

**Proposed Local Authority Own Housing
Development at Rathmore Road, Lusk, Co.
Dublin**

APPROPRIATE ASSESSMENT SCREENING REPORT

Environmental
Assessment
**Built
Environment**

Client:

Fingal County Council

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1 Introduction

1.1 Background

Fingal County Council (FCC) proposes to develop new housing at Rathmore Road, Lusk, Co. Dublin. The proposed development will consist of the construction of 18 dwellings and associated infrastructure. It is proposed to carry out the said Local Authority Own Housing Development pursuant to s.179A of the Planning and Development Act 2000, as amended (*“the 2000 Act”*), and, *inter alia*, Art.81A of the Planning and Development Regulations 2001, as amended by the Planning and Development (Section 179A) Regulations 2023 (SI No.101/2023) (*“the 2001 Regulations”*) – the foregoing provides the statutory criteria and processes which apply to such housing developments.

It is noted that the Fingal County Development Plan 2023-2029 contains policies and objectives relevant to Screening for Appropriate Assessment / Appropriate Assessment, including DMSO3, Local Authority Development, which states *“[e]nsure Local Authority development proposals are subject to environmental assessment, as appropriate, including Screening for Appropriate Assessment...”*.

Brady Shipman Martin was appointed to prepare a report to assist the Competent Authority, 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 an Appropriate Assessment Screening Report (‘AA Screening Report’) prepared for this purpose.

A comprehensive desk study review and site visits 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

This AA Screening Report has been prepared by Namrata Kaile, Ecologist and Environmental Consultant at Brady Shipman Martin. She holds a Bachelor’s Degree (BSc) in Life Sciences from University of Delhi and a Master’s Degree (MSc) with distinction in Environmental Sciences from Trinity College Dublin. She is a qualifying member of Chartered Institute of Ecology and Environmental Management (CIEEM) and has been working professionally in the field of environmental consultancy for the last three years. Namrata is experienced in drafting and reviewing AA Screening Reports, EIA Screening Reports as well as in coordination of EIARs. She is also experienced in undertaking baseline ecological surveys and preparing Ecological Impact Assessments Reports (EclA).

A technical review of this document has been completed by Senior Ecologist and Associate, Matthew Hague BSc MSc Adv. Dip. Plan. & Env. Law CEnv MCIEEM. Matthew 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. 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 Union (Birds and Natural Habitats) Regulations 2011-2021¹ (the “Birds and Natural Habitats Regulations”) and the Planning and Development Act, 2000 - 2022 (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,
- (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:

“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.”

The first test is to establish whether, in relation to a particular plan or project, Appropriate Assessment is required. Sections 177U of the Planning Acts require that the AA screening test must be applied to the proposed development, as follows:

- 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.

This AA Screening Report has been prepared in accordance with the requirements of the Birds Directive, the Habitats Directive, the Planning Acts, the Birds and Natural Habitats Regulations and all relevant legislations.

¹ SI No. 477 of 2011

2 Methodology

2.1 Guidelines

This report takes the aforementioned legislation and the following guidance documents into account:

- Chartered Institute of Ecology and Environmental Management (CIEEM). *Guidelines for Ecological Impact Assessment in the UK and Ireland: Terrestrial, Freshwater, Coastal and Marine*, September 2018, updated in September 2019 (V1.1), further updated in April 2022 (V1.2);
- Department of Environment, Heritage and Local Government (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*;
- European Commission (2021). *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 (2018). *Managing Natura 2000 sites: The Provisions of Article 6 of the Habitats Directive 92/43/EEC*;
- Directorate – General for Environment (European Commission), (2021). *Guidance document on the strict protection of animal species of Community Interest under the Habitats Directive*;
- National Roads Authority (NRA)² (2009). *Guidelines for Assessment of Ecological Impacts of National Road Schemes*;
- Office of the Planning Regulator (OPR) (2021). *Practice Note PN01 Appropriate Assessment Screening for Development Management*;
- National Parks and Wildlife Services (NPWS) (2021). *Guidance for Public authorities on the Application of Articles 12 and 16 of the EU Habitats Directive to development/works undertaken by or on behalf of a Public authority*.

2.2 Baseline Data Collection and Field Visits

A desk-based assessment was undertaken in February 2023 (and updated in November/December 2023) of the proposed development site and its environs. The appraisal focussed 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) for European sites.

In order to provide comprehensive baseline on the local ecological environment, biodiversity surveys were undertaken at the proposed development site by the authors on 7 September 2022 and 13 February 2023. The surveys undertaken comprised habitat, invasive species, rare and/or protected species, mammals, birds and day-time bat survey.

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.

An examination of available information from Bat Conservation Ireland (BCI), previous data from neighbouring sites was also undertaken to compile a list of most likely species in the overall area in addition to the evaluation of the habitat for bats. There are no bat species listed as Qualifying Interests in any European sites within the Zone of Influence. 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

² Now Transport Infrastructure Ireland (TII).

on bats and otters (also protected under Article 12 of the Habitats Directive) are assessed in the Environment Impact Assessment Screening that accompanies the planning application.

Overall the level of survey undertaken in 2022 and 2023 provides a comprehensive biodiversity baseline for the site.

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 imagery, 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 2023-2029 including the accompanying Appropriate Assessment documentation (Natura Impact Report).

This report takes full account of the design of the proposed development, and a detailed examination of all relevant elements of the proposal as it currently stands, was undertaken.

3 Description of the Proposed Development

3.1 Site Location

The proposed development site (refer to **Figure 3.1** below) is located on Rathmore Road in Lusk. It is bounded to the north-east by existing housing, to the south-east by Rathmore Road and to the north and west by public open space. The Lusk Community Unit and Lusk Community College are c. 250m and c. 950m to the north-east, respectively.

The site is greenfield and comprises of area of public open space. As per the *Fingal Development Plan 2023-2029*, the proposed site is zoned as RS-Residential – ‘Provide for residential development and protect and improve residential amenity’. The topography of the site is relatively flat with a slight fall from north-east to south-west with a level difference of c. 1.48m between north and south boundaries.

The proposed development will consist of construction of two blocks containing 18 dwellings with a density of 44 dwellings / hectare and associated infrastructure. The total area of the site is 0.41Ha.

