



An  
Bord  
Pleanála

## Inspector's Report ABP-305687-19.

### Development

Shared services facility comprising of new warehouse facilities and related structures to house cargo unloading areas, inspection bays, live animal storage facilities and other ancillary spaces and associated works.

### Location

Dublin Port, Dublin 1

### Planning Authority

Dublin City Council

### Prospective Applicant

Minister for Housing, Planning and Local Government with applicant appointing Office of Public Works to oversee the development.

### Type of Application

Pre-application – under Section 181 (2)(a).

### Date of Pre-Application Meetings

5 November 2019

### Date of site inspection

4 November 2019

### Inspector

Una Crosse

## 1.0 Introduction

- 1.1. This report relates to pre-application discussions held with the Office of Public Works Brexit Unit on behalf of the Minister in relation to the requirement under Section 181(2A)(b) of S.I. No. 418/2019 to seek the Boards approval where EIA and AA are required for development proposed to be carried out by or on behalf of a Minister of the Government or the Commissioners.
- 1.2. It should be noted at the outset that the prospective applicant is not seeking planning permission for the proposed development as this is provided for by way of the emergency provisions provided in Section 181(2)(a) of the Planning and Development Act 2000, as amended. For the Boards information, a draft order made by the Minister is required to accompany any application for approval under this section and following the approval of An Bord Pleanala, the Minister for Public Expenditure and Reform issue a Ministerial Order.
- 1.3. S.I. No. 418/2019 European Union (Environmental Impact Assessment and Habitats)(Section 181 of the Planning and Development Act 2000) Regulations 2019 provides at Section 181(2A)(b) that *“where development is proposed to be carried out by or on behalf of a Minister concerned pursuant to an order under subsection (2)(a) and the Minister concerned is satisfied, having had regard to Part X and Part XAB, that an environmental impact assessment or an appropriate assessment, or both such assessments of the proposed development is or are required, the Minister concerned shall prepare or cause to be prepared an application for approval, which shall include the documents and information referred to in paragraph (c), in respect of the development and shall apply to the Board for such approval”*.
- 1.4. This report describes the location and nature of the proposed development, the applicant’s submission, the consultations held and the legal provisions which are relevant to the development for which such approval is sought.

## 2.0 Site Location and Description

- 2.1. The site of the proposed development comprises two elements and has a total area of c.7 hectares located within Dublin Port. The current site is divided into multiple holdings. The larger area of the site is located along the northern boundary of the Port lands adjoined to the north and east by Dublin Bay and a belt of trees which

provides a buffer to same. To the south the site adjoins Bond Drive Extension and an adjoining yard to the south west. To the west the site is adjoined by Bond Road. The smaller area of the site comprises a rectangular shaped area of ground adjoined to the north and west by the Bond Drive Extension and the south by the Promenade Road. To the east of this site there are warehouse units and parking areas.

### 3.0 The Proposed Development

#### Context

- 3.1. As outlined in the correspondence presented to the Board at the 1<sup>st</sup> meeting the prospective applicant states that the proposed development provides for what is referenced as the 'Central Case project' and provides part of the new infrastructure required at Dublin Port to accommodate the processing of certain goods and vehicles entering Ireland from the United Kingdom in a post Brexit scenario.

#### The Proposed Development

- 3.2. The proposed development, as outlined in the drawings included in the most recent correspondence to the Board received on 5<sup>th</sup> November 2019, provides for a number of elements as follows:
- On the smaller area of the site to the south, the construction of an EHS building and a Yard (Yard 4) with 90 HGV parking spaces.
  - On the larger area to the north, 5 industrial blocks (two semi-detached and one detached) comprising part single/part 2 storey structures incorporating mezzanines with a mix of loading bays and dock levellers and inspection bays, storage facilities, offices and staff facilities.
  - 15 seal check kiosk-type units on raised concrete plinths.
  - Live animal BCP building with 3 internal units to accommodate animals and 5 loading bays.
  - HGV parking area.

