

An
Bord
Pleanála

Board Direction
BD-009581-21
ABP-310119-21

The submissions on this file and the Inspector's report were considered at a Board meeting held on 03/12/2021.

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

Appropriate Assessment

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the South Dublin Bay SAC [Site Code 000210], North Dublin Bay SAC [Site Code 000206], South Dublin Bay and River Tolka Estuary SPA [Site Code 004024] and North Bull Island SPA [Site Code 004006] are the only European Sites for which there is a possibility of significant effects and must therefore be subject to 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 proposed development for these European Sites, in view of the sites' Conservation Objectives. The Board considered that 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 following

- (i) site-specific Conservation Objectives for these European Sites,
- (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,
- (iv) view of the Department of Arts, Heritage and the Gaeltacht, and
- (v) mitigation measures 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.

Environmental Impact Assessment

In compliance with section 172 of the Planning and Development Act 2000, as amended, 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 and associated documentation submitted with the application
- the submissions from the applicant, the appellants, the planning authority, and the prescribed bodies, and
- the Planning Inspector's report.

The Board considered that the Environmental Impact Assessment Report (EIAR), supported by the information 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 EIAR 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, and subject to compliance with the conditions set out herein below, 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:

- There are potential positive impacts for employment opportunities and retail activities. Impacts arising from noise, dust, traffic, and construction will be mitigated by a Construction Management Plan including traffic management measures. There will be no negative impacts subject to mitigation measures outlined or otherwise addressed by condition.
- Traffic & Transport – Construction and operational phase impacts in the form of short term increases in the traffic on the road network are recognised and addressed in the EIAR. The mitigation measures are reasonable and practicable. With the recommended mitigation measures in place, no significant adverse roads and traffic related environmental impacts are anticipated during the construction or operational phases of the proposed development.

- Construction phase impacts are recognised and addressed in the EIAR. The mitigation measures are reasonable and practicable. Noise and vibration levels would be within acceptable emissions limits during normal operation.
- The proposed development entailing a series of large modern buildings would have an impact on the visual character of the area. This impact is considered acceptable given the location of the site on lands zoned Major Retail Centre
- Soils, Geology and Hydrogeology: Subject to implementation of mitigation measures no significant residual impacts expected during construction phase. Any impacts will be short term and imperceptible. Operational phase impacts will not be significant.
- Hydrology: Subject to implementation of mitigation measures, no significant residual impacts expected during construction phase. Any impacts will be short term and imperceptible. Expected impacts during operation phase will be long term and imperceptible.
- Biodiversity impacts, which will be mitigated by a range of pollution prevention means to protect surface water quality during construction and operation; compensatory measures, landscaping; lighting control measures and post construction monitoring.
- Risk Management: subject to implementation of all mitigation measures as described, the level of risk identified is insignificant.
- Interactions and Potential Cumulative Impacts: The cumulative effect arising from the proposed development would create some adverse cumulative change, this would be mitigated by the implementation of appropriate mitigation measures where possible.

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

Proper Planning and Sustainable Development

Having regard to:

- a) The zoning objectives for the site as a Major Retail Centre in the South Dublin County Development Plan, 2016-2022
- b) The planning history associated with the site

- c) The nature and extent of existing and permitted development on the site and in the vicinity,
- d) The proposed improvements to the road network and public transport infrastructure in the area,
- e) The nature, scale and design of the proposed development including the public realm provision and enhancements

it is considered that subject to compliance with the conditions set out below, the proposed development would constitute an appropriate form of development, would not be contrary to the retail policy as set out in the South Dublin County Development Plan, 2016-2022, would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of pedestrian and traffic safety and convenience and would be in accordance with the proper planning and sustainable development of the area.

