will be generated during site clearance/demolition and construction phases. The applicant shall also confirm any proposed exportation/importation of soil and stone material including destination/source locations, quantities and if any material will be assessed under Article 27.

REASON: In the interest of the proper planning and sustainable development of the area.

11. The developer shall comply in full with the following:
- (a) All necessary measures shall be taken by the applicant/developer to prevent the spillage or deposit of any materials including clay rubble or other debris on adjoining roads during the course of development. In the event of any such spillage or deposit, immediate steps shall be taken to remove the material from the road surface at the applicant/developers own expense.
- (b) The applicant/developer shall be responsible for the full cost of repair in respect of any damage caused to the adjoining public road arising from the construction work and shall either make good any damage to the satisfaction of Fingal County Council or pay the Council the cost of making good any such damage upon issue of such a requirement by the Council.

REASON: To protect the amenities of the area.

Signed on behalf of the Fingal County Council

_____ 9 August, 2022
for Senior Executive Officer

NOTES:

A number of the conditions attached to the planning permission may need compliance submissions to be lodged and agreed prior to commencement of development. Failure to comply with a condition of the planning permission is an offence under Section 151 of the Planning and Development Act 2000. Copies of each compliance submission should be made in triplicate.

The applicant is required to remove Site Notice on receipt of Notification from Planning Authority of decision.

Please note all observations/submissions have been taken into consideration when making this decision.

Please also note that consent under the above Planning legislation does not imply consent under the Building Control Regulations. The onus is on all practitioners to ensure full compliance with the Building Control Regulations (In certain circumstances design changes may require planning permission).

It should be further noted that planning permission is required in respect of changes to a Protected Structure or the exterior of a building in an Architectural Conservation Area which materially affects the character of the building/ structure.



Information Note - Public Water and Waste Water Networks

Connections

On the 1st of January 2014 Irish Water became the statutory body with the responsibility for all water services, both water and waste water. The provision of a water services connection will be carried out by Irish Water in partnership with each Local Authority.

Any persons seeking a connection to any of Irish Water's networks should make an application in the first instance to their Local Authority who will act on behalf of Irish Water in processing the application.

A Connection Agreement between Irish Water and the applicant will be required, prior to any connection being agreed, and will set out the conditions and charges to be applied to the connection. Details, including availability of application forms, are to be found on each Local Authority website.

It should be noted that Planning Authorities can no longer levy water and wastewater development charges and that these will now be incurred as part of the connection charge, if applicable.

Under the provisions of Section 55(1)(a) of the Water Services Act 2007 (the Act) it is an offence for a person to cause or permit the connection of a premises to the public water supply network, either directly or indirectly, or to otherwise take a water supply without the agreement of Irish Water.

Similarly under the provisions of Section 61(1) (a) of the Act, it is an offence for a person to cause or permit the connection of a premises to the public waste water collection network, either directly or indirectly, without the agreement of Irish Water.

INFORMATION for the purposes of Building Control;-

- **IMPORTANT NOTE NOW THAT YOU HAVE RECEIVED PLANNING PERMISSION or ARE INTENDING TO CARRY OUT BUILDING WORKS.**

BEFORE ANY BUILDING WORKS TAKES PLACE ON YOUR SITE YOU WILL NEED TO CHECK THE FOLLOWING [Pre-Development Planning Conditions](#), [Commencement Notice](#), [Construction Products Regulations \(CPR\) \(Regulation \(EU\) No. 305/2011\)](#) .

- **IF SOME OR ANY OF THESE ARE OMITTED YOUR BUILDING MAY BE AN UNAUTHORISED BUILDING AND YOU MAY BE GUILTY OF AN OFFENCE AND/OR YOU MAY BE SUBJECT TO PENALTIES.**
- **YOU SHOULD ALSO BE AWARE THAT IF YOU OMIT TO SUBMIT A VALID COMMENCEMENT NOTICE TO YOUR LOCAL AUTHORITY YOU MAY BE UNABLE TO GET A COMPLETION CERTIFICATE AND THIS MAY HAVE SERIOUS LONG TERM CONSEQUENCES.**

(The information is for guidance purposes only and does not purport to be a legal interpretation or constitute legal or professional advice.)

