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**Re: REQUEST UNDER SECTION 146B OF THE PLANNING AND DEVELOPMENT ACT 2000, AS AMENDED, FOR ALTERATION TO STRATEGIC INFRASTRUCTURE DEVELOPMENT APPROVED UNDER CASE REF. ABP-313509-22**

**ABP Case Reference:** 313509-22

**Scheme:** Belfield / Blackrock to City Centre Core Bus Corridor Scheme

Dear Sir/Madam,

## 1. Introduction

The National Transport Authority (the “NTA”) of Haymarket House, Smithfield, Dublin 7, D07 CF98 hereby submits a request to An Coimisiún Pleanála (“ACP” or “the Commission”) pursuant to Section 146B of the Planning and Development Act 2000 (as amended) (the “2000 Act”) to alter the terms of a previously approved Strategic Infrastructure Development being the Belfield/Blackrock to City Centre Core Bus Corridor Scheme bearing Case Reference Number ABP-313509-22 (the “Approved Scheme”). For convenience, a copy of the Commission’s Order approving the Approved Scheme dated 27 March 2024 is enclosed with this letter at Appendix A.

As set out in more detail below, the alteration being sought in this Section 146B request comprises local revisions to the road layout, junction arrangements and associated infrastructure on a small section of the Approved Scheme in the immediate vicinity of Blackrock Clinic, to accommodate Blackrock Clinic’s relocated entrance while retaining the bus priority, pedestrian provision and segregated cycling provision which form part of the Approved Scheme. Details of the Proposed Minor Alteration are set out in more detail in the Planning Report and in the Engineering Report, both of which form part of this application and are enclosed with this letter.

As also described in more detail in this application, the Proposed Minor Alteration is necessary to achieve consistency between the recently completed new entrance at Blackrock Clinic, which was constructed pursuant to a planning permission granted by ACP (on appeal from a decision of Dun Laoghaire Rathdown County Council) under case reference ABP-312908-22, and the Approved Scheme.

The application comprises the following, all of which are enclosed with this letter:

- Planning Report
- Environmental Assessments Review
- Engineering Report
- Drawings –
  - Context Plan - BCIDC-ARP-PDV\_PD-1415\_XX\_00-SK-CR-0005
  - General Arrangement 2022 - BCIDC-ARP-GEO\_GA-1415\_XX\_00-DR-CR-0005 Revision M01
  - General Arrangement 2026 - BCIDC-ARP-GEO\_GA-1415\_XX\_00-DR-CR-0005 Revision M02
  - Comparison drawing - BCIDC-ARP-PDV\_PD\_XX\_00-DR-CR-0074-01
- The appropriate fee of €30,000 has been arranged to be paid to ACP by EFT for Thursday 15<sup>th</sup> October 2026.

As requested by the Commission, two hard copies of the documentation and one soft copy have been provided.

## 2. Legislative Context

It is a function of the NTA under section 44(1)(a) of the Dublin Transport Authority Act 2008 (as amended) (the “**2008 Act**”) to “secure the provision of, or to provide, public transport infrastructure”, and in the case of the Approved Scheme, in accordance with Section 44(2)(b) of the 2008 Act, the NTA decided that the functions in relation to securing the provision of this public transport infrastructure should be performed by it.

Under section 2 of the 2000 Act, ‘Strategic Infrastructure Development’ includes “... (f) any scheme or proposed road development referred to in section 215”. Section 215(1) of the 2000 Act provides:

*“The functions of the Minister in relation to a scheme or proposed road development under sections 49, 50 and 51 of the Roads Act, 1993, are hereby transferred to and vested in the Board and relevant references in that Act to the Minister shall be construed as references to the Board and any connected references shall be construed accordingly, except that any powers under those sections to make regulations or to prescribe any matter shall remain with the Minister”.*

As the Approved Scheme was an application under Section 51 of the Roads Act, 1993 (as amended) (the “**1993 Act**”) it is therefore a Strategic Infrastructure Development.

Therefore, pursuant to section 146B of the 2000 Act, the Commission may, on the request of any person who is carrying out or intending to carry out a Strategic Infrastructure Development, as the NTA are here, alter the terms of a development such as in this case of the Approved Scheme.

*“Further, for completeness, the Commission will be aware that section 146B of the 2000 Act is due to be repealed by the Planning and Development Act 2024 (as amended) (the “**2024 Act**”). However, section 146B remains in place and has not yet been repealed as at the date of this application. Further, section 136 of the 2024 Act provides that “Where a request under section 146B of the Act of 2000 was made before the repeal of that section by section 6 but the Commission did not make*

*a decision in relation to the request before that repeal, the said section 146B and sections 146C, 146CA and 146D of that Act shall, on and after that repeal, continue to apply and have effect in relation to the request.” Therefore, in the event that section 146B of the 2000 Act is repealed before the Commission comes to make a decision in relation to this application, the section shall continue to apply and have effect in relation to this application notwithstanding its repeal.”*

### 3. Background

On 6 May 2022, pursuant to Section 51 of the 1993 Act, the NTA lodged an application with An Bord Pleanála (now An Coimisiún Pleanála (ACP) relating to a proposed road development for the construction and operation of the Approved Scheme, under Commission Ref. ABP-313509-22 which on 27 March 2024, the Commission approved subject to 19 conditions. Also on 27 March 2024, the Commission confirmed the associated Compulsory Purchase Order (CPO) (Commission Ref. ABP-313565-22) without modifications, authorising the NTA to acquire lands and rights over lands for the purposes of constructing and operating the Approved Scheme. The Approved Scheme was the subject of Environmental Impact Assessment (“EIA”) and Appropriate Assessment (“AA”) carried out by the Commission.

