



An
Bord
Pleanála

Board Direction
BD-005605-20
ABP-303726-19

At a meeting held on 17/04/2020, the Board considered the documents and submissions in relation to the application, made under the provisions of Section 226 and Section 177AE of the Planning and Development Act 2000, as amended, for a mixed-use development on the Trinity Wharf site, Wexford Town, which includes a six-storey hotel, a six-storey car park, a five-storey residential building, three five-storey office buildings, a two-storey cultural/ performance centre, a two-storey mixed-use restaurant/café/specialist retail building, a new sea wall around the existing Trinity Wharf site, a 64-berth floating marina and all other site infrastructure works and ancillary works, as well as the objections made to the proposed development, and the report of the Inspector.

The Board decided to approve the proposed development, in accordance with the said documentation, based on the following reasons and considerations and subject to the conditions set out below.

Reasons and Considerations

In coming to its decision, the Board had regard to a range of matters including the following:

European legislation, including of particular relevance:

- Directive 2014/52/EU amending Directive 2011/92/EU (EIA Directive) on the assessment of the effects of certain public and private projects on the environment;

- Directive 92/43/EEC (Habitats Directive) and Directive 79/409/EEC as amended by 2009/147/EC (Birds Directives) which set the requirements for Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union;
- Directive 2000/60/EC for establishing a framework for Community action in the field of water policy;

National legislation, including of particular relevance:

- Section 175 of the Planning and Development Act 2000, as amended, which sets out the provisions in relation to local authority projects which are subject to Environmental Impact Assessment (EIA);
- Section 177AE of the Planning and Development Act 2000, as amended, which sets out the provisions in relation to local authority projects which are subject to Appropriate Assessment (AA);

National and regional planning and related policy, including:

- Project Ireland 2040 - National Planning Framework which seeks more balanced and concentrated growth and targets a significant proportion of future urban development on infill/brownfield development sites within the built footprint of existing urban areas;
- Regional Spatial and Economic Strategy for the Southern Region which identifies Wexford as a 'key town' in the region and has a significant zone of influence and includes key infrastructural requirements' for Wexford which include investment to support development of Trinity Wharf as a Strategic Employment location;

- the provisions of the Urban Design Manual – A Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May, 2009, the Sustainable Urban Housing: Design Standards for New Apartments, issued by the Department of the Environment, Community and Local Government in March 2018, the Urban Development and Building Height Guidelines, issued by the Department of the Environment, Community and Local Government in December 2018 and the Design Manual for Urban Roads and Streets (DMURS), issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March, 2013;

Local planning policy, including:

- the policies and objectives in the Wexford Development Plan 2013-2019 and the Wexford Town and Environs Development Plan 2009-2015 (as extended) with the site identified as one which offers the opportunity for redevelopment;

The following matters:

- the documentation that accompanied the planning application and reports and submissions from observers and prescribed bodies and the further submission made by the applicant during the course of the application and responses to same;
- the brownfield nature and established site context on the Trinity Wharf site, physically separated from residential development and the pattern of development in the area;
- the design, layout, landscaping including the provision of public spaces, architectural treatment and mixed-use nature of the proposed development;
- the planning history of the site;

- the range of proposed mitigation measures set out in the submitted Environmental Impact Assessment Report and Natura Impact Statement (incorporating Appropriate Assessment Screening);
- the submissions made in relation to the application including the further information response and submissions on same; and
- the report and recommendation of the inspector and the ecologist;

Appropriate Assessment: Stage 1

The Board agreed with and adopted the screening assessment and conclusions carried out in the ecologist's report that the European site No's. 000781 Slaney River Valley SAC, 004076 Wexford Harbour & Slob SPA, 004019 The Raven SPA and 000710 Raven Point Nature Reserve SAC 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 associated documentation submitted with the application, the mitigation measures contained therein, the submissions and observations on file, the response to the further information and the ecologist's assessment. The Board completed an Appropriate Assessment of the implications of the proposed development on 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:

- a. the likely direct and indirect impacts arising from the proposed development, when taken together and in combination with other plans or projects,
- b. the mitigation measures, which are included as part of the current proposal, and

c. the conservation objectives for the European Sites.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the ecologist'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 sites' Conservation Objectives.

Environmental Impact Assessment

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

- (a) The nature, scale, location and extent of the proposed development;
- (b) The environmental impact assessment report and associated documentation submitted with the application;
- (c) The reports and submissions received from observers and prescribed bodies and the applicant's further submission in the course of the application; and
- (d) The Inspector's report;

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

Reasoned Conclusions on the Significant Effects:

The Board considered that the environmental impact assessment report, supported by the documentation submitted by the applicant, provided information which is reasonable and sufficient to allow the Board to reach a reasoned conclusion on the significant effects of the project on the environment, taking into account current knowledge and methods of assessment. The Board is satisfied that the information contained in the Environmental Impact Assessment Report is up to date and complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU.

