



An  
Bord  
Pleanála

## Inspector's Report 306648-20

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<b>Development</b>	Demolition of 10 no. buildings & removal of temporary structures for use of site as a multi-functional storage yard & to facilitate wider infrastructural upgrades to provide additional capacity in the port.
<b>Location</b>	Terminal 4 North Lands, Dublin Port, Dublin 1.
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	4483/19
<b>Applicant(s)</b>	Dublin Port Company
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant permission subject to conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Futac Services Limited
<b>Observer(s)</b>	Transport Infrastructure Ireland
<b>Date of Site Inspection</b>	15 <sup>th</sup> June 2020

**Inspector**

Louise Treacy

## 1.0 Site Location and Description

- 1.1. The subject site has a stated area of 95,200 m<sup>2</sup> and is located at Terminal 4 North Lands, Dublin Port, Dublin 1. The site is bounded by Promenade Road to the north, Bond Road to the north-west, Tolka Quay Road to the south and by adjoining port lands to the east and west.
- 1.2. The site is used by a number of port operators for port-related activities and is primarily characterised by open storage yards, warehouse/industrial style buildings, storage facilities, offices and other associated structures.
- 1.3. A Seveso II site (Topaz Terminal 1) is located to the approx. 60 m to the south-east of the southern boundary of the application site.
- 1.4. Building nos. 1 – 7 are free-standing structures which are arranged across the southern portion of the application site. These buildings are accessed via Tolka Quay Road which extends along the southern site boundary.
- 1.5. Building nos. 8 – 10 are generally arranged in a U-shaped configuration on the northern portion of the site. Access to these buildings is via Promenade Road at the northern site boundary.

## 2.0 Proposed Development

- 2.1. The proposed development consists of the demolition of 10 no. redundant buildings (c. 6,830 m<sup>2</sup>) and the removal of temporary structures including portacabins and general site clearance (an existing substation and pump house will remain in situ) to optimise the use of the site as a multi-functional storage yard (primarily for Heavy Goods Vehicles) and facilitate wider infrastructural upgrades to provide additional capacity within the port.
- 2.2. The proposed development also includes:
  - construction of vehicular check-in booths (c. 30 m<sup>2</sup>);
  - an open-air blockwork electrical enclosure;
  - amendments to boundary treatments including provision of 4m high security fencing (including 1.5m high retaining walls) on the northern, eastern and southern boundaries;

- 4m high security fencing fixed to the existing masonry wall along the western boundary with Bond Road;
- 3 no. new 12m wide automatic vehicular sliding gates and rebuilding of 1 no. existing 9m wide automatic vehicular sliding gate;
- provision of 14 no. high mast lighting columns (30m high) and 54 no. perimeter lighting columns (12m high);
- installation of 9 no. CCTV columns (18m high);
- installation of new pavement, underground drainage, attenuation, interceptors, water services and electrical infrastructure;
- installation of new wash bay and fuel spill areas;
- installation of pedestrian barriers; and,
- all associated site and development works.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

- 3.1.1. Notification of the Decision to Grant Planning Permission subject to 9 no. conditions issued on 21<sup>st</sup> January 2020.
- 3.1.2. Condition no. 6 requires that the development be carried out in accordance with the recommendations of the Transport Statement which accompanied the application.
- 3.1.3. All other conditions are generally standard in nature.

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

- 3.2.1. **Planning Reports**
- 3.2.2. Basis of Planning Authority's decision.
- 3.2.3. **Other Technical Reports**
- 3.2.4. **City Archaeologist:** No objection subject to conditions.
- 3.2.5. **Transportation Planning Division:** No objection subject to conditions.

3.2.6. **Engineering Department Drainage Division:** No objection subject to conditions.

### 3.3. **Prescribed Bodies**

3.4. **Transport Infrastructure Ireland:** No objection subject to conditions.

3.5. **Minister for Arts, Heritage, Regional, Rural and Gaeltacht Affairs:** None received.

3.6. **Irish Water:** None received.

3.7. **Irish Rail:** None received.

3.8. **Health & Safety Authority:** None received.

3.9. **The Heritage Council:** None received.

3.10. **An Taisce:** None received.

3.11. **Department of Culture, Heritage and the Gaeltacht:** None received.

### 3.12. **Third Party Observations**

3.13. 1 no. third party submission was made by BPS Planning Consultants on behalf of Futac Services Ltd, Tolka Quay Road, Dublin 1. The issues raised in the submission can be summarised as follows:

(1) The subject site includes lands which are leased by the observer and contain an existing, operational container business. This lease is valid for another 47 years, and as such, the proposed development could not be implemented within the lifetime of a permission;

(2) No consultation with lease holder prior to application lodgement;

(3) Insufficient consideration of observer's business in the planning application documentation and assessments; and,

(4) Planning application splitting.