Figure 3.1 The location of the proposed development site at Rathmore Road, Lusk (red line is indicative, for full details refer to the accompanying documentation)



3.2 Development Description

The proposed development will consist of:

- Two blocks containing a total of 18no. dwellings representing a density of 44 dwellings/hectare;
- Both blocks range from single storey to 2.5 storeys in height;
- Construction of a one-way roadway around the perimeter of the site designed to the standards as set out in Design Manual for Urban Roads and Streets (DMURS 2013);
- On street parking for 15no. vehicles and parking for 72no. bicycles;
- Associated site development works including foul drainage, surface water (including SuDS), mains water, gas and telecommunication connections;
- The site will be serviced by Irish Water, ESB, EIR, GNI, VM utilities which are all available;
- Public lighting to pavements adjacent to and within the site will be designed and installed to the standards of the Public Lighting Section in Fingal County Council Operations Department;
- Private open space is provided to all dwellings in the form of back gardens to ground floor apartments and first floor terraces to duplexes;
- A 3.0m deep privacy strip between the public footpath and the ground floor apartments provides rainwater gardens, bin storage and bicycle storage;

Refer to **Figure 3.2** for the site layout.

Figure 3.2 The site layout for the proposed development site at Rathmore Road, Lusk (Fingal County Council, 2023)



3.3 Water Infrastructure

3.3.1 Supply

The Engineering Report (McMahon Associates, 2023) states that there is existing Irish Water watermain infrastructure available within Rathmore Road (as per the record mapping of Irish Water infrastructure located around the site). This is a 500mm diameter trunk main, however is not available for connection to the proposed site. A ground penetrating radar (GPR) survey confirmed the presence of an existing watermain north-east of the site within FCC owned Remount housing development.

The proposed development will be connected to the 100mm diameter watermain connection to the north-east of the proposed site via boundary box meters. From here each unit will be provided with a metered connection and distributed via 25mm diameter flexible pipes to the units. The supply arrangements will be carried out to the requirements of Irish Water. Further, 2 no. fire hydrants will be located within communal greenspace at a minimum 6m distance from all dwellings to ensure that each dwelling is within 46m of a fire hydrant as per Irish Water requirements.

3.3.2 Drainage

3.3.2.1 Surface Water

The Engineering Report (McMahon Associates, 2023) states that there is an existing 750mm storm diameter sewer which transverses the site to the south-west. This existing storm sewer discharges to a 1050mm diameter sewer within Rathmore Road. There is also an existing 1000mm diameter storm sewer which transverses the site along the south-eastern boundary and a 1000mm diameter storm sewer which is located north-east outside the boundary of the site.

The Engineering Report (McMahon Associates, 2023) notes that the proposed site is not located close to any watercourses or ditches. Therefore, the discharge from the site will be via an existing surface water sewer located to the south of the proposed development within the site boundary. Irish Water infrastructure record mapping along with the GPR survey confirmed the presence of the 750mm concrete storm water sewer that transverses the site.

Currently, the site is greenfield and consisting of open space. It is proposed to restrict the runoff rate to 1.0l/s. Surface water attenuation storage will be provided for the 1 in 100 event plus 20% climate change and will be provided in the form of crates which has a 95% void ratio.

Sustainable urban Drainage Systems (SuDS) are a requirement of Fingal County Council. Surface water management for the proposed development will be designed to comply with the '*Greater Dublin Regional Code of Practice for Drainage Works, V6.0 2005*' and the 2009 OPW Guidelines '*The Planning System and Flood Risk Management*', however, the infiltration testing results suggest the site is not suitable for infiltration and therefore SuDS elements will be limited and the current design reflects that. As part of the surface water drainage strategy, it is proposed to provide the surface water attenuation in the south-west of the development in the form of underground crates. As the underground crates are not a preferred method of attenuation, the surface water will infiltrate through various SuDS components such as permeable paving, porous asphalt, filter drains, rainwater butts and rainwater gardens acting as source control and surface water treatment before entering the main storm line. The site is too small to consider any above ground storage features such as basins, swales or wetlands and Fingal County Council have confirmed they cannot be constructed outside of the site boundary in the adjacent green space.

It is proposed to utilise permeable paving within the car parking spaces and porous asphalt on the carriageway to collect and treat surface water runoff. Filter drains will be used within the sub-base of the permeable paving and porous asphalt to collect and treat surface water runoff. Sump manholes will also be provided in manholes to ensure sediment is caught and collected prior to leaving the site.

3.3.2.2 Foul Water

The Engineering Report (McMahon Associates, 2023) states that there is an existing 225mm diameter foul sewer located within the site to the south-east which discharges to a 450mm foul sewer within Rathmore Road.

The foul water strategy for the development proposes that the foul water drainage network for the proposed apartment units will be separated from the surface water sewers, and will comply with the latest *"Technical Guidance Document H - Drainage and Waste Water Disposal"*. A proposed 225mm diameter foul gravity sewer will collect the wastewater via soil vent pipes and inspection chambers from the proposed dwellings and discharge into the existing 225mm concrete sewer within the site boundary to the south-east.

Once operational, foul water flows from the proposed development will be directed to Portrane Wastewater Treatment Plant (WwTP). The capacity available at Portrane Wastewater Treatment Works is sufficient to accommodate the inflow arising from the proposed development and it will therefore be possible to maintain the unpolluted status of the waters of the Irish Sea.

4 Screening for Appropriate Assessment

4.1 Background

The first part of the AA 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 and 177V of the Planning Acts, the AA screening test must be applied to the proposed development, as follows:

- 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.

In addition to the foregoing, the OPR's Practice Note *"Appropriate Assessment Screening for Development Management"*, dated March 2021, also details a number of key concepts relevant to AA Screening, including *"Best Scientific Knowledge/Information in the Field"* (pg.5), stating:

"The screening determination must be based on scientific information relevant to the likely effects on the conservation objectives of the relevant European sites. The information should be up-to-date and based on the best available techniques and methods to estimate the presence and extent of effects. This is because if there is

any scientific uncertainty as to the absence of significant effects, the project must be screened in for appropriate assessment.

In the vast majority of cases the information provided by the applicant (including the project description) and publicly available information in relation to the European sites in question and information published by the NPWS, the EPA and others in relation to such sites, should provide a sufficient level of objective scientific information to allow the planning authority to make an informed decision on screening.”

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 that links the construction site to the designated site). 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.

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. In 2010, DoEHLG stated that (pp. 31 – 32):

“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 Office of the Planning Regulator (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 (Zoi) for the proposed development has been defined as follows:

- Any site to which there is a pathway from the proposed development site during either the construction or operational phase of the development, as outlined in the following sections.

