



An  
Bord  
Pleanála

## Inspector's Report ABP-306607-20

<b>Development</b>	Digital Media Building over 4 storeys comprising restaurant, service yard, computer labs, teaching spaces and social spaces.
<b>Location</b>	Site of approx. 0.67ha on former temporary car park located north of the Atrium Building at IADT, Kill Avenue, Dun Laoghaire, Co Dublin
<b>Planning Authority</b>	Dun Laoghaire Rathdown County Council
<b>Planning Authority Reg. Ref.</b>	D19A/0468
<b>Applicant</b>	Dun Laoghaire Institute of Art, Design and Technology
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party v Refusal
<b>Appellants</b>	Dun Laoghaire Institute of Art, Design and Technology.
<b>Observer(s)</b>	None

**Date of Site Inspection**

15.05.2020

**Inspector**

Anthony Kelly

## 1.0 Site Location and Description

- 1.1. The site is located within the grounds of Dun Laoghaire Institute of Art, Design and Technology (IADT) approx. 1.7km south west of the centre of Dun Laoghaire.
- 1.2. The proposed Digital Media Building is towards the north west of the approx. 9.5 hectare IADT campus, relatively close to Kill Avenue. There are two vehicular access points to the campus off Kill Avenue; Chestnut Avenue and Goff Avenue, and these avenues are either side of the site. The site is adjacent to the north of the large, detached three storey Atrium Building. A hardstanding area set out as a lined car park currently occupies a large area of the proposed site with a grassed, open space area, including a footpath, occupying the northern area of the site. There is a fenced off, overgrown area between the car park and Atrium Building. Pedestrian walkways, vehicular access to the car park and service access to the Atrium Building are also located within the site boundary. There are mature trees throughout the open space area. There are other campus facilities in close proximity to the site including car parks and a five storey Media Cube building, and there are community facilities adjacent to the campus including Dun Laoghaire Fire Station, Monkstown Educate Together National School and the Holy Family Parish Church.

## 2.0 Proposed Development

- 2.1. The application is for permission for:
  - A Digital Media Building over four storeys comprising restaurant and service yard at ground floor and computer labs, teaching space and social space on upper floors,
  - A relocated pedestrian crossing, 60 no. bicycle parking spaces and associated site works.
- 2.2. The proposed structure has a stated floor area of 7,385sqm and a maximum indicated height of 24.15 metres.
- 2.3. In addition to standard planning application plans and particulars the application was accompanied by:

- A 'Planning Application Report',
- An 'Architectural Design Statement',
- A 'Daylight and Suncast Report',
- A 'Mobility Management Plan',
- A 'Transport Statement',
- An 'Outline Construction Environmental Management Plan', (CEMP)
- An 'Engineering Report',
- A 'Screening for Appropriate Assessment' document,
- A 'Tree Schedule Report',
- An 'Archaeology, Architectural and Cultural Heritage Impact Assessment' document,
- An 'M&E Site Services Utility Report',
- An 'Energy and Sustainability Statement'.

2.4. Further information was submitted in relation to, inter alia, a tree survey and landscape masterplan, an increase in the number of bicycle parking spaces, an alteration to the lighting provision, additional surface water detail and ecological and environmental detail. The following additional documentation was received:

- A 'Daylight and Suncast Report',
- A 'Mobility Management Plan',
- An 'Outline CEMP',
- A 'Screening for Appropriate Assessment' document,
- A 'Roof Level Plant' document,
- A 'Preliminary Ecological Appraisal' document,
- A 'Technical Note' regarding existing cycling facilities,
- A 'Landscape Implementation & Maintenance Operations' document,
- An 'External Site Lighting Report',
- An 'Overall Site Drainage Assessment' document,

- An 'Arboricultural Report'.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

The planning authority refused permission for one reason as follows:

