



An
Bord
Pleanála

Board Direction

BD-006427-20

ABP-307352-20

At a meeting held on 09/09/2020, the Board considered the documents and submissions received in relation to the proposed development, and the report of the Inspector.

The Board decided to approve the proposed development under section 181(2L) of the Planning and Development Act 2000, as amended, in accordance with the plans and particulars received with the application, for the reasons and considerations under and subject to the conditions set out below.

Reasons and Considerations

The Board considered that, subject to compliance with the conditions set out below, the proposed development complies with EU Directives, national and local policy and would be acceptable in terms of biodiversity, noise, landscape, cultural heritage and traffic. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In coming to its decision, the Board had regard to 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; and
- Trans-European Transport Network (TEN-T) Regulations, 2013 and 2019 which address the development of a trans-European transport network within the European Union.

National and regional planning and related policy, including:

- The National Development Plan – Ireland 2040, which identifies major national infrastructure projects including investment at Ports including Dublin Port to create high quality international connectivity;
- The National Planning Framework – Ireland 2040, which states that the role of Tier 1 ports (Dublin Port Company) will be considered in tandem with long-term infrastructural requirements as part of the Regional Spatial and Economic Strategy and Metropolitan Area Strategic Plan processes through National Policy Objective 40;
- National Port Policy, 2013 which states that the Government endorses the core principles of the Dublin Port Masterplan and the continued commercial development of Dublin Port Company is a key strategic objective of National Ports Policy; and
- The Regional Spatial and Economic Strategy (RSES) for the Eastern and Midlands Regional Assembly 2019-2031 which supports the role of Dublin Port as a Port of National Significance (Tier 1 Port) and its continued commercial development, including limited expansion and improved road access, including the Southern Port Access Route.

Local planning policy, including:

- The provisions of the Dublin City Development Plan 2016-2022, which seeks the protection of flora, fauna and habitats which have been identified by Articles 10 and 12 of Habitats Directive, Birds Directive, Wildlife Acts 1976–2012, the Flora (Protection) Order 2015 S.I. No. 356 of 2015, European Communities (Birds and Natural Habitats) Regulations 2011 to 2015 and the conservation of all Natural Heritage Areas, Special Areas of Conservation and Special Protection Areas.

Appropriate Assessment Screening

The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report that the South Dublin Bay and River Tolka Estuary SPA (004024), North Dublin Bay SAC (000206), South Dublin Bay SAC (000210) and the North Bull Island SPA (0040006) are the European sites for which there is a likelihood of significant effects.

Appropriate Assessment

The Board considered the Natura Impact Statement and all other relevant submissions and carried out an appropriate assessment of the implications of the proposal for the South Dublin Bay and River Tolka Estuary SPA (004024), North Dublin Bay SAC (000206), South Dublin Bay SAC (000210), North Bull Island SPA (0040006), in view of these sites' Conservation Objectives.

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

- (a) the likely direct and indirect impacts arising from the development of the proposed development, both individually, 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 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 sites' Conservation Objectives.

Environmental Impact Assessment

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

- (a) The nature, scale and extent of the proposed development,
- (b) The Environmental Impact Assessment Report and associated documentation submitted,
- (c) The submissions from prescribed bodies, 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 EIA, 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 was 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 proposed development 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 relevant to the project design and delivery for the construction stage. This CEMP includes mitigation measures arising from the EIAR.

The main significant effects, both positive and negative, are:

- Negative impacts on human health and population arising from construction include noise, traffic and dust disturbance to residents of neighbouring dwellings. All of these impacts are neutral to imperceptible, and adequate mitigation measures are proposed to ensure that these impacts are not significant and include adequate mitigation in respect of operational noise.
- Benefits / positive impacts to human health and population will arise in relation to local business activity during the construction phase with construction workers availing of local services, the proposed increase in permanent workers will also have slight long-term positive impact.
- Negative impacts on the Air and Climate, where there is potential for construction activity to impact on air quality in terms of dust. However, adequate mitigation is proposed that will ensure that impacts will be short-term and not significant.
- Negative impacts on hydrology could arise as a result of accidental spillages of chemicals, hydrocarbons or other contaminants entering the sea from the site. Mitigation measures are proposed to manage surface water from the

site, and discharge of surface water will be directed, following treatment, through the port storm and foul drainage systems prior to discharge. These impacts will be mitigated by measures outlined within the application and can therefore be ruled out.

- Negative Noise and Dust impacts may arise during the construction phase from construction activities, but these impacts will be mitigated through adherence to best practice construction measures. Noise disturbance from the operation of the site is not likely to arise, given the separation distances between the development and noise sensitive receptors which include the qualifying interests of the South Dublin Bay and River Tolka Estuary SPA. Impacts arising from noise and dust disturbance during both the construction and operational stage can therefore be ruled out.
- Negative traffic impacts may arise during the construction phase of the development, but these impacts will be mitigated through the implementation of a traffic management plan and a construction management plan. Impacts arising from traffic can therefore be ruled out.

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.

Condition

- (a) All mitigation, environmental and monitoring measures identified in the Environmental Impact Assessment Report shall be implemented in full as part of the proposed development.

(b) All mitigation and environmental measures identified in the Natura Impact Statement shall be implemented in full as part of the proposed development.

Reason: In the interest of development control, public information and clarity.

Board Member:

Date: 09/09/2020

Dave Walsh