4.2.1 European Sites

There are no European sites within the immediate vicinity of the proposed development site at Rathmore Road, Lusk, Co. Dublin.

The nearest Natura 2000 sites are as follows (as shown in Figure 4.2):

- Special Areas of Conservation (SAC):
 - Rogerstown Estuary SAC (site code 000208), c. 1.6km to the south-east;
 - Malahide Estuary SAC (site code 000205), c. 5.1km to the south;
 - Rockabill to Dalkey Island SAC (site code 003000), c. 6.2km to the east;
 - Lambay Island SAC (site code 000204), c. 9.2km to the south-east;
 - Baldoyle Bay SAC (site code 000199), c. 11.8km to the south-east;
 - Ireland’s Eye SAC (site code 002193), c. 14km to the south-east;
 - Howth Head Coast SAC (site code 000202), c. 16.5km to the south-east.
- Special Protected Areas (SPA):
 - Rogerstown Estuary SPA (site code 004015), c. 1.6km to the south-east;
 - Malahide Estuary SPA (site code 004025), c. 5.1km to the south-east;
 - North-West Irish Sea SPA (site code 004236), c. 5.15km to the east;
 - Rockabill SPA (site code 004014), c. 8.6km to the north-east;
 - Lambay Island SPA (site code 004069), c. 9.3km to the south-east;
 - Skerries Island SPA (site code 004122), c. 7.2km to the north-east;
 - Baldoyle Bay SPA (site code 004016), c. 11.5km to the south-east;
 - Ireland’s Eye SPA (site code 004117), c. 13.8km to the south-east;
 - Howth Head Coast SPA (site code 004113), c. 16.2km to the south-east.

Note that the above-listed distances are linear (i.e. ‘as the crow flies’).

The Conservation Objectives of these Sites are to maintain 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.

The site of the proposed development is not under any designation for nature conservation. The nearest European site is the Rogerstown Estuary SAC / SPA, c. 1.6km south-east.

A review of the Environmental Protection Agency (EPA) web-tool indicates that the Regles Stream (IE_EA_08P030930) and Rathmooney Stream (IE_EA_08P030930) run c. 520m to the west and c. 1.1km to the east of the proposed development site, respectively. Both the Regles and Rathmooney streams flow southwards and enters Rogerstown Estuary approximately 2km downstream. There is therefore a

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potential surface water link between the proposed development site and the Rogerstown Estuary via the Regles and Rathmooney streams, should surface water arising at the site discharge to the rivers. Refer to **Figure 4.1**.

A second potential link to coastal European sites is via the emission point of the Portrane Wastewater Treatment Plant (WwTP), which will receive foul water flows from the proposed development during its operation. The capacity available at Portrane Wastewater Treatment Works is sufficient to accommodate the inflow arising from the proposed development and it will therefore be possible to maintain the unpolluted status of the waters of Irish Sea.

Figure 4.1 EPA waterbodies in the proximity of the proposed development (red lines are indicative – refer to the associated engineering drawings for full details)