## 4.0 **Planning History**

4.1. **Planning Authority Reg. Ref. 2567/16:** Planning permission granted on 4<sup>th</sup> July 2016 for alterations to previously permitted developments (Reg. Refs. 2310/15 and 3021/15) comprising 4m high fencing in place of demolished walls and fencing

fronting Alexandra Road, relocation and widening of gates fronting Alexandra Road, 2 no. project notice structures, 6 no. CCTV structures, and all associated site works.

- 4.2. A small section of the south-western portion of the current application site is located within the boundary of this planning application.
- 4.3. **Planning Authority Reg. Ref. 3021/15:** Planning permission granted on 21<sup>st</sup> September 2015 for the demolition of 2 no. warehouses (1,335 m<sup>2</sup>), the erection of 4m high boundary fencing fronting Tolka Quay Road and new fencing fixed to existing boundary wall fronting East Wall Road, the incorporation of the site into the adjacent site located to the east and south, the construction of new reinforced concrete surfacing and new replacement drainage and water system and associated ancillary works.
- 4.4. **Planning Authority Reg. Ref. 2310/15:** Planning permission granted on 8<sup>th</sup> July 2015 for new fencing fixed to existing boundary walls, new 4 m high fences in place of existing, new replacement gates, 16 no. 30 m high lighting masts and luminaries, the incorporation of 3 Branch Road South (private road) into the adjoining quayside goods handling area, new reinforced concrete surfacing and new replacement drainage and water supply system and associated ancillary works.
- 4.5. **Planning Authority Reg. Ref. 3831/00:** Planning permission granted on 30<sup>th</sup> April 2001 for the retention and completion of a new storage building, concrete dock leveller and fencing at existing FSK premises.
- 4.6. **Planning Authority Reg. Ref. 1067/97:** Planning permission granted on 14<sup>th</sup> August 1997 for single storey office extension at rear of existing offices.
- 4.7. **Adjoining Lands to South**
- 4.8. **Planning Authority Reg. Ref. 4521/18:** Planning permission granted on 10<sup>th</sup> May 2019 for a 150 m long, 13 m wide two lane vehicular bridge with access ramps over Alexandra Road connecting the CDL yard and Terminal 4, associated lighting columns and all associated site development works.
- 4.9. The development which is the subject of the current appeal case will tie in with the permitted development of the central and southern portions of Terminal 4, including the permitted vehicular bridge over Alexandra Road.

#### 4.10. **Adjoining Lands to North**

4.11. **Planning Authority Reg. Ref. 3595/04:** Planning permission granted on 5<sup>th</sup> October 2004 for the refurbishment, reconstruction and widening of Promenade Road between Bond Road and Bond Drive from a single carriageway to a dual carriageway with associated works including the installation of new security posts, new street lighting and a concrete safety barrier central median.

4.12. The northern boundary of the current application site overlaps the boundary of this planning application.

#### 4.13. **Adjoining Lands to West**

4.14. **Planning Authority Reg. Ref. 3620/16:** Planning permission granted on 6<sup>th</sup> December 2016 for the demolition of 7 no. redundant buildings and removal of all structural and infrastructural elements to stores or disposal off site.

4.15. **Planning Authority Reg. Ref. 3649/17:** Planning permission granted on 8<sup>th</sup> January 2018 for the removal of all internal structural and infrastructural elements, a change of use from existing ancillary staff car park to concrete paved multi-purpose yard designed to facilitate established core port activities, new surface treatment including underground drainage, attenuation, water services and electricity infrastructure, new lighting, security fencing and rolling access gate and all associated site works.

4.16. **Planning Authority Reg. Ref. 4507/18:** Planning permission granted on 25<sup>th</sup> April 2019 for a temporary 5-year period for facilities to cater for cruise ship operations.

## 5.0 **Policy and Context**

### 5.1. **Dublin City Development Plan 2016-2022**

### 5.2. **Land Use Zoning**

5.2.1. The site is subject to land use zoning “Z7” (Employment/Heavy) which has the objective “to provide for the protection and creation of industrial uses and facilitate opportunities for employment creation”.

5.2.2. Section 14.8.7 of the development plan confirms that “heavy vehicle park” and “storage depot (open)” are permissible uses on Z7 zoned lands.

5.2.3. **Dublin Port**

5.2.4. Section 4.5.12 of the development plan states that Dublin City Council fully supports and recognises the important national and regional role of Dublin Port in the economic life of the region and the consequent need in economic competitiveness and employment terms to facilitate port activities.

