

An  
Bord  
Pleanála

**Board Direction**  
**BD-015526-24**  
**ABP-314610-22**

The submissions on this file and the Inspector's report were considered at Board meetings held on 13/02/2024 and 19/02/2024.

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:

**European legislation**, including of particular relevance:

- 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.
- Sustainable and Smart Mobility Strategy 2020 (EU Commission 2020)

**National and regional planning and related policy**, including:

- Climate Action Plan 2023
- National Development Plan
- National Planning Framework

- Greater Dublin Area Transport Strategy – 2022-2042
- Smarter Travel – A Sustainable Transport Future: A New Transport Policy for Ireland 2009 – 2020
- Department of Transport National Sustainable Mobility Policy on 7th April 2022.
- Design Manual for Urban Roads and Streets, 2019
- The Cycle Design Manual 2023
- other relevant guidance documents

**Regional and local level policy, including the:**

- Regional Spatial Economic Strategy for the Eastern and Midlands Region

**The local planning policy including:**

- Dublin City Development Plan 2022-2028
- Ballymun Local Area Plan 2017, as extended
- Fingal County Development Plan 2023-2029
- Dublin City Biodiversity Action Plan 2021-2025.

- the nature, scale and design of the proposed road development as set out in the application for approval and the pattern of development along the route,
- the entirety of the documentation submitted by the National Transport Authority (applicant) in support of the proposed development, including the Environmental Impact Assessment Report and the Natura Impact Statement, and the range of mitigation and monitoring measures proposed,
- the submissions and observations made to An Bord Pleanála in connection with the application,
- 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, and

- the report and recommendation of the inspector including the examination, analysis and evaluation undertaken in relation to appropriate assessment, environmental impact assessment and proper planning and sustainable development of the area.

It is considered that the proposed development would accord with European, national, regional and local planning and that it is acceptable in respect of its likely effects on the environment and its likely consequences for the proper planning and sustainable development of the area.

### **Appropriate Assessment:**

The Board agreed with and adopted the screening assessment and conclusion carried out in the inspector's report that the Baldoyle Bay SAC, North Dublin Bay SAC, South Dublin Bay SAC, Howth Head SAC, Howth Head Coast SPA, Skerries Islands SPA, Rockabill SPA, Lambay Island SPA, Ireland's Eye SPA, North Bull Island SPA, South Dublin Bay and River Tolka Estuary SPA, Malahide Estuary SPA, Baldoyle Bay SPA, Rogerstown Estuary SPA, Dalkey Islands SPA, The Murrough SPA, North West Irish Sea SPA, Rockabill to Dalkey Island SAC and Lambay Island SAC are the European sites for which there is a likelihood of significant effects.

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 Baldoyle Bay SAC, North Dublin Bay SAC, South Dublin Bay SAC, Howth Head SAC, Howth Head Coast SPA, Skerries Islands SPA, Rockabill SPA, Lambay Island SPA, Ireland's Eye SPA, North Bull Island SPA, South Dublin Bay and River Tolka Estuary SPA, Malahide Estuary SPA, Baldoyle Bay SPA, Rogerstown Estuary SPA, Dalkey Islands SPA, The Murrough SPA, North West Irish Sea SPA, Rockabill to Dalkey Island SAC and Lambay Island SAC, 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, the

Likely direct and indirect impacts arising from the proposal both individually or in combination with other plans or projects, specifically upon the Baldoyle Bay SAC, North Dublin Bay SAC, South Dublin Bay SAC, Howth Head SAC, Howth Head Coast SPA, Skerries Islands SPA, Rockabill SPA, Lambay Island SPA, Ireland's Eye SPA, North Bull Island SPA, South Dublin Bay and River Tolka Estuary SPA, Malahide Estuary SPA, Baldoyle Bay SPA, Rogerstown Estuary SPA, Dalkey Islands SPA, The Murrrough SPA, North West Irish Sea SPA, Rockabill to Dalkey Island SAC and Lambay Island SAC

- i. Mitigation measures which are included as part of the current proposal,
- ii. Conservation Objective for these European Sites, and
- iii. Views of prescribed bodies in this regard.

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.

### **Reasoned Conclusion for EIA**

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, during construction and operation, on the environment are those arising from the impacts listed below.