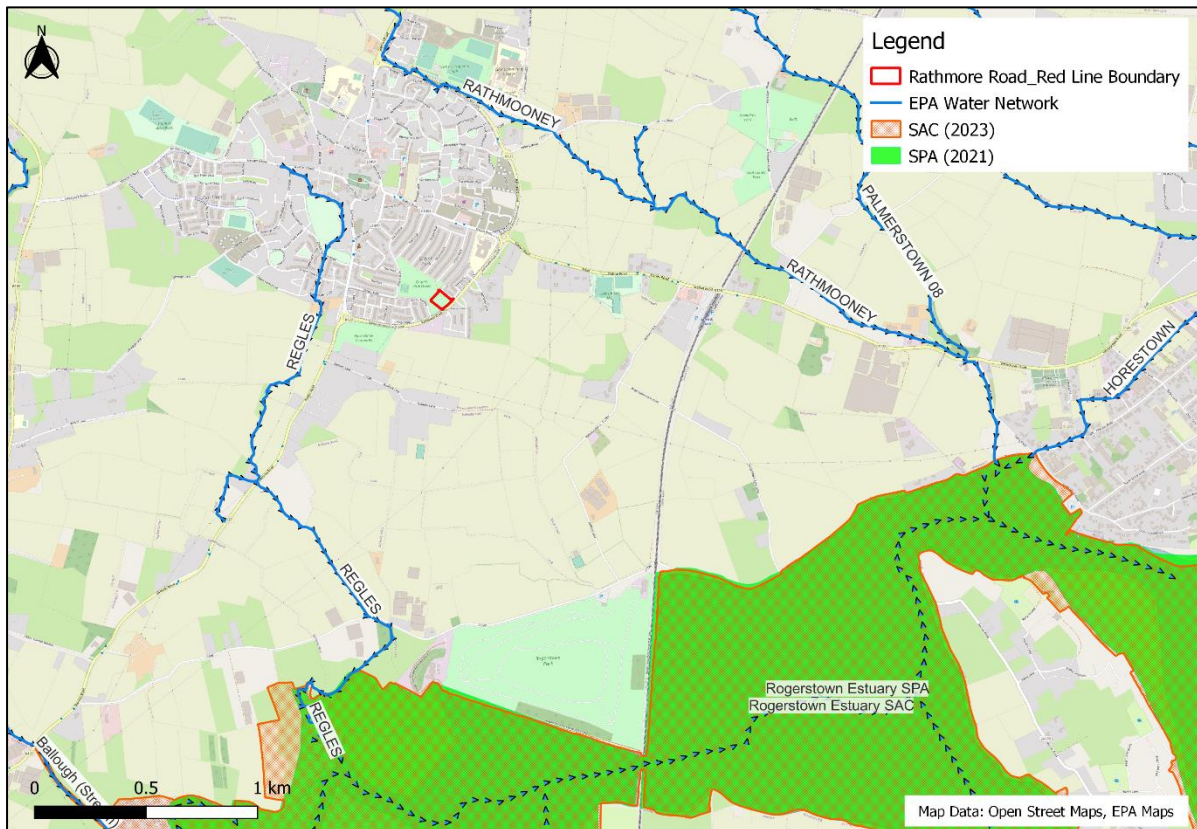
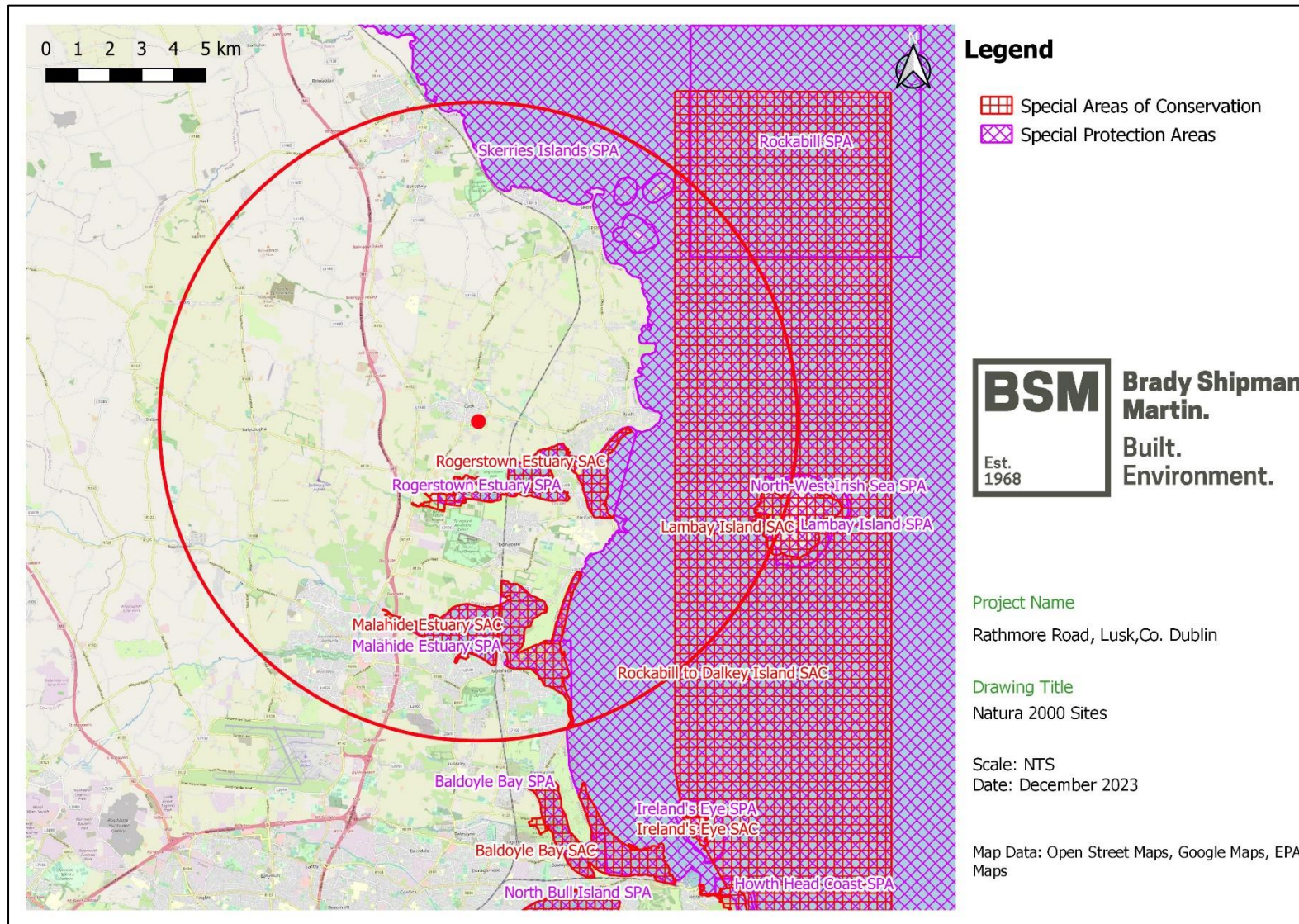


Figure 4.2 European sites within zone of influence of the proposed development. A 10km radius is shown for scale.



4.2.2 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)) within the potential Zone of Influence have been included in this assessment in order to address their potential to act as supporting sites for European sites. The NHA and pNHAs within the ZOI are as follows:

- Natural Heritage Area (NHA):
 - Skerries Island NHA (site code 001218), c. 7.2km to the north-east.
- Proposed Natural Heritage Areas (pNHA):
 - Rogerstown Estuary pNHA (site code 000208), c. 1.6km south-east;
 - Malahide Estuary pNHA (site code 000205), c. 5.1km south-east;
 - Portraine Shore pNHA (site code 001215), c. 4.8km south-east;
 - Loughshinny Coast pNHA (site code 002000), c. 6.6km north-east;
 - Lambay Island pNHA (site code 000204), c. 9.2km east;
 - Bog of the Ring pNHA (site code 001204), c. 6.8km north-west
 - Knock Lane pNHA (site code 001203), c. 7.3km north-west;
 - Feltrim Hill pNHA (site code 001208), c. 9.4km south-east.

