

Proposed residential development at
Mayeston, Poppintree, Dublin 11
Appropriate Assessment Screening Report

Environmental
Assessment
**Built
Environment**

Client:

Fingal County Council

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1 Introduction

1.1 Background

Fingal County Council is seeking permission under Part 8¹ of the Planning and Development Regulations 2001-2022 (hereafter PDR 2001) for the development of new housing at a site located within the Mayeston estate at Poppintree, Finglas, Dublin 11.

Brady Shipman Martin was appointed by the applicant to prepare a report to assist Fingal County Council in undertaking a screening exercise for Appropriate Assessment (AA). The purpose of the screening exercise is to assess, in view of best scientific knowledge, if the proposed development, individually or in combination with other plans or projects is likely to have a significant effect on European sites, taking into account their conservation objectives.

This document constitutes the Appropriate Assessment Screening Report (“AA Screening Report”) prepared for this purpose.

A comprehensive desk study review and a site visit were undertaken and the potential for significant effects on European sites, both as a result of the proposed development and in-combination with other plans and projects, are appraised in this report.

1.2 Expertise and Qualifications

The work was carried out by Ecologist Matthew Hague BSc MSc Adv. Dip. Plan. & Env. Law CEnv MCIEEM. Matthew is an Associate with Brady Shipman Martin and is a highly experienced and qualified ecologist, with a master’s degree in Ecosystem Conservation and Landscape Management. He has 20 years of experience in ecological and environmental consultancy, across a wide range of sectors. He has prepared numerous reports for AA Screening as well as Natura Impact Statements, for projects of all scales, from small residential developments to nationally important infrastructure projects.

Matthew is a Chartered Environmentalist (CEnv) and a full member of the Chartered Institute of Ecology and Environmental Management (MCIEEM). Matthew has also completed an Advanced Diploma in Planning and Environmental Law, at King’s Inns and is a member of the Irish Environmental Law Association (IELA).

1.3 Legal requirement for Appropriate Assessment

European sites make up a network of sites designated for nature conservation under Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (the “Habitats Directive”) and Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (the “Birds Directive”). The requirements for Appropriate Assessment are set out under Article 6 of the Habitats Directive, transposed into Irish law by the European Communities (Birds and Natural Habitats) Regulations 2011 (as amended)² (the “Birds and Natural Habitats Regulations”) and the Planning and Development Act, 2000 (as amended) (the “Planning Acts”).

European sites are also known as Natura 2000 Sites (Special Areas of Conservation (SAC) and Special Protection Areas (SPA)). As defined in section 177R of the Planning Acts “European site” means:

- (a) a candidate site of Community importance,
- (b) a site of Community importance,
- (ba) a candidate special area of conservation,

¹ Provisions with respect to specified development by, or on behalf of, or in partnership with local authorities

² SI No. 477 of 2011

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- (c) a special area of conservation,
- (d) a candidate special protection area and
- (e) a special protection area.

Article 6(3) of the Habitats Directive states that:

“(3) Any plan or project not directly connected with or necessary to the management of the site but likely to have significant effect thereon, either individually or in combination with other plans or projects, shall be subject to Appropriate Assessment of its implications for the site in view of the site’s conservation objectives. In light of the conclusions of the assessment of the implications for the site and subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public.”

The first test is to establish whether, in relation to a particular plan or project, appropriate assessment is required. Section 177U of the Planning Acts requires that screening for appropriate assessment must be carried out:

- To assess, in view of best scientific knowledge, if the development, individually or in combination with another plan or project is likely to have a significant effect on the European site;
- An appropriate assessment is required if it cannot be excluded, on the basis of objective information, that the development, individually or in combination with other plans or projects, will have a significant effect on a European site.

The project is not required for the management of any European Site and this AA Screening Report has been prepared in accordance with the requirements of the Birds Directive, the Habitats Directive, the Planning Acts and the Birds and Natural Habitats Regulations.

2 Methodology

2.1 Baseline data collection and field visits

A desk-based assessment was undertaken in August and November 2022 (and reviewed in January 2023) of the Mayeston site. This focused on habitats and species that are listed as Qualifying Interests (QI) (in the case of SACs) and Special Conservation Interests (SCI) (in the case of SPAs) in the designations for European sites.

Birds present on the site were recorded during the surveys and an assessment of habitat suitability for species with links to European sites was undertaken, in order to appraise the potential for *ex-situ* effects on European sites.

There are no terrestrial mammals such as bats or otters listed as Qualifying Interests in any European sites within the Zone of Influence (see Section 4.2). However, Article 12 of the Habitats Directive requires Member States to take requisite measures to establish a system of strict protection of animal species listed in Annex IV(a) in their natural range. The potential impacts of the proposed development on bats and otters (also protected under Article 12 of the Habitats Directive) are therefore also assessed in this report (see Section 5.1).

A site walkover was carried out by the author on 26 August 2022.

This report takes the following guidance documents into account:

- *Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities* (Department of Environment, Heritage and Local Government, 2010 revision);
- *Appropriate Assessment under Article 6 of the Habitats Directive: Guidance for Planning Authorities*. Circular NPWS 1/10 & PSSP 2/10;
- *Assessment of Plans and Projects in Relation to Natura 2000 sites: Methodological Guidance on Article 6(3) and (4) of the Habitats Directive 92/43/EEC* (European Commission, September 2021);

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- *Managing Natura 2000 sites: The Provisions of Article 6 of the Habitats Directive 92/43/EEC*. Guidance issued by the European Commission (21 November 2018);
- *Guidance document on the strict protection of animal species of Community Interest under the Habitats Directive*. (Directorate – General for Environment (European Commission), October 2021);
- *Practice Note PNO1 Appropriate Assessment Screening for Development Management*. (Office of the Planning Regulator, March 2021).

Information was collated from the organisations and websites listed below:

- Data on European sites and rare and protected plant and animal species contained in the following databases:
 - The National Parks and Wildlife Service (NPWS) of the Department of Housing, Local Government and Heritage (www.NPWS.ie);
 - The National Biodiversity Data Centre (NDBC) (www.biodiversityireland.ie);
 - BirdWatch Ireland (www.birdwatchireland.ie);
 - Bat Conservation Ireland (www.batconservationireland.org).
- Information on land-use zoning from the online mapping of the Department of the Environment, Community and Local Government (<http://www.myplan.ie/en/index.html>);
- Recent and historical OSi mapping and aerial photography, including www.geohive.ie;
- Photographs taken at the site;
- Information on local watercourses from www.catchments.ie;
- Information on water quality in the area (www.epa.ie);
- Information on soils, geology and hydrogeology in the area (www.gsi.ie);
- Information on the Status of EU Protected Habitats and Species in Ireland (Article 17 report) (NPWS, August 2019);
- Third National Biodiversity Plan 2017 – 2021 (Department of Culture, Heritage and the Gaeltacht, 2017);
- Fingal Development Plan 2017 – 2022, including the accompanying Appropriate Assessment documentation (Natura Impact Report).

The report takes full account of the design of the proposed development and a detailed examination of all relevant elements of the proposed development was undertaken.

3 Description of the proposed development

As part of its housing programme the Housing Department of Fingal County Council proposes to construct a residential development of 121 no. residential apartment units and crèche, arranged in 5 buildings varying in height from 3 storeys to 6 storeys (Block A – 16 no. 1-bedroom units, 12 no. 2-bedroom units, 6 no. 3-bedroom units; Block B – 9 no. 1 bed units, 30 no. 2 bed units; Block C – 6 no. 3 bed units and crèche; Block D – 8 no. 1 bed units, 15 no. 2 bed units; Block E – 3 no. 1 bed units, 16 no. 2 bed units), all associated car parking and bicycle parking including an external covered bike store, hard and soft landscaping, acoustic screen to northern boundary and between Blocks D, A and B, connections to existing services and all ancillary/enabling site development works. The site location and layout are shown in **Figures 1a** and **1b**.