Separately and following the submission of the Core Bus Corridor Scheme application to An Bord Pleanála (as it then was) on 6 May 2022, and prior to the Board's decision on that application, planning permission was granted for the relocation of the principal vehicular entrance to Blackrock Clinic, and the provision of a dedicated right-turn lane to serve that relocated entrance.

That permission was granted on appeal by An Coimisiún Pleanála on 7th July 2023 (Dún Laoghaire Rathdown County Council Ref. D21A/0627, ACP Ref. PL06D.312908). The permitted development provided for the relocation of the Blackrock Clinic entrance to a new position on the Rock Road, together with associated traffic management and junction improvements.

The design of the Approved Scheme took into account the entrance to Blackrock Clinic and associated junction arrangements that were in place at the time of lodgement. Blackrock Clinic's separately subsequent consented development, which is currently under construction (noting that the revised access is now in operation), relocates that entrance and changes the adjoining junction layout on the Rock Road. The two approved layouts do not connect at this location and cannot both be implemented together in line with their consents without resolving these differences.

A minor alteration to the Approved Scheme is therefore proposed to achieve consistency with Blackrock Clinic's consented development which is currently under construction. This would enable the bus corridor infrastructure and Blackrock Clinic's access arrangements to be delivered as a coordinated layout. The need arises from integrating the two developments; the nature and purpose of the approved transport infrastructure remain unchanged.

### 4. Description of Minor Alteration Sought

The Proposed Minor Alteration relates to a small section of the Approved Scheme on the Rock Road (R118) adjoining the Blackrock Clinic, including the junctions with Phoenix Terrace and Emmet Square. It comprises local revisions to the road layout, junction arrangements and associated infrastructure to accommodate its relocated entrance while retaining the bus

priority, pedestrian provision and segregated cycling provision which form part of the Approved Scheme.

#### *Road Layout and Junction Arrangements*

At the relocated Blackrock Clinic entrance, the layout proposed as part of the Proposed Minor Alteration will accommodate the right-turn lanes provided as part of the Blackrock Clinic development at the signal controlled junction with the Rock Road and Phoenix Terrace. The Rock Road would be widened locally to provide segregated inbound and outbound cycle tracks alongside the bus lanes, consistent with what was envisaged by the Approved Scheme.

To accommodate this layout, the Blackrock Clinic boundary would be set back further into its grounds over a length of approximately 49 metres between the former and relocated entrances.

At the former entrance, the proposed layout proposed as part of the Proposed Minor Alteration will reflect the removal of the access and the resulting three-arm junction between Rock Road and Emmet Square. Local widening and revisions to the boundary treatment would accommodate the bus lanes and segregated cycle tracks.

#### *Pedestrian Crossings and Associated Works*

At the Emmet Square Junction, the existing pedestrian crossing on the northern arm of Rock Road would be converted to a Toucan crossing, as envisaged by the Approved Scheme. The proposed Toucan crossing on the southern arm would be relocated approximately 10 metres northwards, closer to the junction.

The proposed green space adjoining Emmet Square would consequently be relocated approximately 6 metres southwards. The northbound bus lane and traffic lane stop lines would also be adjusted to suit the revised crossing position.

Bus lane road markings advising drivers to merge to turn left would be repositioned at the Emmet Square and Phoenix Terrace junctions. Associated adjustments to traffic signals, kerbs, footpaths, landscaping, surface drainage and boundary treatment would be undertaken to tie in with the revised layout. Associated adjustments to traffic signals, kerbs, footpaths, landscaping and boundary treatment would be undertaken to tie in with the revised layout.

There is no additional tree removal required as a result of the revised permanent land requirements. The proposed layout is shown on the revised General Arrangement drawing (Drawing No. BCIDC-ARP-GEO\_GA-1415\_XX\_00-DR-CR-0005 Revision M02) that forms part of the documentation provided as part of the application and is also enclosed with this letter.

#### **5. Associated CPO**

Given the location of the New Entrance, the acquisition of certain limited lands will now be required to facilitate the proposed minor alteration if granted by the Commission. Accordingly, the NTA will be lodging an application for confirmation of a limited CPO within the next 21 days, so that (subject to the Commission confirming same) the NTA can acquire the lands necessary for the proposed minor alteration.

In this regard, Section 44(6) of the 2008 Act provides that:-

"(6) Where—

*(a) a decision is made by the Authority under subsection (2)(b) [which has occurred here] or (5)(a) for the performance of a particular function otherwise than through a public transport authority or statutory body...*

...

*the following provisions have effect—*

*(i) the Authority shall be empowered (notwithstanding any other enactment) to perform the function, including the acquisition of land for that purpose, and to do any other thing which arises out of or is consequential on or is necessary for the purposes of or would facilitate the performance of the function,*

*(ii) for the purpose of paragraph (a) or (b), land may be acquired by agreement or by means of a compulsory purchase order made by the Authority in accordance with Part XIV of the Act of 2000,*

*(iii) the provisions of any enactment concerned (other than section 178 of the Act of 2000) apply in relation to the performance of the function subject to such modifications as may be necessary and as if the Authority was named in such enactment in each place where a public transport authority or other statutory body entitled to exercise the function is named..."*

Therefore, it is clear that under section 44(6) of the 2008 Act, the NTA is empowered to acquire lands by means of a compulsory purchase order in accordance with Part XIV of the 2000 Act, for the purposes of performing its function of providing public transport infrastructure and in this instance providing the Approved Scheme and any alteration thereto.

