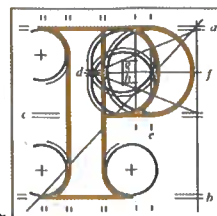


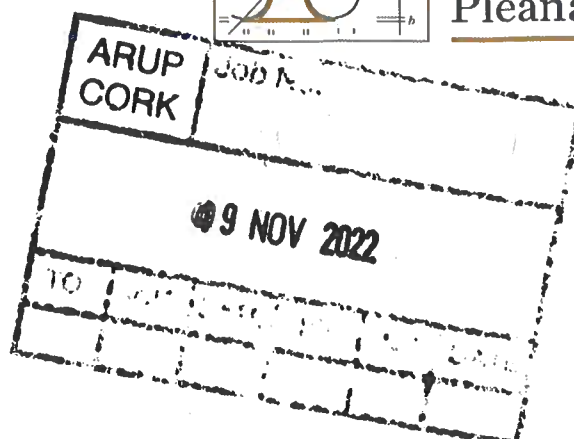
**Our Case Number:** ABP-313468-22

**Your Reference:** Dun Laoghaire Rathdown County Council



An  
Bord  
Pleanála

Dan Garvey  
ARUP  
One Albert Quay  
Cork  
Co. Cork



**Date:** 08 NOV 2022

**Re:** Permanent remedial works for a pier walkway in Coliemore Harbour which is a Protected Structure  
Coliemore Harbour, Dalkey, Co. Dublin

Dear Sir,

An order has been made by An Bord Pleanála determining the above-mentioned case. A copy of the order is enclosed.

In accordance with section 146(3) of the Planning and Development Act, 2000, as amended, the Board will make available for inspection and purchase at its offices the documents relating to the decision within 3 working days following its decision. In addition, the Board will also make available the Inspector's Report and the Board Direction on the decision on its website ([www.pleanala.ie](http://www.pleanala.ie)). This information is normally made available on the list of decided cases on the website on the Wednesday following the week in which the decision is made.

The attachment contains information in relation to challenges to the validity of a decision of An Bord Pleanála under the provisions of the Planning and Development Act, 2000, as amended.

If you have any queries in relation to the matter please contact the undersigned officer of the Board.

Please quote the above mentioned An Bord Pleanála reference number in any correspondence or telephone contact with the Board.

Yours faithfully,

Sarah Caulfield  
Executive Officer  
Direct Line: 01-8737287

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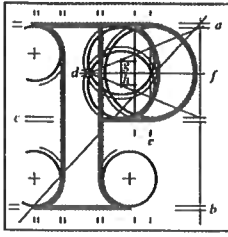
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D01 V902

64 Marlborough Street  
Dublin 1  
D01 V902



An  
Bord  
Pleanála

**Board Order**  
**ABP-313468-22**

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**Planning and Development Acts, 2000 to 2021**

**Planning Authority: Dún Laoghaire-Rathdown County Council**

**Application** by Dún Laoghaire-Rathdown County Council for approval under section 177AE of the Planning and Development Act 2000, as amended, in accordance with plans and particulars, including a Natura Impact Statement, lodged with An Bord Pleanála on the 4<sup>th</sup> day of May, 2022.

**Proposed Development:** The proposed development will consist of permanent remedial works for a pier walkway comprising of the mobilisation and site set-up, including access to viewing platform and obstruction removal (bollards), removal of temporary walkway to allow access for grouting; phased grouting works of the harbour wall by gunition and/or pointing method into open joints in rock mass to improve stability and prevent grout loss followed by compensation grouting of the larger voids, installation of up to 16 rock anchors from the suspended platform via a crane located on the viewing platform, grouting of the rock anchors, headplate installation, with grey olive metal rings welded to the top of the bars, resurfacing existing walkway, and pointing and post condition works at Coliemore Harbour, Dalkey, County Dublin.

## **Decision**

**APPROVE** the above proposed development based on the reasons and considerations under and subject to the conditions set out below.

### **Reasons and Considerations**

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

- (a) the EU Habitats Directive (92/43/EEC),
- (b) the European Communities (Birds and Natural Habitats) Regulations 2011 (as amended),
- (c) the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the likely significant effects of the proposed development on European Sites,
- (d) the provisions of the Dún Laoghaire-Rathdown County Development Plan 2022-2028,
- (e) the nature and extent of the proposed works as set out in the application for approval,
- (f) the information submitted in relation to the potential impacts on ecology and architectural heritage and including the Natura Impact Statement,
- (g) the submissions and observations received in relation to the proposed development, and
- (h) the report and recommendation of the Planning Inspector.

it is considered that, subject to compliance with the conditions set out below, the proposed development would not adversely affect the environment, would not adversely affect the character and setting of the protected structure, and would therefore be in accordance with the proper planning and sustainable development of the area.

