



An
Bord
Pleanála

Board Direction
BD-011271-22
ABP-311315-21

The submissions on this file and the inspector's report were considered at a Board meeting held on 15/09/2022.

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

Reasons and Considerations

In coming to its decision, the Board had regard to the following:

- (a) the EU Habitats Directive (92/43/EEC) and Part XAB of the Planning and Development Act 2000, as amended, including Part 177(AE) and 177(V),
- (b) the European Union (Birds and Natural Habitats) Regulations 2011, as amended,
- (c) the likely 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,
- (d) the Conservation Objectives, Qualifying Interests and Special Conservation Interests for the Baldoyle Bay Special Area of Conservation (Site Code: 000199), Baldoyle Bay Special Protection Area (Site Code: 004016), North

Bull Island Special Protection Area (Site Code: 004006), Malahide Estuary Special Protection Area (Site Code: 004025), Rogerstown Estuary Special Protection Area (Site Code: 004015) and South Dublin Bay and River Tolka Estuary Special Protection Area (Site Code: 004024),

- (e) the policies and objectives of the Fingal County Development Plan 2017-2023, Baldoyle-Stapolin Local Area Plan May 2013 and Portmarnock South Local Area Plan July 2013,
- (f) the nature and extent of the proposed works as set out in the application for approval including the responses provided to the submissions received,
- (g) the drawings and documents received by the Board, including the Natura Impact Statement,
- (h) the submissions received in relation to the proposed development, and
- (i) the report and recommendation of the inspector.

Appropriate Assessment

The Board agreed with and adopted the screening assessment carried out in the Inspector's report and the conclusion reached that the Baldoyle Bay Special Area of Conservation (Site Code: 000199), Baldoyle Bay Special Protection Area (Site Code: 004016), North Bull Island Special Protection Area (Site Code: 004006), Malahide Estuary Special Protection Area (Site Code: 004025), Rogerstown Estuary Special Protection Area (Site Code: 004015) and South Dublin Bay and River Tolka Estuary Special Protection Area (Site Code: 004024) are the only European Sites for which there is a possibility of significant effects to arise.

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 affected European Sites, namely the Baldoyle Bay Special Area

of Conservation (Site Code: 000199), Baldoyle Bay Special Protection Area (Site Code: 004016), North Bull Island Special Protection Area (Site Code: 004006), Malahide Estuary Special Protection Area (Site Code: 004025), Rogerstown Estuary Special Protection Area (Site Code: 004015) and South Dublin Bay and River Tolka Estuary Special Protection Area (Site Code: 004024) 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 assessment, the Board considered, in particular:

- (i) the likely direct and indirect impacts arising from the proposal both individually or in combination with other plans or projects, specifically upon Baldoyle Bay Special Area of Conservation (Site Code: 000199), Baldoyle Bay Special Protection Area (Site Code: 004016), North Bull Island Special Protection Area (Site Code: 004006), Malahide Estuary Special Protection Area (Site Code: 004025), Rogerstown Estuary Special Protection Area (Site Code: 004015) and South Dublin Bay and River Tolka Estuary Special Protection Area (Site Code: 004024),
- (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 appropriate assessment carried out and recorded in the Inspector's report in respect of the potential effects of the proposed development on the integrity of the aforementioned European Sites, having regard to the site's 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 residential 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 make a significant positive contribution to the area by providing additional and improved recreational space and facilities for existing and new communities in an area of residential expansion and population growth. The proposed development would be consistent with the relevant policies expressed in the policies and objectives of the Fingal County Development Plan 2017-2023, Baldoyle-Stapolin Local Area Plan May 2013 and Portmarnock South Local Area Plan July 2013.

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, including the mitigation measures specified in the Natura Impact Statement, submitted with the application to An Bord Pleanála on the 7th day of September, 2021 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 mitigation measures and monitoring commitments identified in the Natura Impact Statement, and other plans and particulars submitted with the application shall be carried out in full except as may otherwise be required in order to comply with other conditions.

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

3. Works shall not take place in relation to the proposed car park, skate park and multi-use games area during the period October – April.

Reason: To prevent impacts on the light-bellied Brent Geese qualifying interest.

4. Prior to commencement of development, the local authority shall agree with the relevant statutory agencies a Construction Environmental Management Plan and Method Statement, incorporating:
 - (a) all mitigation measures indicated in the Natura Impact Statement and revision to same; and
 - (b) methods to be employed to sterilise the equipment and machinery.

This Construction Environmental Management Plan shall be placed on file prior to commencement of development and retained as part of the public record.

Reason: In the interest of protecting the environment.

5. A suitably qualified ecologist shall be appointed by the local authority to oversee the site set-up and works, and the ecologist shall be present on site on a basis to be agreed with the local authority. Upon completion of works, an audit report of the site works shall be prepared by the appointed ecologist and submitted to the local authority to be kept on record.

Reason: In the interest of nature conservation, to prevent adverse impacts on the European Sites and to ensure the protection of the Annex I habitats and Annex II species and their Qualifying Interests/Special Conservation Interests for which the sites were designated.

6. Prior to the commencement of development, the local authority shall prepare an Invasive Species Management Plan for the site which shall incorporate the mitigation measures included at Section 6.5.3 of the submitted Natura Impact Statement. This Invasive Species Management Plan shall be placed on file prior to commencement of development and retained as part of the public record.

Reason: In the interest of the proper planning and sustainable development of the area and to ensure the protection of the European Sites.

7. The local authority and any agent acting on its behalf shall ensure that all plant and machinery used during the works should be thoroughly cleaned and washed before delivery to the site to prevent the spread of hazardous invasive species and pathogens.

Reason: In the interest of the proper planning and sustainable development of the area and to ensure the protection of the European Sites.

8. A non-slip surface material shall be applied to the bridge and other relevant surfaces. A report outlining the materials to be incorporated into the Park Design shall be prepared and retained as part of the public record.

Reason: In the interest of the proper planning and sustainable development of the area.

9. 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 underwater

archaeologist shall be appointed by the local authority and the archaeologist shall be present on site during the regrading and excavation works. The requirements of the Department of Housing, Local Government and Heritage as set out in their response dated 11th March 2022 shall be complied with and a report on same shall be kept on record.

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

Patricia Calleary

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Date: 15/09/2022

