



An
Bord
Pleanála

Board Order
ABP-314487-22

Planning and Development Acts 2000 to 2022

Planning Authority: Fingal County Council

Planning Register Reference Number: F21A/0368

Appeal by Michael A. O'Neill of O'Neill Town Planning of Oakdene, Howth Road, Howth, County Dublin against the decision made on the 5th day of August, 2022 by Fingal County Council to grant subject to conditions a permission to the Minister for Agriculture, Food and the Marine care of Malachy Walsh and Partners of The Elm Suite, Loughmore Centre, Raheen Business Park, Limerick in accordance with plans and particulars lodged with the said Council.

Proposed Development: The development will consist of: (i) dredging of the harbour, (ii) stabilisation of dredge material, (iii) reclamation of land on the west side of the West Pier using dredge material, (iv) construction of an embankment and rock armour revetment around the perimeter of the reclaimed area, (v) landscaping of the reclaimed area and provision of pavements, including footways, roadways and parking areas, (vi) construction of a slipway access to the water, (vii) provision of storage areas for harbour activities and (viii) provision of services, including surface water drainage, mains water supply, lighting, and associated underground ducting, all at Howth Fishery Harbour Centre, Howth, County Dublin in the townlands of

Howth and Howth Demesne. The proposed development consists of work to the West Pier at Howth Fishery Harbour Centre, a protected structure (RPS 0595b/NIAH 11359040). The proposed development will need an Industrial Emissions (IE) licence or waste licence from the Environmental Protection Agency. Further public notices were received by the planning authority on the 13th day of June, 2022.

Decision

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Reasons and Considerations

Having regard to the provisions of the Fishery Harbour Centres Act 1968, the National Marine Planning Framework 2021, the National Planning Framework 2040 and the Fingal County Development Plan 2023-2029, the nature and scale of the proposed development and the site's location with the existing functioning harbour, it is considered that the proposed development, subject to compliance with the conditions set out hereunder, would not seriously injure the residential and visual amenities of the area or of property in the vicinity of the site and would be acceptable in terms of pedestrian and traffic safety and built heritage. The proposed development would, therefore, be in accordance with 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 following are the European Sites for which there is potential for significant effects and for which Appropriate Assessment is required: the North-west Irish Sea Special Protection Area (Site Code 004236), the Baldoyle Bay Special Area of Conservation (Site Code 000199), the Rockabill to Dalkey Island Special Area of Conservation (Site Code 003000), the Lambay Island Special Area of Conservation (Site Code 000204), the Rogerstown Estuary Special Protection Area (Site Code 004015), the Lambay Island Special Protection Area (Site Code 004069), the Malahide Estuary Special Protection Area (Site Code 004025), the North Bull Island Special Protection Area (Site Code 004006), the Baldoyle Bay Special Protection Area (Site Code 004016), the Ireland's Eye Special Protection Area (Site Code 004117) and the South Dublin Bay and River Tolka Estuary Special Protection Area (Site Code 004024).

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 above referenced European Sites, taking into account:

- (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.

Environmental 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 and appeal.

Reasoned Conclusion for Environmental Impact Assessment

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.

- **Population and Human Health:** Neutral impact to the local economy during the construction phase due to the increase in local construction workers and associated benefits and the temporary loss of car parking spaces. Potential significant health and safety impacts during construction that would be mitigated through the implementation of the measures set out in the Environmental Impact Assessment Report, including the Construction Environmental Management Plan and best practice construction methods.
- **Biodiversity:** Potential significant effects on habitats, birds, marine mammals and aquatic ecology during the construction and operational phases would be mitigated by the implementation of the mitigation measures contained in the Environmental Impact Assessment Report, including the Construction Environmental Management Plan, good practice construction measures, timing of vegetation removal, water pollution prevention measures, provision of bird boxes, use of buffer zones, biosecurity measures and the appointment of an Ecologist. Further pre-commencement biodiversity surveys are also proposed.