The NTA has a clear statutory authority to acquire the lands necessary for the proposed alteration and as mentioned above will be lodging an application to the Commission for confirmation of a limited CPO of lands owned at this site within the next 21 days.

The NTA therefore clearly has standing to make this request for a minor alteration as it has a sufficient interest in the land the subject matter of this request<sup>1</sup>.

As will be explained in more detail, the relocation of the Blackrock Clinic entrance to its new location will mean that certain lands included in the CPO, as confirmed by the Commission on 27 March 2024 (Ref. ABP-313565-22), will no longer be required.

In this regard, in the event that the Commission approves the proposed minor alteration, and there is no challenge to that approval, and confirms the limited CPO, and there is no challenge to that confirmation, these lands will no longer be required for the Approved Scheme and so can be retained.

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<sup>1</sup> *Pembroke Road Association v An Bord Pleanála* [2021] IEHC 403 at [42].

## 6. Environmental Considerations

The Proposed Minor Alteration comprises a small, localised rearrangement of limited elements of the Approved Scheme to accommodate the relocated entrance to Blackrock Clinic. It does not alter the overall nature, function or objectives of the Approved Scheme, and the works will use substantially the same construction activities, materials and methodologies as those assessed in the EIAR and NIS submitted for the Approved Scheme. A review of environmental assessments, which is set out in full in the Environmental Assessments Review submitted with this application, has found that the Proposed Minor Alteration would not introduce new environmental receptors, activities or impact pathways, and the mitigation and monitoring measures identified in the EIAR and NIS remain relevant and will be implemented in full.

Accordingly, the Proposed Minor Alteration will not result in any significant adverse environmental effects not previously identified, assessed or described in the EIAR for the Approved Scheme, nor will it give rise to any materially different effects requiring further assessment.

The Proposed Alteration is located within the area assessed in the NIS and does not introduce new construction activities, new effect pathways or a material change to the construction methodology. The mitigation measures identified in the NIS remain applicable and will be implemented in full.

Accordingly, the Proposed Minor Alteration would not result in any additional or materially different effects on European sites beyond those previously identified and assessed in the NIS for the Approved Scheme.

## 7. Materiality Test

As the Commission will be aware, Section 146B(2)(a) of the 2000 Act provides that, as soon as practicable after the making of a request for an alteration, the Commission shall make a decision as to whether the making of the alteration to which the request relates would constitute the making of a material alteration of the terms of the development concerned.

In that regard, as explained in more detail in the Planning Report submitted as part of this application, a number of factors are relevant to the Commission's consideration of whether the Proposed Minor Alteration would constitute the making of material alteration to the Approved Scheme. Of particular relevance in this instance are (i) the circumstances in which the need for the Proposed Minor Alteration has arisen, (ii) the minor scale of the Proposed Minor Alteration in comparison with the scale of the Approved Scheme, and (iii) the fact that the Proposed Minor Alteration does not affect compliance with the conditions attached to the Approved Scheme. Each of these is addressed in the Planning Report submitted as part of this application, to inform the Commission's consideration of the materiality of the Proposed Minor Alteration.

First, the Proposed Minor Alteration is required to resolve an incompatibility and achieve consistency between two consented developments. The Approved Scheme is designed to align with the Blackrock Clinic's former entrance, whereas the separately consented development (which is currently under construction (noting that the new entrance is now in operation) relocates that entrance. The Proposed Minor Alteration will enable the developments to tie in to each other through small adjustments to the adjoining road layout, access arrangements and associated infrastructure.

Second, the Proposed Minor Alteration affects only a short section of the Approved Scheme (approximately 185 metres), in a corridor extending to approximately 8.3 kilometres in total. The changes retain the provision of bus priority, pedestrian and cycling infrastructure and preserve the nature and strategic purpose of the Approved Scheme.

Third, the Proposed Minor Alteration does not require changes to the substantive requirements of the conditions attached to the Approved Scheme.

Further, the Planning Report submitted as part of this application has considered the scale, character and effects of the changes together and concludes that the Proposed Minor Alteration remains consistent with the relevant planning policy framework. The Environmental Assessments Review concludes that the Proposed Minor Alteration will not introduce any significant adverse environmental effects beyond those previously assessed, including in relation to European Sites, or materially different effects requiring further assessments. Existing mitigation and monitoring measures set out in the EIAR and NIS for the Approved Scheme remain applicable and will be implemented in full.

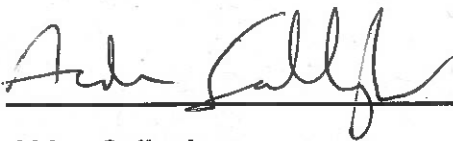
In light of all of the above, and having regard to the relevant precedents identified in the Planning Report, the NTA considers that the Proposed Minor Alteration is non-material and can be made by the Commission pursuant to Section 146B(3)(a) of the Planning and Development Act 2000 (as amended).

#### 8. Conclusion

On the basis of what is set out above and in the documents submitted as part of this Application, the NTA considers that the Proposed Minor Alteration does not constitute a material alteration of the terms of the Approved Scheme.

The NTA requests that An Coimisiún Pleanála make the determination and alter the approval under Section 146B(3)(a) of the Planning and Development Act 2000, to incorporate the revised plans and particulars for the Proposed Minor Alteration submitted with this request.