1. Pre-Development Planning Conditions;

1. If there are any Pre-Development conditions on the schedule of conditions attached to your planning permission you should give your immediate attention to them prior to the commencement of your development.

Note: All conditions must be complied with in full as failure to do so will render your permission invalid and may result in the initiation of enforcement proceedings for compliance with same

2. Commencement Notice; www.localgov.ie

In accordance with the Building Control Regulations you are obliged to submit a Commencement Notice prior to commencement of the development and it must be received by the BCA not less than 14 days and not more than 28 days before you wish to commence. Commencement Notice forms may be downloaded from www.localgov.ie, @ [BCMS](https://twitter.com/BCMS). Please complete same and submit on-line to BCMS.

- (a) A completed copy of the commencement notice which must be signed by the owner of the works and must (refer to section 9 [S.I. No 9 of 2014](#)) be to be accompanied by the following;
 - a. General Arrangement Drawings
 - b. A schedule of design documents as are currently prepared or to be prepared
 - c. An online- assessment via the Building Control Management System of the proposed approach to compliance with the requirements of the Building Regulations 1997 to 2014;
 - d. The preliminary inspection plan
 - e. A Certificate of Compliance (Design)
 - f. Notices of Assignment in respect of the Builder who will carry out the works and of the Assigned Certifier who will inspect and certify the works, and
 - g. Certificates of Compliance signed by the Builder and the Assigned Certifier undertaking to carry-out their roles in accordance with the requirements of the Building Regulations.

With regard to the above, please note that:

1. The Designer and the Assigned Certifier must be a [Chartered Engineer](#), or [Registered Architect](#) or [Registered Surveyor](#)
2. A Competent Builder must execute the work

3. Your drawings must show details of how your Building will comply with the Building Regulations - drawings submitted for planning permission purposes are not typically building control compliance drawings.
4. The commencement notice and accompanying documentation must be filed electronically via the online Building Control Management System. Where notices and documentation are submitted in written format, the building control authority will arrange for scanning and uploading of same for which an administrative charge will apply and statutory deadlines relating to such notices may be delayed by up to seven days.

(Note: Statutory approvals relating to fire safety and disabled access continue to apply where relevant and are not affected by the above changes).

For more information; <http://www.environ.ie/en/DevelopmentHousing/BuildingStandards/>

3. Construction Products Regulations (CPR) (Regulation (EU) No. 305/2011)

CE MARKING of construction products covered by harmonised European Standards is mandatory, when the construction product is placed on the market.

You need to ensure that you appoint competent professionals.

Whilst the CPR concerns itself with the conditions which apply when placing a construction product on the market, clients, specifiers, designers and builders etc. should be aware of the following when incorporating construction products into building works:

1. When drawing up specifications, refer to the harmonized technical specifications and specifically to the performance requirements of individual characteristics when necessary,
2. When choosing the products most suitable for their intended use in construction works, review the manufacturer's Declaration of Performance,
3. Check National Annexes or Standard Recommendations which give guidance on appropriate minimum performance levels for specific intended uses of the product in Ireland. NSAI host this information at www.nsa.ie, and

NOTE; All works should be carried out using “proper materials...which are fit for the use for which they are intended and for the conditions in which they are to be used” to ensure compliance with the Building Regulations. For further information on the Building Regulations see <http://www.environ.ie/en/DevelopmentHousing/BuildingStandards/>

Construction Products Regulation

The Department of Housing, Planning & Local Government has in relation to the Construction Industry and Brexit produced two documents to raise awareness among specifiers, designers and builders of the need to look for CE marking on construction products and the accompanying Declarations of Performance.

The following is a link to an Information Leaflet: Brexit - Construction Products Regulations:

<https://www.housing.gov.ie/corporate/brexit/brexit-construction-products-regulation>

The following is a link to Construction Industry – Be Prepared FAQ document :

https://www.housing.gov.ie/sites/default/files/publications/files/construction_industry_-_be_prepared_for_no_deal_brexit_-_frequently_asked_questions.pdf

Reg. Ref. F21A/0368

NOTES

(A) REFUND OF FEES SUBMITTED WITH A PLANNING APPLICATION

Provision is made for a partial refund of fees in the case of certain repeat applications submitted within a period of twelve months where the full standard fee was paid in respect of the first application and where both applications relate to developments of the same character or description and to the same site. An application for a refund must be made in writing to the Planning Authority and received by them within a period of eight weeks beginning on the date of Planning Authority's **decision** on the second application. For full details of fees, refunds and exemptions the Planning & Development Regulations, 2001 should be consulted.