5.2.5. **Policy SC9:** To support and recognise the important national and regional role of Dublin Port in the economic life of the city and region and to facilitate port activities and development, having regard to the Dublin Port Masterplan 2012-2040.

5.2.6. **Policy SI28:** To have regard to the provisions of the Major Accidents Directive (2012/18/EU), relating to the control of major accident hazards involving dangerous substances and its objectives are to prevent major accidents and limit the consequences of such accidents. Dublin City Council will have regard to the provisions of the directive and recommendations of the HSA in the assessment of all planning applications located on or impacted by such sites.

5.2.7. **Policy CEE23(iii):** To recognise that Dublin Port is a key economic resource, including for cruise tourism, and to have regard to the policies and objectives of the Dublin Port Masterplan.

5.2.8. In assessing proposals for the Dublin Port area, Dublin City Council will have regard to the following:

- Recognition of the important role of Dublin Port in the economic life of the city and the region and the consequent need in economic and employment terms to facilitate port development;
- The periphery of the port area facing residential areas shall be designed and landscaped to minimise the impact of its industrial character;
- The impact on nature conservation, recreation and amenity use, and other environmental considerations, including having regard to the designation of Dublin Bay as a UNESCO biosphere and other environmental designations such as Special Areas of Conservation (SAC) and Special Protection Area (SPA);
- The protection of the amenities of residential and commercial uses in adjoining areas;



- Design criteria including landscaping, finishes, signage and site layout;
- Facilitating plans to make Dublin a ‘home port’ for cruise tourism, with complementary cruise tourism facilities in the port and wider city/region;

### 5.3. **Dublin Port Masterplan 2040 (reviewed 2018)**

- 5.3.1. The Dublin Port Masterplan presents a vision for future operations at the port to 2040 and examines how the existing land use can be optimised for merchandise trade purposes. Figure 3 of the Masterplan confirms that the application site (annotated as area B) is identified as a Ro-Ro freight terminal which is planned to provide additional capacity for Terminal 4.

### 5.4. **Natural Heritage Designations**

- 5.4.1. The application site is located 8.1 km from Howth Head SAC (Site Code 000202); 2.4 km from North Dublin Bay SAC (Site Code 000206); 1.8km from South Dublin Bay SAC (Site Code 000210); 8.4km from Rockabill to Dalkey Island SAC (Site Code 003000); 350m from South Dublin Bay and River Tolka Estuary SPA (Site Code 004024); 2.4km from North Bull Island SPA (Site Code 004006); and, 10.8km from Howth Head Coast SPA (Site Code 004113).

### 5.5. **EIA – Preliminary Examination**

- 5.5.1. Schedule 5, Part 2 (10) (b) (iv) of the Planning and Development Regulations, 2001 (as amended) confirms that urban development projects which involve an area of greater than 10 hectares (outside of a business district) are subject to EIA. The subject site has an area of 9.52 hectares and as such, is sub-threshold for the purposes of EIA.
- 5.5.2. Having regard to existing developed nature of the site for port-related activities and the nature and scale of the proposed development, it is considered that the proposed development would not result in a real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. An appeal has been lodged by BPS Planning Consultants on behalf of Futac Services Ltd., the grounds of which can be summarised as follows:

- The applicant's proposals pertaining to terminal 4 have now been split into 2 no. planning applications. Planning application splitting concerns arise in relation to the current appeal case and Dublin City Council Planning Reg. Ref. 4521/18;
- The appellant's existing container business (Futac Services Ltd.) is located within the application site and comprises a large yard used for the repair, maintenance, inspection and storage of shipping containers. A term of 47 years remains on the appellant's lease, and as such, the proposed development cannot be implemented, and planning permission should be refused on that basis;
- No consultation was undertaken prior to application lodgement, with no consent provided by the appellant to undertake the proposed development;
- An Bord Pleanála should request Further Information from the applicant to confirm they have sufficient legal interest to make this planning application and/or to complete the proposed development within the lifetime of a planning permission;
- Due consideration has not been given to the appellant's operational business and associated traffic movements in the planning application documentation, including the COMAH Land Use Planning Assessment which excludes the appellant's site and the Transportation Statement which fails to measure or take into account traffic movements into and out of the appellant's site;
- The proposed development is contrary to policy SI 28 of the development plan given that the appellant's site has not been considered in the COMAH assessment;
- The planning application does not include any proposals for the relocation of the appellant's business elsewhere within the port;

- Access and egress to the appellant's business would be severely hampered by the works arising on foot of the proposed development.