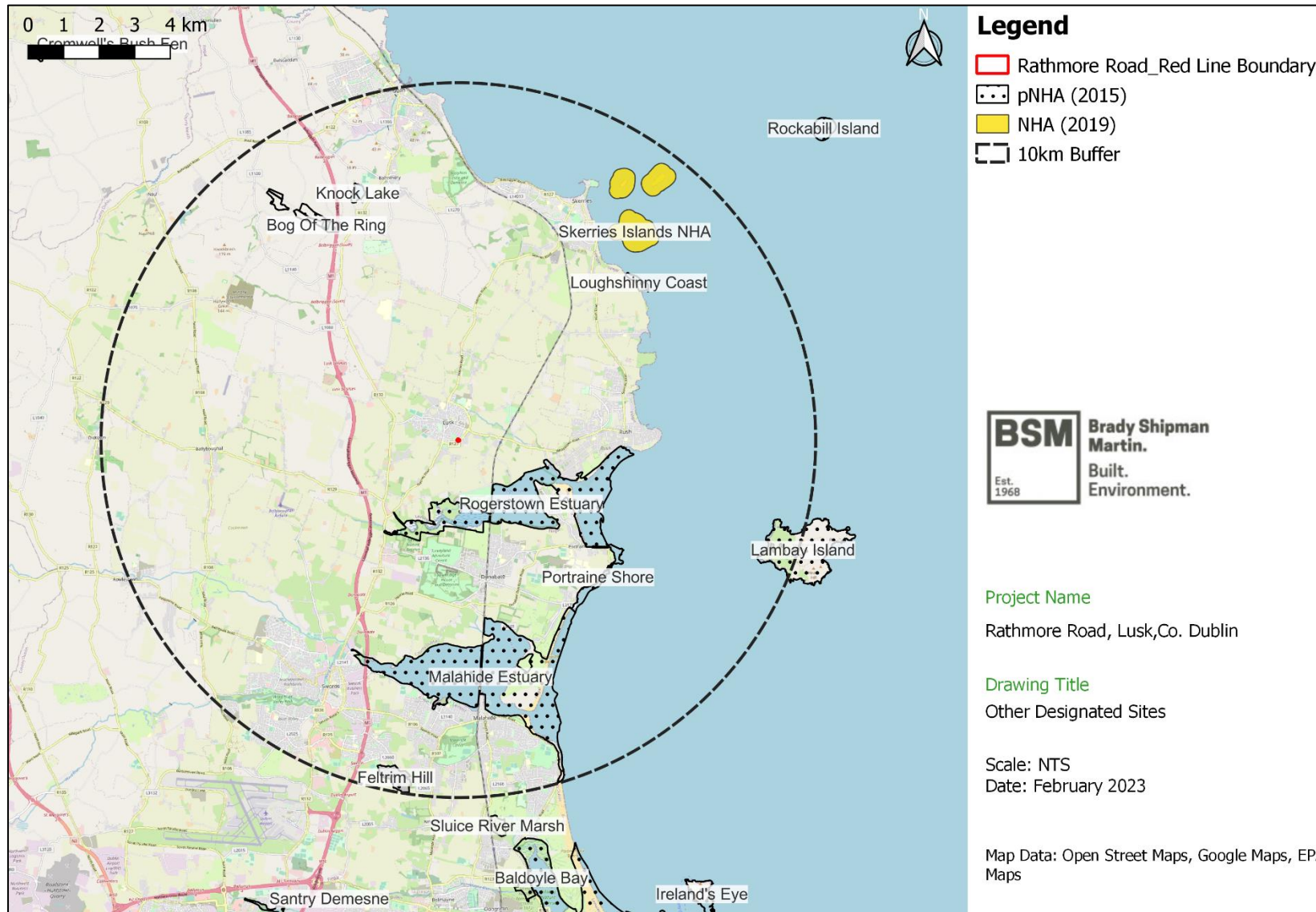
Note that above distances are as crow flies (i.e. linear distances). No impacts are expected on Rogerstown Estuary pNHA, nor on any other NHA or pNHA in the zone of influence.

Rogerstown Estuary Ramsar site (412) is located c. 1.6km to the south-east of the site. The site includes a small tidal embayment sheltered from the sea by a broad sand and shingle spit. Extensive areas of mud, sand and gravel are exposed at low tide. The mudflats support beds of green algae (*Enteromorpha*) and *Spartina anglica* (common cordgrass). Large numbers of wintering water birds use the tidal flats and the site is internationally important for Brent Geese. Rogerstown Estuary is also classified as a Nature Reserve and Wildfowl Sanctuary.

Malahide Shellfish area is c. 6.4km to the south-east of the site and 'All Beds' are classified for bivalve mollusc and species of interest include razor clams. The site has seasonal classification and is classified as Class A (August to January) and then reverts to Class B at other times.

Figure 4.3 illustrates all of the pNHA within the potential Zone of Influence (including those which overlap with European sites).

Figure 4.3 pNHA sites within zone of influence of the proposed development. A 10km radius is shown for scale.



4.3 Study Area and Surrounding Environment

4.3.1 Site Location and European Sites

No ecologically significant habitats were recorded on the proposed development site, which comprises public open space (Fossitt code **GA2** amenity grassland (improved)) between the residential development of Remount and Forge Avenue on the Rathmore Road (R127). There is an existing footpath on the east side of the site (Fossitt code **BL3** buildings and artificial surfaces) which provides access to the site from Rathmore Road. Between the footpath and the site boundary on the east is an evergreen Cherry Laurel (*Prunus laurocerasus*) hedge (Fossitt code **WL1** hedgerows) inter-planted with 11no. small trees and a metal railing. There is also a planted treeline (Fossitt code **WL2** treeline) fronting Rathmore Road on the southern side.

No badgers or other protected mammal species are known to be present and no evidence of such species was recorded or in the immediate vicinity. The site is entirely unsuited to be used by badgers or otters (protected under Article 12 of the Habitats Directive).

The day-time bat roost survey identified no potential for bat roost or activity (including bats themselves, or carcasses, droppings, staining or feeding remains) anywhere on the site. No evidence of bird nesting was recorded anywhere on the site.

No species listed on the Third Schedule of the Habitats Regulations, such as giant hogweed (*Heracleum mantegazzianum*), Japanese knotweed (*Reynoutria japonica*), Himalayan balsam (*Impatiens glandulifera*) or three-cornered leek (*Allium triquetrum*) were recorded at the proposed development site during the surveys undertaken in the preparation of this report.

The proposed development site is not under any wildlife or conservation designation. The National Biodiversity Data Centre (NBDC) database was consulted with regard to rare species (Curtis & McGough, 1988) and species protected under the *Flora Protection Order* (2022). There are no records of any protected plant species within the 2km grid square (O25B) that covers the proposed development area. Further no protected plants were recorded during any of the field surveys undertaken.

As noted in Section 4.2, the Regles stream (IE_EA_08P030930) and Rathmooney stream (IE_EA_08P030930) run c. 520m to the west and c. 1.1km to the east of the proposed development site, respectively. Both the Regles and Rathmooney streams flow southwards and enter Rogerstown Estuary approximately 2km and 2.5km downstream, respectively. The proposed development site is located within the Nanny-Delvin catchment, Palmerstown_SC_010 sub-catchment and Palmerstown_010 river sub-basin.

As per the WFD 2016-2021 status, the Regles and Rathmooney streams are of 'Poor' status and are 'Under Review' for river waterbodies risk. As per the WFD 2016-2021 status, the Rogerstown Estuary (IE_EA_050_0100) is 'Poor' and it is 'At risk' of failing to achieve its WFD objective / good status by 2027.

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, 2022 or the EU Habitats Directive, are known to occur within the site and none were recorded.

No rare habitats or habitats of particularly high ecological value (i.e. International, National, County or Local Importance) are present at the site. No rare plants have been recorded on the site.

