

An Roinn Cultúir,
Oidhreacht agus Gaeltachta
Department of Culture,
Heritage and the Gaeltacht



Planning Ref: **177AE- Broadmeadow Way Fingal**
(Please quote in all related correspondence)
25/07/2019

Director of Services – Planning
An Bord Pleanála
64 Marlborough Street
Dublin 1

Via email bord@pleanala.ie

Re: Notification to the Minister for Culture, Heritage and the Gaeltacht under Article 28 (Part 4) or Article 82 (Part 8) of the Planning and Development Regulations, 2001, as amended.

Proposed Development: a proposed development consisting of a new greenway (shared footpath and cycle path) approximately 6km in length to be known as the Broadmeadow Way ("the proposed development") and such other required and ancillary works at between Malahide Demesne and Newbridge Demesne, in the townlands of Malahide Demesne, Malahide, Kilcrea, Newbridge Demesne and Donabate, Fingal, County Dublin.

A chara

On behalf of the Department of Culture, Heritage and the Gaeltacht, I refer to correspondence received in relation to the above.

Outlined below are heritage-related observations/recommendations of the Department under the stated heading(s).

Nature Conservation

This is an application by Fingal County Council to develop a 6km shared footpath and cycle path between Malahide Estuary and Newbridge Demesne via a railway causeway across the Malahide Estuary. The project lies partly within Malahide Estuary Special Protection Area Site Code 004025 and Malahide Estuary Special Area of Conservation Site Code 00205. A planning application to An Bord Pleanála is being made pursuant to the Planning and Development Acts 2000, as amended, specifically Part X, Section 171A (Environmental Impact Assessment), Part XAB (Appropriate Assessment) and Part XI (Local Authority own development). The project also proposes developments on the foreshore and as such Section 226 of Part XV is also applicable. The planning application includes a Natura Impact Statement (NIS) in support of Appropriate Assessment (May 2019) and an Environmental Impact Assessment Report (EIAR) (May 2019) both prepared by Clifton Scannell Emerson Associates and Creagh House Environmental Ltd. as well as other documents.



Matters arising from the NIS and EIAR

The Department's response utilises information about Malahide Estuary SPA available on the NPWS website (<https://www.npws.ie/protected-sites/spa/004025>) which includes the Conservation Objectives¹ and Conservation Objectives Supporting Document.²

Marine Annex 1 habitats

The conclusion of the Natura Impact Statement document is that the proposed works are unlikely to pose a significant likely risk to nature conservation interests in the vicinity. The Department of Culture, Heritage, and the Gaeltacht concurs with this conclusion in relation to marine Annex I habitats provided the stated mitigation measures are undertaken in full.

The Significance of Impacts on Special Conservation Interest (SCI) bird species

The proposed greenway will lie adjacent to a subtidal area of the Malahide Estuary Special Protection Area 004025. The considerable volume of bird count data presented in the NIS shows that SCI bird species Red Breasted Merganser and Great Crested Grebe regularly occur within a few hundred metres of the embankment. Goldeneye, another SCI bird species, occurred in significant numbers in the inner estuary in the November 2017 to April 2018 survey period.

The NIS focuses on bird abundance within 500m of the embankment as a percentage of total abundance in the inner estuary. The disturbance potential for a given species has been assessed as a proportion of the total bird population. Given the large differences in bird numbers across different species the Department is of the view that assessment needs to be done on a species by species basis, quantifying the percentage population of each species of interest that falls within the disturbance distance or distances considered. This analysis should be undertaken using the data sets available from the proposed project and the datasets which inform the site's conservation objectives. The significance of the results of these assessments need then to be considered carefully in reaching any conclusions in relation to potential disturbance impacts to bird species from the proposed project.

Disturbance Impacts

The Department considers that disturbance by people using the greenway may have significant impacts on the diving duck species Red-breasted Merganser, Great Crested Grebe and Goldeneye, particularly on the conservation objective attribute of "Distribution" for these species.

A solid screen wall (1.4m) is proposed for the entire length of the causeway. The solid screen wall should be continuous (i.e. un-broken) to minimise any disturbance. The NIS states that this will substantially decrease the risk of disturbance of birds in the inner estuary, especially those that frequent the areas within 300m of the embankment. The Department is of the view that the evidence outlined in the NIS needs to be augmented to

¹ NPWS (2013) Conservation Objectives: Malahide Estuary SPA 004025. Version 1. National Parks and Wildlife Service, Department of Arts, Heritage and the Gaeltacht.