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 low to moderate. Adequate mitigation measures are proposed to ensure that these impacts are not significant and include adequate mitigation for operational noise.
- Benefits/positive impacts on the **Air and Climate**, the operation of the proposed development will have a significant positive effect on human health and population due to the displacement of CO<sub>2</sub> from the atmosphere arising from an increased use of public transport which will be electrified and the reduction of cars on the route. Negative impacts during construction relate to the embodied carbon of construction materials which will have a negative significant impact but for the short term, any increase in carbon is considered significant, however the construction phase represents a significantly small percentage of the sectoral emission ceilings outlined in CAP 23 for the 2021-2025 carbon budget period, the proposed development represents 0.00967% of the transport emission ceiling for the period.
- Negative impacts on **Water** could arise as a result of accidental spillages of chemicals, hydrocarbons or other contaminants entering watercourses or groundwater via piling activities during the construction phase of the development. These impacts will be mitigated by measures outlined within the application documentation and can therefore be ruled out.
- Negative impacts on **biodiversity** relate to the removal of habitat in the form of hedgerows and treelines. Such impacts are not considered significant and can adequately be mitigated for within the scheme. Vegetation will be planted in the vicinity to bolster existing treelines and hedgerow. Significant impacts are therefore not expected in this regard. The avoidance of trees with roosting potential for bats and the maintenance of commuting corridors, as well as preconstruction bat surveys will ensure significant impacts to bats are avoided. Adequate mitigation measures including compensatory planting and pre-construction surveys, are proposed to ensure the protection of sensitive flora and fauna encountered and to prevent the spread of invasive species. Significant impacts to biodiversity can therefore be ruled out.

- **Noise and Dust** impacts arise during the construction phase from construction activities. These impacts will be mitigated through adherence to best practice construction measures in relation to dust and the use of noise abatement at sensitive locations. Significant noise impacts arise in relation to construction noise during nighttime and weekend hours when thresholds are lower. Works will generally be carried out in daytime hours causing no significant effects. In the event that works are required during nighttime or weekend hours, liaison with residents in this regard and the use of noise abatement will reduce the level of impacts. Noise disturbance from the operation of the development can be ruled out, electric bus fleet and less cars will have a positive impact on operational noise. Significant impacts arising from noise and dust disturbance during the construction, operational and decommissioning stages can therefore be ruled out.
- Negative **traffic** impacts arise during the construction phase of the development, these impacts will be mitigated through the implementation of a traffic management plan and a construction management plan. Whilst some localised impacts arising from road closures may arise, significant impacts arising from traffic can be ruled out.
- The EIAR has considered that the main significant direct and indirect effects of the proposed development, during construction and operation, on the environment would be primarily mitigated by environmental management measures, as appropriate.
- The EIAR has considered that the main significant direct and indirect and cumulative effects of the proposed development on the receiving environment. Following mitigation, no residual significant long-term negative impacts on the environment or sensitive receptors would occur.

Having regard to the above, the Board is satisfied that the proposed development would not have any unacceptable direct or indirect effects on the environment. The Board is satisfied that the reasoned conclusion is up to date at the time of making the decision and that the information contained in the EIAR complies with the provisions of Article 3, 5 and Annex (IV) of EU Directive 2014/52/EU.

## **Proper Planning and Sustainable Development**

The proposed road development would deliver a key component of the National Transport Authority's Bus Connects programme with the stated aim to improve bus services across the country. It would also provide safer infrastructure for pedestrians and cyclists and would deliver sustainable connectivity and integration with other transport services. The public realm along the bus corridor would also be improved.

The Board considered that the proposed road development, subject to compliance with the conditions set out below, would be in accordance with national, regional and local planning policies, including multiple policies and objectives set out in the Dublin City Development Plan 2022-2028 and the Fingal County Development Plan 2023-2029 and having regard to all relevant provisions, including zoning objectives, at or adjoining the overall scheme area. It is further considered that the need, justification and purpose of the proposed road development has been adequately demonstrated, that it is acceptable in terms of its likely effects on the environment and that an approval for the proposed road development would be consistent with national climate ambitions and with the relevant provisions of the Climate Action Plan 2023 through the delivery of an efficient, low carbon and climate resilient public transport service, which supports the achievement of Ireland's emission reduction targets. The proposed road 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 lodged with the application, 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 in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. (a) All mitigation, environmental commitments and monitoring measures identified in the EIAR shall be implemented in full as part of the proposed development.  
(b) All mitigation and environmental commitments 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.

3. In accordance with the Environmental Impact Assessment Report, a suitably experienced and qualified ecologist will be appointed by the contractor. The ecologist will advise the contractor on ecological matters during construction, communicate all matters in a timely manner to the developer (NTA) and statutory authorities as appropriate, acquire any licences/consents required to conduct the work, and supervise and direct the ecological measures associated with the permitted scheme. Where appropriate, monitoring shall undertaken by specialists. Monitoring schedules shall be included in Site Specific Habitats Protection and Re-instatement Method Statements.