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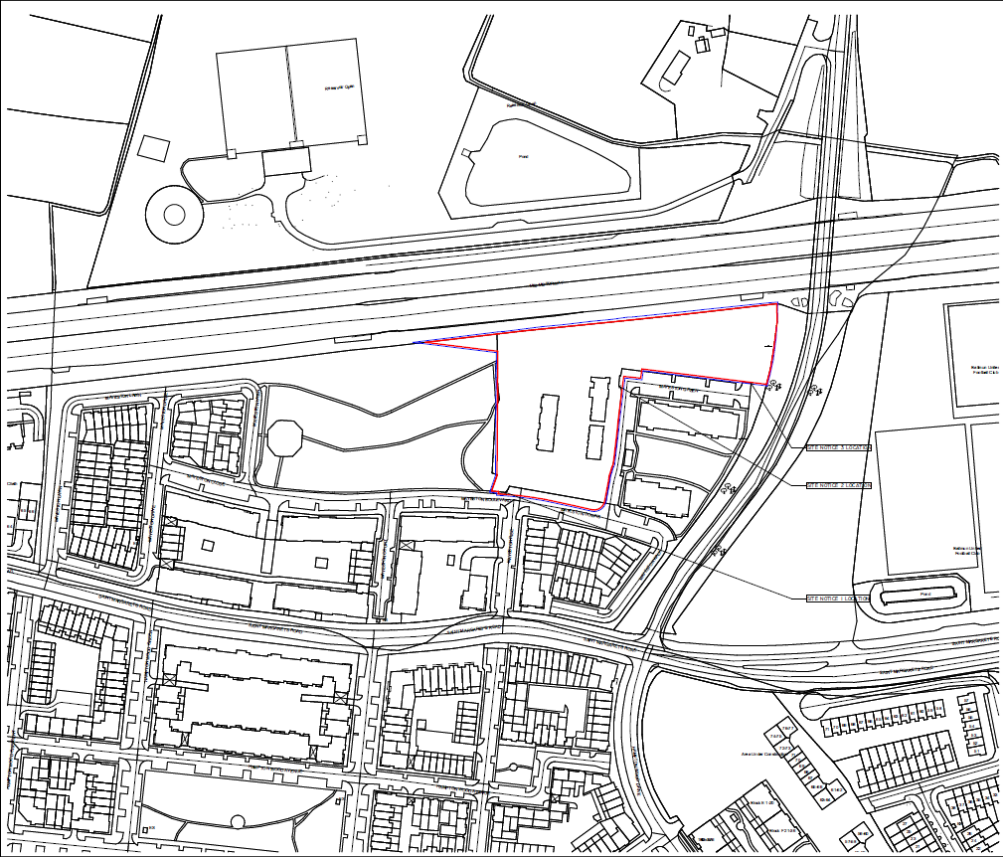


Figure 1a: Site location, with the M50 to the north

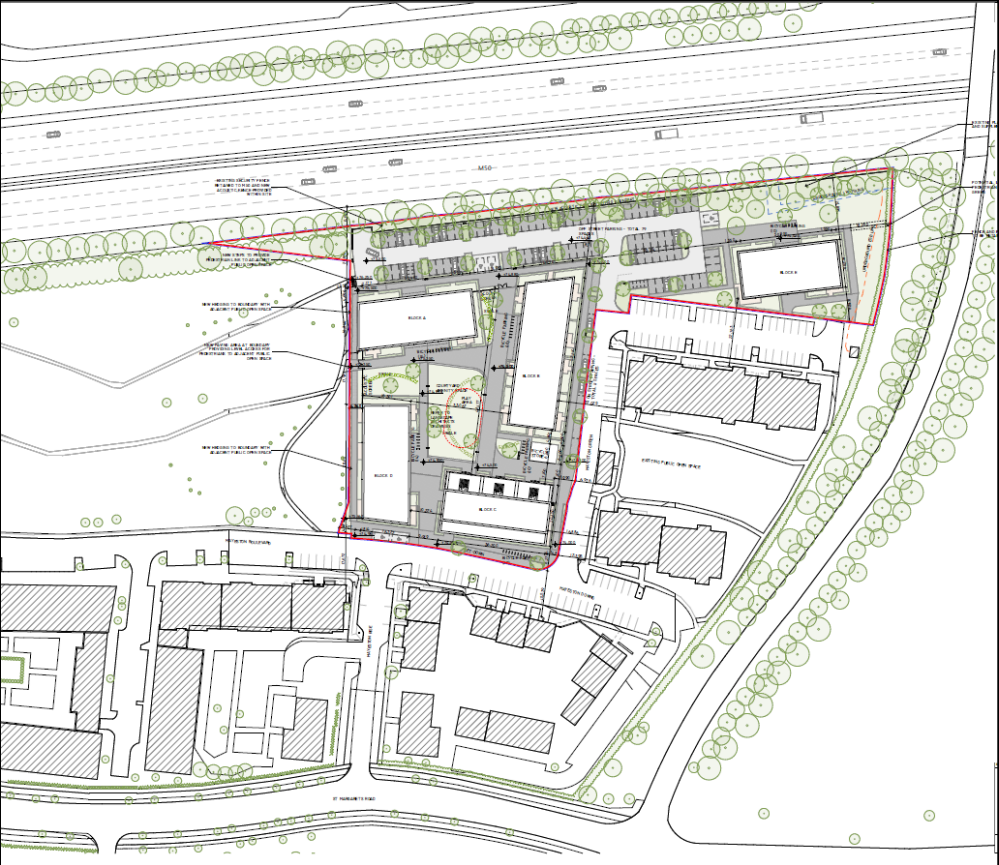


Figure 1b: Proposed development site layout

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3.1.1 Water infrastructure

Water Supply

As noted in the Civil Engineering Report, prepared by Downes Associates and submitted separately, a pre-connection enquiry was submitted to Irish Water regarding the proposed development (Irish Water reference CDS21007943), and a confirmation of feasibility has been received stating that a connection to Irish Water's water supply network can be facilitated with no upgrade requirements. The letter is included as Appendix A of the Civil Engineering report.

Surface Water Drainage

As noted in the Civil Engineering Report, there is an existing surface water drainage network serving the Mayeston estate that includes attenuation storage within underground storage tanks located in the public open space area immediately to the west of the proposed development site. The existing attenuation tank system includes a storage allowance for runoff from 4,200m² of contributing (impermeable) area for the site under appraisal in this report as part of the previously proposed development. Although normal policy in Fingal County Council is to avoid such solutions, given the fact that the attenuation tanks are already in place and are appropriately sized it is considered appropriate to utilise the attenuation storage capacity provided by the already constructed tank. Runoff from the roof areas will therefore be directed to the existing attenuation system.

Surface water runoff from the remainder of the new development will be managed using appropriate Sustainable Urban Drainage Systems (SuDS) techniques as set out in the current Fingal Development Plan (such as Objectives DMS73 and DMS74). As set out in the Civil Engineering report permeable paving, grass areas and reinforced grass will be used within the site, and an extensive green roof will be provided at the proposed bicycle store building. Swales (dry conveyance swales) will also be provided within the central courtyard area as part of the landscaping proposals. These will provide conveyance for exceedance runoff from the permeable pavements. Other SuDS measures (such as bioretention areas, infiltration areas and hydrobrakes) will be incorporated into the surface water drainage systems at the site.

Wastewater Drainage

As noted in the Civil Engineering Report, the foul water drainage network will be separate to the surface water drainage system and will comply with "Irish Water - Code of Practice of Wastewater Infrastructure: July 2020 IW-CDS- 5030-03". The foul water will discharge to the existing foul sewer on Mayeston Green.

According to the confirmation of feasibility letter included at Appendix A of the Civil Engineering report a connection to the Irish Water foul network can be facilitated subject to site specific comments. As the existing Mayeston foul sewer network has not been taken in charge, Irish Water shall require the following as part of any connection application:

1. Identify and procure transfer to Irish Water of the arterial infrastructure within the 3rd party infrastructure;
2. Demonstrate that the arterial infrastructure is in compliance with requirements of Irish Water Code of Practice and Standard Details and in adequate condition and capacity to cater for additional loads from the development;
3. Confirm the connection of the 3rd party infrastructure to the Irish Water Network in 225mm crossing St Margaret's Rd, with a survey before the connection application stage.

Municipal wastewater generated in this area is conveyed via the existing municipal drainage network to the Irish Water Wastewater Treatment Plan (WwTP) at Ringsend (EPA licence no. D0034-01).

The predicted total daily wastewater discharge volume for the residential development is 53,955 litres per day and the predicted peak discharge rate is 3.72 litres per second.

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The predicted total daily wastewater discharge volume for the crèche development is 2,970 litres per day and the predicted peak discharge rate is 0.21 litres per second.

3.1.2 Flood Risk Assessment

A Stage 2 Flood Risk Assessment has been undertaken in accordance with the OPW 2009 publication “*The Planning System and Flood Risk Management – Guidelines for Planning Authorities*” and is presented within the Civil Engineering Report, prepared by Downes Associates and submitted separately. As noted in the Flood Risk Assessment, the site is elevated relative to and outside the predictive flood extents any existing watercourses based on current available information. Based on the information, the subject site is considered not at risk of fluvial or tidal flooding. The site can therefore be considered to be in flood Zone C – where the probability of flooding from rivers and seas is low.

The proposed residential development is classified as a combination of less vulnerable and highly vulnerable development. Vulnerable developments, such as the proposed development, at risk of Zone A and Zone B flooding require a justification test. Therefore, a justification test is not required for the proposed development as, based on the evidence outlined above, the development is considered to be located in Zone C, i.e. an area subject to a low probability of flooding.

4 Screening for Appropriate Assessment

4.1 Background

The first part of the Appropriate Assessment process is the Screening phase. Screening identifies the likely effects of the proposed development on European sites that could arise, either alone or in combination with other plans or projects, and considers whether these impacts are likely to have a significant effect on the European site in view of the site’s conservation objectives.