No evidence of any habitats or species with links to European sites was recorded during either the field survey 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.

No evidence of badgers, otters (protected under Article 12 of the Habitats Directive), amphibians or reptiles has been recorded within the proposed development area, and no bat roosts have been recorded.

Overall the development site has **no ecological value** 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)).

As part of the proposed works, sections of hedge and trees on the north-east and east side will be removed to facilitate the vehicular entrance and exit, and car and bicycle parking. The trees fronting on Rathmore Road will be removed as their roots have the potential to damage the stormwater and foul sewer at this location. The loss of these features will not constitute a significant ecological impact. However, to address this loss, the proposed landscape design will increase the quantum of vegetation on the site. It will incorporate planting of trees and shrubs that may be expected to offset the aforementioned losses.

5.1.1 Potential impacts during construction

At any development site, site clearance and construction activities pose a potential risk to water as surface / ground water arising at a site may contain contaminants. The main contaminants arising from construction activities may include suspended solids, hydrocarbons and concrete / cement products. If not properly managed, such pollutants could pose a temporary risk to surface water quality in the local surface water network during construction.

No watercourses are present within or connected to the proposed development site at Rathmore Road, Lusk. The nearest watercourse to the site, the Regles Stream, flows c. 520m to the west of the site. The Rathmooney Stream flows c. 1.1km to the east of the proposed development site and drains into Rogerstown Estuary near the Channel road, Rush. The Ward River flows southwards, and drains into Rogerstown Estuary near the Rogerstown Park, approximately 2.0km to the south-west of the proposed site.

Given the location of the site in relation to the Regles and Rathmooney streams there is no more than a theoretical surface water pathway between the proposed development site and the two European sites associated with Rogerstown Estuary (i.e. Rogerstown Estuary SAC and Rogerstown Estuary SPA).

Considering the distance to the Regles and Rathmooney streams, there is no possibility that polluted surface water could be emitted directly to either. There is a possibility that contaminated surface water from the site could enter the municipal surface water drainage network adjacent to the site and be indirectly discharged to surface waters via the drainage network (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. There is also a potential groundwater pathway between the proposed development site and these European sites should indirect discharges (i.e. spillages to ground) occur, or should any contamination on the site enter the ground water.

However, despite the presence of these indirect pathways, the risk of contamination of any watercourses or groundwater is extremely low if not non-existent, and even in the event of a pollution incident significant enough to impact upon surface water quality locally, it is reasonable to assume that **this would not be perceptible in the offshore European sites**, for the following reasons:

- There is a significant distance between the site of the proposed development and the nearest European sites. The nearest such site is the Rogerstown Estuary SAC / SPA, c.1.6km south-east (straight-line distance) and there is no direct pathway between the proposed development site and these European sites, other than potentially via the surface water drainage network;
- Any pollution from the site clearance and construction works would be minimal in quantity and if it entered any watercourse it would be so diluted as to be undetectable by the time the water enters the estuary. A significant level of dilution and mixing of surface and sea water would occur in any event. Upon reaching the estuary any pollutants would be even further diluted and dissipated by the receiving waters;
- In addition, the construction of the proposed development will take place over a comparatively short period. There is no possibility of long-term impacts arising as a result of the construction elements of the proposed development, given the nature and scale of the proposed development and its location in the centre of a busy town away from the European sites.

During the construction phase, typical environmental effects associated with construction works of this nature and scale are predicted, including potential elevated levels of noise, emissions of dust, direct and indirect greenhouse gas emissions, etc. These effects will be short-term in duration and at most, temporary and reversible. There will also be environmental risks associated with the presence of potential pollutants typically stored and used on-site (e.g. hydrocarbons, solvents, cementitious materials).

There is no possibility of any other potential direct, indirect or secondary impacts on any European site during the construction phase. For example 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 of the proposed development, 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 construction of the proposed development, on European sites (or on proposed Natural Heritage Areas), can therefore be excluded.

5.1.2 Potential impacts during operation

During the operational phase, typical environmental effects associated with the presence and operation of a residential development are also predicted, including water consumption, surface and foul water loading to the municipal network, additional traffic volumes and direct and indirect greenhouse gas emissions. Operational phase effects are expected to be permanent in duration. However, it is noted that the site is located in an existing urban setting (Lusk) and all existing services are readily available. The type of development proposed is appropriate to the site.

As set out in the Engineering Report prepared by McMahon Associates and discussed in Section 3.3.2, it is proposed to use a sustainable urban drainage system (SuDS) approach to storm water management throughout the site, in accordance with local and national guidance. The surface water arising at the proposed development site will be attenuated and the runoff leaving the site will be reduced. It is

proposed to discharge attenuated surface water from the site to the south of the proposed site. The attenuation systems are designed to accommodate the 1 in 100 year storm event plus 20% climate change. In the case of the proposed development, the infiltration testing results suggest the site is not suitable for infiltration and therefore SuDS elements will be limited and the current design reflects that. As part of the surface water drainage strategy, it is proposed to provide the surface water attenuation in the south-west of the development in the form of underground crates. The surface water will infiltrate through various SuDS components such as permeable paving, porous asphalt, filter drains, rainwater butts and rainwater gardens acting as source control and surface water treatment before entering the main storm line. The site is too small to consider any above ground storage features such as basins, swales or wetlands and Fingal County Council have confirmed they cannot be constructed outside of the site boundary in the adjacent green space.

It is proposed to utilise permeable paving within the car parking spaces and porous asphalt on the carriageway to collect and treat surface water runoff. Filter drains will be used within the sub-base of the permeable paving and porous asphalt to collect and treat surface water runoff. Sump manholes will also be provided in manholes to ensure sediment is caught and collected prior to leaving the site.

Even in the total absence of any SuDS measures there would be no impacts on any European sites. The significant distances to European sites and the natural characteristics of the receiving waters ensure rapid mixing of water such that there is no possibility of any appreciable effect on water quality in European sites in any event.

As set out in the Engineering Report, the Office of Public Works (OPW) CFRAM flood studies maps there is no fluvial, coastal, pluvial or groundwater flood risk at the site.

Significant effects related to surface water management or flooding, arising as a result of the operation of the proposed development, on European sites or otherwise, can therefore be excluded.

As per the Engineering Report prepared by McMahon Associates, a proposed 225mm diameter foul gravity sewer will collect the wastewater via soil vent pipes and inspection chambers from the proposed dwellings and discharge into the existing 225mm concrete sewer within the site boundary to the south-east.