## 6.2. Applicant Response

6.2.1. A response was received from RPS on behalf of the applicant on 13<sup>th</sup> March 2020 which can be summarised as follows:

- The planning system is not designed as a mechanism to resolve disputes about title to land or premise or rights over land. In this instance, there is no ambiguity regarding ownership of the subject lands as Dublin Port Company is the owner of the entire application site and as such, is legally entitled to make this planning application;
- The provisions of Section 34(13) of the Planning and Development Act, 2000 (as amended) are acknowledged, with the concerns raised by the appellant in relation to the applicant's ability to carry out the development being immaterial to the consideration of this appeal;
- The Dublin Port Masterplan 2040 (as reviewed in 2018) identifies the subject site as lands for Roll On-Roll Off (RoRo) freight terminal. The proposed development is wholly consistent with the Masterplan and the role and function of Dublin Port as a key transport node. Thus, the appellant's assertion that the proposed development is contrary to the operations of the port as a whole are entirely unsubstantiated;
- The proposed development accords fully with the land use zoning and wider development plan policies supporting the development of Dublin Port, including policy SC9 which specifically supports the Dublin Port Masterplan;
- The COMAH report which was submitted as part of the application is a comprehensive and high-quality assessment, which considers the development of Terminal 4 at a strategic level, and as such, is not specifically focused on the subject development. The leaseholder's lands are located in the north-west of the subject site, at the furthest point from the neighbouring Seveso site. The specific inclusion of the leasehold lands within the assessment, would not alter its findings;

- The proposed development does not introduce any new hazards or sensitive receptors and fully complies with all pertinent safety regulations and legislation, with no objections raised by the HSA;
- The Transport Statement which accompanies the application notes that the traffic impacts of the proposed development are minor and a “transport statement” is the appropriate approach to analysing and outlining these impacts. No objections to this approach have been raised by Transport Infrastructure Ireland or Dublin City Council’s Roads, Streets and Traffic Department;
- Vehicular trips to and from the subject site will be existing trips, some of which will have been redistributed from internal port areas. Therefore, no new trips will result on the external road network.

### 6.3. **Planning Authority Response**

6.3.1. None received.

### 6.4. **Observations**

6.5. **Transport Infrastructure Ireland:** An observation was received from Transport Infrastructure Ireland on 24<sup>th</sup> February 2020. No new issues were raised.

### 6.6. **Further Responses**

6.6.1. None.

## 7.0 **Assessment**

7.1. I am satisfied that the main issues for consideration in this case include:

- Legal Basis for Planning Application
- COMAH Assessment
- Transportation Assessment
- Appropriate Assessment

7.2. Each of these issues is addressed in turn below.

### **7.3. Legal Basis for Planning Application**

- 7.3.1. A significant portion of the appeal submission is concerned with the applicant's ability to make this planning application and to implement the development in the event planning permission is granted. The appellant holds a 47-year lease over lands located in the north-west corner of the application site. The appellant submits that they have not been consulted regarding the impact of the proposed development on their business operations or the relocation of their business elsewhere within the port. The appellant does not consent to this planning application and considers that permission should be refused for the proposed development.
- 7.3.2. In the event An Bord Pleanála grants planning permission in this instance, I note that the issues which may arise in implementing the proposed development and relocating the appellant's business, are legal matters which are not open for adjudication by the Board. In this regard, I draw the Board's attention to S. 34 (13) of the Planning and Development Act, 2000 (as amended) which states that a person shall not be entitled solely by reason of a permission under this section to carry out any development.
- 7.3.3. Notwithstanding the foregoing, I note from a review of the enclosed planning application form that Dublin Port Company (the applicant) is the freehold owner of the site. As such, I am satisfied that the applicant has sufficient legal interest to make this planning application.

### **7.4. COMAH Assessment**

- 7.4.1. The appellant contends that the proposed development is contrary to policy SI 28 of the development plan given that the land on which their business operates has not been considered in the submitted COMAH assessment.
- 7.4.2. In considering the foregoing, I note that the COMAH assessment was prepared in relation to a previously planned development for the wider Terminal 4 lands. The red line boundary of this development is illustrated in appendix 1 of the report and I note that it is significantly larger than the current application site. It also excludes the north-western portion of the current application site, generally comprising the appellant's lands and building nos. 8, 9 and 10 (as identified on Drawing No. 200-3 Existing Site Layout).