Conditions

1.	<p>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 submitted on the 12th day of February 2021 and by the further plans and particulars received by An Bord Pleanála, 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 planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity</p>
2.	<p>All environmental mitigation measures set out in the Environmental Impact Assessment Report and associated documentation submitted by the developer with the application, by way of further information and the appeal shall be implemented in full except as may otherwise be required in order to comply with the conditions of this order.</p>

	Reason: In the interest of clarity and to protect the environment during the construction and operational phases of the development.
3.	<p>All mitigation measures set out in the Natura Impact Statement and associated documentation submitted by the developer with the application, by way of further information and the appeal shall be implemented in full except as may otherwise be required in order to comply with the conditions of this order.</p> <p>Reason: In the interest of clarity and to protect European Sites during the construction and operational phases of the development.</p>
4.	<p>Prior to the occupation of this Liffey Valley Shopping Centre Extension development, the permitted Bus Interchange and bus priority measures shall be fully implemented and operational at Liffey Valley Shopping Centre</p> <p>Reason: In the interest of sustainable travel, amenity, and in the interest of proper planning and sustainable development of the area</p>
5.	<p>a) The applicant shall implement a parking charging strategy prior to the occupation and operation of this development based on the following rates:</p> <ul style="list-style-type: none"> ▪ A standard Parking Charge of €2:00 per hour. ▪ No charge for hours 2 and 3 unless staying over 5 hours in which case there shall be no free hours (to deter long stay parking). <p>This parking management strategy shall be reviewed on an annual basis and any changes shall be agreed in writing with the Planning Authority and be subject to the results of the Parking Monitoring Report.</p> <p>b) The applicant shall submit a Parking Monitoring Report to the Planning Authority on an annual basis. The report shall contain origin and destination surveys using the permanent counters detailed on Figure 14 of the Transport Response Report. This report shall target a 10% reduction in car trips to the Centre based on 2019 car trip data after the implementation of the paid parking strategy. These figures shall also analyse the impact on traffic using the national road network and the two N4 slips onto the Fonthill Road and inform decisions within the annual review of parking charges.</p>

	<p>Reason: In the interest of sustainable travel and compliance with the Council's Development Plan.</p>
6.	<p>a) A maximum total of 900 car parking spaces shall be provided at the proposed development.</p> <p>b) A minimum total of 90 parking spaces shall be EV charging ready on the first opening of the development. The remaining spaces shall be ducted for future EV connections.</p> <p>c) There shall be a total of 45 (5% of additional) mobility impaired parking spaces provided.</p> <p>Reason: In the interest of amenity and in the interest of proper planning and sustainable development of the area.</p>
7.	<p>The applicant shall provide 350 bicycle spaces prior to the opening of the proposed development. The number of spaces shall be increased annually over a 5-year period to a minimum of 680 spaces. Details shall be agreed with the Planning Authority prior to commencement of work on site.</p> <p>Reason: In order to encourage and facilitate sustainable travel patterns in the interests of the proper planning and sustainable development of the area.</p>
8.	<p>Prior to the commencement of development, the developer shall submit the following for the written agreement of the Planning Authority:</p> <p>a) A 0.75-1.0m buffer zone shall be provided between the on-street parking spaces and the cycle tracks to the east of the service yard entrance, replicating that proposed on the western side of the entrance.</p> <p>b) Details of the proposed planting in the vicinity of the exit of the eastern service yard shall be submitted that include low level planting only or should be omitted in order to ensure the safety of pedestrians and cyclists by providing for maximum visibility around this exit.</p> <p>Reason: In the interests of pedestrian and cyclist safety and the proper planning and sustainable development of the area.</p>
9.	<p>A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following:</p>