1. The proposed development is located 1.6km from the Natura 2000 site of the South Dublin Bay and River Tolka Estuary SPA, with a small parcel of existing grassland lost as a result of the proposed development in addition to the temporary loss/disturbance of additional grassland during the construction phase of same. While the principle of the proposed development of a Digital Media Building within the existing IADT campus is acceptable, on the basis of information submitted on 03/07/2019 and clarified by way of Further Information submitted on 10/12/2019, it has not been adequately demonstrated to the satisfaction of the Planning Authority that the proposed works would not negatively impact on the biodiversity and conservation objectives of the Natura 2000 sites of the South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA and Baldoyle Bay SPA, with particular regard to the impact of the development on the surrounding biodiversity. Accordingly, to permit the proposed development would be contrary to Policy LHB 20 and Section 4.1.1.2 of the Dun Laoghaire Rathdown County Development Plan 2016-2022. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

#### **3.2. Planning Authority Reports**

- 3.2.1. Planning Reports dated 22.08.2019 and 14.01.2020 are the basis of the planning authority decision. The report dated 14.01.2020 concluded that, while the principle of the Digital Media Building within the IADT campus is acceptable, on the basis of the information submitted the applicant failed to address the concerns expressed in the further information request as to whether wintering birds of the nearby SPA use the existing green area. The planning authority was not satisfied that the proposed works

would not impact the three SPAs referenced and, therefore, to permit the development would be contrary to Sections 4.1.1.2 and 4.1.3.2 and Policy LHB 20 of the County Development Plan 2016-2022.

### 3.2.2. **Other Technical Reports**

**Drainage Planning Section** – No objection subject to conditions on foot of the further information response.

**Waste Section** – No objection subject to conditions.

**Public Lighting Section** – On foot of the further information response, light levels should be within tolerances at the Kill Avenue road edge.

**Biodiversity Officer** – A number of issues were raised in the initial report. A Preliminary Ecological Assessment referred to in the CEMP had not been submitted, there was no clarity on potential tree removal which may support bats and a bat impact assessment was requested, an updated CEMP was requested and the provision of swift nest boxes/bricks on the new building was also requested. In addition, an updated 'Screening for Appropriate Assessment' was required in relation to construction phase surface water runoff and any pathways to Natura 2000 sites and it has not been demonstrated whether wintering birds of the adjacent SPA use the existing green area. A Natura Impact Statement (NIS) may be required dependant on the outcome of these two issues.

On foot of the further information response the updated Biodiversity Officer report noted that the Preliminary Ecological Assessment, including a bat impact assessment had been provided, tree removal detail had been provided, an updated CEMP had been submitted and detail of swift nest boxes/bricks to be installed was noted. In relation to the updated 'Screening for Appropriate Assessment', it was considered that the surface water runoff issue had been addressed. The Biodiversity Officer noted that section of the document which stated that, while the open space area is not listed as being within the network of inland feeding sites identified for Light-bellied Brent Geese, it is possible that some qualifying interests (QI) of the SPA could temporarily utilise the green as a feeding ground during the winter. The Biodiversity Officer recommended clarification of further information to establish the possibility that some QI of South Dublin Bay and River Tolka SPA, North Bull Island SPA and Baldoyle Bay SPA use the green. Scientific data to support any conclusions of the assessment for potential

of significant effects should be included. Monthly bird surveys from November to March should be provided as part of a revised Screening for Appropriate Assessment. The Biodiversity Officer again noted that, depending on the outcome of the surveys, an NIS may be required.

**Parks & Landscape Services** – No objection subject to conditions on foot of the further information response.

**Transportation Planning Section** – No objection subject to conditions on foot of the further information response.

### 3.3. **Prescribed Bodies**

3.3.1. None received.

### 3.4. **Third Party Observations**

3.4.1. None received.

## 4.0 **Planning History**

The relevant planning history is as follows:

P.A. Reg. Ref. D11A/0263 – Permission granted in 2011 for (i) a Digital Media Teaching Building (three storeys in height with a floor area of 5,710sqm on the same general footprint as the current application) providing teaching spaces, a canteen, administration spaces and support accommodation, (ii) a Consolidated Workshop Building and, (iii) a Sports Hall.

P.A. Reg. Ref. D08A/0788 – Outline Permission granted in 2008 for (i) a Digital Media Teaching Building (four storeys in height with a floor area of 4,740sqm on the same general footprint as the current application) providing teaching space, student canteen and administration and ancillary spaces, (ii) a Sports Hall and, (iii) a Consolidated Workshop Building.

