



An
Bord
Pleanála

Board Direction
BD-003712-19
ABP-303687-19

At a meeting held on 06/08/2019, the Board considered the documents and submissions on file generally and the report of the Inspector, and had regard to a range of matters including the following:

- the National Planning Framework, in particular policies which seek to encourage more people and generate more jobs and activity within existing cities, towns and villages;
- the Regional Spatial and Economic Strategy for the Eastern and Midland Region which supports the provision of services and infrastructure in a planned manner to ensure that there is adequate capacity to support future development;
- the policies and objectives in the Fingal County Development Plan 2017 – 2023 and Dublin City Development Plan 2016 – 2022 which support the development of infrastructure to serve zoned lands for economic development purposes so as to facilitate opportunities for employment and enterprise creation;
- the nature, scale and design of the proposed development as set out in the planning application and the pattern of development in the vicinity;
- the distance to dwellings and other sensitive receptors from the proposed development;

- the Environmental Impact Assessment Report submitted;
- the Natura Impact Statement submitted;
- the observations made in connection with the planning application; and
- the report of the Inspector.

The Board decided to approve the proposed development under section 182B of the Planning and Development Act 2000, as amended, for the following reasons and considerations, and subject to compliance with the following conditions.

Environmental Impact Assessment

The Board completed an environmental impact assessment of the proposed development, taking into account:

- the nature, scale, location and extent of the proposed development;
- the Environmental Impact Assessment Report (EIAR) and associated documentation submitted with the application;
- the submissions from the Planning Authorities and the prescribed bodies in the course of the application; and
- the Inspector's report.

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, identifies and describes adequately the direct, indirect and cumulative effects of the proposed development on the environment. The Board is satisfied that the information contained in the EIAR complies with the provisions of EU Directive 2014/52/EU, amending Directive 2011/92/EU.

The Board agreed with the summary and examination, set out in the Inspector's report, of the information contained in the Environmental Impact Assessment Report and associated documentation submitted by the applicant and submissions made in the course of the application. The Board is satisfied that the Inspector's report sets out how these were addressed in the assessment and recommendation (including environmental conditions) and are incorporated into the Board's decision.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures proposed, as set out in the Schedule of Mitigation Measures attached as an appendix to Chapter 1 of the Environmental Impact Assessment Report and subject to compliance with the conditions set out herein, the effects on the environment of the proposed development by itself and cumulatively with other development in the vicinity would be acceptable. In doing so, the Board adopted the report and conclusions of the reporting inspector.

The Board considered that the main significant direct and indirect effects of the proposed development on the environment are, and will be mitigated, as follows:

- Hydrology and Water: The risk of pollution is through a lack of control of surface water during construction, the mobilisation of sediments and other materials during construction and the necessity to undertake construction activities in the existing watercourse in the vicinity of the site. Impacts will be mitigated by the use of best practice construction methods as detailed in the CEMP and as detailed in the Schedule of Mitigation in the EIAR.
- Lands, Soils, Geology & Hydrogeology: With respect to the unauthorised landfill, site investigation documentation indicates that the waste is contained and isolated from key potential environmental receptors. The route of the cable runs along the southern edge of the R139 which is expected to be outside the waste body (which is on the northern edge). Any potential soil contamination will be mitigated by way of the control of soil excavation and export of material from site. Soil will be tested and classified in accordance

with the EPA Waste Classification. There will be no stockpiling on site. Impacts will be mitigated by the use of best practice construction methods as detailed in CEMP and as detailed in the Schedule of Mitigation in the EIAR.

- Air and Noise during the construction phase: There is potential for a negative impact on sensitive receptors in the vicinity. These impacts are mitigated by the mitigation measures as detailed in the CEMP, including Dust Control Measures, Site Management, compliance with noise limits, appointment of a Noise Liaison Officer and as detailed in the Schedule of Mitigation in the EIAR.
- Traffic and Transport: Traffic impacts, as a result of the construction of the on-road element, will be mitigated by the carrying on of the works at night and over the weekend and in accordance with the mitigation measures as detailed in the CEMP, and as detailed in the Schedule of Mitigation in the EIAR.
- Biodiversity: The loss of habitat and scrub in greenfield areas will be mitigated by the reinstatement of the lands after the works are complete. The works along the riverbank will result in an improvement to the riparian zone. Impacts on the European sites will be avoided by the mitigation measures which detailed in the CEMP, and as detailed in the Schedule of Mitigation in the EIAR.