- ***Land, Soils, Water, Air and Climate:*** Potential positive significant effects on hydrology, hydrogeology and soils by the removal of contaminated sediments from the harbour any potential negative impacts hydrology, hydrogeology and land and soils during the construction and operational phase would be mitigated by a series of best practice construction management and pollution prevention measures and other specific measures outlined in the Environmental Impact Assessment Report, including the Construction Environmental Management Plan, surface water management plan, use of buffer zones and pollution prevention measures. Construction noise will be mitigated by the measures outlined in the Construction Environmental Management Plan, however, it should be noted that evening time construction noise at West Pier would likely exceed the recommended limits for short periods of time throughout the construction phase (24 months).
- ***Material Assets, Cultural Heritage and the Landscape:*** Traffic impacts would be short-term and temporary and will be mitigated during construction by the measures set out in the Environmental Impact Assessment Report, including the Construction Environmental Management Plan and the Traffic Management Plan. Traffic and transportation impacts during the operational stage would be positive due to the provision of additional car parking spaces, the introduction of the one-way traffic system and pedestrian facilities. Potential impacts on unknown cultural heritage would be mitigated by archaeological monitoring with provision made for resolution of any archaeological features/deposits that may be identified. Landscape and visual impacts are likely, however, given the context and characteristics of the existing harbour environment they are considered acceptable and compatible with the existing uses. Impacts on architectural heritage can be further mitigated to an acceptable level by way of condition (reference condition number 5 hereunder).

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 Environmental Impact Assessment Report complies with the provisions of Article 3, 5 and Annex (IV) of EU Directive 2014/52/EU.

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 submitted on the 2nd day of June 2022, 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.

Reason: In the interest of clarity.

2. Mitigation and monitoring measures outlined in the plans and particulars, including the Environmental Impact Assessment, the Natura Impact Statement and the Construction Environmental Management Plan shall be carried out in full, except where otherwise required by conditions attached to this permission.

Reason: In the interest of protecting the environment and in the interest of public health.

3. Prior to commencement of development the applicant shall submit to, and agree in writing with, the planning authority a 'Howth Harbour Bird Conservation Plan'. This plan shall include:
- (a) details of the locations, fencing and screening of the roosting sites for waders and other water birds it is proposed to establish at the south west and northern ends of the area to be reclaimed at the rear of the West Pier, Howth, as part of the proposed works,
 - (b) details of the locations, design and methodology and timing of installation six Black Guillemot nesting boxes/tunnels to be installed in or on the existing pier structures at Howth Harbour before the commencement of the proposed works, and similar details relating to the installation of at least six number additional boxes/tunnels in the reclaimed area to the rear of the West Pier on completion of these works, and
 - (c) details of the timings and methodologies of the bird surveys to be carried out during the proposed works, and for at least three winters and three summers subsequent to these works' completion, to monitor the bird populations utilising the Howth Harbour area.

Reason: In the interest of protecting bird species.

4. Prior to commencement of development, the applicant shall submit for the written agreement of the planning authority, the design, operation and function of the water channel between West Pier and the reclamation area, including details of any fencing or security measures to prevent public access to the water channel.

Reason: In the interest of clarity.

5. Prior to commencement of development, the applicant shall submit final detailed design proposals of the proposed reclamation area for the written agreement of the planning authority. The information submitted shall include:
- (a) a landscape plan prepared by a professional landscape designer including a five year landscape maintenance schedule,
 - (b) details of boundary treatments,
 - (c) details of street furniture and safety measures, including lifebouys,
 - (d) details and images (or samples) of the proposed finish and the capping for the parapet wall to the new area, and
 - (e) details of the break being formed in the wall on the West Pier to provide a connection to the reclamation area and any subsequent related alterations to the layout of the area on the West Pier.

Reason: In the interest of visual amenity and to protect the architectural heritage of West Pier.

6. Prior to commencement of development, the applicant shall agree in writing with the planning authority, the requirement for a piece of public art within the reclamation area. All works shall be at the applicant's expense.

Reason: In the interests of place making and visual amenity.

7. Site development and building works shall be carried out only between the hours of 0700 to 2100 Mondays to Fridays inclusive, between 0700 to 1700 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.
Reason: In order to safeguard the residential amenities of property in the vicinity.
8. A minimum of 10% of all new car parking spaces shall be provided with functioning electric vehicle charging stations/points, and ducting shall be provided for all remaining car parking spaces, facilitating the installation of electric vehicle charging points/stations at a later date unless otherwise agreed with the planning authority.
Reason: To facilitate the use of electric vehicles.
9. Public lighting shall be provided in accordance with a final scheme to reflect the indicative details in the submitted Public Lighting Report, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
Reason: In the interests of amenity and public safety.
10. All service cables associated with the proposed development such as electrical, telecommunications and communal television shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.
Reason: In the interests of visual and residential amenity.
11. Prior to commencement of development, the developer shall enter into water connection agreements with Uisce Éireann.
Reason: In the interest of public health.

12. Drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interests of public health and surface water management.

13. 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 and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interests of public safety and residential amenity.



Tom Rabbette

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

Dated this 30th day of July 2024.