As noted in Section 3.3.2.2, once operational foul water flows from the proposed development will be directed to Portrane Wastewater Treatment Plant (WwTP). The capacity available at Portrane Wastewater Treatment Works is sufficient to accommodate the inflow arising from the proposed development and it will therefore be possible to maintain the unpolluted status of the waters of the Irish Sea.

Significant effects related to foul water management, arising as a result of the operation of the proposed development, on European sites or otherwise, can therefore be excluded.

There is no possibility of any other potential direct, indirect or secondary impacts on any European site once the proposed development is operational. There will be no loss, fragmentation, disruption, disturbance or other change to any element of any European site as a result of the operation of the proposed development, and no interference with the key relationships that define the structure or function of any European site.

Operation-related impacts as a result of the proposed development, on European sites or otherwise, can therefore be excluded.

A detailed discussion of the potential impacts of the proposed development on individual European sites within the potential Zone of Influence is presented in **Table 5.1**, below.

Table 5.1 Potential impacts on designated sites in the potential Zone of Influence

Site	Reasons for designation (information correct as of December 2023) (*denotes a priority habitat)	Discussion of Source-Pathway-Receptor Link	Likely Significant Effect?
Rogerstown Estuary SAC (site code 000208) c. 1.6km to the south-east	<ul style="list-style-type: none"> ■ 1130 Estuaries ■ 1140 Mudflats and sandflats not covered by seawater at low tide ■ 1310 Salicornia and other annuals colonising mud and sand ■ 1330 Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) ■ 1410 Mediterranean salt meadows (<i>Juncetalia maritimi</i>) ■ 2120 Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) ■ 2130 Fixed coastal dunes with herbaceous vegetation (grey dunes)* <p>*indicates a priority habitat under the Habitats Directive</p> <p>According to this SAC’s site Conservation Objectives document (Version 1, dated 14 August 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>	<p>No significant effects on water quality, and therefore on the site’s QIs, are predicted.</p> <p>Surface/ground water arising during the site clearance, construction and operation of the proposed residential development could contain pollutants (foul water, silt, hydrocarbons and other chemicals). Such contaminated water could potentially discharge to the ground or the local surface water drainage network and from there, eventually, to Rogerstown Estuary. There would be no significant effects on the conservation objectives of the European site should this occur, given the nature, size and location of the proposed development, as described in Section 5.1.1 and 5.1.2. Even in the event of a pollution incident (such as a fuel or cement spill) significant enough to impact upon surface/ground water quality in the proposed development site, any pollution from the construction site would be minimal in quantity and if it entered any watercourse it would be so diluted as to be undetectable by the time the water enters the estuary and would not be perceptible in Rogerstown Estuary SAC, due to the very small volumes.</p> <p>This is due to the separation between the proposed development site and the European site – the proposed development site is c.1.6km (straight line distance) from the SAC and any pollution arising during construction would be so diluted as to be undetectable by the time the water enters the estuary. In addition, significant dilution and mixing of surface and sea water would occur. Upon reaching the estuary any pollutants would be even further diluted and dissipated by the receiving waters. Furthermore, the construction of the proposed development will take place over a comparatively short period and there is no possibility of long-term impacts arising as a result of the construction elements of the proposed development given the nature and scale of the proposed development, on an already developed site and its location in the centre of a busy town at a remove from the European sites.</p> <p>There is a potential indirect hydrological pathway between the proposed development and European Sites in Irish Sea via the municipal wastewater drainage network (which contains overflow arrangements) and the Portrane WWTP. However, as detailed above, considering the capacity available at Portrane WWTP, and the substantial dilution factor in the sea, there is no possibility of significant impacts on</p>	No

Site	Reasons for designation (information correct as of December 2023) (*denotes a priority habitat)	Discussion of Source-Pathway-Receptor Link	Likely Significant Effect?
		<p>this or any other European site arising as a result of the proposed development via this pathway.</p> <p>There will be no loss of habitat or species, fragmentation or disturbance to the qualifying interests of this site as a result of the proposed development.</p> <p>No operational impacts on this European site will occur as a result of the proposed development.</p>	
<p>Rogerstown Estuary SPA (site code 004015) c. 1.6km to the south-east</p>	<ul style="list-style-type: none"> ■ A043 Greylag Goose (<i>Anser anser</i>) ■ A046 Brent Goose (<i>Branta bernicla hrota</i>) ■ A048 Shelduck (<i>Tadorna tadorna</i>) ■ A056 Shoveler (<i>Anas clypeata</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>) ■ A149 Dunlin (<i>Calidris alpina alpina</i>) ■ A156 Black-tailed Godwit (<i>Limosa limosa</i>) ■ A162 Redshank (<i>Tringa tetanus</i>) ■ A999 Wetlands <p>According to this SPA’s site Conservation Objectives document (Version 1 - dated 20 May 2013), 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.</p>	<p>No significant effects on water quality, and therefore on the site’s SCIs, are predicted.</p> <p>Surface/ground water arising during the site clearance, construction and operation of the proposed residential development could contain pollutants (foul water, silt, hydrocarbons and other chemicals). Such contaminated water could potentially discharge to the ground or the local surface water drainage network and from there, eventually, to Rogerstown Estuary. There would be no significant effects on the conservation objectives of the European site should this occur, given the nature, size and location of the proposed development, as described in Section 5.1.1 and 5.1.2. Even in the event of a pollution incident (such as a fuel or cement spill) significant enough to impact upon surface/ground water quality in the proposed development site, any pollution from the construction site would be minimal in quantity and if it entered any watercourse it would be so diluted as to be undetectable by the time the water enters the estuary and would not be perceptible in Rogerstown Estuary SPA, due to the very small volumes.</p> <p>This is due to the separation between the proposed development site and the European site – the proposed development site is c. 1.6km (straight line distance) from the SPA and any pollution arising during construction would be so diluted as to be undetectable by the time the water enters the estuary. In addition, significant dilution and mixing of surface and sea water would occur. Upon reaching the estuary any pollutants would be even further diluted and dissipated by the receiving waters. Furthermore, the construction of the proposed development will take place over a comparatively short period and there is no possibility of long-term impacts arising as a result of the construction elements of the proposed development given the nature and scale of the proposed development, on an already developed site and its location in the centre of a busy town at a remove from the European sites.</p>	<p>No</p>