Yours Sincerely



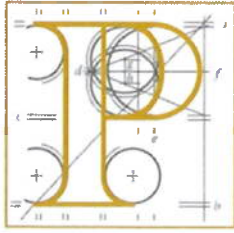
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**Aidan Gallagher**

**Head of BusConnects Dublin Infrastructure**

**National Transport Authority**





An  
Bord  
Pleanála

## Board Order ABP-313509-22

**Roads Acts, 1993 to 2015**

**Planning and Development Acts, 2000 to 2022**

**Planning Authority: Dublin City Council and Dún Laoghaire-Rathdown County Council**

**Application** by National Transport Authority for approval under section 51 of the Roads Act 1993, as amended, in accordance with plans and particulars, including an Environmental Impact Assessment Report and Natura Impact Statement, lodged with An Bord Pleanála on the 6<sup>th</sup> day of May, 2022.

**Proposed Development:** Construction of the Belfield/Blackrock to City Centre Core Bus Corridor Scheme which has an overall length of approximately 8.3 kilometers, comprising:

- 8.3 kilometers (two-way) of bus priority infrastructure and traffic management;
- 16.6 kilometers (total both directions) of cycling infrastructure and facilities;
- Provision of new/refurbished pedestrian facilities and footpaths along the scheme and associated ancillary works;
- Provision of 27 junction upgrades and associated ancillary works;
- Provision of 55 new/refurbished raised table side entry facilities;
- Reconfiguration of existing bus stops resulting in 46 new bus stop facilities;
- Public Realm works including landscaping, planting, street furniture, street lighting, retaining walls, boundary walls and sustainable urban drainage (SuDS) measures;

- Roads associated earthworks including excavation of unacceptable material, importation of material, temporary storage of materials;
- Provision of road pavement, signing, lining and ancillary works;
- Provision of gates, fencing and boundary treatment works;
- Provision of new and diverted drainage infrastructure;
- Diversion of utilities and services including associated ancillary works; and
- Construction of accommodation works including boundary treatment and ancillary grading and landscaping works;

together with all ancillary and consequential works associated therewith.

All routed along the R113 Temple Hill from approximately 80 metres to the north of the R827 Stradbroke Road, then along the N31 Frascati Road, the R118 Rock Road/Merrion Road/Pembroke Road, the R816 Pembroke Road/Baggot Street Upper/Baggot Street Lower, turns onto Fitzwilliam Street Lower and terminates at the junction with Mount Street Upper/Merrion Square South/Merrion Square East, and is also routed along Nutley Lane, commencing at the tie-in with the signalised junction on the R138 Stillorgan Road and terminating at the junction with the R118 Merrion Road, all in the County of Dublin and within the Dublin City Council and Dún Laoghaire-Rathdown County Council administrative areas.

## **DECISION**

**Approve the above proposed road development based on the reasons and considerations under and subject to the conditions set out below.**

## **REASONS AND CONSIDERATIONS**

In coming to its decision, the Board had regard to the following:

### **European Union legislation including in particular:**

- the relevant provisions of European Union Directive 2014/52/EU amending Directive 2011/92/EU (Environmental Impact Assessment Directive) on the assessment of the effects of certain public and private projects on the environment,
- Directive 92/43/EEC (Habitats Directive) and Directive 79/409/EEC as amended by 2009/147/EC (Birds Directives) which set out the requirements for Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union, and
- Sustainable and Smart Mobility Strategy 2020 (European Commission 2020).

### **National Policy and Guidance including in particular:**

- Project Ireland 2040 encompassing the National Planning Framework and the National Development Plan,
- Smarter Travel – A Sustainable Transport Future: A New Transport Policy for Ireland 2009 – 2020,
- the Cycle Design Manual 2023,
- Climate Action Plan 2023,
- the Design Manual for Urban Roads and Streets 2019, and
- the Department of Transport National Sustainable Mobility Policy, 2022

### **Regional Policy including in particular:**

- the Greater Dublin Area Transport Strategy 2022-2042, and
- the Eastern and Midlands Regional Spatial & Economic Strategy, 2019-2031,

**Local Planning Policy including in particular:**

- the Dublin City Development Plan 2022-2028,
- the Dún Laoghaire-Rathdown County Development Plan 2022-2028,
- the Dublin City Biodiversity Action Plan 2021–2025,
- the Dún Laoghaire-Rathdown County Biodiversity Action Plan 2021–2025, and
- the Blackrock Local Area Plan 2015–2025.

**Other relevant guidance documents:**

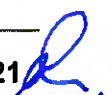
- the nature, scale and design of the proposed works as set out in the application for approval and the pattern of development in the vicinity,
- the documentation and submissions of the applicant, the National Transport Authority, including the Environmental Impact Assessment Report, the Natura Impact Statement and associated documentation submitted with the application, and the range of mitigation and monitoring measures proposed,
- the submissions and observations made to An Bord Pleanála in connection with the application,
- the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the likely significant effects of the proposed development on European Sites, and
- the report and recommendation of the Inspector, including the examination, analysis and evaluation undertaken in relation to appropriate assessment and environmental impact assessment.

It is considered that the proposed development would accord with European, national, regional, and local planning and that it is acceptable in respect of its likely effects on the environment and its likely consequences for the proper planning and sustainable development of the area.