In accordance with sections 177U of the Planning Acts, screening for appropriate assessment must be carried out:

- To assess, in view of best scientific knowledge, if the development, individually or in combination with another plan or project is likely to have a significant effect on the European site;
- An appropriate assessment is required if it cannot be excluded, on the basis of objective information, that the development, individually or in combination with other plans or projects, will have a significant effect on a European site.

Screening must be undertaken without the inclusion of mitigation and it is in this context that this AA Screening Report is prepared.

Following screening therefore, if there is a possibility of there being a significant effect on a European site, this will generate the need for an appropriate assessment under section 177V of the Planning Acts for the purposes of compliance with Article 6(3) of the Habitats Directive. This means that if the conclusions at the end of the screening exercise are that significant effects on any European sites, as a result of the proposed development, either alone or in combination with other plans and projects, are likely, uncertain or unknown, then an Appropriate Assessment must be carried out. This is in accordance with established precedent and case law.

4.2 Potential Zone of Influence

This assessment is based on the source-pathway-receptor model, which dictates that, for an effect to occur, there must be a ‘source’ (such as a construction site); a ‘receptor’ (such as a designated site for nature conservation); and a ‘pathway’ between the two (such as a watercourse). A construction site or completed development may also create a barrier to movement, for example, by preventing the migration of fauna along a river corridor, or by obstructing the migration of birds.

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Identification of a potential effect means that there is a possibility of ecological or environmental damage occurring, with the level and significance of the impact depending upon the nature and exposure to the potential effect and the characteristics of the receptor. Although there may be a risk of an impact, it may not necessarily occur, and if it does occur, it may not be significant.

There are no set recommended distances for projects to consider European sites as being relevant for assessment. DoEHLG (2010a, pp. 31 – 32) states that:

“The approach to screening is likely to differ somewhat for plans and projects, depending on scale and on the likely effects, but the following should be included:

1. *Any Natura 2000 sites within or adjacent to the plan or project area*
2. *Any Natura 2000 sites within the likely zone of impact of the plan or project. A distance of 15km is currently recommended in the case of plans, and derives from UK guidance (Scott Wilson et al., 2006). For projects, the distance could be much less than 15km, and in some cases less than 100m, but this must be evaluated on a case-by-case basis with reference to the nature, size and location of the project, and the sensitivities of the ecological receptors, and the potential for in combination effects*
3. *Natura 2000 sites that are more than 15km from the plan or project area depending on the likely impacts of the plan or project, and the sensitivities of the ecological receptors, bearing in mind the precautionary principle. In the cases of sites with water dependent habitats or species, and a plan or project that could affect water quality or quantity, for example, it may be necessary to consider the full extent of the upstream and/or downstream catchment.”*

The 2021 OPR guidelines, *Practice Note PN01: Appropriate Assessment Screening for Development Management*, state that the Zone of Influence “*should be established on a case-by-case basis using the Source-Pathway-Receptor framework and not by arbitrary distances (such as 15 km)*” (p. 8).

Therefore, considering the nature, scale and location of the proposed development, and in accordance with the source-pathway-receptor model, the potential Zone of Influence for the proposed development has been defined as follows:

- All European Sites within 100m of the proposed development site;
- All European Sites downstream of the proposed development site and the emission point of the Ringsend wastewater treatment plant (WwTP) in Dublin Bay; and
- All European Sites potentially connected to the site via potable water supply.

4.3 Study area and surrounding environment

4.3.1 Site Location and European Sites

The site, which measures approximately 1.35Ha in area, is located between St Margaret’s Rd to the south, the M50 to the north, existing residential development to the east, and a public park to the west (refer to Figure 1 below). The site forms part of the Mayeston estate which has been developed in recent years. The southern part of the site forms part of a larger 1.43Ha site for which planning permission for was previously granted (planning register ref. F06A/1348). However, only the eastern part of this granted development was constructed. The remaining (current applicant) site was only partially developed – concrete slabs and foundations are in place for unfinished units as indicated in **Figure 1a**. The northern wedge-shaped part of the current applicant site did not form part of the previous planning application. This additional lands measures approximately 0.59Ha. The land is zoned RS-Residential: to ‘*Provide for residential development and protect and improve residential amenity*’.

There are no European sites within the immediate vicinity of the proposed development site at Mayeston.

The nearest sites are as follows (see also **Figure 2**):

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■ Special Areas of Conservation (SAC)

- Malahide Estuary SAC (site code 000205), c.8.3km to the north east;
- North Dublin Bay SAC (site code 000206), c.8.6km to the south east;
- South Dublin Bay SAC (site code 000210), c.9.3km to the south east;
- Baldoyle Bay SAC (site code 000199), c.9.4km to the east;
- Rogerstown Estuary SAC (site codes 000208), c.11.7 to the north east;
- Howth Head SAC (site code 000202), c.13.0km to the east;
- Rockabill to Dalkey Island SAC (site code 003000), c.13.8km to the east;
- Ireland's Eye SAC (site code 002193), c.14.2km to the east;
- Rye Water Valley/Carton SAC (site code 001398), c.14.4km to the south west;
- Glenasmole Valley SAC (site code 001209), c.17.5km to the south;
- Wicklow Mountains SAC (site code 002122), c.18.8km to the south;
- Lambay Island SAC (site code 000204), c.18.8km to the north east;

■ Special Protection Areas (SPA)

- South Dublin Bay and River Tolka Estuary SPA (site code 004024), c.6.5km to the south east;
- Broadmeadow/Swords Estuary (Malahide Estuary) SPA (site code 004025), c.8.3km to the north east;
- North Bull Island SPA (site code 004006), c.8.6km to the south east;
- Baldoyle Bay SPA (site code 004016), c.9.5km to the east;
- Rogerstown Estuary SPA (site codes 004015), c.12.3km to the north east;
- Ireland's Eye SPA (site code 004117), c.14.0km to the east;
- Howth Head Coast SPA (site code 004113), c.15.3km to the east;
- Lambay Island SPA (site code 004069), c.18.8km to the north east;
- Wicklow Mountains SPA (site code 004040), c.18.9km to the south;
- Dalkey Islands SPA (site code 004172), c.19.1km to the south east;
- Poulaphouca Reservoir SPA [004063], c.28.5km south-west.

The Conservation Objectives of these sites are to maintain or restore the favourable conservation condition of the QIs / SCIs in question. Where specific conservation objectives have been set out by the NPWS, 'favourable conservation condition' is defined in respect of specific attributes and targets for the habitat or species in question. For further information, refer to **Appendix II**.

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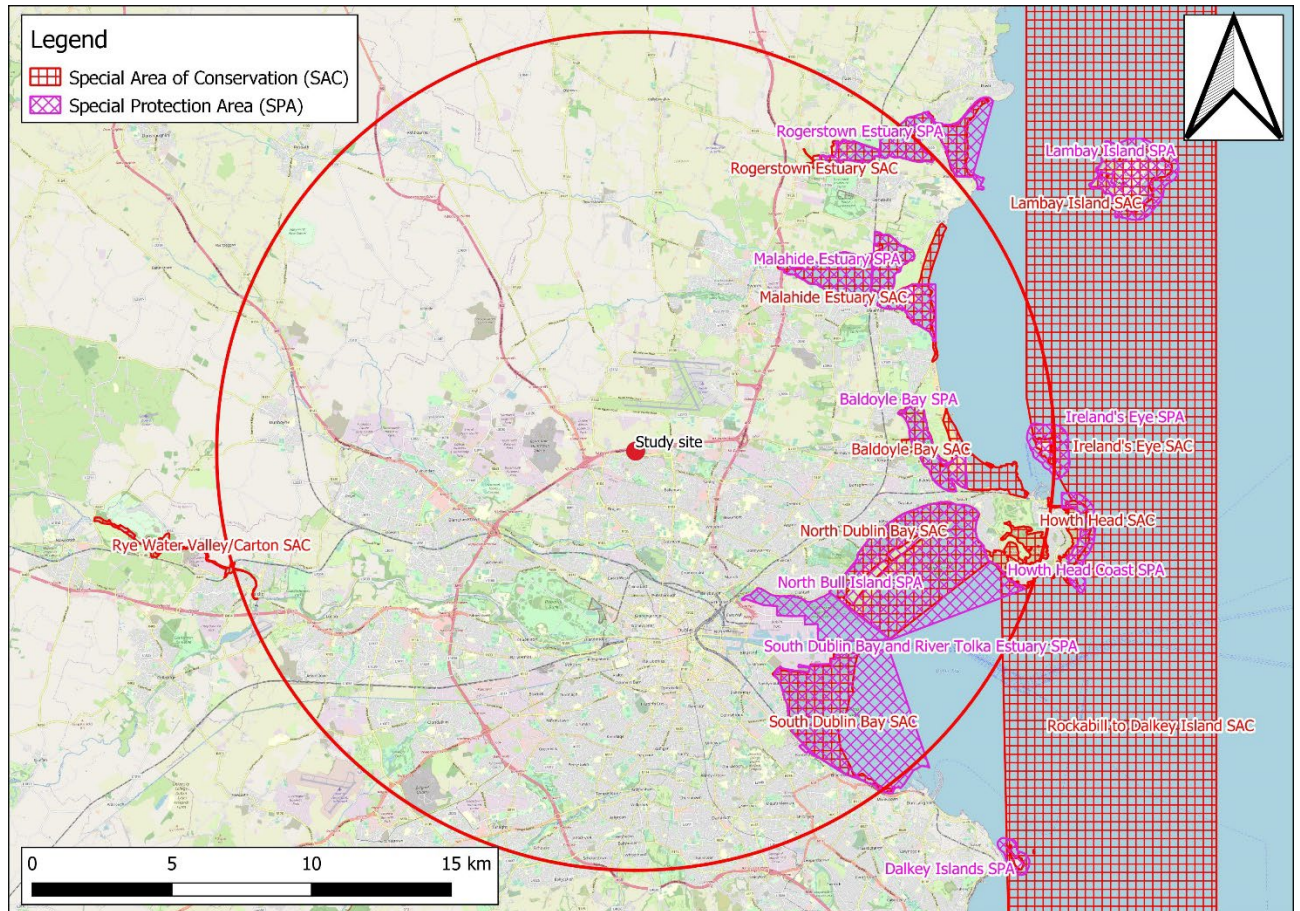


