



An
Bord
Pleanála

Board Direction
BD-017097-24
ABP-317679-23

The submissions on this file and the Inspector's report were considered at a Board meeting held on 18/07/2024.

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

National and regional planning and related policy, including:

- the Climate Action Plan 2024,
- the National Development Plan 2021-2030,
- Project Ireland 2040 National Planning Framework,
- the 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, 2022,

- Design Manual for Urban Roads and Streets, 2019,
- Cycle Design Manual (NTA & DoT 2023), and
- Other relevant guidance documents.

Regional and local level policy, including:

- Regional Spatial Economic Strategy for the Eastern and Midlands Region

Local planning policy, including:

- Dublin City Development Plan 2022-2028,
- Dublin City Biodiversity Action Plan 2021-2025,
- other relevant guidance documents,
- the nature, scale and design of the proposed development as set out in the planning application and the pattern of development in the vicinity,
- 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 made to An Bord Pleanála in connection with the planning 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 and environmental impact assessment.

The Board 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 Stage 1:

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

Appropriate Assessment Stage 2:

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 European Sites, 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 European Sites,

- i. Mitigation measures which are included as part of the current proposal,
- ii. Conservation Objectives 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 Sites' 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.

Environment Impact Assessment

The Board completed an environmental impact assessment of the proposed development, taking into account:

- the nature, scale, location, and extent of the proposed development;
- the Environmental Impact Assessment Report and associated documentation submitted with the application;
- the submissions received during the course of the application; and
- the Inspector's report.

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, adequately considers alternatives to the proposed development and identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment. The Board agreed with the examination, set out in the Inspector's report, of the information contained in the Environmental Impact Assessment Report and associated documentation submitted by the applicant and submissions made in the course of the planning application.

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 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 CO₂ from the atmosphere arising from a modal shift to cycling/ walking and 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 CAP24 for the 2021-2025 carbon budget period, the proposed development represents 0.047% 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, the sea or groundwater via piling activities during the construction phase of the development. These impacts will be mitigated by measures outlined within the application and can therefore be ruled out.
- Negative impacts on **biodiversity** relate to the removal of habitat in the form of trees. Such impacts are not considered significant and can adequately be mitigated for within the scheme. 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. Preconstruction surveys will ensure that no mammals, birds or invasive species are present within the works areas. Adequate mitigation measures are proposed to ensure the protection of such mammals and birds 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 night-time 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 night-time 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 the main significant direct and indirect effects of the proposed development 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 BusConnects 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 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 2024 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 and environmental commitments identified in the Natura Impact Statement shall be implemented in full as part of the proposed development.
 - b) All mitigation, environmental commitments and monitoring measures identified in the EIAR 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 (National Transport Authority) 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 be 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 commencement of development, the developer shall submit for the written agreement of the planning authority an Otter Conservation Plan to include measures to maintain the presence of otter in the vicinity of the proposed development project and particularly preserve routes for the movement of otter in the course of works on this project and subsequently between the River Liffey Estuary and Spencer Dock and the Royal Canal Basin and between the Liffey-Dodder confluence and the Grand Canal Basin. The plan shall also set out measures to minimise disturbance to otter breeding and resting places during the projects construction phase and include the provision of artificial holts to form new refuges for this species to compensate for the increased human disturbance of otter likely during the developments operational phase, and set out a program for the monitoring by otter specialists of the presence of otter in nearby sections of the River Liffey, the River Dodder, the Royal Canal and the Grand Canal Basin before, during and after the proposed works.

Reason: In the interest of the conservation of the otter, which is a QI species for the Wicklow Mountains SAC.

5. Prior to commencement of development, the developer shall submit for the written agreement of the planning authority the design and location of permanent guillemot nest boxes to be installed in its vicinity. These proposals shall include

the installation of at least ten such nest boxes in the north wall of the Liffey quays downstream of the proposed Custom House Quay Boardwalk.

Reason: In the interest of enhancing local biodiversity by providing nest sites for the black guillemot.

6. Prior to commencement of development, the developer shall agree in writing with the planning authority the details of the type of finishes/ materials for the proposed St. Patrick's Rowing Club building.

Reason: In the interest of visual amenity.

7. Prior to commencement of development, the finalised location and type of cycle parking stands throughout the scheme shall be agreed in writing with the planning authority.

Reason: In the interest of facilitating convenient and adequate bicycle parking.

8. Prior to commencement of development, the developer shall agree in writing with the planning authority details of the precise design and layout of pedestrian crossing facilities over cycle tracks at island bus stops on a case-by-case basis which shall be informed by the Cycle Design Manual (National Transport Authority, September 2023).

Reason: In the interest of pedestrian and cyclist safety.

9. Prior to the commencement of any works associated with the development hereby permitted, the developer shall submit a Construction Traffic Management Plan and a Construction Stage Mobility Management Plan for the construction phase of the development for the written agreement of the planning authority. The Construction Stage Mobility Management Plan shall promote the use of public transport, cycling and walking by personnel accessing and working on the construction site. The agreed Construction Traffic Management Plan and Construction Stage Mobility Management Plan 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.

10. 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 planning authority to be held on file. The Architectural Conservation Specialist shall ensure 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.

11. 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 9.8 (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 to be agreed with the planning authority 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.

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

Reason: In the interests of environmental protection and public health.

13. 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.

14. 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 interests of protecting the environment, the landscape, the integrity of European Sites and sensitive receptors and in the interest of public health.

15. 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 planning authority. Such monitoring information shall be provided in a report to the planning authority on a weekly basis.

Reason: In the interest of orderly development.

16. Prior to the replacement of trees, hedging and planting which is to be removed the National Transport Authority shall liaise with the relevant landowner with regard to the species, size and location of all replacement vegetation. The National Transport Authority 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 interests of visual and residential amenity.

17. 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.

18. All details of soft landscaping shall be submitted to the planning authority prior to implementation.

Reason: In the interest of orderly development.

19. 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 interests of public safety and visual amenity.

20. 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 within the Environmental Impact Assessment Report 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.

21. Prior to the commencement of development, the applicant shall submit an Invasive Species Management Plan to the planning 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 interests of nature conservation and mitigating ecological damage associated with the development.

22. (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 1st day of March to 31st day of August, unless otherwise agreed with the planning authority.

Reason: In the interest of protection of local biodiversity.

Board Member



Tom Rabbette

Date: 25/07/2024