## 5.0 Policy Context

### 5.1. Dun Laoghaire Rathdown County Development Plan 2016-2022

- 5.1.1. The site is in an area zoned 'Objective TLI; To facilitate, support and enhance the development of third level education institutions'. Under Table 8.3.13, education and restaurant uses are permitted in principle on site. Specific Local Objective (SLO) 29 applies to the site. This states that it is an objective of the Council to facilitate, support and enhance the development of the Dun Laoghaire Institute of Art, Design and Technology including all associated and supporting facilities. A range of uses will be facilitated on the campus lands to encourage and foster strong links between education, community and the business sector in the County. Map 7 of the Plan indicates that there is an objective 'to protect and preserve Trees and Woodlands'.
- 5.1.2. Section 3.1.2.4 (Policy E4: Further and Higher Education Institutions) states the Council will support the IADT in its mission to become the leading Irish educator for the knowledge, media and entertainment sectors. Section 7.1.3.4 (Policy SIC9; Further and Higher Education Facilities) states it is policy to support the development and ongoing provision of institutions including IADT. IADT is specifically referenced within subsection (ii) of this section. The Plan notes the grant of permission in 2011 for the Digital Media building and also states that the planning authority will continue to work closely with IADT in relation to campus developments.
- 5.1.3. Section 4.1.1.2 (Appropriate Assessment) of the Plan is specifically referenced in the planning authority reason for refusal. This section states that the Council will ensure that any plan/project and any associated works, individually or in combination with other plans or projects, are subject to Appropriate Assessment Screening to ensure that there are no likely significant effects on the integrity (defined by the structure and function) of any Natura 2000 site(s) and that the requirements of Article 6(3) and 6(4) of the EU Habitats Directive are fully satisfied. Where a plan/project is likely to have a significant effect on a Natura 2000 site or where there is uncertainty with regard to the effects, it shall be subject to Appropriate Assessment. A Natura Impact Statement shall be produced. The plan/project will proceed only after it has been ascertained that it will not adversely affect the integrity of the site or where, in the absence of alternative



solutions, the plan/project is deemed imperative for reasons of overriding public interest, all in accordance with the provisions of the EU Habitats Directive.

- 5.1.4. Policy LHB20 (Habitats Directive) is also specifically referenced in the reason for refusal. This states that it is Council policy to ensure the protection of natural heritage and biodiversity, including European sites that form part of the Natura 2000 network, in accordance with relevant EU Environmental Directives and applicable National Legislation, Policies, Plans and Guidelines.

## 5.2. Natural Heritage Designations

- 5.2.1. The closest heritage areas to the site are South Dublin Bay and River Tolka Estuary SPA and South Dublin Bay SAC approx. 1.6km to the north. North Bull Island SPA (approx. 7.1km to the north) and Baldoyle Bay SPA (approx. 12.6km to the north) are also cited in the planning authority's reason for refusal.

## 5.3. EIA Screening

- 5.3.1. Having regard to the nature and scale of the proposed development and the nature of the receiving environment, which is a fully serviced urban location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination stage, and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The main issues raised can be summarised as follows:

- The appeal is solely focused on the matter of ecological detail which led to the refusal of permission. The Board is not required to assess the proposal de novo as the development already had the benefit of planning permission in 2011 and the current proposal has been deemed acceptable apart from the appeal issue.

Survey work has been completed since the refusal issued which provides an informed evidence base to enable the Board grant permission. The applicant requests assessment is confined to the detail of the reason for refusal.