Figure 2: Study site at Mayeston showing European sites (*OpenStreetMap*). A 15km radius is shown, for scale.

4.3.2 Other designated areas (other than European sites)

Designated Sites other than European sites (i.e. Proposed Natural Heritage Areas (pNHA) and designated Natural Heritage Areas (NHA)) are included in this assessment in order to address their potential to act as supporting sites for the European sites (see **Figure 3**).

The nearest site designated for nature conservation, not otherwise designated as a European site, is Santry Demesne pNHA (site code 000178), approximately 1.8km to the east. Royal Canal proposed Natural Heritage Area (pNHA site code 002103) is approximately 4.0km to the south, Feltrim Hill pNHA (site code 001208) is approximately 6.7km to the north east and Sluice River Marsh pNHA (site code 001763) is approximately 8.9km to the east.

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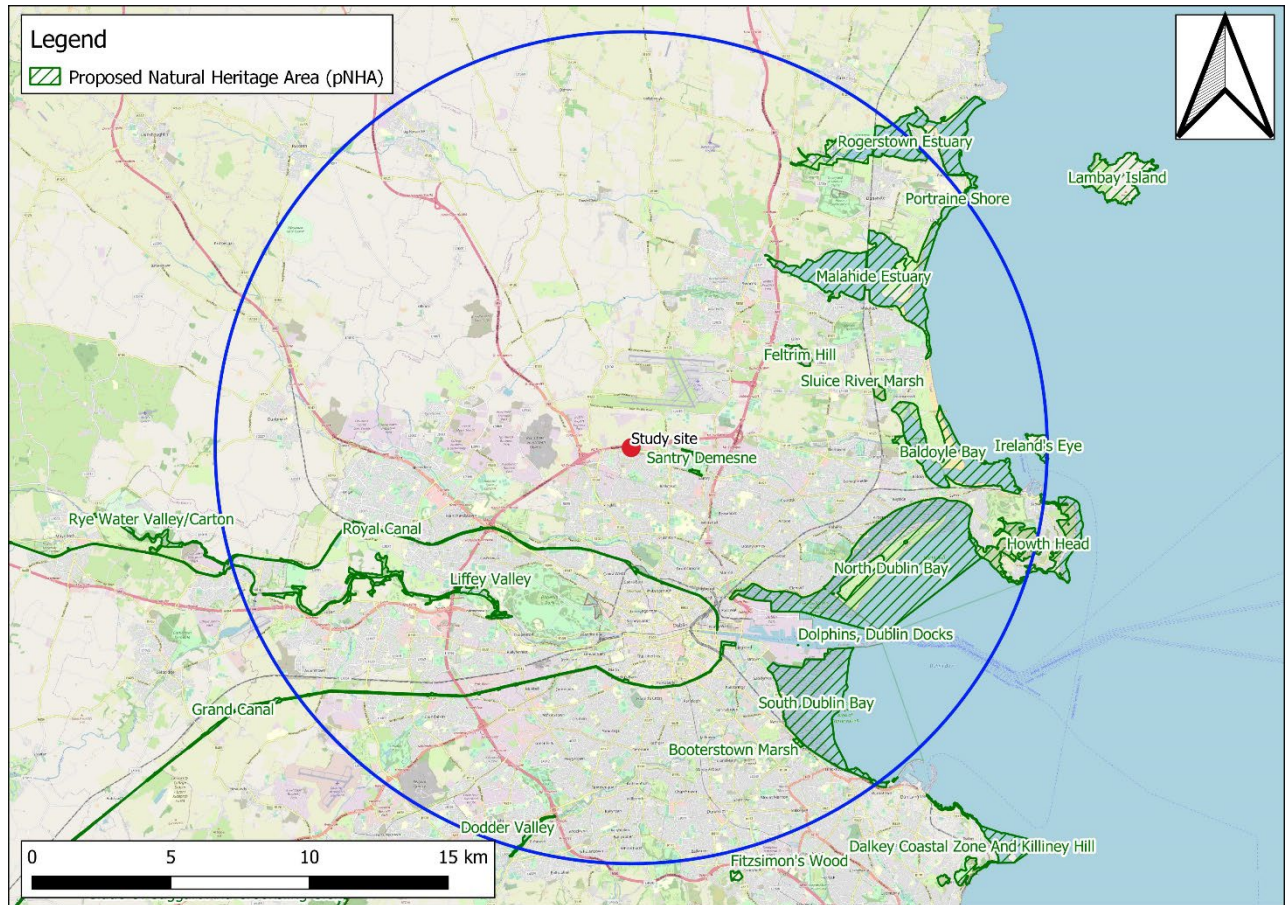


Figure 3: Study site at Mayeston showing pNHA sites (*OpenStreetMap*). A 15km radius is shown, for scale.

Of these 22 sites listed in Section 4.3.1 only the following eight sites are located within the potential Zone of Influence of the proposed development.

■ Special Areas of Conservation (SAC)

- North Dublin Bay SAC (site code 000206), c.8.6km to the south east;
- South Dublin Bay SAC (site code 000210), c.9.3km to the south east;
- Howth Head SAC (site code 000202), c.13.0km to the east;
- Rockabill to Dalkey Island SAC (site code 003000), c.13.8km to the east;

■ Special Protection Areas (SPA)

- South Dublin Bay and River Tolka Estuary SPA (site code 004024), c.6.5km to the south east;
- North Bull Island SPA (site code 004006), c.8.6km to the south east;
- Dalkey Islands SPA (site code 004172), c.19.1km to the south east;
- Poulaphouca Reservoir SPA [004063], c.28.5km south west.

These sites are potentially linked to the proposed development via the water pathway. A review of the EPA web tool indicates that the Santry River (EPA Code IE_EA_09S011100), the nearest watercourse to the site, runs approximately 750m to the north east of the site at its closest. The Santry River flows into Dublin Bay via a culvert just north of the junction of Causeway Road and James Larkin Road near St Anne's Park, near to North Bull Island. There is no realistic pathway to the Santry River. Refer to **Figure 4** and **Table 1**.