### **Appropriate Assessment: Stage 1:**

The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report that the following are the European Sites for which there is a likelihood of significant effects:

- North Dublin Bay Special Area of Conservation (Site Code: 000206),
- South Dublin Bay Special Area of Conservation (Site Code: 000210),
- Howth Head Special Area of Conservation (Site Code: 000202),
- Rockabill to Dalkey Island Special Area of Conservation (Site Code: 003000),
- Lambay Island Special Area of Conservation (Site Code: 000204),
- Wicklow Mountains Special Area of Conservation (Site Code: 002122),
- Howth Head Coast Special Protection Area (Site Code: 004113),
- North Bull Island Special Protection Area (Site Code: 004006),
- South Dublin Bay and River Tolka Estuary Special Protection Area (Site Code: 004024),
- Baldoyle Bay Special Protection Area (Site Code: 004016),
- Dalkey Islands Special Protection Area (Site Code: 004172),
- Malahide Estuary Special Protection Area (Site Code: 004025),
- Rogerstown Estuary Special Protection Area (Site Code: 004015),
- Skerries Islands Special Protection Area (Site Code: 004122),
- Rockabill Special Protection Area (Site Code: 004014),
- Ireland's Eye Special Protection Area (Site Code: 004117),
- Lambay Island Special Protection Area (Site Code: 004069),
- North-west Irish Sea Special Protection Area (Site Code: 004236), and
- The Murrough Special Protection Area (Site Code: 004186).



**Appropriate Assessment: Stage 2:**

The Board considered the Natura Impact Statement and all other relevant submissions and carried out an appropriate assessment of the implications of the proposal for the European Sites in view of the Sites' conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment.

In completing the assessment, the Board considered, in particular, the likely direct and indirect impacts arising from the proposal both individually or in combination with other plans or projects, specifically upon the above referenced European Sites.

- i. Mitigation measures which are included as part of the current proposal,
- ii. Conservation objectives for these European Sites, and
- iii. Views of prescribed bodies in this regard.

In completing the appropriate assessment, the Board accepted and adopted the appropriate assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the integrity of the aforementioned European Sites, having regard to the Sites' conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Sites, in view of the Sites' conservation objectives.

**Environmental Impact Assessment:**

The Board completed an environmental impact assessment of the proposed development, taking into account:

- the nature, scale, location, and extent of the proposed development,
- the Environmental Impact Assessment Report and associated documentation submitted with the application,
- the submissions received during the course of the application, and
- the Inspector's report.

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, adequately considers alternatives

to the proposed development, and identifies and describes adequately the direct, indirect, secondary, and cumulative effects of the proposed development on the environment.

The Board agreed with the examination, set out in the Inspector's report, of the information contained in the Environmental Impact Assessment Report and associated documentation submitted by the applicant and submissions made in the course of the planning application.

### **Reasoned Conclusion for Environmental Impact Assessment:**

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant during the course of the application, provided information which is reasonable and sufficient to allow the Board to reach a reasoned conclusion on the significant effects of the proposed development on the environment, taking into account current knowledge and methods of assessment.

The Board is satisfied that the information contained in the Environmental Impact Assessment Report is up to date and complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU.

The Board considered that the main significant direct and indirect effects of the proposed development on the environment during the construction and operational phase are those arising from the impacts listed below:

- Positive long-term impacts on **population and human health** through facilitation of improved pedestrian and cyclist safety, faster and more reliable bus services, reduced traffic congestion, improved air quality and noise reduction, improved road/street safety, more social interaction and positive accessibility and amenity impacts for community areas.
- Negative short-term impacts on **population and human health** from the construction phase in terms of access restrictions, noise, vibration, dust, contaminated material, traffic, and visual impact. This will be adequately mitigated through compliance with the Construction Environmental Management Plan and measures outlined in the Land, Soils, Water, Air and

Climate and Material Assets sections of the Environmental Impact Assessment Report.

- Negative impacts on **population and human health** arising from land take (both permanent and temporary) required to facilitate the proposed scheme, from various individual residential, educational, services, and commercial properties. Where properties are directly affected the boundaries will be replaced on a like-for-like basis and access to all premises will be maintained throughout the construction process.
- Negative impacts on **townscape and landscape** arising from construction activities (which will be temporary in nature) as well as longer term impacts on **streetscape** from the removal of a significant number of street trees. While these will be replaced where and as possible throughout the proposed scheme the loss of mature street trees will be a long-term negative impact.
- Positive impacts on **townscape and landscape** arising from the provision of improved public realm and pedestrian facilities throughout the proposed scheme.
- Negative impacts on **architectural and cultural heritage** which will range in significance from the lower-level impacts associated with the provision of new signage and cantilevered signal poles in the vicinity of protected structures, to higher-level impacts arising from direct impacts arising from the need to alter protected structures and their boundaries that occur directly along the route including properties whose boundaries will be set back (and sites reduced in size).
- Adverse impacts on **biodiversity** from the proposed removal of habitat. Vegetation removal within the proposed scheme involves the permanent removal of 329 number street trees and 1,040 metres of hedgerow. Mitigation is designed into the proposed scheme including the provision of 349 trees and 558 metres of hedgerow. It is recommended that 11 number proposed trees along Fitzwilliam Street Lower be omitted from the scheme (in the interests of maintaining architectural heritage/integrity of the street). The new planting will provide new nesting habitat for birds and the landscaping proposed will reduce the significance of habitat loss. Trees with potential roosting habitats for bats

will not be removed and pre-construction surveys will ensure significant impacts on bats do not arise. Similarly, pre-construction surveys for other fauna and invasive species within works areas will ensure that impacts will not arise and as a result will inform further mitigation measures. The proposed scheme does include works within designated sites, where such works are proposed the habitats potentially affected are not sensitive and the integrity and reasons for the ecological protection of these sites will not be adversely impacted. Suitable mitigation is also incorporated within the Construction Environmental Management Plan in relation to invasive species. Impacts on biodiversity will therefore not be significant.

