

An  
Bord  
Pleanála

**Board Direction**  
**BD-015770-24**  
**ABP-316138-23**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 14/02/2024.

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:

- (a) the *Environmental Impact Assessment Directive* (Directive 2014/52/EU, as amended, on 16.04.2014 April 2014, on the assessment of the effects of certain public and private projects on the environment,
- (b) the *EU Habitats Directive* (92/43/EEC),
- (c) the *European Union (Birds and Natural Habitats) Regulations* 2011-2015,
- (d) Section 15 of the *Climate Action and Low Carbon Development (Amendment) Act* 2021
- (e) The likely consequences for the environment and the proper planning and sustainable development of the area where the development is located and the likely significant effects of the development on European Sites,
- (f) the conservation objectives, qualifying interests and special conservation interests for the Baldoyle Bay SAC (site code 000199) and the Baldoyle Bays (site code: 004016),
- (g) the policies and objectives of the *Fingal Development Plan, 2023-2028*, in particular, Policy DAP2, Infrastructure Provision, and Objective DA017, to

restrict the use of the Crosswind Runway on completion of the second east-west runway.

- (h) the policies and objectives of the *Dublin Airport Local Area Plan, 2020*, in particular, Objective AV01, to support and facilitate the efficient circulation of airside ground support service vehicles within the airfield.
- (i) the *National Planning Framework - Ireland 2040*,
- (j) the *Climate Action Plan, 2023*,
- (k) *Ireland's Action Plan for Aviation Emissions Reduction, 2019*,
- (l) *National Aviation Policy for Ireland 2015*,
- (m) The planning history of the site, in particular, Condition 4 of PL06F.217429, which requires the closure of the Crosswind Runway, on the commissioning of the North Runway,
- (n) the nature and extent of the proposed works as set out in the application for approval,
- (o) the distance to dwellings or other sensitive receptors,
- (p) the impact on residential amenity arising from construction traffic noise and fumes,
- (q) the submissions made in connection with the application and appeal, and
- (r) the report and recommendation of the person appointed by the Board to make a report and recommendation on the matter, including the reports from the Board's ecologist and scientist.

In compliance with Section 172 of the Planning and Development Act, 2000, as amended, the Board completed an environmental impact assessment of the development, taking into account:

- (a) the nature, location, scale and extent of the development,
- (b) the Environmental Impact Assessment Report and associated documentation submitted in support of the application and appeal,

(c) the submissions from the applicant, the planning authority, the observers and prescribed bodies in the course of the application,

(d) and the Inspector's report, which includes reports from the Board's ecologist and scientist.

### **Environmental Impact Assessment**

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 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) which are incorporated into the Board's decision.

The Board considered that the main significant direct and indirect effects of the development on the environment were and are, and will be mitigated as follows:

#### *During Construction:*

- Volume of excavated material and imported material, which will give rise to Greenhouse Gases, dust and construction traffic;
- Risk of pollution of surface waters;
- Risk of pollution to groundwater;
- Risk to biodiversity indirectly from pollution of waters from suspended solids.

These would be mitigated by the implementation of measures set out in the EIAR which include specific provisions relating to construction environmental management mitigation measures.



*During Operation:*

- Risk of obstruction of groundwater and surface flows and indirect risk to biodiversity

These are to be mitigated by the orientation of the proposed underpass and the implementation of measures set out in the EIAR which include specific provisions relating to the maintenance of flows to the Cuckoo Stream.

The Board completed an environmental impact assessment in relation to the construction, operation and development of the proposed development and concluded that any impacts on the environment that occurred during the construction phase were temporary and short to medium term in duration following the implementation of mitigation measures. Subject to the continued implementation of the mitigation measures as set out in the EIAR, and subject to compliance with the conditions set out below, the effects of the proposed development on the environment, by itself and in combination with other plans and projects in the vicinity, were, and would be acceptable. In doing so, the Board adopted the report and conclusions, including the Reasoned Conclusions, of the Board Inspector, Ecologist and Scientist.

**Appropriate Assessment:**

The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspector's and Ecologist's report that the Baldoyle Bay SAC (site code: 000199) and the Baldoyle Bay SPA (site code: 004016) are the only European Sites in respect of which the proposed development has the potential to have a significant effect.

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 and Ecologist's assessments. The Board completed an appropriate assessment of the implications of the proposed development for the affected European Sites, namely the Baldoyle Bay SAC (site code: 000199), and the Baldoyle Bays SPA (site code:004016), 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 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 and Ecologist'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:**