The Board is satisfied that this reasoned conclusion is up to date at the time of taking this decision.

AA Screening - Stage 1

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the Baldoyle Bay Special Area of Conservation (site code 000199), and the Baldoyle Bay Special Protection Area (site code 004016), are the only European Sites in respect of which the proposed development has the potential to have a significant effect.

Appropriate Assessment - Stage 2

The Board considered the Natura Impact Statement and all other relevant submissions and carried out an appropriate assessment of the implications of the proposed development for European Sites, namely Baldoyle Bay SAC (site code 000199), and the Baldoyle Bay SPA (site code 004016), in view of the site's 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 the sites' 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 site's conservation objectives.

Proper Planning and Sustainable Development

It is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the National Planning Framework, the Regional Spatial and Economic Strategy for the Eastern and Midland Region, the provisions of the Fingal County Development Plan 2017 – 2023 and the Dublin City Development Plan 2016 – 2022, would not have an unacceptable impact on the residential amenities of the area, and would not

adversely affect the built or natural heritage of the area and would therefore be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars received by An Bord Pleanála on the 23rd day of May 2019, 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 relevant 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. The mitigation measures and monitoring commitments identified in the Environmental Impact Assessment Report, and other plans and particulars submitted with the planning application shall be implemented in full by the developer, except as may otherwise be required in order to comply with the following conditions. Prior to the commencement of development, the developer shall submit a schedule of mitigation measures and monitoring commitments identified in the Environmental Impact Assessment Report, and details of a time schedule for implementation of the mitigation measures and associated monitoring, to the planning authorities for written agreement.

Reason: In the interest of clarity and protection of the environment during the construction and operational phases of the proposed development.

3. The mitigation measures contained in Section 3.6 of the Natura Impact Statement which was submitted with the application 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 the European sites.

4. Prior to commencement of development, a detailed Construction Environmental Management Plan for the construction stage shall be submitted to, and agreed in writing with, the relevant planning authority, generally in accordance with the proposals set out in the Environmental Impact Assessment Report.

The Construction Environmental Management Plan shall incorporate the following:

- (a) a detailed plan for the construction phase incorporating, inter alia, construction programme, supervisory measures, noise management measures including appointment of a site noise liaison officer, construction hours and the management, transport and disposal of construction waste;
- (b) a comprehensive programme for the implementation of all monitoring commitments made in the application and supporting documentation during the construction period;
- (c) an emergency response plan; and
- (d) proposals in relation to public information and communication. A record of daily checks that the works are being undertaken in accordance with the Construction Environmental Management Plan shall be kept for inspection by the planning authorities.

Reason: In the interest of environmental protection and orderly development.

5. Prior to commencement of development, a transport management plan for the construction stage shall be submitted to, and agreed in writing with, the relevant planning authority.

Reason: In the interest of traffic safety.

6. Prior to commencement of development, a comprehensive landscaping scheme shall be submitted to, and agreed in writing with, the planning authorities.

Reason: In the interest of visual amenity

7. Prior to commencement of development, the developer shall liaise with Irish Water and both Planning Authorities to determine the exact location of Irish Water and Dublin City and Fingal County Council infrastructure and a construction management plan relating to protection of this infrastructure shall be submitted to, and agreed in writing with, the planning authorities.

Reason: In the interest of ensuring protection of services and to avoid a public health hazard.

8. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site to include the Mayne River crossing. In this regard, the developer shall:

- (a) notify the relevant planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development;

- (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works;

(c) provide arrangements, acceptable to the relevant planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove; and

(d) undertake pre-development archaeological testing of the laneway to Woodlands and topographic and photographic surveys of the townland boundary.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

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.

9. Prior to commencement of development, the developer shall lodge with both planning authorities a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and reinstatement of land required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.

Schedule of Costs

In accordance with the provisions of section 182B of the Planning and Development Act 2000, as amended, the amount due to be reimbursed to the applicant is €84,015.

A breakdown of the Board's costs is set out in the attached Appendix 1.

Board Member:

Date: 06/08/2019

Dave Walsh