



An
Bord
Pleanála

Inspector's Report

ABP-313610-22

Development	Construction of an above ground natural gas District Regulating Installation, to include cabinet and vent stack.
Location	The Sweepstakes, Ballsbridge Park, Ballsbridge, Dublin 4
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	3398/22
Applicant(s)	Gas Networks Ireland.
Type of Application	Permission.
Planning Authority Decision	Grant Permission.
Type of Appeal	Third Party versus grant.
Appellant(s)	Elisabeth Carr-Fanning and others. Tony and Louise O'Brien and others.
Observer(s)	None.
Date of Site Inspection	8 and 16 February 2023.

Inspector

Stephen Rhys Thomas

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	4
3.0 Planning Authority Decision	5
3.1. Decision	5
3.2. Planning Authority Reports	5
3.3. Prescribed Bodies	5
3.4. Third Party Observations	5
4.0 Planning History.....	6
5.0 Policy Context.....	6
5.1. Development Plan.....	6
5.2. Natural Heritage Designations	6
5.3. EIA Screening	7
6.0 The Appeal	7
6.1. Grounds of Appeal	7
6.2. Applicant Response	8
6.3. Planning Authority Response	8
6.4. Observations	8
7.0 Assessment.....	9
8.0 Recommendation.....	13
9.0 Reasons and Considerations.....	13

1.0 Site Location and Description

- 1.1. The subject site is located at the Sweepstakes in Ballsbridge in the inner southeast suburbs of Dublin City. The Sweepstakes is a purpose built gated residential quarter that dates from the early 1990s. The development comprises a combination of townhouses and apartments set amidst landscaped grounds with underground and in curtilage car parking. There are no overhead power or communication lines throughout the estate, all are underground. Electrical substations are located at the periphery of the estate and street furniture comprises old style lamp standards and park benches. The River Dodder runs along the western boundary of the site, office development to the east and historic artisan cottages are located to the south.
- 1.2. The subject site is situated in a grass verge at the southern section of the estate, opposite number 30 The Sweepstakes and behind a tall boundary wall separating number 12 Herbert Cottages to the south. The grass verge is wide, slightly banked and includes some shrubs.

2.0 Proposed Development

2.1. Permission is sought for:

- The installation of a 1.42m by 0.51m by 1.8m (length by width by height) above ground enclosure to house a new natural gas District Regulating Installation (DRI)
- A 3m high lamp post style relief vent stack.
- Ancillary services and site works to replace the existing below ground gas regulating unit.

The DRI is to be upgraded to reduce the risk of leakage, security of gas supply to customers in the locality fed by the regulator. The DRI will reduce gas pressure from the mains of 4bar to 65mbar for distribution to domestic properties.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Dublin City Council issued notification to grant planning permission subject to five conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The basis of the planning authority decision includes:

- The operation and maintenance of the facility is minimal. The appearance and design would not impact visual amenities. The development is necessary to upgrade the natural gas network.
- With regard to third party submissions: management of the Sweepstakes is a matter of the management company, site notice was acceptably located, sightlines not affected and AA and EIA can be dealt with by the planning authority as the competent authority for such matters.

3.2.2. Other Technical Reports

Drainage Report – no objections subject to conditions.

Transportation Planning - none.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

- 3.4.1. 11 third party observations were submitted and concerns relate to the validity of the application (site notice), visual impact, lack of information regarding AA, health and safety, traffic concerns and flood impacts.

4.0 Planning History

None.

5.0 Policy Context

5.1. Development Plan

The site is governed by the policies and provisions contained in the Dublin City Development Plan 2022-2028. The plan came into effect on the 14 December 2022.

The subject site is governed by the zoning objective Z1 Sustainable Residential Neighbourhoods, the objective of which is “to protect, provide and improve residential amenities”. There are no protected structures on the subject site or protected structures in the immediate vicinity of the site.

Chapter 9 Sustainable Environmental Infrastructure and Flood Risk

Policy SI49 - Support for Energy Utilities - To support the development of enhanced electricity gas supplies, and associated transmission and distribution networks, to serve the existing and future needs of the City, and to facilitate new transmission infrastructure projects and technologies including those to facilitate linkages of renewable energy proposals to the electricity and gas transmission grid that might be brought forward in the lifetime of this Plan. In this respect, the City Council will have regard to the ‘Guiding Principles’ for facilitating the provision of energy networks set out by the Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy (2019-2031).

5.2. Natural Heritage Designations

5.2.1. The site is not located within or directly adjacent to any Natura 2000 sites. There are two designed sites located 1.2 km east of the site.