### **Appropriate Assessment: Stage 1:**

The Board agreed with the appropriate assessment and conclusions contained in the Inspector's report that Dalkey Islands Special Protection Area (Site Code: 004172), Rockabill to Dalkey Island Special Area of Conservation (Site Code: 003000), South Dublin Bay Special Area of Conservation (Site Code: 000210), South Dublin Bay and River Tolka Estuary Special Protection Area (Site Code: 004024), North Dublin Bay Special Area of Conservation (Site Code: 000206), North Bull Island Special Protection Area (Site Code: 004006), Howth Head Coast Special Protection Area (Site Code: 004113), Baldoyle Bay Special Protection Area (Site Code: 004016), Ireland's Eye Special Protection Area (Site Code: 004117), Malahide Estuary Special Protection Area (Site Code: 004025), The Murrough Special Protection Area (Site Code: 004186), Lambay Island Special Area of Conservation (Site Code: 000204) Lambay Island Special Protection Area (Site Code: 004069), and Rogerstown Estuary Special Protection Area (Site Code: 004015) are the European Sites for which there is a possibility of significant effects and must therefore be subject to appropriate assessment.

### **Appropriate Assessment: Stage 2:**

The Board considered the submitted Natura Impact Statement and all other relevant submissions and carried out an appropriate assessment in relation to the potential effects of the proposed development on the above referenced European Sites. The Board considered the information before it was sufficient to undertake a complete assessment of all aspects of the proposed development in relation to the sites' conservation objectives using the best available scientific knowledge in the field.

In completing the assessment, the Board considered, in particular the

- (i) site specific conservation objectives for these European Sites (where available),
- (ii) current conservation status, threats and pressures of the qualifying interest features,
- (iii) likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects, specifically some small-scale local planning applications in the area,

- (iv) view of the Department of Arts, Heritage and the Gaeltacht,
- (v) mitigation measures (set out at 7.1.8 of the applicant's Natura Impact Statement) which are included as part of the current proposal.

In completing the appropriate assessment, the Board accepted and adopted the appropriate assessment carried out in the Inspector's report in respect of the implications of the proposed development on the integrity of the aforementioned European Sites, having regard to the sites' conservation objectives. In overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of European Sites in view of the sites' conservation objectives and there is no reasonable scientific doubt as to the absence of such effects.

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

It is considered that, subject to compliance with the conditions set out below, the proposed development would not have significant negative effects on the environment, would not pose a risk to water quality, would not be detrimental to the visual or landscape amenities of the area and would not adversely affect the character and setting of the protected structure. The proposed development would secure and improve access to the harbour and would thus, constitute a positive impact for users of the harbour and would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **CONDITIONS**

1. The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 4<sup>th</sup> day of May 2022, except as may otherwise be required in order to comply with the following conditions.

**Reason:** In the interest of clarity.

2. The mitigation measures outlined in the Natura Impact Statement and the Construction Environmental Management Plan, for the proposed development shall be implemented in full.

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

3. Prior to the commencement of development, the local authority, or any agent acting on its behalf, shall prepare a finalised Construction Environmental Management Plan (CEMP), incorporating all mitigation measures indicated in the Natura Impact Statement and as may be required in order to comply with the conditions of this Order. The finalised CEMP shall be placed on file and retained as part of the public record.

**Reason:** In the interest of protecting the European Sites and biodiversity.

4. All works to the protected structure, shall be carried out under the supervision of a qualified engineer or architect with specialised conservation expertise.

**Reason:** To secure the authentic preservation of this protected structure and to ensure that the proposed works are carried out in accordance with best conservation practice.

5. The local authority and any agent acting on its behalf shall facilitate the preservation, recording, protection or removal of archaeological materials or features that may exist within the site. A suitably qualified archaeologist shall be appointed by the local authority to oversee the site set-up and construction of the proposed development and the archaeologist shall be present on-site to monitor construction works.

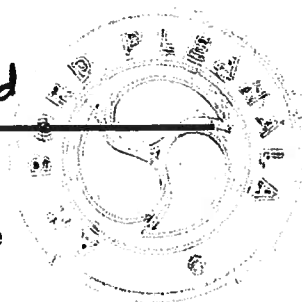
**Reason:** In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

6. On the completion of the proposed remedial works, two nest boxes suitable for black guillemots shall be installed at Coliemore Harbour. The siting, design and methodology for their installation shall be submitted to, and agreed in writing with, the local authority.