- There are no watercourses or drainage ditches within 400 metres of the development site, the closest watercourse being the Monkstown Stream. There is no hydrological connection to any Natura 2000 site.
- An area of amenity grassland of approx. 8,100sqm is located adjacent to the proposed development, approx. 2,200sqm of which is within the application boundary. Only a minor parcel of land (approx. 548sqm) will be permanently lost. The grassland is within a busy urban environment used by students and members of the public and is subject to regular disturbance.
- There are no previous records of wintering birds regularly foraging at the site, nor at any grassland sites in the surrounding area from past studies. The closest documented terrestrial grassland sites with regular usage for foraging by wintering birds are Kilbogget Park, Blackrock Park and Blackrock College. There are considerably better foraging opportunities in the wider area for birds commuting inland from the SPA.
- A revised site layout plan has been submitted in the grounds of appeal. In order to ensure the area subject to development is as compact as possible the contractor compound is relocated between the proposed building and the Atrium Building.
- A 'Wintering Bird Survey Results 23<sup>rd</sup> Jan – 5<sup>th</sup> Feb 2020' document was prepared upon receipt of the planning authority decision. Though of short duration, an intensive survey regime was implemented and the survey occupies the time period when, should Brent geese be utilising this site, they would likely be recorded as it is the peak period when such geese move to inland feeding sites. The 'First Party Appeal' report submitted in the grounds of appeal (Pg.15) states that only three species of QI (Black-headed gull, Herring gull and Common gull) were recorded, in very small numbers, on the green adjacent to the site. However, the 'Wintering Bird Survey Results 23<sup>rd</sup> Jan – 5<sup>th</sup> Feb 2020' identifies only one of these (the Black-headed gull) as a relevant QI species (though the other two species were noted in Appendix 1 (Full Survey Results

Data)). A peak count of 28 no. Black-headed gulls were noted on both 24.01.2020 and 30.01.2020. The survey concludes that there are no significant numbers of species of QI for the relevant SPAs using the site as an ex-situ feeding/roosting ground and no Light-bellied Brent geese were seen nor their droppings recorded.

- An updated 'Screening for Appropriate Assessment' has been submitted in the interest of proper procedure, directly informed by the new empirical evidence. The Screening report concludes that there is no potential for significant effects on any relevant Natura 2000 site.
- The original 'Preliminary Ecological Appraisal' has also been updated to include reference to the survey. Its conclusion notes that the site consists of highly modified habitats with a low ecological value. In addition, the grassland and trees located west of the development site offer limited potential for roosting bats and no potential bat roost features for bats were recorded in any of the eight low biodiversity value trees to be removed. Overall, the removal of the existing car park, grassland and immature trees will not result in any significant negative impact on any protected species.
- A letter from SAP Landscapes Ltd., who have provided grounds maintenance service on site for over ten years, has been submitted with the grounds of appeal stating that they have never noticed or identified Brent Geese using the grounds of IADT for grazing.
- A letter from the Estates and Facilities Manager at IADT has been submitted. The letter states that there is approx. 33,762sqm of landscaped grounds within the campus. The Estates and Facilities Manager has held the role since 1997 and has never seen a Brent goose or observed their droppings, or been notified by anybody that Brent geese have ever been spotted on campus. A second letter, from the President of IADT, also states that they have not observed, or been informed of, any large flock of birds, particularly Brent geese, being present on campus.
- A letter from the Higher Education Authority has been submitted with the grounds of appeal which sets out the importance of the planning application. A

letter with the same content was also submitted with the grounds of appeal from the Dept. of Education and Skills.

## 6.2. **Planning Authority Response**

- 6.2.1. The reasoning on which the planning authority's decision was based is set out in the Planning Report. It is not proposed to respond in detail to the grounds of appeal as the Planning Authority considers that the comprehensive Planning Report deals fully with all the issues raised and justifies its decision.

## 6.3. **Observations**

- 6.3.1. None received.

## 7.0 **Assessment**

The main issues are those raised in the grounds of appeal and the Planning Report and I am satisfied that no other substantive issues arise. The issues can be dealt with under the following headings:

- Zoning
- Design and Siting
- Appropriate Assessment

### 7.1. **Zoning**

- 7.1.1. The proposed development is within the IADT campus and is in an area zoned to facilitate, support and enhance the development of third level education institutions. Education use is permitted in principle on site and Policies E4 and SIC9 and Objective SLO 29 of the County Development Plan 2016-2022 support the development. In addition, letters of support from the Higher Education Authority and the Dept. of Education and Skills have been forwarded with the grounds of appeal. I consider the principle of development is therefore acceptable, subject to the detailed considerations below.