- South Dublin Bay SAC (site code 00210) is located 1.2 km east of the site.
- South Dublin Bay and River Tolka Estuary SPA (site code 004024) is located 1.2 km east of the site.
- North Dublin Bay SAC (site code 00206) is located 4.7 km east of the site.

5.3. EIA Screening

- 5.3.1. The scale of the proposed development is well under the thresholds set out by the Planning and Development Regulations 2000 (as amended) in Schedule 5, Part 2(10) dealing with urban developments (500 dwelling units; 400 space carpark; 2 hectares extent), and I do not consider that any characteristics or locational aspects (Schedule 7) apply. I conclude that 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. Two appeals were submitted by third parties who occupy nearby and neighbouring properties: Elisabeth Carr-Fanning and others of 26, 27 and 28 The Sweepstakes and Tony and Louise O'Brien of 12 Herbert Cottages. The grounds of appeal can be summarised as follows:

- The location chosen for the installation will be a health hazard as it is located so close to residential properties.
- The height of the gas vent at 3 metres is too low and vented gas could adversely affect open balconies in the area. This goes against requirements for gas vents and distances from buildings. The planning authority did not take into account the height of the vent stack and possible emissions.
- The installation is located close to historic buildings at Herbert Cottages that are protected.
- Alternative locations for the installation were not considered.
- The consent letter from the Management Company did not involve any consultation with the residents and is therefore invalid and has no standing.
- The location of the installation should coincide with existing underground pipe work and not introduce a new route to facilitate the installation. Domestic gas is not available in the cul-de-sac or Herbert Cottages.

- The planning application form is incorrectly filled out, the distance to properties and a watercourse is inaccurate, the site notice was inappropriately located on private lands.

6.2. Applicant Response

None.

6.3. Planning Authority Response

None.

6.4. Observations

None.

7.0 Assessment

7.1. Introduction

7.1.1. The main issues in this appeal are those raised in the grounds of appeal, and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Principle of Development
- Residential Amenities
- Visual Amenities
- Other Matters
- Appropriate Assessment

7.2. Principle of Development

7.2.1. The appeal site is located on lands that are subject to zoning objective Z1 Sustainable Residential Neighbourhoods in the Dublin City Development Plan 2022-2028, the objective of which is to protect, provide and improve residential amenities. Public service installations are permissible uses on lands zoned Z1 and Z2. Lands to the south of the site are zoned Z2 Residential Neighbourhoods (Conservation Areas) and a Conservation Area associated with the River Dodder is located close by to the west. A public service installation is defined by the land use definitions set out in Appendix 3 of the current development plan as a building, or part thereof, a roadway or land used for the provision of public services including those provided by statutory undertakers. Public services include all service installations necessary for electricity, gas, telephone, radio, telecommunications, television, data transmission, drainage, including wastewater treatment plants.

7.2.2. I am satisfied that the proposed development, that being an above ground natural gas District Regulating Installation (DRI), can be considered a public service installation and would be considered to be a permissible use at this location. However, a permissible use is one which is generally acceptable in principle in the relevant zone, but which is subject to normal planning considerations, including the

policies and objectives outlined in the development plan. These matters are examined in the following sections of this report.

7.3. Residential Amenities

- 7.3.1. Health Concerns – included as part of the planning application are a series of frequently asked questions (FAQs) in relation to DRI installations. The appellants are concerned that because the height of the proposed vent stack is too low, vented gas would pose a health hazard, some standards in relation to the position of gas flues/vents are referred to. The FAQs do not directly refer to health issues, instead, it is stated that there is no continuous odour as any release of gas is infrequent and the volume is minimal. In any event, the vent is designed to direct any gas upwards to the atmosphere. With respect to fire risk, this is also minimal as the DRI is designed to disperse gas at a much lower rate than that required for ignition. I am satisfied that no identifiable health risks will be generated by the DRI installation and as natural gas is lighter than air, any release of gas will rise and disperse quickly.
- 7.3.2. Use of balconies - Appellants are concerned that the use of balconies at first floor level will be impacted upon by the release of vented gas. As explained above, I am satisfied that the information presented by the applicant demonstrates that very little gas will be released and at infrequent intervals. I appreciate that no definitive information has been presented to support this assertion made by the applicant, however, it seems that such infrastructure has been designed to operate in close proximity to sensitive receptors such as residences and therefore I am satisfied that no residential amenity or health risk is posed. I consider that the residential amenity associated with balconies in the area would not suffer a perceptible level of residential amenity loss as a consequence of infrequent and low volume natural gas emissions from the 3 metre high vent stack.