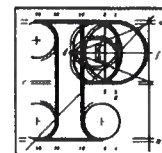
**Reason:** To enhance local biodiversity at Coliemore Harbour.

*Dr. Maria FitzGerald*

Maria FitzGerald  
Member of An Bord Pleanála  
duly authorised to authenticate  
the seal of the Board.



Dated this 8<sup>th</sup> day of November 2022



## Judicial Review Notice

Judicial review of An Bord Pleanála decisions under the provisions of the Planning and Development Acts (as amended).

A person wishing to challenge the validity of a Board decision may do so by way of judicial review only. Sections 50, 50A and 50B of the Planning and Development Act 2000, as amended, contain provisions in relation to challenges to the validity of a decision of the Board.

The validity of a decision taken by the Board may only be questioned by making an application for judicial review under Order 84 of The Rules of the Superior Courts (S.I. No. 15 of 1986). Sub-section 50(6) of the Planning and Development Act 2000 requires that any application for leave to apply for judicial review must be made within 8 weeks of the date of the decision of the Board, save for decisions made pursuant to a function transferred to the Board under Part XIV of the Planning and Development Act 2000, where any application for leave to apply for judicial review must, as set out in sub-section 50(7), be made within 8 weeks beginning on the date on which notice of the decision of the Board was first sent (or as may be the requirement under the relevant enactment, functions under which are transferred to the Board, was first published). These time periods are subject to any extension which may be allowed by the High Court in accordance with sub-section 50(8).

Section 50A(3) states that leave for judicial review shall not be granted unless the Court is satisfied that (a) there are substantial grounds for contending that the decision is invalid or ought to be quashed and (b) the applicant has a sufficient interest in the matter which is the subject of the application or in cases involving environmental impact assessment is a body complying with specified criteria.

Section 50B contains provisions in relation to the costs of certain judicial review proceedings in the High Court; pursuant to Section 50B(1), Section 50B applies to the following proceedings:

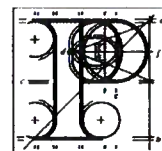
- (a) proceedings in the High Court by way of judicial review, or of seeking leave to apply for judicial review, of—
  - (i) any decision or purported decision made or purportedly made,
  - (ii) any action taken or purportedly taken,
  - (iii) any failure to take any action, pursuant to a statutory provision that gives effect to
    - I. a provision of the EIA Directive 85/337/EEC as amended to which Article 10a (as inserted by Directive 2003/35/EC) of that Directive applies,
    - II. the SEA Directive 2001/42/EC, or
    - III. a provision of the IPPC Directive 2008/1/EC to which Article 16 of that Directive applies, or
    - IV. Article 6(3) or 6(4) of the Habitats Directive; or
- (b) an appeal (including an appeal by way of case stated) to the Supreme Court from a decision of the High Court in a proceeding referred to in paragraph (a);
- (c) proceedings in the High Court or the Supreme Court for interim or interlocutory relief in relation to a proceeding referred to in paragraph (a) or (b).

The general provision contained in section 50B(2) is that in proceedings to which the section applies each party shall bear its own costs. The Court however may award costs against any party in specified circumstances. There is also provision for the Court to award the costs of proceedings or a portion of such costs to an applicant, to the extent that the applicant succeeds in obtaining relief, against a respondent or notice party, or both, to the extent that the action or omission of the respondent or notice party contributed to the relief being obtained.

General information on judicial review procedures is contained on [www.citizeninformation.ie](http://www.citizeninformation.ie)

**Disclaimer:** The above is intended for information purposes. It does not purport to be a legally binding interpretation of the relevant provisions and it would be advisable for persons contemplating legal action to seek legal advice.





## Fógra faoi Athbhreithniú Breithiúnach

Athbhreithniú breithiúnach ar chinntí an Bhoird Pleanála faoi fhorálacha na nAchtanna um Pleanáil agus Forbairt (arna leasú).

Ní fhéadfaidh duine ar mian leis nó léi agóid a dhéanamh in aghaidh bhailíocht chinneadh de chuid an Bhoird é sin a dhéanamh ach trí athbhreithniú breithiúnach. Tá forálacha in Alt 50, 50A agus 50B den Acht um Pleanáil agus Forbairt 2000, arna leasú, maidir le dúshláin i leith bhailíocht chinneadh an Bhoird.

