



An
Bord
Pleanála

Board Order ABP-307746-20

Planning and Development Acts, 2000 to 2020

Planning Authority: South Dublin County Council

Application by South Dublin County Council for approval under section 177AE of the Planning and Development Act 2000, as amended, in accordance with plans and particulars, including a Natura Impact Statement, lodged with An Bord Pleanála on the 29th day of July, 2020.

Proposed Development: The construction of flood defence works at Whitechurch Stream along the Whitechurch Stream the flood between St. Enda's Park and its confluence with the Owendoher River at Ballyboden Road comprising of the building of new walls and/or reinforcing existing ones, increasing existing wall heights, removal or replacement of low-level bridges, river bank improvement, provision of trash screens and debris traps, removal of trees and other vegetation to accommodate the works, and tree planting and landscaping at Whitechurch Road, Rathfarnham, Dublin.

Decision

Approve the above proposed development based on the reasons and considerations under and subject to the conditions set out below.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

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 Government of Ireland Climate Action Plan, 2019,
- (d) the Regional Economic & Spatial Strategy, 2019-2031,
- (e) 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,
- (f) the conservation objectives, qualifying interests and special conservation interests for the South Dublin Bay Special Area of Conservation (site code: 000210), North Dublin Bay Special Area of Conservation (site code: 000206), South Dublin Bay & Tolka Estuary Special Protection Area (site code: 004024), North Bull Island Special Protection Area (site code: 004006) and Wicklow Mountains Special Area of Conservation (site code: 002122),
- (g) the policies and objectives of the South Dublin County Development Plan 2016 to 2022,
- (h) the nature and extent of the proposed works as set out in the application for approval,
- (i) the information submitted in relation to the potential impacts on habitats, flora and fauna, including the Natura Impact Statement,
- (j) the submissions on the file, and
- (k) the report of the Inspector.

Appropriate Assessment

The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report that the South Dublin Bay Special Area of Conservation (site code: 000210), North Dublin Bay Special Area of Conservation (site code: 000206), South Dublin Bay & Tolka Estuary Special Protection Area (site code: 004024), North Bull Island Special Protection Area (site code: 004006) and Wicklow Mountains Special Area of Conservation (site code: 002122), 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 assessment. The Board completed an appropriate assessment of the implications of the proposed development for the affected European Sites, namely the South Dublin Bay Special Area of Conservation (site code: 000210), North Dublin Bay Special Area of Conservation (site code: 000206), South Dublin Bay & Tolka Estuary Special Protection Area (site code: 004024), North Bull Island Special Protection Area (site code: 004006) and Wicklow Mountains Special Area of Conservation (site code: 002122), 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 and 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 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 and would not interfere with the existing land uses in the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area and it would not give rise to likely effects on the environment.

Conditions

1. The 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.

Reason: In the interest of clarity.

2. The mitigation and monitoring measures outlined in the plans and particulars relating to the proposed development, including those set out at Chapter 7 of the Natura Impact Statement, or as may be required in order to comply with the following conditions shall be implemented. Prior to the commencement of development, details of a time schedule for implementation of mitigation measures and associated monitoring shall be prepared by the local authority and shall be placed on file and retained as part of the public record.

Reason: In the interest of protecting the environment and European Sites.

3. 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 and Ecological Impact Assessment Report, and demonstration of proposals to adhere to best practice and protocols, and shall place the CEMP on file and retain it as part of the public record.

Reason: In the interest of protecting the European Sites and biodiversity.

4. The local authority and any agent acting on its behalf shall ensure that two artificial Otter holts are provided along the section of Whitechurch Stream affected by the proposed works, and the holts shall be located within and downstream of St. Enda's Park.

Reason: In the interest of protecting otter species and the European sites.

5. The local authority and any agent acting on its behalf shall ensure that all replacement trees shall be semi-mature native species, and the proposed landscaped areas along Whitechurch Road shall also be planted with semi-mature native species trees.

Reason: In the interest of biodiversity, residential and visual amenity, and to protect the landscape character of the area.

6. The local authority and any agent acting on its behalf shall ensure that all plant and machinery used during the works should be thoroughly cleaned and washed before delivery to the site to prevent the spread of hazardous invasive species and pathogens.

Reason: In the interest of the proper planning and sustainable development of the area and to ensure the protection of the European sites.

7. A suitably qualified ecologist shall be retained by the local authority to oversee the site set up and construction of the proposed development and implementation of mitigation measures relating to ecology. 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 biodiversity.

8. The local authority and any agent acting on its behalf shall facilitate the preservation, recording, protection or removal of archaeological materials or features that may exist within the site. A suitably qualified archaeologist shall be appointed by the local authority to oversee the site set-up and construction of the proposed development and the archaeologist shall be present on-site during construction works.

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.

Chris McGarry

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this day of 2020