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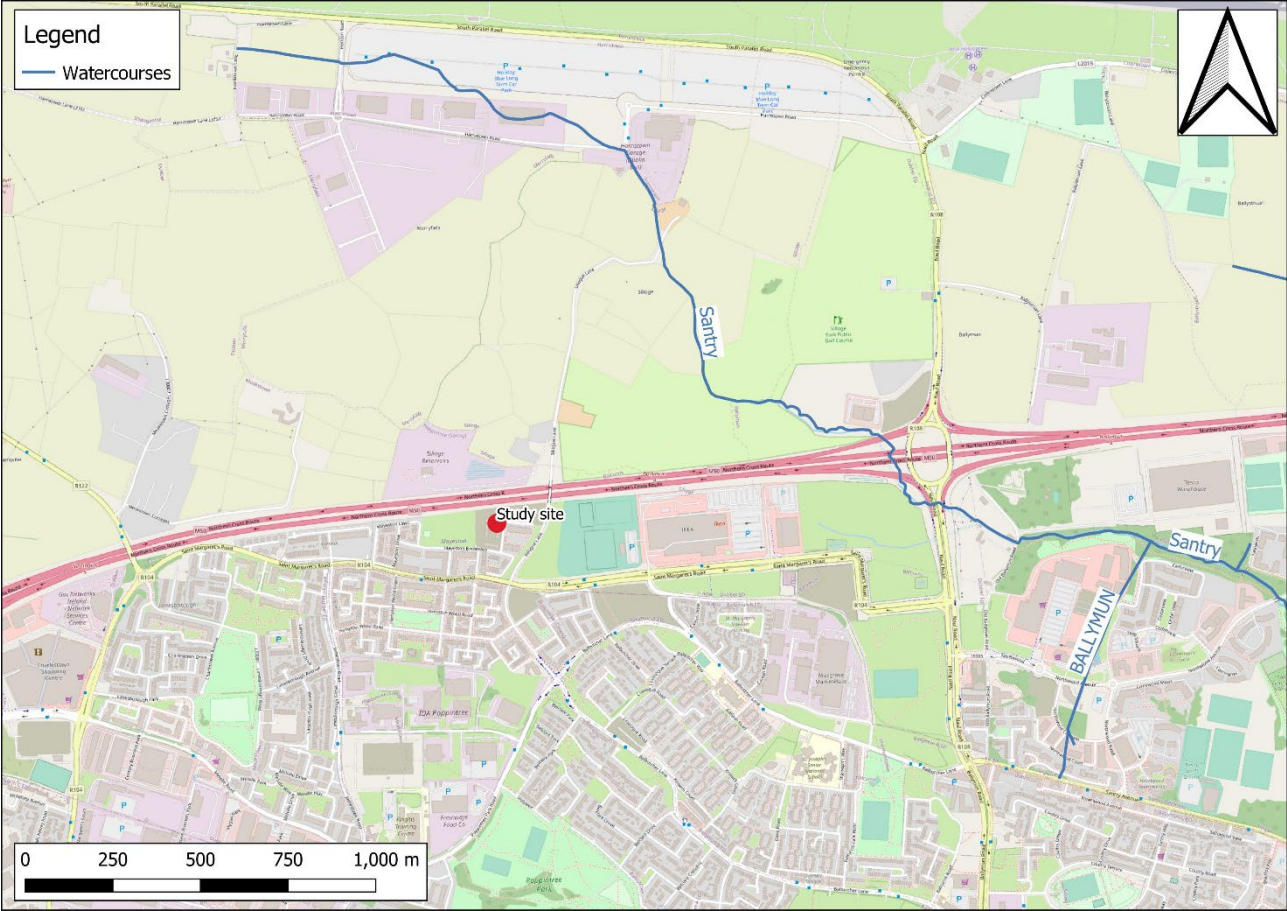


Figure 4: EPA waterbodies (the Santry River) in the proximity of the proposed development (*OpenStreetMap*)

A potential link to coastal European sites is via the emission point of the Ringsend wastewater treatment plant (WwTP), which will receive foul water flows from the proposed development during its operation.

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Table 1: Details of European sites in the potential Zone of Influence

Site	Conservation Objectives	Qualifying Interests ³
North Dublin Bay SAC [000206], c.8.6km south east	According to this SAC's site Conservation Objectives document (Version 1, dated 06 November 2013), for each of the listed QIs, the Conservation Objective is to maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.	<p>[1140] Mudflats and sandflats not covered by seawater at low tide</p> <p>[1210] Annual vegetation of drift lines</p> <p>[1310] <i>Salicornia</i> and other annuals colonising mud and sand</p> <p>[1330] Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>)</p> <p>[1410] Mediterranean salt meadows (<i>Juncetalia maritimi</i>)</p> <p>[2110] Embryonic shifting dunes</p> <p>[2120] Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes)</p> <p>[2130] Fixed coastal dunes with herbaceous vegetation (grey dunes)</p> <p>[2190] Humid dune slacks</p> <p>[1395] <i>Petalophyllum ralfsii</i> (Petalwort)</p>
South Dublin Bay SAC [000210], c.9.3km south east	<p>According to this SAC's site Conservation Objectives document (Version 1, dated 22 August 2013), for the listed QI [1140], the Conservation Objective is to maintain the favourable conservation condition of the Annex I habitat for which the SAC has been selected.</p> <p>Note: The following habitats are listed as Qualifying Interests on the NPWS website, but are not included in the Conservation Objectives document:</p> <ul style="list-style-type: none"> ■ [1210] Annual vegetation of drift lines ■ [1310] <i>Salicornia</i> and other annuals colonising mud and sand <p>[2110] Embryonic shifting dunes)</p>	<p>[1140] Mudflats and sandflats not covered by seawater at low tide</p> <p>[1210] Annual vegetation of drift lines</p> <p>[1310] <i>Salicornia</i> and other annuals colonising mud and sand</p> <p>[2110] Embryonic shifting dunes</p>
Howth Head SAC [000202], c.13.0km north east	According to this SAC's site Conservation Objectives document (Version 1, dated 06 December 2016), for each of the listed QIs, the Conservation	<p>[1230] Vegetated sea cliffs of the Atlantic and Baltic coasts</p> <p>[4030] European dry heaths</p>

³ * denotes priority habitat under the Habitats Directive



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Site	Conservation Objectives	Qualifying Interests ³
	Objective is to maintain the favourable conservation condition of the Annex I habitats for which the SAC has been selected.	
Rockabill to Dalkey Island SAC [003000], c.13.8km east	According to this SAC's site Conservation Objectives document (Version 1, dated 07 May 2013), for each of the listed QIs, the Conservation Objective is to maintain the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.	[1170] Reefs [1351] <i>Phocoena phocoena</i> (Harbour Porpoise)
South Dublin Bay and River Tolka Estuary SPA [004024], c.6.5km south east	According to this SPA's site Conservation Objectives document (Version 1, dated 9 March 2015), for each of the listed SCIs, the Conservation Objective is to maintain the favourable conservation condition of the species and wetland habitat for which the SPA has been selected.	[A046] Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A130] Oystercatcher (<i>Haematopus ostralegus</i>) [A137] Ringed Plover (<i>Charadrius hiaticula</i>) [A141] Grey Plover (<i>Pluvialis squatarola</i>) [A143] Knot (<i>Calidris canutus</i>) [A144] Sanderling (<i>Calidris alba</i>) [A149] Dunlin (<i>Calidris alpina</i>) [A157] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A162] Redshank (<i>Tringa totanus</i>) [A179] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A192] Roseate Tern (<i>Sterna dougallii</i>) [A193] Common Tern (<i>Sterna hirundo</i>) [A194] Arctic Tern (<i>Sterna paradisaea</i>) [A999] Wetland and Waterbirds
North Bull Island SPA [004006], c.8.6km south east	According to this SPA's site Conservation Objectives document (Version 1, dated 9 March 2015), for each of the listed SCIs, the Conservation Objective is to maintain the favourable conservation condition of the species and wetland habitat for which the SPA has been selected.	[A046] Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A048] Shelduck (<i>Tadorna tadorna</i>) [A052] Teal (<i>Anas crecca</i>) [A054] Pintail (<i>Anas acuta</i>) [A056] Shoveler (<i>Anas clypeata</i>) [A130] Oystercatcher (<i>Haematopus ostralegus</i>) [A140] Golden Plover (<i>Pluvialis apricaria</i>) [A141] Grey Plover (<i>Pluvialis squatarola</i>) [A143] Knot (<i>Calidris canutus</i>) [A144] Sanderling (<i>Calidris alba</i>) [A149] Dunlin (<i>Calidris alpina</i>) [A156] Black-tailed Godwit (<i>Limosa limosa</i>) [A157] Bar-tailed Godwit (<i>Limosa lapponica</i>)

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Site	Conservation Objectives	Qualifying Interests ³
		[A160] Curlew (<i>Numenius arquata</i>) [A162] Redshank (<i>Tringa totanus</i>) [A169] Turnstone (<i>Arenaria interpres</i>) [A179] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A999] Wetland and Waterbirds
Dalkey Islands SPA [004172], c.19.1km south east	According to this SPA's First Order Site-specific Conservation Objectives document (Version 1, dated 12 October 2022), for each of the listed SCIs, the Conservation Objectives are to maintain or restore the favourable conservation condition of the species for which the SPA has been selected.	[A192] Roseate Tern (<i>Sterna dougallii</i>) [A193] Common Tern (<i>Sterna hirundo</i>) [A194] Arctic Tern (<i>Sterna paradisaea</i>)
Poulaphouca Reservoir SPA [004063], c.28.5km south west	According to this SPA's First Order Site-specific Conservation Objectives document (Version 1, dated 12 October 2022), for each of the listed SCIs, the Conservation Objectives are to maintain or restore the favourable conservation condition of the species for which the SPA has been selected.	[A043] Greylag Goose (<i>Anser anser</i>) [A183] Lesser Black-backed Gull (<i>Larus fuscus</i>)



5 Potential impacts from the proposed development including in-combination effects

5.1 European sites and habitats with links to European sites

The proposed development site is not under any wildlife or conservation designation. Furthermore, no rare, threatened or legally protected plant species, as listed in the *Irish Red Data Book 1 – Vascular Plants* (Curtis & McGough, 1988), the *Flora Protection Order, 2015* or the *EU Habitats Directive*, are known to occur within the site and none were recorded during the site visit carried out.

The eastern part of the site comprises of an area of rank grassland, with encroaching scrub (mainly bramble (*Rubus fruticosus* agg.) and hedge bindweed (*Calystegia sepium*) now dominating much of the site area. Other scrub species include dogwood (*Cornus* sp.), Japanese rose (*Rosa rugosa*), blackthorn (*Prunus spinosa*) as well as willowherb (*Epilobium* spp.) and occasional privet (*Ligustrum vulgare*), buddleia (*Buddleja davidii*) and cherry (*Prunus*).