## 4.0 Policy Context

### 4.1. National Planning Legislation - S.I No. 418/2019 - European Union (Environmental Impact Assessment and Habitats) (Section 181 of the Planning and Development Act 2000) Regulations 2019.

4.1.1. These Regulations came into effect in August 2019. It was outlined by the prospective applicant that screenings were previously undertaken for EIA and AA in respect of other Brexit related developments within the Port (referenced in the documentation as 'disorderly projects'). However screenings are no longer considered sufficient to satisfy the requirements of S.I. 418 and therefore the subject process is being undertaken. The application for approval is made to the Board under Section 181(2)(b).

### 4.2. Previous Orders

4.2.1. A series of Brexit related Orders have been made by way of the powers conferred on the Minister by Section 181(2)(a) of the Planning and Development Act, 2000 (as amended), where they are satisfied that the carrying out of the development on their behalf by the Office of Public Works as set out in the following Orders is required by reason of an emergency, that being the exceptional circumstances arising as a result of the impending withdrawal and/or the withdrawal of the United Kingdom from the European Union. A number of Orders have already been made as follows:

4.2.2. **S.I No. 57/2019** - The Planning and Development Act 2000, Section 181(2)(a) Order No. 1, 2019 provide for the required infrastructure for customs, sanitary and phytosanitary and health checks and controls at Former Crosbie's Yard at Crosbies Yard, Tolka Quay Road and Former Storecon site at Tolka Quay Road (site bounded by 1 Branch Road South to the east and by Promenade Road to the north).

4.2.3. **S.I No. 100/2019** - Planning and Development Act 2000, Section 181(2)(a) Order No. 2, 2019 – Interim Government Control Centre at Rosslare Harbour.

4.2.4. **S.I No. 284/2019** - Planning and Development Act 2000, Section 181(2)(a) Order No. 3, 2019 – refurbishment of existing industrial buildings with demolitions to facilitate the construction of ancillary custom, agriculture and health inspection

structures at to provide for the required infrastructure for customs, sanitary and phytosanitary and health checks and controls Dublin Airport.

- 4.2.5. **S.I No. 285/2019** - Planning and Development Act 2000, Section 181(2)(a) Order No. 4, 2019 - refurbishment of existing industrial buildings with demolitions to facilitate the construction of ancillary custom, agriculture and health inspection structures to provide for the required infrastructure for customs, sanitary and phytosanitary and health checks and controls at Terminal 10, Tolka Quay Road, Dublin Port

#### 4.3. **European Sites**

The following sites adjoin or are in close proximity to the subject site:

- South Dublin Bay & River Tolka Estuary SPA
- North Bull Island SPA
- North Dublin Bay cSAC
- South Dublin Bay cSAC

### 5.0 **The Applicant's Submission and Consultation**

- 5.1. One pre-application meeting was held with the prospective applicant (5<sup>th</sup> November 2019). Minutes are attached to the file. While it was outlined at the first meeting that given the time constraints identified at the time of the meeting (proposal to submit the approval application prior to end of 2019) that a further meeting may not be feasible, in the intervening period the Board's representatives have offered to hold a further meeting to address any matters arising. Over the intervening 6 month period, OPW declined such offers, and the advice given by the Board has therefore been based on one preliminary meeting, with limited details available for review or discussion.
- 5.2. Three booklet presentations made to the Board's representatives at the meeting are also attached to the file and are as follows:

#### OPW Brexit Unit – Update

- Outline of Existing Provisions
- Explanation of S.I. 418

- Planning Process
- EIAR
- Project Timeline
- Project Details

#### Supplementary Documentation Booklet

- Copy of S.I 418 of 2019;
- Details of Proposed Development
- Copy of Consultations

#### Environmental Presentation

- Contents of the Proposed EIAR outlined.

