

An
Bord
Pleanála

Board Direction
BD-012866-23
ABP-312692-22

The submissions on this file and the Inspector's report were considered at a Board meeting held on 11/07/2023.

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

Having regard to the provisions of the Dublin City Development Plan 2022-2028 and the nature, scale, and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would be consistent with the zoning objectives for the area, would facilitate the ongoing development and integration of the port with the city, in accordance with the objectives of the development plan, would be consistent with transportation policy aimed at encouraging more sustainable and active forms of transport, as outlined in the development plan and the National Sustainable Mobility Policy published by the Department of Transport in 2022, and would be acceptable in terms of traffic safety. The proposed development would enhance the visual amenity and character of this interface between the port and the city, would appropriately protect the archaeological and built heritage value of the area, would be acceptable in terms of drainage, flood risk, and the control of major accidents and hazards and would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Screening

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the South Dublin Bay and River Tolka Estuary Special Protection Area (Site Code: 004024), the North Bull Island Special Protection Area (Site Code: 004006), the South Dublin Bay Special Area of Conservation (Site Code: 000210), the North Dublin Bay Special Area of Conservation (Site Code: 000206), the Howth Head Special Area of Conservation (Site Code: 000202), the Rockabill to Dalkey Island Special Area of Conservation (Site Code: 003000) and the Howth Head Coast Special Protection Area (Site Code: 004113) are the European sites for which there is the potential to have a significant effect in view of the conservation objectives for these sites and for which Appropriate Assessment is required.

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 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,

- Site Specific Conservation Objectives for these European Sites,
- Current conservation status, threats and pressures of the qualifying interest features,
- Likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- Submissions from observers, prescribed bodies and the reports of the planning authority,
- Mitigation measures 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 potential effects of the proposed development on the aforementioned European sites in view of their conservation objectives. The Board considered that the main likely impacts arising from the proposed development with implications for the European Sites would arise from the risk of accidental

pollution during the construction phase, diminution of water quality in the marine environment, and potential deterioration of wetland habitats. Having regard to these potential impacts and the mitigation measures, as set out in the submitted Natura Impact Statement, the Board considered that, subject to the identified mitigation measures, the proposed development would not adversely affect any of the habitats or species within the relevant European Sites. In overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of the European Sites in view of the relevant sites' conservation objectives and there is no reasonable scientific doubt as to the absence of such effects.

Environmental Impact Assessment Screening

An environmental impact assessment screening of the proposed development has been carried out and it is considered that the Environment Impact Assessment Screening Report and other documents submitted by the applicant identifies and describes adequately the direct, indirect, secondary, and cumulative effects of the proposed development on the environment.

Having regard to:

- the nature and scale of the proposed development, which is below the thresholds in respect of any relevant classes in Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- the location of the site on lands predominately zoned as 'Z6' Employment/Enterprise and 'Z7' Employment (Heavy) in the Dublin City Development Plan 2022-2028, the objectives for which would accommodate improvements to access/circulation, open space, and green networks, and which was subject to a strategic environmental assessment in accordance with the SEA Directive (2001/42/EEC),
- the developed nature of the site and its location within the existing built-up urban area, which is served by public infrastructure, and the existing pattern of development in the vicinity,
- the guidance set out in the 'Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development' issued by the Department of the Environment, Heritage and Local Government (2003),
- the location of the proposed development outside of any sensitive location specified in article 109(4)(a) of the Planning and Development Regulations 2001, as amended,

- the criteria set out in Schedule 7 and 7A of the Planning and Development Regulations 2001, as amended,
- the available results, where relevant, of preliminary verifications or assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive, and
- the features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Natura Impact Statement, Waste Management Plan, Engineering Report (including Site Specific Flood Risk Assessment), Archaeological Impact Assessment, Preliminary Ecological Appraisal Report, Architectural Heritage Impact Assessment, and as consolidated in the Summary of Mitigation Measures Report,

it is considered that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and that the preparation of an environmental impact assessment report would not, therefore, be required in this case.