The western part of the site is mainly dominated by a mix of hard standing (concrete pads and an asphalt road) and spoil mounds and recolonising bare ground (gravel and soil). This area contains similar species to the eastern side, however it is heavily dominated by buddleia. Occasional young birch (*Betula* sp.) saplings are also present.

No rare habitats or habitats of significant ecological value (i.e. International or National) are present at the site and no rare plants were recorded during the survey undertaken. The scrub does have value (at the site level only) for breeding birds, and small numbers of four common species were recorded on the site (starling, blackbird, robin and feral pigeon). There is no habitat on the site suitable for use, even on a very occasional basis, by any overwintering birds, such as pale-bellied Brent goose, or any other protected bird species listed as a Special Conservation Interest (SCI) in any European site within the Zone of Influence.

There are no features suitable for use by roosting bats (species protected under Article 12 of the Habitats Directive) within the site, even on an occasional basis and overall the site is of only very low suitability for foraging and commuting bats. No evidence of otter (also protected under Article 12 of the Habitats Directive) was recorded and the site is entirely unsuitable for the species.

Evidence of fox activity was noted, however no other evidence of large mammals, such as badger was recorded during the surveys carried out.

None of the habitats or features present on the site are Qualifying Interests/Special Conservation Interests in any European site within the Zone of Influence and none of these Qualifying Interests/Special Conservation Interests are present on the site. No evidence of any habitats or species with links to European sites was recorded during either the field surveys or desk study undertaken and no 'reservoir' type habitats (habitats which have the potential to support Qualifying Interest/Special Conservation Interest species in any European site) are present.

Overall the site of the proposed development is of Local (lower Value) importance, as defined by the ecological resource valuations presented in the National Roads Authority/Transport Infrastructure Ireland *Guidelines for Assessment of Ecological Impacts of National Road Schemes* (NRA/TII, 2009 (Rev. 2)).

5.1.1 Potential impacts during construction

The proposed development comprises a local authority residential development project. The proposed development site is comprises heavily disturbed and transitional habitats and is of no more than local (lower) ecological value, as noted in Section 5.1. There is no likelihood of any of the QIs or SCIs of the European Sites in the potential Zone of Influence occurring at the proposed development site.

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The proposed site clearance and construction works may be expected to involve noisy activities, dust-generating activities, construction traffic and machinery, and the generation of waste material for off-site disposal. Typical environmental effects are predicted, including elevated levels of noise, emissions of dust, and direct and indirect greenhouse gas emissions. Generally speaking, these effects will be short-term in duration (lasting only as long as the proposed works), reversible and localised. Existing vegetation of limited ecological value will also be cleared under the scope of the proposed works.

There are no designated sites – national or European – at the site of the proposed development or in the immediate vicinity. The nearest European Site within the potential Zone of Influence is the South Dublin Bay and River Tolka Estuary SPA (site code 004024), a c.6.5km linear distance from the site – and at a much greater remove via any potential impact pathway. Considering the distance of the proposed development from the nearest European Sites in the potential Zone of Influence, and the absence of any associated QIs or SCIs, there is no likelihood of direct effects on any European Site arising as a result of the proposed development.

During the construction phase, there is the potential for surface water laden with contaminated sediment, cementitious material, hydrocarbons, or other potential pollutants to be generated on the site during the proposed works. Considering the significant distance to the nearest watercourse (c.750m to the Santry River), polluted surface water will not be emitted directly to any surface water body.

There is a possibility that contaminated surface water from the site could enter the municipal surface water drainage network and be indirectly discharged to surface waters (e.g. during extreme rainfall events and / or high tides), thereby creating an indirect hydrological pathway linking the proposed development site with European Sites downstream. Even in the event of such an emission, considering the high dilution factor and in potential receiving watercourses, and the distances to the nearest European Sites, it is not likely that perceptible ecological effects could arise in this way.

5.1.2 Potential impacts during operation

During the operational phase, typical environmental aspects and effects associated with the presence and operation of residential development are also predicted, including potable water consumption, foul water loading to the municipal network, and direct and indirect greenhouse gas emissions.

In terms of surface water drainage, the proposed development will connect to existing attenuation (refer to Section 3.1.1). It will also include SuDS features.

The proposed foul water drainage system will connect with existing municipal infrastructure (refer to Section 3.1.1). From here, the foul water will be conveyed to the Irish Water WwTP at Ringsend, where the effluent will be subject to treatment prior to discharge to Dublin Bay at Poolbeg. This creates an indirect hydrological pathway linking the proposed development site with European Sites in Dublin Bay.

As set out in the Civil Engineering Report that accompanies the submission, prepared by Downes Associates, the peak wastewater discharge is calculated at 3.72l/s for the residential units and 0.21l/s for the crèche. The Ringsend WwTP operates under licence from the EPA (Licence no. D0034-01) and received planning permission (ABP reg. ref.: 301798) in 2019 for upgrade works, which commenced in 2018 and are expected to be fully completed by 2025. The upgrade works will result in treatment of sewage to a higher quality than current, thereby ensuring effluent discharge to Dublin Bay will comply with the Urban Wastewater Treatment Directive by Q4 2023.

The peak wastewater discharge would not have a measurable impact on the overall water quality within Dublin Bay and therefore would not have an impact on the current Water Body Status (as defined within the Water Framework Directive). The hydrodynamic and chemical modelling within Dublin Bay which has shown that there is significant dilution for contaminants of concern (DIN and MRP) available quite close to the outfall for the treatment plant

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(Ringsend WWTP 2012 EIS, Ringsend WWTP 2018 EIAR; refer to Section 12.4.22, ABP-301798-18 Inspector's report). The most recent water quality assessment of Dublin Bay WFD Waterbody undertaken by the EPA (*Water Quality in 2020: An Indicator Report, 2021*) also shows that Dublin Bay on the whole, currently has an 'Unpolluted' water quality status (refer to www.catchments.ie).

It is possible that there will be a marginal increase in demand for potable water during the operational phase. Drinking water in Dublin City is largely derived from the Poulaphouca Reservoir in Co. Wicklow. There is, therefore, a potential impact pathway (via water abstraction) from the proposed development site to the Poulaphouca Reservoir SPA (site code 004063), designated for the protection of Greylag Goose and Lesser Black-backed Gull. However, any increase in potable water demand would not be significant in the context of the total volume abstracted from the reservoir. Furthermore, there is no evidence that current levels of water abstraction are conservation threats to these SCIs.

The only pNHA in the Zone of Influence that extends substantially outside the Natura 2000 network is the Santry Demesne pNHA (site code 000178), c.1.8km to the east. For the reasons set out above, no pNHAs have the potential to be affected by the proposed development in a manner that could directly or indirectly affect any European Sites or their QIs / SCIs, taking into account their Conservation Objectives.

Significant effects on European Sites resulting from the proposed development can be ruled out. The primary reasons for this conclusion are as follows:

- There are no European Sites at the site of the proposed development or in the immediate vicinity that could be directly affected by the construction or operation of the proposed development;
- The site of the proposed development is of limited ecological value and does not support habitats or species that are QIs or SCIs of any European Sites in the potential Zone of Influence;
- While there are potential impact pathways (via potable water abstraction and foul water drainage and treatment networks), significant impacts via these pathways can be ruled out, for the reasons set out above.

A discussion of the potential impacts of the proposed development on individual European Sites in the potential Zone of Influence is presented in **Table 2**, overleaf.

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Table 2 Potential impacts on European sites in the potential Zone of Influence

Site	Discussion of Source-Pathway-Receptor Link	Likely Significant Effect?
North Dublin Bay SAC [000206], c.8.6km south east	<p>This site is situated in Dublin Bay. There is a potential indirect hydrological pathway between the proposed development and European Sites in Dublin Bay via the municipal wastewater drainage network (which contains overflow arrangements) and the Ringsend WwTP (which discharges treated foul effluent at Poolbeg). However, as detailed above, taking into consideration various factors (including minor additional foul water loading from the proposed development, significant dilution factor in receiving waterbodies, and existing water quality status in Dublin Bay), there is no possibility of significant impacts on this or any other European Site arising as a result of the proposed development via this pathway.</p> <p>At its closest point, the site of the proposed development is a c.8.6km linear distance from the SAC, and bears no relation to its QIs or their Conservation Objectives. There will be no direct impacts on the QIs of the site, none of which is likely to be present at the site of the proposed development.</p>	No
South Dublin Bay SAC [000210], c.9.3km south east	<p>This site is situated in Dublin Bay. There is a potential indirect hydrological pathway between the proposed development and European Sites in Dublin Bay via the municipal wastewater drainage network (which contains overflow arrangements) and the Ringsend WwTP (which discharges treated foul effluent at Poolbeg). However, as detailed above, taking into consideration various factors (including minor additional foul water loading from the proposed development, significant dilution factor in receiving waterbodies, and existing water quality status in Dublin Bay), there is no possibility of significant impacts on this or any other European Site arising as a result of the proposed development via this pathway.</p> <p>At its closest point, the site of the proposed development is a c.9.3km linear distance from the SAC, and bears no relation to its QIs or their Conservation Objectives. There will be no direct impacts on the QIs of the site, none of which is likely to be present at the site of the proposed development.</p>	No
Howth Head SAC [000202], c.13.0km north east	<p>This is a terrestrial, coastal site, situated on the Howth Peninsula. It has no hydrological link to the site of the proposed development. At its closest point, the site of the proposed development is a c.13km linear distance from the SAC, and bears no relation to its QIs or their Conservation Objectives. There will be no direct impacts on the QIs of the site, none of which is likely to be present at the site of the proposed development.</p>	No
Rockabill to Dalkey Island SAC [003000], c.13.8km east	<p>This site is situated in Dublin Bay and the Irish Sea. There is a potential indirect hydrological pathway between the proposed development and European Sites in Dublin Bay via the municipal wastewater drainage network (which contains overflow arrangements) and the Ringsend WwTP (which discharges treated foul effluent at Poolbeg). However, as detailed above, taking into consideration various factors (including minor additional foul water loading</p>	No