	<p>a) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development that accords with the specifications and requirements of the Council's Public Realm Section.</p> <p>b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;</p> <p>c) details of proposed street furniture, including bollards, lighting fixtures and seating;</p> <p>d) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes.</p> <p>The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.</p> <p>Reason: In the interest of visual amenity</p>
10.	<p>Prior to the commencement of development, the applicant/owner shall lodge the following for the written agreement of the Planning Authority:</p> <ol style="list-style-type: none"> 1) A bat and bird survey for bat and bird usage carried out across the entire site and immediately adjoining sites to assess roosting and feeding/foraging activities and assessing potential impact on these species arising from the proposed development. 2) No building, structure, feature or tree/hedgerow shall be altered, destroyed or removed prior to this assessment. 3) The survey shall be undertaken by a suitably qualified and experienced bat surveyor (carrying professional indemnity insurance) in consultation with the Heritage Officer during the correct time of the year and under the weather conditions appropriate for a survey of such species. <p>If bats and/or birds are found to be present on the site or the immediately adjoining sites no development shall take place until the necessary permission/derogation licence has been obtained from the National Parks & Wildlife Service.</p> <p>Reason: In the interests of bat protection and in the interests of the proper planning and sustainable development of the area.</p>

11.	<p>The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall:</p> <ul style="list-style-type: none"> a) notify the 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, and c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove. <p>In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p> <p>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</p>
12.	<p>Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no further 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 the development or within the curtilage of the site, unless authorised by a grant of planning permission.</p> <p>Reason: To protect the visual amenities of the area and in the interest of the proper planning and sustainable development of the area.</p>
13.	<p>Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.</p> <p>Reason: In the interests of amenity and public safety</p>
14.	<ul style="list-style-type: none"> a) Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

	<p>b) Prior to the commencement of development a detailed SUDS scheme for the proposed development which meets the objectives of South Dublin County Council Development Plan 2016-2022 shall be submitted to and approved in writing by the Planning Authority</p> <p>Reason: In the interest of public health</p>
15.	Irish Water
16.	<p>Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of the visual amenities of the area.</p>
17.	<p>No external security shutters shall be erected on any of the commercial premises fronting onto public roads and public spaces, unless authorised by a further grant of planning permission. Details of all internal shutters shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
18.	<p>Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July, 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.</p> <p>Reason: In the interest of sustainable waste management.</p>
19.	<p>Prior to commencement of development, the developer shall submit to, and obtain the written agreement of the planning authority, a plan containing details for the management and safe disposal of all waste (and, in particular, recyclable materials) within the development, including the</p>

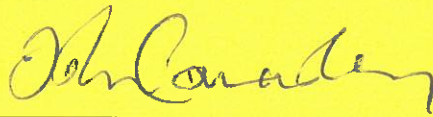
	<p>provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials, and for the ongoing operation of these facilities.</p> <p>Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment</p>
20.	<p>The construction of the development shall be managed in accordance with a Site Traffic and Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:</p> <ul style="list-style-type: none"> a) hours of construction and operation, b) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse. c) Location of areas for construction site offices and staff facilities. d) Details of site security fencing and hoardings. e) Details of on-site car parking facilities for site workers during the course of construction. f) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site if required g) Measures to obviate queuing of construction traffic on the adjoining road network. h) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network. i) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works. j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels. k) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater.

	<p>l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil.</p> <p>m) details of construction lighting, and</p> <p>n) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.</p> <p>A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.</p> <p>Reason: In the interests of amenities, public health and safety</p>
21.	<p>Prior to commencement of work on site the developer shall contact Weston and Casement Aerodromes to ensure that any crane operations necessitated during construction do not adversely impact the safety of operations.</p> <p>Reason: In the interest of proper planning and sustainable development of the area.</p>
22.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.</p> <p>Reason: In the interests of visual and residential amenity.</p>
23.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the satisfactory reinstatement of the site on cessation of the project coupled with an agreement empowering the planning authority to apply such security or part thereof to such reinstatement. 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.</p> <p>Reason: To ensure satisfactory reinstatement of the site.</p>

24.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
25.	<p>The developer shall pay to the planning authority a financial contribution as a special contribution under Section 48(2) (c) of the Planning and Development Act 2000 in respect of the external junction upgrades at Fonthill Road/ Coldcut, N4 eastbound off slip, Fonthill Road/ St Lomans Road and the N4westbound off slip and Fonthill Road and associated alignment, traffic management and sustainable transport improvements as submitted as part of this planning application. The amount of the contribution shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.</p>

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development

Board Member



John Connolly

Date: 03/12/2021