7.4.3. The applicant's agent submits that the COMAH assessment considers the development of Terminal 4 at a strategic level, and as such, is not specifically focused on the subject development. The applicant's agent also notes that the appellant's lands are located in the northwest corner of the application site, at the furthest point from the nearest Seveso site (Topaz Terminal 1). It is submitted that the inclusion of the appellant's lands within the assessment would not alter its findings; that the proposed development does not introduce any new hazards or sensitive receptors; and, that it fully complies with all pertinent safety regulations and legislation.

7.4.4. In considering the issues which have been raised, I acknowledge that there is a significant degree of overlap between the lands to which the COMAH assessment relates and the current appeal site. I also note that the appellant's lands are located at the further point from the nearest Seveso II site (Topaz Terminal 1) as highlighted by the applicant's agent and that a more intensive form of development has been assessed in the COMAH report, which included a new Terminal 4 administration building on Tolka Quay Road. The results of this assessment concluded that the development of Terminal 4 within Dublin Port as proposed, would satisfy the Health and Safety Authority's (HSA) criteria under its land use planning guidelines.

7.5. I also note that Dublin City Council invited submissions on this application from the HSA and that no response was received. On the basis of the foregoing, I am satisfied that the development would not be contrary to policy SI28 of the development plan as asserted by the appellant. As such, I consider that this this point of appeal is unfounded.

#### **7.6. Transportation Assessment**

7.6.1. The appellant contends that the applicant's Transportation Statement fails to consider the traffic movements into and out of their business, which would be severely hampered by the works arising on foot of the proposed development.

7.6.2. The Transportation Statement confirms that the proposed development will not generate any additional development traffic on the road network but will redistribute existing port traffic from internal roads in the port into a dedicated storage area. As such, there will be no negative traffic impact on the internal or external road network. The report concludes that the proposed development will have a positive impact on

Dublin Port and the surrounding area as it will negate the queuing of Ro-Ro traffic on the internal road network, which will in turn reduce congestion on the public road network.

- 7.6.3. In my opinion, the Transportation Statement which accompanies the application is sufficient. In this regard I note that the Transportation Planning Division of Dublin City Council and Transport Infrastructure Ireland had no objections to the proposed development subject to conditions. While the appellant has raised concerns regarding the impact of the proposed development on the operation of his business, in my opinion, the applicant's ability to implement the development is a legal matter which is not open for consideration by the Board. In this regard, I draw the Board's attention to S. 34 (13) of the Act as previously discussed in section 7.3.2 of this report above.

## **7.7. Appropriate Assessment**

- 7.7.1. An AA Screening Report as prepared by RPS accompanies the application. It is noted that the proposed development is not directly connected with or necessary to the management of any European site.
- 7.7.2. The report notes that once implemented, the proposed development will result in no perceptible change in the operational use of the lands. No new drainage outfalls to coastal waterbodies are proposed as part of the new development. Storm and surface water from the site will drain into the existing surface water drainage network of Dublin Port Estate as per the hardstanding areas and buildings of the existing site. There will be no new or additional emissions to the marine environment as a result of the proposed development. The proposed development will result in no significant change in the operational use of the lands or which presents a new or increased risk to maintaining any conservation objective of any of the identified European sites. It is submitted that the possibility of likely significant effects as a result of the operation of the proposed development does not arise.
- 7.7.3. During the demolition and construction phase, there is no potential for significant water quality or downstream wetland habitat deterioration effects on the qualifying feature of South Dublin Bay and River Tolka Estuary SPA or any more distant European site. It is submitted that the possibility of likely significant effects can be excluded at screening stage.

- 7.7.4. **Howth Head SAC (Site Code 000202)** is located 8.1 km from the subject site. The conservation objectives for this site are: (1) to maintain the favourable conservation condition of vegetated sea cliffs of the Atlantic and Baltic coasts in Howth Head SAC; and (2) to maintain the favourable conservation condition of European dry heaths in Howth Head SAC. The qualifying interests include vegetated sea cliffs of the Atlantic and Baltic coasts (1230) and European dry heaths (4030).
- 7.7.5. The screening assessment concluded that the possibility of likely significant habitat loss effects, water quality and habitat deterioration effects, and noise and disturbance effects can be excluded for this European site. The screening assessment also concluded that the proposed development, individually or in combination with other plans and projects, is not likely to have a significant effect on Howth Head SAC.
- 7.7.6. It is reasonable to conclude 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 Howth Head SAC (Site Code 000202) and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required in relation to this European site.
- 7.7.7. **North Dublin Bay SAC (Site Code 000206)** is located 2.4 km from the subject site. The conservation objectives for this site are: (1) to maintain the favourable conservation condition of mudflats and sandflats not covered by seawater at low tide in North Dublin Bay SAC; (2) to restore the favourable conservation condition of annual vegetation of drift lines in North Dublin Bay SAC; (3) to restore the favourable conservation condition of *Salicornia* and other annuals colonizing mud and sand in North Dublin Bay SAC; (4) to maintain the favourable conservation condition of Atlantic salt meadows (*Glauco-Puccinellietalia maritimae*) in North Dublin Bay SAC; (5) to maintain the favourable conservation condition of Mediterranean salt meadows (*Juncetalia maritimi*) in North Dublin Bay SAC; (6) to restore the favourable conservation condition of embryonic shifting dunes in North Dublin Bay SAC; (7) to restore the favourable conservation condition of shifting dunes along the shoreline with *Ammophila arenaria* ('white dunes') in North Dublin Bay SAC; (8) to restore the favourable conservation condition of fixed coastal dunes with herbaceous vegetation ('grey dunes') in North Dublin Bay SAC; (9) to restore the favourable conservation