The Board considered that the main significant direct and indirect effects of the proposed development on the environment are those arising from the impacts listed below. A Construction Environmental Management Plan (CEMP) is the overarching general mitigation embedded in the project design and delivery for the construction stage. In addition, plans relating to Waste Management, Invasive Species Management and Traffic Management are also proposed.

The main significant effects, both positive and negative are:

- Benefits/positive effects with regard to population and material assets, due to creation of a new urban quarter providing commercial, cultural and tourism related facilities and residential accommodation within Wexford town centre and the boardwalk connection between the subject site and the town centre.
- Benefits/positive effects on land and the landscape by the change in the use and appearance from a brownfield site to a mixed-use urban quarter along the waterfront.
- A direct effect on biodiversity in respect of the loss of a small area of benthic habitat within the estuary which has an adverse effect on the environment and which cannot be mitigated.

- Risk of pollution of the marine environment as a result of accidental spillages of chemicals, hydrocarbons or other contaminants during the construction and operational phases. The impacts would be mitigated by measures within a Construction and Environmental Monitoring Plan (CEMP) and adherence to best practice construction measures and incorporation of appropriate drainage facilities.
- Potential effects on the road network during the construction phase that will be mitigated by the construction traffic management plan and appropriate construction site management measures, as outlined in Appendix 4.1 of the EIA.
- Potential effects on the road network during the operational phase, including the loss of some existing parking spaces that will be mitigated by the appropriate provision of multi-use car parking spaces and the provision of a car park management plan and Mobility Management Plan, the junction layout which provides for access to the site and the proposed parking; and the provision of a boardwalk connection from the quays which will encourage walking and cycling to and from the site.
- Potential impacts arising on land and soils as a result of spread of invasive species (Japanese Knotweed) which is present on the site and which would be mitigated by the continued implementation of an Invasive Species Management Plan and the requirement that a suitably qualified ecologist would be engaged to oversee the undertaking of a pre-construction survey and the implementation of the Invasive Species Management Plan and monitor the success of the mitigation measures post-construction.

The Board completed an environmental impact assessment in relation to the proposed development forming part of the overall proposed project and concluded that, subject to the implementation of the mitigation measures referred to above, including proposed monitoring as appropriate, and subject to compliance with the

conditions set out below, the effects on the environment of the proposed development, by itself and in combination with other development in the vicinity, would be acceptable. In doing so, the Board adopted the report and conclusions set out in the Inspector's report.

Overall Conclusion

The proposed development in the operational phase will give rise to impacts which are positive. It will create a new urban quarter adjoining and connected to the town centre with complementary commercial, residential, cultural and tourism related uses regenerating a focal site along the waterfront. The Environmental Impact Assessment and Appropriate Assessment have been considered as set out in the sections above. It can, therefore, be concluded that the proposed development is in accordance with the proper planning and sustainable development of the area.

Proper Planning and Sustainable Development

The Board considered that, subject to compliance with the conditions set out below, the proposed development would enable sustainable commercial and residential growth of the town through the regeneration of this brownfield site, upon which permission was previously granted or a significant mixed-use urban development. The proposed development would assist in creating a new urban quarter on lands zoned for town centre use, with proposed uses which would complement the town centre uses and provide modern commercial office space, tourist amenities and residential development with a direct pedestrian link to the town centre. The benefits of the proposed development are considered to be positive. Having considered these matters, it is concluded that the proposed development is 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, including the mitigation measures specified in the Environmental Impact Assessment Report and the Natura Impact Statement, submitted with the application to An Bord Pleanála on the 15th day

of February, 2019 and in the Further Information Response submitted to An Bord Pleanála on the 14th day of October, 2019, 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. The period during which the proposed development hereby permitted may be carried out shall be ten years from the date of this order.

Reason: Having regard to the nature and extent of the proposed development, the Board considered it appropriate to specify a period of validity of this permission in excess of five years.

3. All mitigation measures identified in Chapter 18 of Environmental Impact Assessment Report and addendum to same and Section 5 of the Natura Impact Statement and addendum to same, shall be implemented in full as part of the proposed development or as may be required in order to comply with the following conditions. The local authority, or any agent acting on its behalf, shall appoint a person with appropriate ecological and construction expertise as an environmental manager to ensure that the mitigation measures identified in the Environmental Impact Assessment Report and Natura Impact Statement are implemented in full.

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

4. Prior to the commencement of development, details of measures to protect fisheries and water quality of the Estuary shall be outlined and kept on file as part of the public record. Piling works shall adhere to the timing restrictions

set out in the Natura Impact Statement and schedule of mitigation. A programme of water quality monitoring shall be prepared in consultation with the contractor, the local authority and relevant statutory agencies and the programme shall be implemented thereafter.

Reason: In the interest of the protecting of receiving water quality, fisheries and aquatic habitats.