² NPWS (2013) Conservation Objectives Supporting Document, Version 1, National Parks and Wildlife Service, Department of Arts, Heritage and the Gaeltacht.



reach a conclusion that the screen wall will reduce any disturbance to birds such that the proposed project will not adversely affect the integrity of Malahide Estuary SPA. Additional information should be provided to address this matter.

The NIS states (page 104) that permanent fencing will prevent egress to the agricultural lands and a small number of residential properties at Kilcrea and to the northern shore of Malahide Estuary. This must ensure that dogs will not be able to access this area, which has been known to be used by Light-bellied Brent Goose as a foraging area.

The NIS states that there were several occasions where flocks of waders and Brent Geese were recorded in the northeast corner of the inner estuary and along the northern shoreline within 500m of the embankment (November 2017 to April 2018 survey, Section 3.3.15, page 57). A viewing area has been proposed in this area (drawing no. 12-160-146). The ecological sensitivity of the northern boundary of the inner estuary has been noted in the Fingal Development Plan 2017 -2023 (objective MALAHIDE 6). The Department considers that this will be a very likely location that pedestrians will wish to access the shore and therefore mitigation measures which will eliminate egress and minimise the potential for disturbance from both humans, animals and related activities in this area, need to be identified and implemented.

In addition, a narrow strip of Shingle and Gravel Shores (LS1) which corresponds approximately to the annexed habitat 'perennial vegetation of stony banks (1220) has been recorded in this area. It should be clarified in the EIAR whether Annex 1 habitat Shingle and Gravel Shores (LS1) will be lost at this location.

The issues raised above should be addressed by the provision of additional information and taken into consideration when undertaking appropriate assessment in relation to the proposed project.

Cumulative / In-combination Impacts

When assessing the impact of a project, Article 6 (3) of the Habitats Directive requires an assessment of other plans or projects (implemented, approved, proposed) likely to cause in-combination or cumulative effects. This requires a quantification and/or qualification of the magnitude of these other impacts and the identification of the features of the Natura 2000 sites which they affect. In accordance with Annex III of the EIA Directive (Directive 2011/92/EU as amended by 2014/52/EU), the EIAR should assess the cumulation of the impact with the impact of other existing and/or approved projects. Key in combination and cumulative impacts are marine leisure activity around the estuary and portions of Fingal Coastal Way approved, under construction or already built.

The Conservation Objective supporting document cites sailing and dog walking as being moderately disturbing in the subtidal area of the inner estuary. The interaction of this proposed development with existing activities within the inner estuary (e.g. boating/sailing and other recreational activities) has potential to lead to in-combination / cumulative impacts, e.g. disturbance and potential exclusion of diving SCI birds.

There is potential for in-combination effects related to Fingal County Development Plan's objective for the Fingal Coastal Way (objectives NH64 and GI30), a long distance cycle and walking route from North of Balbriggan to Kilbarrack. It is understood that design has commenced on the Donabate to Balbriggan and the Sutton to Swords sections of this



route. The Portmarnock to Baldoyle section has received planning permission from An Bord Pleanála and may be under construction in the near future. It is also understood there are plans to upgrade the railway line in this area.

In-combination / cumulative impacts from these activities and developments should be considered and, if applicable, detailed mitigation measures outlined to address any impacts arising.

Monitoring

The EIAR states that a qualified ecologist with relevant experience will be appointed by Fingal County Council to monitor bird distribution and abundance throughout the construction and commissioning phase for the proposed development and for its first year of operation. Consideration should be given to projected visitors numbers in the first five years (e.g. using data from recently constructed greenways) when deciding on the length of time that monitoring of bird distribution and abundance monitoring is required. Monitoring may be required for more than one year at operational phase. Monitoring must be targeted at species identified in the NIS as being at risk of disturbance (e.g. diving ducks) and remedial measures must be put in place where any failures in mitigation are found. Provision for such remedial measures should be addressed now as part of the mitigation measures for the proposed project and should detail the steps to be taken in the event that such measures are required. Monitoring should also include monitoring the impacts of lighting on bird species, particularly illumination during night hours.

You are requested to send further communications to this Department's Development Applications Unit (DAU) via **eReferral**, where used; or to manager.dau@chg.gov.ie; if emailing is not possible, correspondence may alternatively be sent to:

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Connor Rooney
Development Applications Unit