condition of humid dune slacks in North Dublin Bay SAC; and, (10) to maintain the favourable conservation condition of Petalwort in North Dublin Bay SAC.

- 7.8. The qualifying interests include; mudflats and sandflats not covered by seawater at low tide (1140), annual vegetation of drift lines (1210), salicornia and other annuals colonising mud and sand (1310); atlantic salt meadows (*Glauco-Puccinellietalia maritimae*) (1330), mediterranean salt meadows (*Juncetalia maritimi*) (1410), embryonic shifting dunes (2110), shifting dunes along the shoreline with *Ammophila arenaria* (white dunes) (2120), fixed coastal dunes with herbaceous vegetation (grey dunes) (2130), humid dune slacks (2190), and petalophyllum ralfsii (Petalwort) (1395).
- 7.8.1. The screening assessment concluded that the possibility of likely significant habitat loss effects, water quality and habitat deterioration effects, and noise and disturbance effects can be excluded for this European site. The screening assessment also concluded that the proposed development, individually or in combination with other plans and projects, is not likely to have a significant effect on North Dublin Bay SAC.
- 7.8.2. It is reasonable to conclude 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 North Dublin Bay SAC (Site Code 000206) and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required in relation to this European site.
- 7.8.3. **South Dublin Bay SAC (Site Code 000210)** is located 1.8km from the subject site. The conservation objectives for this site is to maintain the favourable conservation condition of mudflats and sandflats not covered by seawater at low tide in South Dublin Bay SAC. The qualifying interest is mudflats and sandflats not covered by seawater at low tide (1140).
- 7.8.4. The screening assessment concluded that the possibility of likely significant habitat loss effects, water quality and habitat deterioration effects, and noise and disturbance effects can be excluded for this European site. The screening assessment also concluded that the proposed development, individually or in

combination with other plans and projects, is not likely to have a significant effect on South Dublin Bay SAC.

- 7.8.5. It is reasonable to conclude 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 SAC (Site Code 000210) and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required in relation to this European site.
- 7.8.6. **Rockabill to Dalkey Island SAC (Site Code 003000)** is located 8.4 km from the subject site. The conservation objectives for this site are: (1) to maintain the favourable conservation condition of Reefs in Rockabill to Dalkey Island SAC; and, (2) to maintain the favourable conservation condition of Harbour porpoise in Rockabill to Dalkey Island SAC. The qualifying interests for this SAC include reefs (1170) and harbour porpoise (*Phocoena phocoena*) (1351).
- 7.8.7. The screening assessment concluded that the possibility of likely significant habitat loss effects, water quality and habitat deterioration effects, and noise and disturbance effects can be excluded for this European site. The screening assessment also concluded that the proposed development, individually or in combination with other plans and projects, is not likely to have a significant effect on Rockabill to Dalkey Island SAC.
- 7.8.8. It is reasonable to conclude 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 Rockabill to Dalkey Island SAC (Site Code 003000) and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required in relation to this European site.
- 7.8.9. **South Dublin Bay and River Tolka Estuary SPA (Site Code 004024)** is located 350 m from the subject site. The conservation objectives for this site are: (1) to maintain the favourable conservation condition of Light-bellied Brent Goose in South Dublin Bay and River Tolka Estuary SPA; (2) to maintain the favourable conservation condition of Oystercatcher in South Dublin Bay and River Tolka Estuary SPA; (3) to maintain the favourable conservation condition of Ringed Plover in South Dublin Bay

