

An
Bord
Pleanála

Board Direction
BD-013513-23
ABP-314210-22

The submissions on this file and the Inspector's report were considered at a Board meeting held on 01/09/2023.

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

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

- (a) the EU Habitats Directive (92/43/EEC),
- (b) the European Union (Birds and Natural Habitats) Regulations 2011-2015,
- (c) the Climate Action Plan 2023, Changing Ireland for the Better (Government of Ireland)
- (d) 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 a European Site,
- (e) the conservation objectives, qualifying interests and special conservation interests for South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024), South Dublin Bay SAC (Site Code: 000210), North Dublin Bay SAC (000206), and North Bull Island SPA (Site Code: 004006)
- (f) the policies and objectives of the Dublin City Development Plan, 2022-2028,

- (g) the nature and extent of the proposed works as set out in the application for approval and further information received by the Board on 21/11/2022,
- (h) the information submitted in relation to the potential impacts on habitats, flora and fauna, including the Natura Impact Statement,
- (i) the submissions and observations received in relation to the proposed development, and
- (j) the report and recommendation of the person appointed by the Board to make a report and recommendation on the matter.

Appropriate Assessment: Stage 1

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 (Site Code: 004024), South Dublin Bay SAC (Site Code: 000210), North Dublin Bay SAC (000206) and North Bull Island SPA (Site Code: 004006) 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 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 relevant European Sites, namely South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024), South Dublin Bay SAC (Site Code: 000210), North Dublin Bay SAC (000206), North Bull Island SPA (Site Code: 004006) in view of the site's 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:

- i. the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,

- 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 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 site's 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 on 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 amenities of property in the vicinity, would not adversely impact on the cultural, archaeological and built heritage of the area or give rise to the creation of a traffic hazard, and would not interfere with existing land uses in the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. 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 received by An Bord Pleanála on the 21st day of November 2022, except as may otherwise be required in order to comply with the following conditions. Where any mitigation measures set out in the Natura Impact Statement or any conditions of approval require further details to be prepared by

or on behalf of the local authority, these details shall be placed on the file 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. Prior to the commencement of development, the local authority, or any agent acting on its behalf, shall prepare in consultation with the relevant statutory agencies, a Construction Environmental Management Plan (CEMP), incorporating all mitigation measures indicated in the Natura Impact Statement in accordance with best practice and protocols

Reason: In the interest of protecting European Sites and sensitive receptors.

3. A suitably qualified ecologist shall be retained by the local authority to oversee the site set up, construction of the proposed development and the site decommissioning phase, and implementation of mitigation measures identified in the Natura Impact Statement. The ecologist shall be present during site construction works. Upon completion of works, an ecological report 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 aquatic biodiversity

4. The mitigation strategy set out in Section 6 of the Intertidal Archaeological Impact Assessment (ADCO 22 February 2022) shall be implemented in full. 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) employ a suitably-qualified archaeologist who (licensed under the national Monuments Acts) shall monitor all site investigations and other excavation works,

(b) provide arrangements for the recording and for the removal of any archaeological material found during monitoring. The developer shall be prepared to be advised by the National Monuments Service with regard to any mitigation action.

A final report, containing the results of the monitoring, and of any subsequent required investigations / excavations (including, any necessary post-excavation analysis) shall be submitted to the National Monuments Service on completion of all archaeological works.

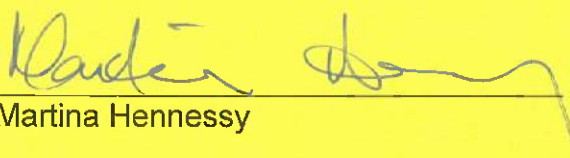
In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

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.

5. Prior to the commencement of development, the local authority, or any agent acting on its behalf, shall prepare a Traffic Management Plan for the proposed development as described in section 4.4.1 of the Outline Construction Environmental Management Plan (CEMP). Details to be included in the traffic management plan shall include the design and operation of the proposed pedestrian and cycle diversion route during the period of construction.

Reason: in the interests of public safety

Board Member


Martina Hennessy

Date: 01/09/2023