- Negative impacts on **water** could arise as a result of accidental spillages of chemicals, hydrocarbons or other contaminants entering watercourses, the sea or groundwater via piling activities during the construction phase of the development. These impacts will be mitigated by measures outlined within the application and can therefore be ruled out.
- Potential adverse impacts on **land, soils, geology and hydrogeology** from loss or damage of topsoil, excavation of potentially contaminated ground and contamination of parts of the underlying aquifer could arise during the construction phase. These impacts will be adequately mitigated through the implementation of the various environmental measures and best practice set out in the Construction Environmental Management Plan and therefore impacts will not be significant.
- Potential negative impacts on **water** quality could arise during construction due to runoff from the works areas containing fine sediments, or accidental spillages/leakages of contaminants and direct disruption to the local drainage networks. The application documentation (Environmental Impact Assessment Report and associated Construction Environmental Management Plan) contains a comprehensive suite of mitigation measures which are adequate and will protect water quality and ensure that significant adverse impacts will not arise.
- There is potential for impacts to **air quality** to arise from dust during construction works. These will be minimised with implementation of the

appropriate mitigation measures set out within the Environmental Impact Assessment Report and Construction Environmental Management Plan which will minimise dust emissions arising. During the operational phase there will be localised impacts on air quality at certain locations arising from redistributed traffic patterns, and in particular along the Grand Canal in terms of NO<sub>x</sub> concentrations, this impact is considered to be negative, slight, and long-term.

- Potential for positive long-term impacts on **climate** through removal of the equivalent of approximately 3,000 and 3,300 car trips per weekday from the road network in 2028 and 2043 respectively (these numbers will increase with increased uptake in residual bus capacity) and associated reduction in CO<sub>2</sub>/greenhouse gas emissions.
- There is potential for **noise** disturbance to arise during the construction phase, works will generally be carried out in daytime hours causing no significant effects and mitigation measures will be applied in relation to works areas proximate to sensitive properties. Where works are required to be carried out at night-time and weekends (to avoid significant traffic impacts) liaison will be held with affected property owners and appropriate mitigation applied as practicable. Furthermore, significant noise abatement and controls are provided for within the Construction Environmental Management Plan to minimise noise arising from construction activities. During the operational phase the use of the transport corridor will remain consistent with its established use and overall impacts will be negligible, having particular regard to the changes (technological improvements) to the bus fleet and with the reduction in car numbers facilitated by the improved sustainable transport infrastructure being provided in the proposed scheme. Accordingly, significant impacts from noise can be ruled out during all phases of the proposed scheme.
- Positive impacts on **traffic and transport** by maximising the capacity of the proposed scheme to move more people by sustainable modes, whilst also providing for general traffic movements and activities.
- Short-term negative impacts on **traffic and transport** arising from the construction phase and the need to adequately divert and control traffic movements in and around works areas. Such impacts will be mitigated through

the implementation of the Traffic and Transportation Plan and Construction Environmental Management Plan.

- Potential adverse impacts on **cultural heritage** due to construction works potentially impacting on underlying archaeology and other cultural or heritage features such as monuments. Mitigation measures including archaeological monitoring and provision for protection/recording/monitoring underlying archaeology and heritage features in the vicinity of works.
- Potential adverse impacts on **architectural heritage** could arise from the proposed scheme due to the direct construction interventions on lands within the curtilage of protected structures or to protected structures themselves or where infrastructure is proposed within the wider setting of protected structures. Where works are proposed to protected structures, these are necessary to secure the overall wider beneficial impacts of the proposed scheme and these interventions have been designed to have minimum impact. Where boundaries are to be altered/set back to facilitate the proposed scheme the existing boundary materials are to be removed and reused/repurposed in an appropriate manner and using sensitive methodologies. Similarly, where heritage gateway features and/or protected structures are to be reorientated, relocated, or altered the Board is satisfied that the methodologies and supervision set out are appropriate and will ensure impacts are not significantly adverse.
- The Environmental Impact Assessment Report has considered that the main significant direct and indirect effects of the proposed development, during construction and operation, on the environment would be primarily mitigated by environmental management measures, as appropriate.
- The Environmental Impact Assessment Report has considered the main significant direct and indirect and cumulative effects of the proposed development on the receiving environment during both the construction and operational phase. Following mitigation, no residual significant long-term negative impacts on the environment or sensitive receptors would occur.

Having regard to the above, the Board is satisfied that the proposed development would not have any unacceptable direct or indirect effects on the environment. The

Board is satisfied that the reasoned conclusion is up to date at the time of making the decision and that the information contained in the Environmental Impact Assessment Report complies with the provisions of Article 3, 5 and Annex (IV) of EU Directive 2014/52/EU.

### **Proper Planning and Sustainable Development:**

It is considered that the proposed development would accord with European, national, regional, and local planning and that it is acceptable in respect of its likely effects on the environment and its likely consequences for the proper planning and sustainable development of the area.

The proposed road development would deliver a key component of the National Transport Authority's BusConnects programme with the stated aim to improve bus services across the country. It would also provide safer infrastructure for pedestrians and cyclists and would deliver sustainable connectivity and integration with other transport services. The public realm along the bus corridor would also be improved.