and River Tolka Estuary SPA; (4) to maintain the favourable conservation condition of Knot in South Dublin Bay and River Tolka Estuary SPA; (5) to maintain the favourable conservation condition of Sanderling in South Dublin Bay and River Tolka Estuary SPA; (6) to maintain the favourable conservation condition of Dunlin in South Dublin Bay and River Tolka Estuary SPA; (7) to maintain the favourable conservation condition of Bar-tailed Godwit in South Dublin Bay and River Tolka Estuary SPA; (8) to maintain the favourable conservation condition of Redshank in South Dublin Bay and River Tolka Estuary SPA; (9) to maintain the favourable conservation condition of Black-headed Gull in South Dublin Bay and River Tolka Estuary SPA; (10) to maintain the favourable conservation condition of Roseate Tern in South Dublin Bay and River Tolka Estuary SPA; (11) to maintain the favourable conservation condition of Common Tern in South Dublin Bay and River Tolka Estuary SPA; (12) to maintain the favourable conservation condition of Arctic Tern in South Dublin Bay and River Tolka Estuary SPA; and, (13) to maintain the favourable conservation condition of the wetland habitat in South Dublin Bay and River Tolka Estuary SPA as a resource for the regularly occurring migratory waterbirds that utilise it.

7.8.10. The qualifying interests for this SPA include Light-bellied Brent Goose (*Branta bernicla hrota*) (A046); Oystercatcher (*Haematopus ostralegus*) (A130); Ringed Plover (*Charadrius hiaticula*) (A137); Grey Plover (*Pluvialis squatarola*) (A141) Knot (*Calidris canutus*) (A143); Sanderling (*Calidris alba*) (A144); Dunlin (*Calidris alpina alpina*) (A149); Bar-tailed Godwit (*Limosa lapponica*) (A157); Redshank (*Tringa tetanus*) (A162); Black-headed Gull (*Chroicocephalus ridibundus*) (A179); Roseate Tern (*Sterna dougallii*) (A192); Common Tern (*Sterna hirundo*) (A193); Arctic Tern (*Sterna paradisaea*) (A194); and, Wetlands (A999).

7.8.11. The screening assessment concluded that the possibility of likely significant habitat loss effects, water quality and habitat deterioration effects, and noise and disturbance effects can be excluded for this European site. The screening assessment also concluded that the proposed development, individually or in combination with other plans and projects, is not likely to have a significant effect on South Dublin Bay and River Tolka Estuary SPA.

7.8.12. It is reasonable to conclude 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 (Site Code 004024) and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required in relation to this European site.

7.8.13. **North Bull Island SPA (Site Code 004006)** is located 2.4 km from the subject site. The conservation objectives for this site are: (1) to maintain the favourable conservation condition of Light-bellied Brent Goose in North Bull Island SPA; (2) to maintain the favourable conservation condition of Shelduck in North Bull Island SPA; (3) to maintain the favourable conservation condition of Teal in North Bull Island SPA; (4) to maintain the favourable conservation condition of Pintail in North Bull Island SPA; (5) to maintain the favourable conservation condition of Shoveler in North Bull Island SPA; (6) to maintain the favourable conservation condition of Oystercatcher in North Bull Island SPA; (7) to maintain the favourable conservation condition of Golden Plover in North Bull Island SPA; (8) to maintain the favourable conservation condition of Grey Plover in North Bull Island SPA; (9) to maintain the favourable conservation condition of Knot in North Bull Island SPA; (10) to maintain the favourable conservation condition of Sanderling in North Bull Island SPA; (11) to maintain the favourable conservation condition of Dunlin in North Bull Island SPA; (12) to maintain the favourable conservation condition of Black-tailed Godwit in North Bull Island SPA; (13) to maintain the favourable conservation condition of Bar-tailed Godwit in North Bull Island SPA; (14) to maintain the favourable conservation condition of Curlew in North Bull Island SPA; (15) to maintain the favourable conservation condition of Redshank in North Bull Island SPA; (16) to maintain the favourable conservation condition of Turnstone in North Bull Island SPA; (17) to maintain the favourable conservation condition of Black-headed Gull in North Bull Island SPA; and, (18) to maintain the favourable conservation condition of the wetland habitat in North Bull Island SPA as a resource for the regularly occurring migratory water birds that utilise it.

7.8.14. The qualifying interests for this SPA include 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 alpina*) (A149); Black-tailed Godwit (*Limosa limosa*) (A156); Bar-tailed Godwit (*Limosa lapponica*) (A157); Curlew (*Numenius arquata*) (A160); Redshank (*Tringa tetanus*) (A162); Turnstone (*Arenaria interpres*) (A169); Black-headed Gull (*Chroicocephalus ridibundus*) (A179); and, Wetlands (A999).