**Reason:** In the interest of environmental protection.

4. Prior to the commencement of works the contractor shall install a plastic chute with internal corrugations or ladder on the downstream face of the 5<sup>th</sup> Lock Gate. This shall be carried out under the supervision of an appropriately qualified Ecologist and inspected at regular intervals to be determined by the Ecologist for the full duration of works at this location.

**Reason:** to protect and facilitate commuting otter.

5. Subject to written agreement with the planning authority, a new loading bay shall be provided along Church Street (east side), south of Mary's Lane within a portion of the area currently allocated to on street parking, to replace the existing loading bay on Church Street (west side), south of Mary's Lane, which is to be removed. The final location and hours of operational use of the loading bay shall be agreed in writing with the planning authority.

**Reason:** In the interest of local servicing amenity.



6. Prior to the commencement of any works associated with the development hereby permitted, the developer shall submit a Construction Traffic Management Plan (CTMP) and a Construction Stage Mobility Management Plan (CSMMP) for the construction phase of the development for the written agreement of the planning authority. The CSMMP shall promote the use of public transport, cycling and walking by personnel accessing and working on the construction site. The agreed CTMP and CSMMP shall be implemented in full during the course of construction of the development.

**Reason:** In the interest of traffic safety and promoting sustainable travel during the construction period.

7. Prior to the commencement of development, the location and duration of use of the proposed construction compound at Catherine Lane North (shown as temporary land acquisition on General Arrangement Drawing Sheet 17 of 37) shall be agreed with Dublin City Council and the use of this compound shall not conflict or impede the delivery of consented housing at this location.

**Reason:** In the interest of orderly development.

8. In accordance with the Environmental Impact Assessment Report, all works to Protected Structures, and Structures of Cultural heritage interest shall be monitored and recorded by an Architectural Conservation Specialist, Re-instatement Method Statements shall be submitted to the Local Authority to be held on file. The Architectural Conservation Specialist shall ensure that adequate protection of the retained and historic fabric during the proposed works and across all preparatory and construction phases. Any features of new architectural heritage shall be made known to the Conservation Section of Dublin City Council as soon as is practicably possible.

**Reason:** In the interest of environmental protection.

9. Noise monitoring shall be carried out during the construction phase of the proposed road development by the developer to ensure that construction noise threshold levels ( $L_{Aeq}$ , period) shall not exceed the levels set out in Table 9.7 (Construction Noise Threshold (CNT) levels for the proposed scheme) of Chapter 9 (Noise and Vibration) of the Environmental Impact Assessment Report. During the construction phase, noise monitoring shall be carried out at representative Noise Sensitive Locations as the work progresses along the scheme to evaluate and inform the requirement and/or implementation of noise management measures. Noise monitoring shall be conducted in accordance with ISO 1996–1 (ISO 2016) and ISO 1996–2 (ISO 2017).

**Reason:** In the interest of management of construction noise and protection of adjoining amenities.

10. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the relevant planning authority for such works in respect of both the construction and operation phases of the proposed development.

**Reason:** In the interest of environmental protection and public health.

11. Any new or improved surface water outfalls shall be constructed in a manner which protects riparian habitat and does not result in excessive erosion of such habitat.

**Reason:** In the interest of habitat protection.

3. Prior to commencement of development, the developer, and/or any agent acting on its behalf, shall prepare in consultation with the relevant statutory agencies, an updated Construction Environmental Management Plan (CEMP), incorporating all mitigation measures indicated in the Natura Impact Statement and Environmental Impact Assessment Report and a demonstration of proposals to adhere to best practice and protocols.

The updated CEMP shall also include details of intended construction practice for the development, including hours of working, compound/works area lighting, noise management measures and surface water management proposals.

The construction of the development shall be constructed in accordance with the updated CEMP.

**Reason:** In the interest of protecting the environment, the landscape, the integrity of European Sites and sensitive receptors and in the interest of public health.

12. The developer shall monitor queuing time / delays at each works location and record traffic flows on the local road network at locations to be agreed with the Local Authority. Such monitoring information shall be provided in a report to the Local Authority on a weekly basis.

**Reason:** In the interest of orderly development.

13. Prior to the replacement of trees, hedging and planting which is to be removed the NTA shall liaise with the relevant landowner with regard to the species, size and location of all replacement vegetation. The NTA shall also employ the services of an appropriately qualified arboriculturist and Landscape Architect for the full duration of the proposed works to ensure landscaping and tree works are implemented appropriately.

**Reason:** In the interest of visual and residential amenity.

14. Tree protection measures for all existing trees shall be put in place prior to the commencement of development or phases of development.

**Reason:** In the interest of the protection of biodiversity.

15. All details of soft landscaping shall be submitted to the Local Authority prior to implementation.

**Reason:** In the interest of orderly development.

16. Comprehensive details of the proposed public lighting system to serve the Proposed Scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development.