5. A suitably qualified ecologist shall be retained by the local authority to oversee the site works and construction of the proposed development and the implementation of mitigation and all monitoring measures relating to ecology set out in the NIS and outline CEMP. The ecologist shall be present during site construction works. Ecological monitoring reports detailing all monitoring of the site works shall be prepared by the appointed ecologist to be kept on file as part of the public record.

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

6. Prior to the commencement of development, a monitoring plan for the assessment of benthic habitat loss will commence as set out in the Natura Impact Statement. Data collected should be in the correct format for utilisation by NPWS for updating the Natura 2000 form for the Slaney River Valley SAC in relation to Estuaries and mudflats and sandflats not covered by low tide as relevant, and for Article 17 reporting.

Reason: In the interest of nature conservation and to inform national monitoring of Annex I habitats

7. A dedicated biodiversity information area will be installed in a prominent located at the Marina and also in the Trinity Wharf civic area. This will clearly display information related to a) the prevention of spread of invasive species, b) information about and protection of harbour seal and haul out sites, c)

information and protection of the Little tern colony. The information boards will be maintained and updated as necessary.

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

8. Prior to commencement of development, the local authority, or any agent acting on its behalf, shall prepare a revised site layout plan, as illustrated in Figure 4.9 in Appendix A5 of the Further Information provided, which provides for a yellow box/loading bay outside the commercial premises to the north/northwest of the site sufficient to accommodate the length of an articulated lorry. The revised site layout plan shall be on file prior to the commencement of development and retained as part of the public record.

Reason: In the interest of protecting the environment and in the interest of public health.

9. Prior to commencement of development, the local authority, or any agent acting on its behalf, shall prepare a Construction and Environmental Management Plan (CEMP), generally in accordance with the commitments set out in the Environmental Impact Assessment Report. The CEMP shall include specific proposals as to how the CEMP will be implemented effectively, and prior to the commencement of development, it shall be put on file and retained as part of the public record.

Reason: In the interest of protecting the environment and in the interest of public health.

10. Prior to commencement of development, the local authority, or any agent acting on its behalf, shall undertake a pre-construction invasive species survey and following same shall update the Invasive Species Management Plan for the development site. The Plan shall be on file prior to the commencement of development and retained as part of the public record.

Reason: In the interest of protecting the environment and in the interest of public health.

11. The local authority, or any agent acting on its behalf, shall appoint a person with appropriate archaeological and underwater/maritime archaeological expertise to ensure that the mitigation measures identified in the Environmental Impact Assessment Report are implemented in full.

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

12. The following plans shall be placed on file prior to the commencement of development and retained as part of the public record:

(a) A Road Safety Audit, which shall address any measures to be implemented by the developer as part of the proposed development.

(b) A Traffic Management Plan for the construction and operational phases.

(c) A car park management plan.

Reason: In the interests of traffic safety.

13. A minimum of 10% of the proposed car parking spaces in the multi-storey car park shall be provided with electrical connection points to allow for functional electric vehicle charging. The remaining car parking spaces in the basement car park shall be fitted with ducting for electrical connection points to allow for future fitout of charging points.

Reason: In the interest of sustainable transport.

14. Prior to commencement of operation, a Mobility Management Strategy shall be placed on file and retained as part of the public record. This shall provide for, inter alia,
- (a) Measures to encourage the use of public transport, cycling, walking and car-pooling by staff employed in the proposed development;
 - (b) Increased bicycle storage capacity within the development site, in line with standards and provisions in the Wexford Town and Environs Development Plan currently in force; and
 - (c) An agreed allocation of designated parking spaces for residents within the Trinity Wharf development.

The Mobility Strategy shall be prepared and implemented by the operator. It shall provide for a phased roll-out of measures appropriate to the changing nature of the area and the levels of available public transport.

Reason: To protect the existing road network, to ensure that the proposed development does not impede the delivery of future roads in the area and in the interest of traffic safety and the promotion of sustainable transport modes.

15. Details and samples of the materials, colours and textures of all the external finishes to the proposed development including pavement finishes shall be on file prior to the commencement of development and retained as part of the public record.

Reason: In the interest of the visual amenities of the area.

16. Notwithstanding the provisions of the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, no advertisement signs (including any signs installed to be visible through windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on any of the proposed buildings or within the curtilage of the site, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity and orderly development and to permit any such development to be assessed through the statutory planning process.

17. The management and maintenance of the proposed development, following completion, shall be the responsibility of a legally constituted management company which shall be established by the local authority. A management scheme, providing adequate measures for the future maintenance of the proposed development, including the external fabric of the buildings, open spaces, landscaping, roads, paths, parking areas, lighting, waste storage facilities and sanitary services, shall be prepared by the local authority prior to commencement of development and shall be placed on the file and retained as part of the public record.

Reason: To provide for the future maintenance of this development in the interest of visual amenity.

18. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays.

Reason: In order to safeguard the residential amenities of property in the vicinity.

Board Member:

Date: 17/04/2020

Dave Walsh