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Site	Discussion of Source-Pathway-Receptor Link	Likely Significant Effect?
	<p>from the proposed development, significant dilution factor in receiving waterbodies, and existing water quality status in Dublin Bay), there is no possibility of significant impacts on this or any other European Site arising as a result of the proposed development via this pathway.</p> <p>At its closest point, the site of the proposed development is a c.13.8km linear distance from the SAC, and bears no relation to its QIs or their Conservation Objectives. There will be no direct impacts on the QIs of the site, none of which is likely to be present at the site of the proposed development.</p>	
<p>South Dublin Bay and River Tolka Estuary SPA [004024], c.6.5km north east</p>	<p>This site is situated in the River Tolka Estuary and Dublin Bay, neither of which is directly linked to the site of the proposed development. It is fed by the River Tolka, which has no hydrological connectivity with the site of the proposed development.</p> <p>There is a potential indirect hydrological pathway between the proposed development and European Sites in Dublin Bay via the municipal wastewater drainage network (which contains overflow arrangements) and the Ringsend WwTP (which discharges treated foul effluent at Poolbeg). However, as detailed above, taking into consideration various factors (including minor additional foul water loading from the proposed development, significant dilution factor in receiving waterbodies, and existing water quality status in Dublin Bay), there is no possibility of significant impacts on this or any other European Site arising as a result of the proposed development via this pathway.</p> <p>At its closest point, the site of the proposed development is a c.6.5km linear distance from the SPA, and bears no relation to its SCIs or their Conservation Objectives. There will be no direct impacts on SCIs of the site, none of which is likely to be present at the site of the proposed development.</p>	<p>No</p>
<p>North Bull Island SPA [004006], c.8.6km south east</p>	<p>This site is situated in Dublin Bay. There is a potential indirect hydrological pathway between the proposed development and European Sites in Dublin Bay via the municipal wastewater drainage network (which contains overflow arrangements) and the Ringsend WwTP (which discharges treated foul effluent at Poolbeg). However, as detailed above, taking into consideration various factors (including minor additional foul water loading from the proposed development, significant dilution factor in receiving waterbodies, and existing water quality status in Dublin Bay), there is no possibility of significant impacts on this or any other European Site arising as a result of the proposed development via this pathway.</p> <p>At its closest point, the site of the proposed development is a c.8.6km linear distance from the SPA, and bears no relation to its SCIs or their Conservation Objectives. There will be no direct impacts on the SCIs of the site, none of which is likely to be present at the site of the proposed development.</p>	<p>No</p>



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Site	Discussion of Source-Pathway-Receptor Link	Likely Significant Effect?
<p>Dalkey Islands SPA [004172], c.19.1km south-east</p>	<p>This site is situated in the southernmost portion of Dublin Bay, at a c.19.1km linear distance from the site of the proposed development. There is a potential indirect hydrological pathway between the proposed development and European Sites in Dublin Bay via the municipal wastewater drainage network (which contains overflow arrangements) and the Ringsend WWTP (which discharges treated foul effluent at Poolbeg). However, as detailed above, taking into consideration various factors (including minor additional foul water loading from the proposed development, significant dilution factor in receiving waterbodies, and existing water quality status in Dublin Bay), there is no possibility of significant impacts on this or any other European Site arising as a result of the proposed development via this pathway.</p> <p>The site of the proposed development bears no relation to the SCIs of the SPA, none of which is likely to be present at the site of the proposed development.</p>	<p>No</p>
<p>Poulaphouca Reservoir SPA [004063], c.28.5km south-west</p>	<p>Drinking water in Dublin City is largely derived from the Poulaphouca Reservoir in Co. Wicklow. It is possible that there will be a marginal increase in demand for potable water during the operational phase. There is, therefore, a potential impact pathway (via water abstraction) from the proposed development site to the SPA. However, any increase in potable water demand would not be significant in the context of the total volume abstracted from the reservoir. Furthermore, there is no evidence that current levels of water abstraction are conservation threats to these SCIs.</p> <p>The site of the proposed development is very remote from the SPA, at a c.28.5km linear distance. The site bears no relation to the SCIs of the SPA, neither of which is likely to be present at the proposed development site.</p>	<p>No</p>



5.2 Summary of potential impacts of the proposed development

There will be no land-take from any European site and there will be no resource requirements such as water abstraction. Similarly there will be no emissions to air from construction vehicles that could remotely impact any European site. Dust, noise and vibration arising during construction will similarly be entirely remote from any European site.

There will be no loss, fragmentation, disruption, disturbance or other change to any element of any European site as a result of the construction or operation of the proposed development, no predicted impact on *ex-situ* species and no interference with the key relationships that define the structure or function of any European site.

Significant effects arising as a result of the operation of the proposed development, on European sites (or on proposed Natural Heritage Areas), can therefore be excluded.

6 Mitigation specific to European sites

This screening assessment is consistent with the judgment of the European Court in Case C-323/17, *People Over Wind & Sweetman v Coillte* (Judgment of the Court (Seventh Chamber) of 12 April 2018) and the recent case-law of the High Court, including *Heather Hill Management Company CLG v An Bord Pleanála* [2019] IEHC 450 and *Sweetman v An Bord Pleanála* [2020] IEHC 39.

It is also consistent with the judgment in *Eco Advocacy CLG v An Bord Pleanála* [2021] IEHC 265. In that case, Humphreys J confirmed the core legal principle, being that regard should not be had to mitigation measures at AA screening stage. Humphreys J decided in that case that clarification was required from the CJEU on the matter (as it related to the consideration of SUDs and whether these represented mitigation measures).

Advocate General Kokott delivered her Opinion⁴ in this case (Case C-721/21) on 19 January 2023, and, while the decision of the CJEU is awaited, it is notable that the Opinion states the following (Section V, paragraph 109(4)):

At the stage of screening the need for an appropriate assessment under Article 6(3) of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, as amended by Council Directive 2013/17/EU of 13 May 2013, features of the plan or project involving the removal of contaminants that may have the effect of mitigating a harmful effect on the protected site may be taken into account, where it is clear, on the basis of objective considerations, that those features were incorporated into the design as standard features irrespective of any effect on the protected site concerned, and all reasonable scientific doubt concerning their effectiveness can be ruled out.

In relation to European sites, there will be no impacts capable of giving rise to any likely significant effects as a result of the proposed development. SuDS measures will be incorporated into the design of the proposed development as standard features. SuDS features are highly effective and are required to be included in developments where appropriate (as noted in Section 5.3 SuDS are a requirement of Fingal County Council under the GSDS and the Greater Dublin Regional Code of Practice for Drainage Works). These standard measures are considered best practice in construction and, therefore reasonable scientific doubt concerning their effectiveness can be ruled out.

As set out in this report, it is certain that likely significant effects on European sites as a result of both the construction and operation of the proposed development can be excluded. Even if no SuDS measures were to be incorporated into the design there could be no impacts on European sites.

No mitigation is necessary or proposed for the protection of European sites.

⁴ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62021CC0721>

7 In-combination effects

It is a requirement of Section 177U of the Planning Acts that when considering whether a plan or project will have a significant effect on a European site the assessment must take into account in-combination effects with other plans and projects. The assessment should consider plans and projects that are completed, approved but uncompleted, or proposed (but not yet approved).⁵ If there are identified effects arising from the plan or project even if they are perceived as minor and not likely to have a significant effect on the integrity of a European site alone, then these effects must be considered ‘in-combination’ with the effects arising from other plans and projects.

The following sources were consulted to identify relevant other plans or projects:

- Fingal County Council Planning Viewer (January 2023);
- EIA Portal Viewer (as of January 2023);
- Fingal County Development Plan 2017 – 2023;
- Draft Fingal County Development Plan 2023 – 2029.