7.4. Visual Amenities

- 7.4.1. Appellants have raised concerns that the proposed infrastructure is not suited to the landscaped character of the area and will impact upon historic buildings to the south. The applicant states that The DRI is to be upgraded to reduce the risk of leakage, security of gas supply to customers in the locality fed by the regulator infrastructure. The DRI will reduce gas pressure from the mains of 4bar to 65mbar for distribution to domestic properties. To this issue, the appellants bemoan the fact that natural gas is

not available to them yet the infrastructure is designed to facilitate domestic customers, which they are not. This is as it may be, and it is entirely possible that adjacent properties would decide to avail of the infrastructure in the future, this is not a planning matter. The site of the DRI is to be located on a landscaped area adjacent to existing housing. The character of the estate is defined by a complete lack of any public service infrastructure, save for ESB substations at secluded locations at the periphery of the site. There are no overhead cables, as all services are underground. The proposed DRI would be a new addition to an area with a distinct residential character and devoid of superfluous street clutter.

- 7.4.2. The drawings submitted with the application show that the unit will be located against the boundary wall and occupying a prominent location. The applicant has not provided any mapping information with respect to why this location has been chosen within the overall estate or neighbourhood. No gas pipework drawings have been provided identifying the pipe location. I fully accept the applicant's reasoning for requiring the unit to be above ground (ease of maintenance and reduced risk of flooding), however, I am not satisfied based on the information provided that the chosen location is the most suitable option.
- 7.4.3. I note the concerns expressed in relation to the impact that would result to historic buildings at Herbert Cottages, they are located on lands zoned as conservation areas. However, I am satisfied that the tall boundary wall that separates the proposed location of the DRI and the nearest cottage is sufficient to dispel any visual impact from the low cabinet structure. The three metre tall vent stack will emerge above the wall. I note that a security device (camera and speaker) attached to a slim pole emerges from a bush at this location and its existence is notable and somewhat distracting. On balance, I am satisfied that the historic context of the Herbert Cottages will not be adversely impacted upon by the development as proposed.
- 7.4.4. In my view, the concerns expressed by the residents of The Sweepstakes have more weight in terms of an impact upon their current visual amenities. I note that the standard of landscaping within The Sweepstakes is high and where no superfluous street clutter is present. Unlike any other busy urban location, where above ground infrastructure (service cabinets, poles, vent stacks etc) is scattered about, this location is an entirely residential area, highly ordered and well maintained. The imposition of the DRI (cabinet and vent stack) will appear as an uncharacteristic and

unwelcome addition to the streetscape. No amount of natural screening would soften this impact and would in any case hamper access to the infrastructure and negate the reason for its purpose, i.e. ease of maintenance. In this respect no detailed landscaping proposal has been submitted by the applicant.

- 7.4.5. In conclusion, I accept the applicant's reasoning for the need to locate the unit above ground, but I am not satisfied that the chosen location is the most suitable and consider that there would be a significant visual impact with the current proposal.

7.5. Other Matters

- 7.5.1. Validity - The appellants have highlighted issues to do with the validity of the planning application, questions have not been accurately answered in the application form and the site notice was inappropriately located. It is not the role of the Board to correct errors with planning applications, if they exist. The planning application was validated by the planning authority and I note that the planning report responds to the same concerns that were raised by observers during the initial planning application process. No further action is required of the Board in respect of the validity of the planning application process that was adequately carried out by the planning authority.

- 7.5.2. Management Company Consent – Appellants state that the consent letter from the Management Company did not involve any consultation with the residents and is therefore invalid and has no standing. I note that a correspondence on file from Benchmark Property indicates no objection to the planning application being lodged on lands under the control of Sweepstakes Owners Management CLG. There is very little detail on file in relation to consent for the works to be carried out and in any case this would be a matter for the owners or management company for the site to agree with the developer. There is no role for the Board to exercise in relation to who carries out the work or any other legal agreements that might be required should permission be granted.

7.6. Appropriate Assessment

- 7.6.1. I note that an appropriate assessment screening report was submitted with the application. It notes that the nearest Natura 2000 sites are located in South Dublin Bay a distance of approximately 1.2 kilometres away. The report reasonably in my opinion concludes that there is no likelihood of any significant effects on Natura 2000

sites arising from the proposed development. Having regard to the nature and scale of the proposed development and the nature of the receiving environment together with the proximity to the nearest European site no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans and projects on a European site.

8.0 Recommendation

- 8.1. I recommend that planning permission should be refused for the reasons and considerations as set out below.

9.0 Reasons and Considerations

Having regard to its nature and scale, design and minimal landscaping treatment, the Board is not satisfied that the proposed development would integrate in a satisfactory manner into the receiving environment and, therefore, it is considered that the proposed development would not be acceptable in terms of visual amenity and would not be in accordance with the proper planning and sustainable development of the area.

Stephen Rhys Thomas
Senior Planning Inspector

23 February 2023