5.3. The principal matters arising related to: EIA and AA and in this regard to the preparation of an EIAR and NIS.

## **6.0 Legislative Context & Considerations**

### **6.1. Environmental Impact Assessment**

- 6.1.1. S.I. 418 - European Union (Environmental Impact Assessment and Habitats)(Section 181 of Planning and Development Act 2000 Act) Regulations 2019 came into effect in August 2019. It was noted by the prospective applicant that screenings were previously undertaken for EIA and AA in respect of other Brexit related developments within the Port (referenced in the documentation as ‘disorderly projects’). However screenings are no longer considered sufficient to satisfy the requirements of S.I. 418.
- 6.1.2. Section 181(2A)(d) of the Planning and Development Act, 2000 (as amended) requires that *“the environmental impact assessment report and the Natura impact statement provided under paragraph (c) shall, as appropriate, comply with the requirements of Parts X and XAB respectively”*.
- 6.1.3. In respect of the ‘Class’ of development for the purposes of EIA, the prospective applicant outlined that the proposal would comprise an industrial site within an urban

environment. Class 10 of Schedule 5, part 2 of the Planning and development Regulations 2001 as amended provides at subsection (a) industrial estate development projects, where the area would exceed 15 hectares and at subsection (b)(i) urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere. While at 7 hectares the site is below the relevant threshold that it is proposed to prepare and submit an EIAR to accompany the approval application.

6.1.4. The matters discussed in respect of the preparation of the proposed EIAR were as follows, inter alia:

- Context of proposed development and emergency provisions under Section 181(a) and the Draft Order accompanying any application for approval
- Consideration of reasonable alternatives including location, layout and design
- Socio economic considerations, human health and risk of major accidents
- Extent of soil removal from the site, surface water drainage and flood risk.
- Biodiversity on site such as potential for bat roosts and the adjoining greenbelt
- Noise and Vibration
- Air and Climate
- Viewpoints for consideration in terms of landscape.
- Traffic network and proposed greenway
- Cultural heritage
- Material assets and waste including demolition
- The environmental factor of land.
- Consideration of direct and indirect
- Interactions and cumulative impacts including existing Brexit related works undertaken and proposals within Dublin Port.

- Reference was made to the current SID application made by Dublin Port Company for the MP2 Project (ABP-304888-19) which was accompanied by an EIAR.

## 6.2. **Appropriate Assessment**

The proposed development adjoins a Natura 2000 site and is in close proximity to three others. The applicant has indicated that it is their intention to include an NIS with the application which is considered to be appropriate. Reference was made to the current SID application made by Dublin Port Company for the MP2 Project (ABP-304888-19) which was accompanied by a Natura Impact Statement (NIS).

## 6.3. **Prescribed Bodies**

- 6.3.1. In view of the scale, nature and location of the proposed development, as described in this report, it is recommended that the prospective applicant should consult with the prescribed bodies listed in the attached Appendix in respect of any future application for approval.

## 6.4. **Other Matters**

- 6.4.1. I would also note for the Board's information the provisions of subsection 2Q whereby it is stated that nothing in subsections (2A) to (2AA) of Section 181 shall require the disclosure of a Minister of the Government, the Commissioners or the Board of details of the internal arrangements of a proposed development which might prejudice the internal or external security of the development or facilitate any unauthorised entrance to, or exit from, the development of any person when it is completed. In this regard, internal floor plans are not considered appropriate.

## 7.0 **Conclusion**

- 7.1. Having regard to the above, I recommend that the Board issue a Direction to the prospective applicant noting the pre-application consultation undertaken including the record of the meeting and acknowledging that the pre-application consultation process has been concluded.



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Una Crosse  
Senior Planning Inspector

18<sup>th</sup> May 2020

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Rachel Kenny,  
Director of Planning Operations

21<sup>st</sup> May, 2020

## **Appendix**

### **Prescribed Bodies**

- Minister for Housing, Planning and Local Government (Foreshore Unit)
- Minister for Culture, Heritage and the Gaeltacht (Development Applications Unit)
  
- Minister for Communications, Marine and Natural Resources
- Minister for Agriculture, Food and the Marine
- Minister for Communications, Climate Action and Environment
- Minister for Transport, Tourism and Sport
  
- Dublin City Council
  
- Transport Infrastructure Ireland
- Environmental Protection Agency
- Health and Safety Authority
  
- Inland Fisheries Ireland
  
- Irish Water