## 7.2. Design and Siting

- 7.2.1. The proposed building is significant in terms of floor area (7,385sqm), height (24.15 metres maximum) and scale in the context of both the IADT campus and the surrounding area.
- 7.2.2. The planning authority had expressed some concern in relation to the scale of the roof level plant proposed. Negligible alteration was made to this in the further information response. The primary external finishes proposed to the structure are fibre cement boards, glazing and spandrel panelling. Specific colours and finishes are to be confirmed. Building Visualisation images have been submitted with the application which identify a darker colour to the Kill Avenue elevation and a lighter finish to the rear and east side. I consider the design of the proposed structure to be visually interesting and consistent with the type of structure expected within an educational campus. While the proposed structure is significantly larger and more imposing in the streetscape than existing structures, I do not consider that it would be unduly visually obtrusive or incongruous and it would reflect the status of the institution.
- 7.2.3. The County Development Plan 2016-2022 indicates that there is an objective on the campus to protect and preserve trees and woodlands. There are a number of mature trees within the open space area that is to be partially removed to accommodate the proposed structure. As part of this project it is proposed to remove a total of eight trees, three of them from the edge of a larger stand of trees within the open space area. All trees to be removed are Category 'C' trees; of low quality and value. I do not consider the removal of these three trees, or the other five trees, to be a significant loss in the context of the overall development. 18 no. trees are proposed are shown on the 'Combined Masterplan' drawing (Drawing No. 180828-P-13), including five trees near the three trees being removed. It is considered specific detail in relation to these issues can be addressed by way of a compliance condition.
- 7.2.4. The proposed structure is located north of the Atrium Building. At the closest point there is a 13 metres separation distance between the existing and proposed structure. The proposed structure is a significant distance from the closest other structure, the Media Cube building, which is approx. 40 metres to the north east. Given the proposed footprint north of the Atrium Building and the separation distances to other buildings in the vicinity, I do not consider any undue shadowing impact or any overlooking of

adjoining properties will occur as a result of the proposed building. The 'Daylight and SunCast Report' submitted with the further information response indicates all habitable rooms achieve the average daylight factor target of 2-4% (ratio between indoor illuminance and outdoor illuminance expressed as a percentage).

- 7.2.5. Having regard to the foregoing, I consider that the proposed building is acceptable in terms of its design and siting.

### 7.3. **Appropriate Assessment**

- 7.3.1. The site comprises a former temporary car park which is surfaced in hardstanding and a grassed area immediately to its north within a relatively large educational campus.

- 7.3.2. Appropriate assessment is the basis of the planning authority reason for refusal. The planning authority was not satisfied, based on the information submitted, that the development would not negatively impact on the biodiversity and conservation objectives of the South Dublin Bay and River Tolka Estuary, North Bull Island and Baldoyle Bay SPAs. Specifically, the planning authority's concerns were centred on the removal of grassland that may be used as a feeding site for Qualifying Interest species. As part of a further information response an updated Screening for Appropriate Assessment noted these three SPAs were designated for overwintering water birds. The sites' green area was not listed as being within the network of inland feeding sites identified for Light-bellied Brent Geese as set out in 2017 and 2019 studies. Notwithstanding that it is not included on the list, the Screening for Appropriate Assessment noted the possibility that some Qualifying Interest species could temporarily use the green as a winter-feeding ground e.g. black-headed gull, oystercatcher, curlew. Due to statutory time limits the planning authority refused permission for the reason as set out as clarification of further information could not be sought. As part of the grounds of appeal a 'Wintering Birds Survey' carried out between 23rd January and 5th February and other documentation was submitted.

- 7.3.3. The site is not within or immediately adjacent to a Natura 2000 site. The closest Natura 2000 site is approx. 1.6km to the north (South Dublin Bay and River Tolka Estuary SPA and South Dublin Bay SAC). The following Natura 2000 sites are also within approx. 15km of the site: Dalkey Islands SPA, Rockabill to Dalkey Island SAC, North Bull Island SPA, North Dublin Bay SAC, Howth Head SAC, Howth Head Coast SPA,

Ireland's Eye SPA, Ireland's Eye SAC, Baldoyle Bay SAC, Baldoyle Bay SPA, Glenasmole Valley SAC, Wicklow Mountains SAC, Wicklow Mountains SPA, Knocksink Wood SAC, Ballyman Glen SAC and Bray Head SAC.