Ní féidir bailíocht cinnidh arna ghlacadh ag an mBord a cheistiú ach amháin trí iarratas a dhéanamh ar athbhreithniú breithiúnach faoi Ordú 84 de Rialacha na nUaschúirteanna (S.I. Uimh. 15 de 1986). Ceanglaíonn fo-alt 50(6) den Acht um Pleanáil agus Forbairt 2000 go gcaithfear aon iarratas ar chead chun iarratas a dhéanamh ar athbhreithniú breithiúnach a dhéanamh laistigh de 8 seachtaine ó dháta chinneadh an Bhoird, seachas cinntí a dhéantar de bhun feidhme aistrithe chuig an mBord faoi Chuid XIV den Acht um Pleanáil agus Forbairt 2000, i gcás nach mór aon iarratas ar chead chun iarratas a dhéanamh ar athbhreithniú breithiúnach, mar atá leagtha amach i bhfo-alt 50(7), a dhéanamh laistigh de 8 seachtaine ag tosú ar an dáta ar ar tugadh fógra faoi chinneadh an Bhoird ar dtús (nó mar a cheanglófar faoin achtú ábhartha, ar aistríodh feidhmeanna faoi chuig an mBord, a foilsíodh den chéad uair). Tá na tréimhsí ama seo faoi réir aon síneadh a fhéadfaidh an Ard-Chúirt a cheadú de réir fho-alt 50(8).

Sonraítear in alt 50A(3) nach ndeonófar cead d'athbhreithniú breithiúnach mura bhfuil an Chúirt sásta (a) go bhfuil forais shubstaintiúla ann chun a áitiú go bhfuil an cinneadh neamhbhailí nó gur chóir é a chur ar neamhní agus (b) go bhfuil leas leordhóthanach ag an iarratasóir san ábhar is ábhar don iarratas nó i gcásanna a bhaineann le measúnú tionchair timpeallachta ar comhlacht é a chomhlíonann critéir shonraithe.

Tá forálacha in alt 50B maidir le costais imeachtaí athbhreithnithe bhreithiúnaigh áirithe san Ard-Chúirt; de bhun Alt 50B(1), tá feidhm ag alt 50B maidir leis na himeachtaí seo a leanas:

(a) imeachtaí san Ard-Chúirt mar athbhreithniú breithiúnach, nó trí chead a lorg chun iarratas a dhéanamh ar athbhreithniú breithiúnach, ar—

- (i) aon chinneadh nó cinneadh airbheartaithe a rinneadh nó a airbheartaítear a rinneadh,
- (ii) aon ghníomh a rinneadh nó a airbheartaítear a rinneadh,
- (iii) aon mhainneachtain aon ghníomh a dhéanamh, de bhun forála reachtúla a thugann éifeacht
  - I. d'fhoráil de Threoir EIA 85/337/CEE arna leasú lena mbaineann Airteagal 10a (arna cur isteach le Treoir 2003/35/CE) den Treoir sin,
  - II. do Threoir SEA 2001/42/CE, nó
  - III. d'fhoráil de Threoir IPPC 2008/1/CE a bhfuil feidhm ag Airteagal 16 den Treoir sin maidir léi, nó
  - IV. d'Airteagal 6(3) nó 6(4) den Treoir maidir le Gnáthóga; nó

(b) achomharc (lena n-áirítear achomharc de chás ráite) chun na Cúirte Uachtaraí i gcoinne breithe ón Ard-Chúirt in imeacht dá dtagraítear i mír (a);

(c) imeachtaí san Ard-Chúirt nó sa Chúirt Uachtarach le haghaidh faoisimh eatramhach nó idirbheitheach i ndáil le himeacht dá dtagraítear i mír (a) nó (b).

Is í an fhoráil ghinearálta atá in alt 50B(2) ná go n-íocfaidh gach páirtí in imeachtaí lena mbaineann an t-alt a chostais féin. Féadfaidh an Chúirt, áfach, costais a dhámhachtain in aghaidh aon pháirtí in imthosca sonraithe. Tá foráil ann freisin go ndéanfaidh an Chúirt costais imeachtaí nó cuid de chostais den sórt sin a dhámhachtain d'iarratasóir, a mhéid a éiríonn leis an iarratasóir faoiseamh a fháil, i gcoinne freagróra nó páirtí fógra, nó an dá cheann, a mhéid a chuir an chaingean nó an t-easnamh ar thaobh an fhreagróra nó an pháirtí fógra go páirteach leis an bhfaoiseamh atá á fháil.

Tá eolas ginearálta ar nósanna imeachta athbhreithnithe bhreithiúnaigh ar fáil anseo a leanas, [www.citizensinformation.ie](http://www.citizensinformation.ie).

**Séanadh:** Mar eolas atá an méid thuas ceaptha. Ní airbheartaíonn sé a bheith ina léirmhíniú ceangailteach ó thaobh dlí ar na forálacha ábhartha agus bheadh sé inmholta do dhaoine atá ag smaoineamh ar chaingean dlí comhairle dlí a lorg.