



An
Bord
Pleanála

Board Direction
BD-000757-18
ABP-300840-18

The submissions on this file and the Inspector's report were considered at a Board meeting held on 18/07/2018.

The Board decided to grant permission generally in accordance with the Inspector's recommendation, for the following reasons and considerations, and subject to the following conditions.

Reasons and Considerations

- (a) Directive 92/43/EEC (Habitats Directive) and Directive 79/409/EEC as amended by 2009/147/EC (Birds Directive),
- (b) the policies and objectives of the Fingal County Development Plan 2017 to 2023, and the detailed policies and objectives of the Baldoyle-Stapolin LAP and the Portmarnock South LAP,
- (c) the conservation objectives, qualifying interests and special conservation interests for Baldoyle Bay SAC (site code 000199) and Baldoyle Bay SPA (site code 004016), Malahide Estuary SPA (site code 004025), Rogerstown Estuary SPA (004015), North Bull Island SPA (004006) and South Dublin Bay and River Tolka SPA (004024),
- (d) the nature and extent of the proposed works as set out in the application for approval,
- (e) the information submitted in relation to the potential impacts on habitats, flora and fauna, including the Natura Impact Statement,

- (f) the submissions and observations received in relation to the proposed development,
- (g) the likely effects and 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,
- (h) the report and recommendation of the person appointed by the Board to make a report and recommendation on the matter

Appropriate Assessment:

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that Baldoyle Bay SAC (site code 000199), Baldoyle Bay SPA (site code 004016), Malahide Estuary SPA (site code 004025), Rogerstown Estuary SPA (004015), North Bull Island SPA (004006) and South Dublin Bay and River Tolka SPA (004024) are the only European Sites for which there is a likelihood of significant effect.

The Board considered the Natura Impact Statement and associated documentation submitted with the application for approval, the mitigation measures contained therein, the submissions and observations on file, and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed development for the aforementioned European Sites, in view of the sites' conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment. In completing the appropriate assessment, the Board considered, in particular, the following:

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

In completing the appropriate assessment, the Board accepted and adopted the screening and the appropriate assessment carried out in the Inspector's report in

respect of the potential effects of the proposed development on the aforementioned European Sites, having regard to their conservation objectives.

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

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

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

Conditions

1. The proposed development shall be carried out and completed in accordance with the plans and particulars and other associated documentation, lodged with An Bord Pleanála on the 6th day of February 2018 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be prepared by the local authority, these details shall be placed on file prior to commencement of development and retained as part of the public record.

Reason: In the interest of clarity and the proper planning and sustainable development of the area and to ensure the protection of the environment

2. Lighting of the pedestrian/cycle route shall be by bollard mounted lighting at 16m intervals, with light projecting towards the path and land, away from the Baldoyle Bay, and subject to nighttime dimming.

Reason: In the interest of visual amenity and nature conservation.

3. The mitigation measures and associated monitoring outlined in the plans and particulars relating to the proposed development, shall be carried out in full, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity and the protection of the environment and in the interest of traffic safety.

4. Prior to commencement of development, the local authority, or any agent acting on its behalf, shall prepare in association with the relevant statutory agencies a Construction and Environmental Management Plan (CEMP), incorporating all mitigation measures indicated in the Natura Impact Statement, the Environmental Report and application documentation. The CEMP shall include hours of working, an invasive species management plan to prevent the spread of hazardous invasive species and pathogens. The CEMP shall be placed on file prior to the commencement of development and retained as part of the public record.

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

5. No construction works shall take place during the winter season from November to April.

Reason: In the interest of nature conservation and to ensure the protection of the European sites.

6. A suitably qualified ecologist shall be retained by the local authority to oversee site set-up and the construction of the proposed development and implementation of mitigation measures relating to ecology. Upon completion of works, an ecological report of the site works shall be prepared by the appointed ecologist and submitted to the local authority to be kept on file as part of the record.

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

7. 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 during 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.

Board Member

Date: 23/07/2018

Eugene Nixon