Having regard to the nature of the proposed development, its location 'airside' within the boundaries of the airport complex, which is not accessible to the general public, the planning history of the airport and, the policies and objectives of the *Fingal County Development Plan 2023-2029*, the *Dublin Airport Local Area Plan 2020*, the *Climate Action and Low Carbon Development (Amendment), Act 2021*, *Climate Action Plan 2023* and national policy as set out in the *National Planning Framework 2018-2040*, and the *National Aviation Policy for Ireland 2015*, it is considered that the proposed underpass would facilitate safe and efficient passage for airside vehicles that are required to traverse Runway 16/34, the Crosswind Runway, which is no longer available for this purpose. Subject to compliance with the conditions set out below, it is considered that the proposed development would not give rise to any unacceptable impacts on the amenities of the surrounding area or on traffic safety and convenience during construction and operation and would not present an unacceptable risk to water quality. The proposed development, would therefore 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 22<sup>nd</sup> day of December, 2022 and 25<sup>th</sup> July, 2023 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><b>Reason:</b> In the interest of clarity.</p>
2.	<p>A. All of the environmental, construction and ecological mitigation measures set out in the Environmental Impact Assessment Report and Natura Impact Statement accompanying the application and other particulars submitted with the application to the planning authority shall be implemented by the developer in conjunction with the timelines set out therein, except as may otherwise be required in order to comply with the conditions of this order.</p> <p>B. Upon completion of construction works, the applicant shall submit a report to the planning authority confirming the implementation of the above mitigation measures and any associated monitoring results.</p> <p><b>Reason:</b> In the interest of clarity and the protection of the environment during the construction and operation phases of the development.</p>
3.	<p>The construction of the development shall be managed in accordance with a final Construction Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide final details of the</p>



	<p>suite of preliminary construction documents submitted with this application and shall include the details of the person responsible for the works.</p> <p><b>Reason:</b> In the interests of public safety, amenity, ecological and environmental protection.</p>
4.	<p>The Ecological Clerk of Works shall liaise on a monthly basis with the planning authority regarding ongoing ecological monitoring until the commissioning of the proposed development is complete. This shall include the biological monitoring of the Cuckoo Stream.</p> <p><b>Reason:</b> In the interest of ecological protection.</p>
5.	<p>A Final Construction Traffic Management Plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This shall provide the phases of construction, the location and use of compounds, haul routes and measures proposed to minimise impact on the road network and its users.</p> <p><b>Reason:</b> In the interests of traffic safety and convenience and amenity.</p>
6.	<p>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</p>

	<p>and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.</p> <p><b>Reason:</b> In the interest of sustainable waste management</p>
7.	<p>A Construction Mobility Management Plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> To reduce the level of construction generated traffic on the local road network.</p>
8.	<p>Prior to commencement of development, a decommissioning plan for the construction compounds and associated structures shall be submitted to and agreed in writing with the planning authority. The decommission plan shall include a timeframe for the decommissioning works.</p> <p><b>Reason:</b> Having regard to the temporary nature of these facilities and the need to ensure that these are removed in an appropriate timeframe.</p>
9.	<p>Prior to commencement of construction works, the details of a ground investigation and groundwater monitoring programme shall be agreed with the planning authority and the findings and any mitigation measures required, shall be submitted to the planning authority for their written agreement.</p> <p><b>Reason:</b> In the interest of groundwater protection.</p>



10.	<p>Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.</p> <p><b>Reason:</b> To ensure adequate servicing of the development, and to prevent pollution.</p>
11.	<p>The detailing, materials and finishes of Pier 3 and associated airbridges, nodes, and structures, shall be agreed in writing with the planning authority, prior to commencement of construction of these elements.</p> <p><b>Reason:</b> To achieve a high standard of architectural quality,</p>
12.	<p>Emergency way-finding signposts shall be provided in the tunnel.</p> <p><b>Reason:</b> In the interest of safety</p>
13.	<p>The developer shall pay 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 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 calculation of the contribution to be paid shall exclude the site offices and storage areas which form part of the temporary construction compounds. 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 time of payment. Details of the application of the terms shall be agreed between the planning authority and the developer or, in default of</p>

such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the scheme.

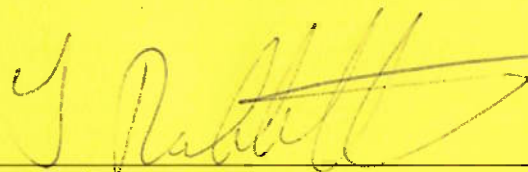
**Reason:** It is a requirement of the Planning and Development Act, 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under Section 18 of the Act be applied to the permission.

**Notes:**

The Board considered the Inspector's recommended condition no. 13. The Board noted that the road surveys subject of the condition did not form part of the EIA mitigation measures, nor was such a condition attached to the planning authority's appealed Order. The Board was satisfied that this was not a condition for the purposes of EIA mitigation. The Board, having considered other recommended conditions and mitigations, and the nature of the construction stage trip generation and duration of the proposed construction phase, considered that the recommended condition no. 13 was unwarranted.

The Board considered the Inspector's recommended condition no. 14. The Board noted that the establishment of a proposed Community Liaison Group did not form part of the EIA mitigation measures, nor was such a condition attached to the planning authority's appealed Order. The Board was satisfied that this was not a condition for the purposes of EIA mitigation. The Board considered the recommended condition no. 14 unwarranted in this instance given, inter alia, other conditions to be applied.

**Board Member**



**Date:** 08/03/2024

Tom Rabbette