#### Preliminary Screening

- 7.3.4. There is no watercourse on site or in close proximity to the site boundaries. The closest watercourse is approx. 400 metres from the site and so there is no hydrological source-pathway-receptor link between the site or the proposed development to any Natura 2000 site. Therefore, I am satisfied that the potential for impacts on SACs can be excluded at the preliminary stage due to the separation distance from these sites and the absence of an ecological and hydrological pathway.
- 7.3.5. Qualifying Interest bird species associated with Dalkey Islands SPA, Howth Head Coast SPA, Ireland's Eye SPA and Wicklow Mountains SPA can also be excluded at preliminary stage because of the separation distances (Dalkey Islands SPA being the closest approx. 4.5km to the east) and their Qualifying Interests do not include overwintering water birds.
- 7.3.6. Stage 1 appropriate assessment screening shall be carried out on the three remaining Natura 2000 sites within the 15km radius of the site.

#### Stage 1 Screening

- 7.3.7. Having regard to the scale of the application, the removal of a grassed area that could be used as a feeding ground for relevant Qualifying Interest species and the planning authority decision I consider the impact of the development on overwintering birds associated with three SPAs should be subject to Stage 1 screening. The following sites have relevant Conservation Objectives and Qualifying Interests:

South Dublin Bay and River Tolka Estuary SPA (004024) – approx. 1.6km to the north
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Conservation Objective – To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.
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Qualifying Interests – Light-bellied Brent Goose ( <i>Branta bernicla hrota</i> ) [A046] / Oystercatcher ( <i>Haematopus ostralegus</i> ) [A130] / Ringed Plover ( <i>Charadrius hiaticula</i> ) [A137] / Grey Plover ( <i>Pluvialis squatarola</i> ) [A141] / Knot ( <i>Calidris canutus</i> )
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[A143] / Sanderling (*Calidris alba*) [A144] / Dunlin (*Calidris alpina*) [A149] / Bar-tailed Godwit (*Limosa lapponica*) [A157] / Redshank (*Tringa totanus*) [A162] / Black-headed Gull (*Chroicocephalus ridibundus*) [A179] / Roseate Tern (*Sterna dougallii*) [A192] / Common Tern (*Sterna hirundo*) [A193] / Arctic Tern (*Sterna paradisaea*) [A194] / Wetland and Waterbirds [A999]

North Bull Island SPA (004006) – approx. 7.1km to the north

Conservation Objective – To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.

Qualifying Interests – Light-bellied Brent Goose (*Branta bernicla hrota*) [A046] / Shelduck (*Tadorna tadorna*) [A048] / Teal (*Anas crecca*) [A052] / Pintail (*Anas acuta*) [A054] / Shoveler (*Anas clypeata*) [A056] / Oystercatcher (*Haematopus ostralegus*) [A130] / Golden Plover (*Pluvialis apricaria*) [A140] / Grey Plover (*Pluvialis squatarola*) [A141] / Knot (*Calidris canutus*) [A143] / Sanderling (*Calidris alba*) [A144] / Dunlin (*Calidris alpina*) [A149] / Black-tailed Godwit (*Limosa limosa*) [A156] / Bar-tailed Godwit (*Limosa lapponica*) [A157] / Curlew (*Numenius arquata*) [A160] / Redshank (*Tringa totanus*) [A162] / Turnstone (*Arenaria interpres*) [A169] / Black-headed Gull (*Chroicocephalus ridibundus*) [A179] / Wetland and Waterbirds [A999]

Baldoyle Bay SPA (004016) – approx. 12.6km to the north

Conservation Objective – To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.