Permitted and proposed projects in the immediate vicinity of the site were considered in terms of the potential for in-combination effects. There are no developments planned, permitted or under construction that will give rise to any significant effects on European sites.

Considering the nature and scale of the proposed development, the localised and insignificant nature of the environmental effects predicted to occur as a result of the proposed development, and the nature of existing, permitted and proposed development in its environs, it is considered that significant in combination effects on European sites are not likely to occur.

Furthermore, the zoning, policies and objectives set out in the Fingal County Development Plan 2017 – 2023 are intended to protect the environment while encouraging development in appropriate areas. The site of the proposed development is zoned RS-Residential: to ‘Provide for residential development and [protect and improve residential amenity]’. It is considered that the proposed development is consistent with the Development Plan’s objectives for development in the area, which have themselves been subject to Strategic Environmental Assessment and Appropriate Assessment. The Natura Impact Report for the Development Plan concluded that it would not adversely affect the integrity of European sites.

8 Screening conclusion

In view of best scientific knowledge this report concludes that the proposed development at the Mayeston site, individually or in combination with another plan or project, will not have a significant effect on any European sites. This conclusion was reached without considering or taking into account mitigation measures or measures intended to avoid or reduce any impact on European sites.

It is considered that this report provides sufficient relevant information to allow the Competent Authority (Fingal County Council) to carry out an AA Screening under Section 177U of the Planning Acts, and reach a determination that the proposed development will not have any likely significant effects on European sites in light of their conservation objectives.

⁵ *Assessment of Plans and Projects in relation to Natura 2000 sites: Methodological Guidance on the Provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC (European Commission Environment Directorate-General, September 2021)*

9 References

- CIEEM (2022). Guidelines for Ecological Impact Assessment in the UK and Ireland: Terrestrial, Freshwater, Coastal and Marine (Version 1.2);
- DoEHLG (2010a). Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities;
- DoEHLG (2010b). Circular NPW 1/10 & PSSP 2/10: Appropriate Assessment under Article 6 of the Habitats Directive: Guidance for Planning Authorities;
- DoHLGH (2022). EIA Portal;
- FCC (2022). Fingal County Council Planning Application Map;
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- NPWS (2015a). Conservation Objectives: South Dublin Bay and River Tolka Estuary SPA 004024. Version 1. Dublin, Ireland: NPWS, Department of Arts, Heritage and the Gaeltacht;
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- NPWS (2013b). Conservation Objectives: North Dublin Bay SAC 000206. Version 1. Dublin, Ireland: NPWS, Department of Arts, Heritage and the Gaeltacht;
- NPWS (2013c). Conservation Objectives: Rockabill to Dalkey Island SAC 003000. Version 1. Dublin, Ireland: NPWS, Department of Arts, Heritage and the Gaeltacht;
- NPWS (2011). Boundary data: proposed Natural Heritage Area (pNHA). Update date: 01/02/2011;
- NRA (2009). Guidelines for Assessment of Ecological Impacts of National Road Schemes;
- OPR (2021). Practice Note PN01 Appropriate Assessment Screening for Development Management.
- OPW (2009). The Planning System and Flood Risk Management: Guidelines for Planning Authorities.

Appendix I: Background

The European⁶ network is a Europe-wide network of ecologically important sites (SPAs and cSACs – also known as ‘European Sites’ or ‘Natura 2000 sites’) that have been designated for protection under either the EU Birds Directive (Council Directive 79/409/EEC on the Conservation of Wild Birds) or the EU Habitats Directive (Council Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Flora and Fauna).

The main aim of the Habitats Directive is “to contribute towards ensuring biodiversity through the conservation of natural habitats of wild fauna and flora in the European territory of the Member States to which the treaty applies”. Any actions taken must be designed to “maintain or restore, at a favourable conservation status, natural habitats and species of wild fauna and flora of Community interest”. Under Article 6 of the Habitats Directive, an assessment is required where a plan or project may give rise to significant effects upon a European site.

In addition, it is a matter of law that candidate SACs (cSACs) and Sites of Community Importance (SCI) are considered in this process;

Article 6 (paragraphs (3) and (4)) of the Habitats Directive states that:

(3) Any plan or project not directly connected with or necessary to the management of the site but likely to have significant effect thereon, either individually or in combination with other plans or projects, shall be subject to Appropriate Assessment of its implications for the site in view of the site’s conservation objectives. In the light of the conclusions of the assessment of the implications for the site and subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public.

(4) If, in spite of a negative assessment of the implications for the site and in the absence of alternative solutions, a plan or project must nevertheless be carried out for imperative reasons of overriding public interest, including those of social or economic nature, the Member State shall take all compensatory measures necessary to ensure that the overall coherence of Natura 2000 is protected. It shall inform the Commission of the compensatory measures adopted.

Where the site concerned hosts a priority natural habitat type and/or a priority species, the only considerations which may be raised are those relating to human health or public safety, to beneficial consequences of primary importance for the environment or, further to an opinion from the Commission, to other imperative reasons of overriding public interest.

The requirements of the Habitats Directive are transposed into Irish law by means of the *European Union (Birds and Natural Habitats) Regulations 2011-2015* (hereafter referred to as the *Birds and Habitats Regulations*)⁷ and by the *Planning and Development Act 2000*, as amended.

In Ireland, the statutory agency responsible for the designated areas is NPWS.

Stages in the assessment

European Commission guidance (2021)⁸ sets out the principles on how to undertake decision making in applying the Habitats Directive. The requirements of the Habitats Directive comprise four distinct stages:

Stage 1: Screening is the process which initially identifies the likely significant effects upon a European site of a project or plan, either alone or in combination with other projects or plans, and considers whether these impacts may be significant. It is important to note that the burden of evidence is to show, on the basis of objective information, that there will be no significant effect; if the effect may be significant, or is not known, that would trigger the need for an Appropriate Assessment. There is European Court of Justice case law to the effect that

⁶ The EU Habitats Directive, Article 3.1, states “A Coherent European ecological network of Special Areas of Conservation and Special Protection Areas pursuant to Directive 79/409/EEC shall be set up under the title European”

⁷ SI No. 477 of 2011 and subsequent amendments

⁸ *Assessment of Plans and Projects in relation to Natura 2000 sites: Methodological Guidance on the Provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC* (European Commission Environment Directorate-General, September 2021)

unless the likelihood of a significant effect can be ruled out on the basis of objective information, then an Appropriate Assessment must be made.

Stage 2: Appropriate Assessment is the detailed consideration of the impact on the integrity of the European site of the project or plan, either alone or in combination with other projects or plans, with respect to the site's conservation objectives and its structure and function. This is to determine with scientific certainty whether or not there will be adverse effects on the integrity of the site in light of its conservation objectives. This stage also includes the development of mitigation measures to avoid or reduce any possible impacts.

Stage 3: Assessment of alternative solutions is the process which examines alternative ways of achieving the objectives of the project or plan that would avoid impacts on the integrity of the European site, should avoidance or mitigation measures be unable to cancel out adverse effects.

Stage 4: Assessment where no alternative solutions exist and where adverse impacts remain. At Stage 4 an assessment is made with regard to whether or not the development is necessary for imperative reasons of overriding public interest (IROPI) and, if so, of the compensatory measures needed to maintain the overall coherence of the European network.

Appendix II Conservation Objectives of European sites

The conservation objectives for a European Site are intended to represent the aims of the Habitats and Birds Directives in relation to that site. To this end, habitats and species of European Community importance should be maintained or restored to 'favourable conservation status' (FCS), as defined in Article 1 of the Habitats Directive below:

The conservation status of a natural habitat will be taken as 'favourable' when:

- Its natural range and the area it covers within that range are stable or increasing;
- The specific structure and functions which are necessary for its long term maintenance exist and are likely to continue to exist for the foreseeable future;
- Conservation status of typical species is favourable as defined in Article 1(i).

The conservation status of a species will be taken as favourable when:

- Population dynamics data on the species concerned indicate that it is maintaining itself on a long-term basis as a viable component of its natural habitats;
- The natural range of the species is neither being reduced nor is likely to be reduced for the foreseeable future;
- There is, and will probably continue to be, a sufficiently large habitat to maintain its populations on a long-term basis.

Guidance from the European Commission⁹ indicates that the Habitats Directive intends FCS to be applied at the level of an individual site, as well as to habitats and species across their European range. Therefore, in order to properly express the aims of the Habitats Directive for an individual site, the conservation objectives for a site are essentially to maintain (or restore) the habitats and species of the site at (or to) FCS.

The European Commission guidance recommends that screening should fulfil the following steps:

1. Determine whether the plan (or policy) is directly connected with or necessary for the management of European sites;
2. Describe the plan and describe and characterise any other plans or projects which, in combination, have the potential for having significant effects on European sites;
3. Identify the potential effects on European sites;

Assess the likely significance of any effects on European sites.

⁹ Managing Natura 2000 sites: the provisions of Article 6 of the Habitats Directive 92/43/EEC. (European Commission November 2018)

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