(B) APPEALS

1. An appeal against the decision may be made to An Bord Pleanála by the applicant or ANY OTHER PERSON who made submissions or observations in writing to the Planning Authority in relation to this planning application within four weeks beginning on the date of this decision. (N.B. Not the date on which the decision is sent or received). A person who has an interest in land adjoining land in respect of which permission has been granted may within the appropriate period and on payment of the appropriate fee apply to the Board for Leave to Appeal against that decision.
2. Every appeal must be made in writing and must state the subject matter and full grounds of appeal. It must be fully complete from the start. Appeals should be sent to:
The Secretary, An Bord Pleanála, 64 Malborough Street, Dublin 1.
3. An appeal lodged by an applicant or his agent or by a third party with An Bord Pleanála will be invalid unless accompanied by the prescribed fee. A schedule of fees is at 7 below. In the case of third party appeals, a copy of the acknowledgement of valid submission issued by F.C.C. must be enclosed with the appeal.
4. A party to an appeal making a request to An Bord Pleanála for an oral Hearing of an appeal must, in addition to the prescribed fee, pay to An Bord Pleanála a further fee (see 7 (f) below).
5. Where an appeal has already been made, another person can become an "observer" and make submissions or observations on the appeal. A copy of the appeal can be seen at the Planning Authority's office.
6. If the Council makes a decision to *grant permission/ retention/ outline/ permission consequent on the grant of outline* and there is no appeal to An Bord Pleanála against this decision, a final grant will be made by the Council as soon as may be after the expiration of the period for the taking of such an appeal. If every appeal made in accordance with the Acts has been withdrawn, the Council will issue the final grant as soon as may be after the withdrawal.
7. Fees payable to An Bord Pleanála from 5th September 2011 are as follows:

Case Type

Planning Acts

(a) Appeals against decisions of Planning Authorities	
Appeal	
(i) 1 st party appeal relating to commercial development where the application included the retention of development	€4,500 or €9,000 if an EIS or NIS involved
(ii) 1 st party appeal relating to commercial development (no retention element in application	€1,500 or €3,000 in EIS or NIS involved
(iii) 1 st party appeal non-commercial development where the application included the retention of development.	€660
(iv) 1 st party appeal solely against contribution condition(s) – 2000 Act Section 48 or 49	€220
(v) Appeal following grant of leave to appeal (An application for leave to appeal is also €110)	€110
(vi) An appeal other than referred to in (i) to (v) above.	€220
(b) Referral	€220
(c) Reduced fee for appeal or referral (applies to certain specified bodies)	€110
(d) Application for leave to appeal (section 37(6)(a) of 2000 Act	€110
(e) Making submission or observation (specified bodies exempt).	€50
(f) Request for oral hearing under Section 134 of 2000 Act	€50

NOTE: the above fee levels for planning appeals and referrals remain unchanged from those already in force since 2007 (but note the addition of NIS in (i) and (ii) above).

Fees apply to: All third party appeals at 7(a)(iv) above except where the appeal follows a grant of leave to appeal; First party (section 37 appeals) planning appeals not involving commercial or retention development, an EIS or NIS. All other (non section 37) first party appeals.

These bodies at 7(c) above are specified in the Board's order which determined fees. They include planning authorities and certain other public bodies e.g. National Roads Authority, Irish Aviation Authority.

NB. This guide does not purport to be a legal interpretation of the fees payable to the Board. A copy of the Board's order determining fee under the Planning Act is obtainable from the Board. Further information about fees under other legislation may be found in the appropriate legislation and is also available from the Board.

If in doubt regarding any of the above appeal matters, you should contact An Bord Pleanála for clarification at **(01) 8588 100**.