- 7.8.15. The screening assessment concluded that the possibility of likely significant habitat loss effects, water quality and habitat deterioration effects, and noise and disturbance effects can be excluded for this European site. The screening assessment also concluded that the proposed development, individually or in combination with other plans and projects, is not likely to have a significant effect on North Bull Island SPA.
- 7.8.16. It is reasonable to conclude 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 North Bull Island SPA (Site Code 004006) and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required in relation to this European site.
- 7.8.17. **Howth Head Coast SPA (Site Code 004113)** is located 10.8 km from the subject site. The conservation objective for this site is to maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA. The qualifying interest for this site is Kittiwake (*Rissa tridactyla*) (A188).
- 7.8.18. The screening assessment concluded that the possibility of likely significant habitat loss effects, water quality and habitat deterioration effects, and noise and disturbance effects can be excluded for this European site. The screening assessment also concluded that the proposed development, individually or in combination with other plans and projects, is not likely to have a significant effect on Howth Head Coast SPA.
- 7.8.19. It is reasonable to conclude 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 Howth Head Coast SPA (Site Code 004113) and

a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required in relation to this European site.

## **7.9. Conclusion**

- 7.9.1. In conclusion, I consider that the proposed development would be in accordance with the Z7 land use zoning objective which applies to the site and would be consistent with the existing port-related use of the site and adjoining lands. I further consider that the proposed development would be in accordance with policy SC9 of the Dublin City Development Plan 2016-2022 to support and recognise the national and regional role of Dublin Port in the economic life of the city and region and to facilitate port activities and development.
- 7.9.2. Thus, I consider that the proposed development would be in accordance with the proper planning and sustainable development of the site and I recommend that planning permission be granted in this instance.

## **8.0 Recommendation**

- 8.1. I recommend that planning permission be granted subject to conditions.

## **9.0 Reasons and Considerations**

- 9.1. Having regard to the provisions of policy SC9 of the Dublin City Development Plan 2016-2022 to support and recognise the national and regional role of Dublin Port in the economic life of the city and region and to facilitate port activities and development, the existing developed nature of the site for port-related activities, and the nature and scale of the development, it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the site's Z7 land use zoning objective. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.
- 9.2. **Appropriate Assessment Stage 1**
- 9.2.1. The Board noted that the proposed development is not directly connected with or necessary to the management of a European site. In completing the screening for Appropriate Assessment, the Board accepted and adopted the screening

assessment and conclusion carried out in the Inspector's report in respect of the identification of the European sites which could potentially be affected, and the identification and assessment of the potential likely significant effects of the development, either individually or in combination with other plans or projects, on these European sites in view of the site's Conservation Objectives.

- 9.2.2. The Board was satisfied that the development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on Howth Head SAC (Site Code 000202); North Dublin Bay SAC (Site Code 000206); South Dublin Bay SAC (Site Code 000210); Rockabill to Dalkey Island SAC (Site Code 003000); South Dublin Bay and River Tolka Estuary SPA (Site Code 004024); North Bull Island SPA (Site Code 004006); Howth Head Coast SPA (Site Code 004113); or any other European site, in views of the site's Conservation Objectives.

## 10.0 Conditions

1.	<p>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. 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 the commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>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 hours of working, noise and dust management measures, traffic management measures and off-site disposal of construction/demolition waste.</p> <p><b>Reason:</b> In the interests of public safety.</p>

3.	<p>(a) The Planning Authority shall be notified immediately in the event archaeological material is discovered during the course of the site works and construction. It is obligatory under the National Monuments Amendment Act 1994 that such is brought to the attention of the National Monuments Service, Department of Culture, Heritage and the Gaeltacht, and the National Museum of Ireland.</p> <p>(b) In the event of an archaeological find on site, the Planning Authority (in consultation with the City Archaeologist and the National Monuments Service, Department of Culture, Heritage and the Gaeltacht) shall determine the further archaeological resolution of the site.</p> <p><b>Reason:</b> In the interest of preserving or preserving by record, archaeological material likely to be damaged or destroyed in the course of development.</p>
4.	<p>(a) 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.</p> <p>(b) The flood risk mitigation measures and recommendations contained in the Site-Specific Flood Risk Assessment dated October 2019 shall be implemented in full. Any changes shall be agreed with the Planning Authority.</p> <p><b>Reason:</b> In the interest of public health.</p>
5.	<p>Prior to the commencement of development, the developer shall enter into water and/or waste-water connection agreement(s) with Irish Water.</p> <p><b>Reason:</b> In the interest of public health.</p>
6.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, 0800 to 1400 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.</p>



	<b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.
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Louise Treacy  
Planning Inspector

14<sup>th</sup> July 2020