Qualifying Interests – Light-bellied Brent Goose (*Branta bernicla hrota*) [A046] / Shelduck (*Tadorna tadorna*) [A048] / Ringed Plover (*Charadrius hiaticula*) [A137] / Golden Plover (*Pluvialis apricaria*) [A140] / Grey Plover (*Pluvialis squatarola*) [A141] / Bar-tailed Godwit (*Limosa lapponica*) [A157] / Wetland and Waterbirds [A999]

7.3.6 The potential for likely significant effects on South Dublin Bay and River Tolka SPA, North Bull Island SPA and Baldoyle Bay SPA:



- There is nothing unique or particularly challenging about the proposed urban development, either at the construction or operational phases.
- The development would result in the loss of approx. 548sqm of grassland which, in the context of the campus is limited, and in the context of the wider area is negligible.
- The distances to the relevant Natura 2000 sites (South Dublin Bay and River Tolka Estuary SPA approx. 1.6km to the north, North Bull Island SPA approx. 7.1km to the north and Baldoyle Bay SPA approx. 12.6km to the north) are significant, particularly in the case of North Bull Island and Baldoyle Bay.
- The 'Wintering Bird Survey' submitted with the grounds of appeal indicates that only one species of Qualifying Interest was noted as using the site (Black-headed Gull; a peak count of 28 no. on two separate days). Although carried out over a short period between January 23<sup>rd</sup> and February 5<sup>th</sup> the 'Screening for Appropriate Assessment' submitted with the grounds of appeal considers this an optimum time for such a survey. Light-bellied Brent geese utilise their more natural food source of seagrass at coastal sites upon arriving in early winter before moving to inland grass sites, peaking in abundance between January and February when these resources begin to diminish, as evidenced in previous studies. No Light-Bellied Brent Geese were noted nor were any droppings noted.
- Documentation has been submitted from those charged with the management of the grounds that Brent geese have not been noticed or observed on the campus grounds.

7.3.7 I am satisfied that adequate, relevant scientific evidence has been provided and I am further satisfied that the loss of a limited green space area will not impact on the Conservation Objective or Qualifying Interests of the relevant SPAs. I consider that the proposed development, individually or in combination with other plans or projects, would not be likely to have a significant effect on the South Dublin Bay and River Tolka Estuary, North Bull Island or Baldoyle Bay SPAs.

#### AA Stage 1 Screening Conclusion

7.3.8 It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be

likely to have a significant effect on South Dublin Bay and River Tolka Estuary SPA (004024), North Bull Island SPA (004006) and Baldoyle Bay SPA (004016), or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

## **8 Recommendation**

I recommend that planning permission should be granted subject to conditions, for the reasons and considerations as set out below.

## **9 Reasons and Considerations**

Having regard to the provisions of the Dun Laoghaire Rathdown County Development Plan 2016-2022 and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of the land use zoning objective of the area, would be acceptable in terms of design and siting and would have no significant effect on any Natura 2000 site, either individually or in combination with any other plan or project. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **10 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 10.12.2019, and by the further plans and particulars received by An Bord Pleanála on 10.02.2020, 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. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of the visual amenities of the area.

3. Details of all signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of the amenities of the area and visual amenity.

4. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

5. Prior to commencement of development, the applicant or developer shall enter into a water and/or waste water connection agreement(s) with Irish Water.

**Reason:** In the interest of public health.

6. (a) Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 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.

(b) The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development including traffic management, noise management measures and off-site disposal of construction waste.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

7. 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) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,

(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and

(c) 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.

**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.

8. Public lighting shall be provided in accordance with a scheme, 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.

9. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

**Reason:** To protect the residential amenities of property in the vicinity and the visual amenities of the area.

10. The landscaping scheme as submitted to the planning authority shall be carried out within the first planting season following substantial completion of external construction works.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interest of visual amenity.

11. (a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.

(b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work shall be carried out within the area enclosed by the fencing and, in particular, there shall be

no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.

**Reason:** To protect trees and planting during the construction period in the interest of visual amenity.

12. All service cables associated with the proposed development (such as electrical and telecommunications) shall be located underground.

**Reason:** In the interests of visual and residential amenity.

13. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning authority, to secure the protection of the trees on site and to make good any damage caused during the construction period, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on the site or the replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of three years from the substantial completion of the development with others of similar size and species. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To secure the protection of the trees on the site.

14. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefitting development in the area of the planning authority that is provided or intended to be 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 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 the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of 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 48 of the Act be applied to the permission.

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Anthony Kelly

Planning Inspector

26.05.2020