The Board considered that the proposed road development, subject to compliance with the conditions set out below, would be in accordance with national, regional and local planning policies, including multiple policies and objectives set out in the Dublin City Development Plan 2022-2028, the Dún Laoghaire-Rathdown County Development Plan 2022-2028 and the Blackrock Local Area Plan 2015–2025 and having regard to all relevant provisions, including zoning objectives, at or adjoining the overall scheme area. It is further considered that the need, justification and purpose of the proposed road development has been adequately demonstrated, that it is acceptable in terms of its likely effects on the environment and that an approval for the proposed road development would be consistent with national climate ambitions and with the relevant provisions of the Climate Action Plan 2023 through the delivery of an efficient, low carbon and climate resilient public transport service, which supports the achievement of Ireland's emission reduction targets. The proposed road development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's proposed amendment to the design of the junction of Ballsbridge Terrace and Herbert Park, the Board had concerns on the consequential impact of the proposed redesign on traffic and pedestrian safety. While the Board agreed that the maximum number of trees and heritage railings / features should be retained where possible, the consequential impact of a staggered junction design would have a negative impact on the cycling and pedestrian networks at this location and also that the character of the location can be retained with the restoration of trees and heritage railings/features, as appropriate.

### **Conditions**

1. The proposed 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 a planning authority, the developer shall agree such details in writing with the relevant planning authority prior to commencement of development and the proposed development shall be carried out in accordance with the agreed particulars.

**Reason:** In the interest of clarity and the proper planning and sustainable development of the area.

2. The mitigation, environmental commitments and monitoring measures identified in the plans and particulars relating to the proposed development, including those set out in the submitted Natura Impact Statement, Environmental Impact Assessment Report, Construction and Environmental Management Plan and Surface Water Management Plan shall be implemented in full or as may be required in order to comply with the following conditions. Prior to the commencement of development, details of a time schedule for implementation

of mitigation measures and associated monitoring shall be prepared and submitted to the planning authorities for written agreement.

**Reason:** In the interest of protecting the environment, the protection of European Sites and in the interest of public health.

3. Prior to the commencement of development at each section of the proposed works, pre-construction surveys shall be carried out to determine the presence of protected mammal, bird, or bat species.

**Reason:** In the interest of environmental protection.

4. The proposed development shall be amended as follows:
  - (a) The bus shelter proposed on Fitzwilliam Street Lower shall be omitted.
  - (b) The 11 street trees proposed on Fitzwilliam Street Lower shall be omitted.
  - (c) Scaled elevations of proposed bus shelters to be provided throughout the route are to be submitted for the written agreement of the relevant planning authority. Bus shelters on Baggot Street Lower and Baggot Street Upper shall not have advertisement panels included.
  - (d) A free-standing heritage information panel is to be designed and provided in the vicinity of the relocated Bloomfield Gate explaining its background, relocation, and history, for public viewing.
  - (e) The existing concrete benches identified as CBC1415BTH087, CBC1415BTH088 and CBC1415BTH089 in the application documentation are to be removed, stored, and incorporated into the new boundary treatment in the vicinity of their current location.
  - (f) The buffer zone between the loading bays and cycle track on the northern side of Baggot Street Upper is to be extended from 750 millimetres to 850 millimetres.

- (g) A yellow box is to be provided on the inbound lane at the Willow Park entrance gates to facilitate traffic turning movement requirements.

Revised drawings showing compliance with these requirements shall be submitted to the relevant planning authority for written agreement prior to the commencement of development, and the works carried out in accordance with the revised agreed details.

**Reason:** In the interests of proper planning and sustainable development cyclist safety, conservation of the visual amenities and character of the area, biodiversity, preservation of conservation streetscape and convenience.

5. Works on installation of the construction compound shall only take place between the months of April-September.

**Reason:** To prevent disturbance to nesting birds species scheduled under the Wildlife Act and the EU Habitats Directive and in the interest of nature conservation.

6. Prior to the commencement of any works associated with the development hereby permitted, the developer shall submit a Construction Traffic Management Plan (CTMP) and a Construction Stage Mobility Management Plan (CSMMP) for the construction phase of the development for the written agreement of the planning authority. The CSMMP shall promote the use of public transport, cycling and walking by personnel accessing and working on the construction site. The agreed CTMP and CSMMP shall be implemented in full during the course of construction of the development.

**Reason:** In the interest of traffic safety and promoting sustainable travel during the construction period.

7. The developer shall monitor queuing time/delays at each works location and record traffic flows on the local road network at locations to be agreed with the

planning authority. Such monitoring information shall be provided in a report to the planning authority on a weekly basis.

**Reason:** In the interest of orderly development.

8. Prior to the commencement of development, the developer, and/or any agent acting on its behalf, shall prepare in consultation with the relevant statutory agencies, an updated Construction Environmental Management Plan, incorporating all mitigation measures indicated in the Natura Impact Statement and Environmental Impact Assessment Report and a demonstration of proposals to adhere to best practice and protocols. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures, surface water management proposals, the management of construction traffic and off-site disposal of construction waste.

**Reason:** In the interest of protecting the environment, the landscape, European Sites, and sensitive receptors and in the interest of public health.