Conditions

1. (a) The proposed 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 the planning authority on the 11th day of November, 2021, 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 proposed development shall be carried out and completed in accordance with the agreed particulars.
- (b) This condition is subject to the terms and conditions of the relevant history permissions on this site including Dublin City Council Planning Reference 3084/16 except, where altered by the particulars of the current application and the conditions set out below.

Reason: In the interest of clarity.

2. The developer shall ensure that all mitigation measures set out in the Natura Impact Statement shall be implemented in full.

Reason: To protect the integrity of designated European Sites in accordance with the requirements of the EU Habitats Directive.

3. Drainage arrangements, including the attenuation and disposal of surface water, for the construction phase and post construction shall comply with the requirements of the planning authority for such works and services, the details of which shall be agreed in writing with the planning authority prior to commencement of the development.

Reason: In the interest of public health and to ensure a proper standard of development.

4. Prior to commencement of development, the developer shall enter into an agreement with Uisce Éireann regarding the diversions of any sewers or watermains.

Reason: In the interest of public health.

5. The following transportation requirements shall be complied with:
 - (a) Prior to commencement of development, full details of all works to the public road and the public realm, including any necessary signalling changes at the East Wall Road/Alexandra Road junction, the East Wall Road/Bond Road junction, the emergency access onto Alexandra Road, and at North Wall Quay/East Wall Road junction, shall be submitted to, and agreed in writing with, the planning authority.
 - (b) Phasing arrangements for the opening of the pedestrian walkway and cycle lanes to the public, having regard to the associated traffic diversions on the internal road network, shall be submitted to, and agreed in writing with, the planning authority prior to their operation.
 - (c) Prior to commencement of development, and on appointment of a contractor, a Construction Traffic Management Plan shall be submitted to, and agreed in

writing with, the planning authority. The Plan shall include proposals to demonstrate, in consultation with Transport Infrastructure Ireland, that there will be no adverse impacts on the Dublin Tunnel and associated traffic during the course of construction works.

- (d) Prior to commencement of development, a risk assessment shall be submitted to, and agreed in writing with, the planning authority regarding the proposed bridge over Promenade Road. The assessment shall include proposals, in consultation with Transport Infrastructure Ireland, to ensure the safety of road and bridge users, as well as the free flow of traffic from the Dublin Tunnel.
- (e) Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority proposals to ensure, in consultation with Irish Rail, that the rail infrastructure and associated freight movements along East Wall Road and Alexandra Road will be protected during the construction and operational stages of the proposed development.

Reason: In the interests of traffic safety and convenience.

- 6. (a) A conservation expert shall be employed to manage, monitor and implement the works on the site and to ensure adequate protection of the retained and historic fabric during the works. In this regard, all permitted works shall be designed to cause minimum interference to the retained features and/or fabric.
- (b) All repair works to the historic fabric shall be carried out in accordance with best conservation practice, as detailed in the application and the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of Environment, Heritage and Local Government in 2004. The repair works shall retain the maximum amount of surviving historic fabric in situ and shall be designed to cause minimum interference. Items that have to be removed for repair shall be recorded prior to removal, catalogued and numbered to allow for authentic re-instatement.
- (c) All existing original features shall be protected during the course of construction works.

Reason: To ensure that the integrity of the retained structures is maintained and that the structures are protected from unnecessary damage or loss of fabric.

7. 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:
 - (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operations (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.

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.

8. Details, including samples of the materials, colours and textures of all the external finishes to the proposed development, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

9. 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 or public holidays. Deviation from these times shall only be allowed in exceptional circumstances subject to the prior written agreement of the planning authority.

Reason: In the interest of clarity and protecting the amenities of surrounding properties.

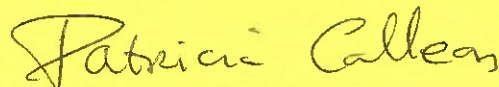
10. The construction of the proposed development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of public safety and residential amenity.

11. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times .

Reason: In the interest of sustainable waste management.

Board Member



Patricia Calleary

Date: 11/07/2023