**Reason:** In the interest of public safety and visual amenity.

17. 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 shall monitor all site investigations and other excavation works, and (B) 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.

All archaeological pre-construction investigations shall be carried out in accordance with the details specified with the EIAR submitted with the application.

**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.

18. Prior to the commencement of development, the applicant shall submit an Invasive Species Management Plan to the local authority, which includes details of a pre-construction survey to be carried out. The plan shall include full details of the eradication of such invasive species from the development site prior to construction or if discovered during construction as soon as is practicably possible.

**Reason:** In the interest of nature conservation and mitigating ecological damage associated with the development.

19. (a) Trees to be felled shall be examined prior to felling and demolition to determine the presence of bat roosts. Any clearance works shall be in accordance with the Transport Infrastructure Ireland Guidelines for the Treatment of Bats during the construction of National Road Schemes.

(b) No ground clearance shall be undertaken and no vegetation shall be cleared from the 1<sup>st</sup> March to 31<sup>st</sup> August, unless otherwise agreed with the planning authority.

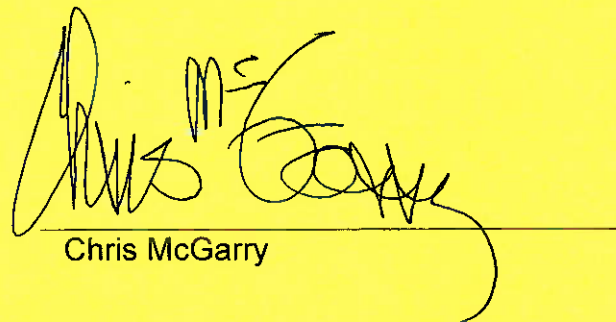
**Reason:** In the interest of protection of local biodiversity.

**Note:**

1. Since the lodgement of the application to An Bord Pleanála, the Dublin City Development Plan 2022-2028 and the Fingal County Development Plan 2023-2029 have come into effect. In considering the application and arriving at its decision, the Board was satisfied that no material policy changes arose in the new statutory plans and the proposed road development continues to be strongly supported in specified policy in both adopted statutory plans. Accordingly, and taking into account all of the matters raised in submissions, the Board was satisfied that no further consultation was necessary as a result of the coming into effect of the new statutory plans.
2. The Board noted and considered recommended reason no. 5 of the Inspector, that *'proposed kerb height differentials between footpaths, cycleways and bus lanes shall be retained in perpetuity. Reason: In the interest of maintaining the proper functionality of the scheme'*. While recognising the intent of the recommended condition, the Board determined that condition no.1 captures the full nature and extent of the scheme for which permission has now been secured. Equally the Board noted that the scheme is located within dynamic urban streets and roads which serve and facilitate a host of city functions and activities and with ongoing planning authority obligations and allowances to manage these spaces. The Board also considered that the efficacy of the permitted scheme is assured primarily by the linear clarity and spatial allocation as set out in the application documentation, noting also the full support for the scheme by the respective planning authorities and the associated statutory policy support from national through regional to local plan level. Having regard to the above, the Board concluded that the attachment of this recommended condition was not necessary.

3. With regard to the reconfiguration of the street space, current parking, footpath and cycle path areas at Finglas Road (R135) opposite the entrance to Glasnevin Cemetery, the Board determined that, while the proposed layout would absorb an element of the current open space area at Claremont Lawns the following points are of relevance. The development plan notes that there is a presumption against uses not permissible or open for consideration within a defined zoning objective (open space in this case), but also affirms that other uses will be dealt with in accordance with the overall policies and objectives in this Plan. In this regard, development plan policy is clear in its support for bus corridor projects and for wider improvements to public transport and other sustainable transport provision such as walking and cycling generally, consistent with the National Transport Authority's Strategy for the Greater Dublin Area. The proposed development at this location will deliver on these key development plan objectives. In this regard it is also noted that car parking for recreational purposes, cultural/recreational buildings and other physical or spatial elements, are open for consideration within objective Z9. This suggests that, on occasion, the principle of installing physical form into open areas is allowable subject to assessment. Furthermore, it is considered that the functional integrity of the overall space at this location will be retained. In this context, it is concluded therefore that the proposed development at this location, can be deemed to be consistent with proper planning and sustainable development of the area, and would constitute an acceptable form of use and layout as envisaged in the language of paragraph 14.3.1 of the development plan which enables other uses (i.e. those not set out under the relevant zoning objective) to be dealt with in accordance with the overall policies and objectives of the plan.

**Board Member**



Chris McGarry

**Date:** 28/02/2024