9. The construction of the development shall be managed in accordance with the updated Construction and Environmental Management Plan, which shall be agreed in writing with the relevant planning authorities. This plan shall provide details of intended construction practices for the development, including:
  - (a) location of the site and materials compound(s) including area(s) identified for the storage of construction refuse,
  - (b) location of areas for construction site offices and staff facilities,
  - (c) details of lighting, site security fencing and hoardings,
  - (d) details of the timing and routing of construction traffic to and from the construction site,
  - (e) measures to prevent the spillage or deposit of clay, rubble, or other debris on the public road network,

- (f) alternative arrangements to be put in place for pedestrians, cyclists, and vehicles in the case of the closure of any public road or footpath during the course of site development works,
- (g) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels,
- (h) containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained,
- (i) off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil,
- (j) means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains, and
- (k) consultation with the respective Regional Waste Management Planning Office regarding development of the final plans.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

**Reason:** In the interest of amenities, public health, and safety.

10. Prior to the commencement of development, the developer and/or any agent acting on its behalf shall submit an Invasive Species Management Plan to the relevant planning authority, which includes details of a pre-construction survey to be carried out. The plan shall include full details of the eradication of such invasive species from the development site prior to construction or if discovered during construction as soon as is practicably possible.

**Reason:** To ensure the protection of the local environment and European Sites and in the interest of nature conservation and mitigating ecological damage associated with the development

11. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the relevant planning authority for such works in respect of both the construction and operation phases of the proposed development.

**Reason:** In the interest of environmental protection and public health.

12. A suitably qualified ecologist shall be retained by the applicant to oversee the site set up and construction of the proposed development and implementation of mitigation measures relating to ecology set out in the Natura Impact Statement and Environmental Impact Assessment Report. The ecologist shall be present during site construction works. Prior to commencement of works on any section of the proposed scheme, an ecological report of the proposed scheduling, monitoring and relevant mitigation of the site works shall be prepared by the appointed ecologist and agreed in writing with the relevant planning authority.

**Reason:** In the interests of nature conservation and the protection of terrestrial and aquatic biodiversity.

13. Prior to the removal/replacement of trees, hedging and planting which is to be altered the developer shall agree with the relevant landowner the species, size, and location of all replacement vegetation. The developer shall also employ the services of an appropriately qualified Arboriculturist and Landscape Architect for the full duration of the proposed works to ensure landscaping and tree works are implemented appropriately.

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

14. (a) Trees to be felled shall be examined prior to felling and demolition to determine the presence of bat roosts. Any clearance works shall be in accordance with the Transport Infrastructure Ireland Guidelines for the

Treatment of Bats during the construction of National Road Schemes.  
Only trees indicated for removal in the submitted Arboricultural Impact Assessment are to be removed subject to the provisions of these conditions.

- (b) No ground clearance shall be undertaken, and no vegetation shall be cleared during the bird breeding season, unless otherwise agreed with the relevant planning authority.
- (c) Tree protection measures for all existing trees shall be put in place prior to the commencement of development or phases of development.
- (d) All details of soft landscaping as well as tree planting species and maturity shall be submitted for the agreement of the relevant planning authority prior to the commencement of development to include post-construction monitoring, maintenance, and replacement if/as necessary.
- (e) Post-construction management, monitoring, and replacement (if necessary) of climbing vegetation on the proposed new concrete wall along Nutley Lane at the frontage of the Elm Park Golf and Sports Club shall be put in place for a period of 5 years post construction. In the event of failure of the climbing vegetation on this wall a revised planting scheme is to be agreed with the planning authority and implemented.

**Reason:** In the interests of wildlife and biodiversity protection and orderly development.

15. Details of all signage shall be submitted to the relevant planning authority prior to the commencement of development to be held on record.

**Reason:** In the interest of orderly development.

16. Noise monitoring shall be carried out during the construction phase of the proposed road development by the developer to ensure that construction noise threshold levels (LAeq, period) shall not exceed the levels set out in the Environmental Impact Assessment Report. During the construction phase,

noise monitoring shall be carried out at representative Noise Sensitive Locations as the work progresses along the scheme to evaluate and inform the requirement and/or implementation of noise management measures. Noise monitoring shall be conducted in accordance with ISO 1996–1 (ISO 2016) and ISO 1996–2 (ISO 2017).

**Reason:** In the interest of management of construction noise and protection of adjoining amenities.

17. In accordance with the Environmental Impact Assessment Report, all works to protected structures, and structures of cultural heritage interest shall be monitored and recorded by an Architectural Conservation Specialist. Construction methodologies, and re-instatement method statements shall be submitted to the relevant planning authority for written agreement prior to the commencement of works on any relevant section of the scheme. The Architectural Conservation Specialist shall ensure that adequate protection of the retained and historic fabric during the proposed works and across all preparatory and construction phases. Discovery of new architectural heritage shall be made known to the Conservation Section of Dublin City Council as soon as is practicably possible.

**Reason:** In the interest of environmental protection.

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

- (c) All archaeological pre-construction investigations and monitoring shall be carried out in accordance with the details specified within the Environmental Impact Assessment Report submitted with the application.

**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.

19. (a) All lighting shall be operated and cowled in such a manner as to prevent light overspill to areas outside of compounds and works areas.
- (b) Prior to the commencement of development, the developer shall submit a detailed public lighting plan to be held by the planning authority. The plan shall include the type, duration, colour of light and direction of all external lighting to be installed within the site compounds of the development site.

**Reason:** In the interests of clarity, public safety, visual and residential amenity, and protection of local biodiversity.



**Mick Long**

**Member of An Bord Pleanála**

**duly authorised to authenticate  
the seal of the Board.**

Dated this 27 day of March 2024