Site	Reasons for designation (information correct as of December 2023) (*denotes a priority habitat)	Discussion of Source-Pathway-Receptor Link	Likely Significant Effect?
		<p>There is a potential indirect hydrological pathway between the proposed development and European Sites in Irish Sea via the municipal wastewater drainage network (which contains overflow arrangements) and the Portrane WWTP. However, as detailed above, considering the capacity available at Portrane WWTP, and the substantial dilution factor in the sea, 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>There will be no loss of habitat or species, fragmentation or disturbance to the special conservation interests of this site as a result of the proposed development.</p> <p>No operational impacts on this European site will occur as a result of the proposed development.</p>	
<p>Malahide Estuary SAC (000205) c. 5.1km to the south</p>	<ul style="list-style-type: none"> ■ 1140 Mudflats and sandflats not covered by seawater at low tide ■ 1310 Salicornia and other annuals colonising mud and sand ■ 1320 Spartina swards (Spartinion maritimae) ■ 1330 Atlantic salt meadows (Glaucopuccinellietalia maritimae) ■ 1410 Mediterranean salt meadows (Juncetalia maritimi) ■ 2120 Shifting dunnes along the shoreline with Ammophila arenaria (white dunes) ■ 2130 Fixed coastal dunes with herbaceous vegetation (grey dunes)* <p>*indicates a priority habitat under the Habitats Directive</p>	<p>There is no direct hydrological link or any other pathway between the proposed residential development and this SAC. It is approximately 5.1km distant and is completely unconnected via surface water pathway.</p> <p>There is a potential indirect hydrological pathway between the proposed development and European Sites in Irish Sea via the municipal wastewater drainage network (which contains overflow arrangements) and the Portrane WWTP. However, as detailed above, considering the capacity available at Portrane WWTP, and the substantial dilution factor in the sea, 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>Furthermore there will be no loss of species, fragmentation or disturbance to the QI's of this SAC as a result of the proposed development.</p>	<p>No</p>

Site	Reasons for designation (information correct as of December 2023) (*denotes a priority habitat)	Discussion of Source-Pathway-Receptor Link	Likely Significant Effect?
	<p>According to this SAC's site Conservation Objectives document (Version 1, dated 27 May 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>		
<p>Malahide Estuary SPA (site code 004025) c. 5.1km to the south</p>	<ul style="list-style-type: none"> ■ A005 Great Crested Grebe (<i>Podiceps cristatus</i>) ■ A046 Brent Goose (<i>Branta bernicla hrota</i>) ■ A048 Shelduck (<i>Tadorna tadorna</i>) ■ A054 Pintail (<i>Anas acuta</i>) ■ A067 Goldeneye (<i>Bucephala clangula</i>) ■ A069 Red-breasted (<i>Merganser Mergus serrator</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>) ■ A149 Dunlin (<i>Calidris alpina alpina</i>) ■ A156 Black-tailed Godwit (<i>Limosa limosa</i>) ■ A157 Bar-tailed Godwit (<i>Limosa lapponica</i>) ■ A162 Redshank (<i>Tringa tetanus</i>) ■ A999 Wetlands 	<p>There is no direct hydrological link or any other pathway between the proposed residential development and this SPA. It is approximately 5.1km distant and is completely unconnected via surface water pathway.</p> <p>There is a potential indirect hydrological pathway between the proposed development and European Sites in Irish Sea via the municipal wastewater drainage network (which contains overflow arrangements) and the Portrane WWTP. However, as detailed above, considering the capacity available at Portrane WWTP, and the substantial dilution factor in the sea, 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>Furthermore there will be no loss of species, fragmentation or disturbance to the SCI's of this SPA as a result of the proposed development.</p>	<p>No</p>

Site	Reasons for designation (information correct as of December 2023) (*denotes a priority habitat)	Discussion of Source-Pathway-Receptor Link	Likely Significant Effect?
	<p>According to this SPA's site Conservation Objectives document (Version 1, dated 16 August 2013), 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.</p>		
<p>North-West Irish Sea SPA (site code 004236), c. 5.15km to the east</p>	<ul style="list-style-type: none"> ■ A065 Common Scoter (<i>Melanitta nigra</i>) ■ A001 Red-throated Diver (<i>Gavia stellata</i>) ■ A003 Great Northern Diver (<i>Gavia immer</i>) ■ A009 Fulmar (<i>Fulmarus glacialis</i>) ■ A013 Manx Shearwater (<i>Puffinus puffinus</i>) ■ A018 Shag (<i>Phalacrocorax aristotelis</i>) ■ A017 Cormorant (<i>Phalacrocorax carbo</i>) ■ A177 Little Gull (<i>Larus minutus</i>) ■ A188 Kittiwake (<i>Rissa tridactyla</i>) ■ A179 Black-headed Gull (<i>Chroicocephalus ridibundus</i>) ■ A182 Common Gull (<i>Larus canus</i>) ■ A183 Lesser Black-backed Gull (<i>Larus fuscus</i>) ■ A184 Herring Gull (<i>Larus argentatus</i>) ■ A187 Great Black-backed Gull (<i>Larus marinus</i>) ■ A195 Little Tern (<i>Sterna albifrons</i>) ■ A192 Roseate Tern (<i>Sterna dougallii</i>) 	<p>There is no direct hydrological link or any other pathway between the proposed residential development and this SPA. It is approximately 5.15km distant and is completely unconnected via surface water pathway.</p> <p>There is a potential indirect hydrological pathway between the proposed development and European Sites in Irish Sea via the municipal wastewater drainage network (which contains overflow arrangements) and the Portrane WWTP. However, as detailed above, considering the capacity available at Portrane WWTP, and the substantial dilution factor in the sea, 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>Furthermore there will be no loss of species, fragmentation or disturbance to the SCI's of this SPA as a result of the proposed development.</p>	<p>No</p>

Site	Reasons for designation (information correct as of December 2023) (*denotes a priority habitat)	Discussion of Source-Pathway-Receptor Link	Likely Significant Effect?
	<ul style="list-style-type: none"> ■ A193 Common Tern (<i>Sterna hirundo</i>) ■ A194 Arctic Tern (<i>Sterna paradisaea</i>) ■ A204 Puffin (<i>Fratercula arctica</i>) ■ A200 Razorbill (<i>Alca torda</i>) ■ A199 Guillemot (<i>Uria aalge</i>) ■ According to this SPA's site Conservation Objectives document (Version 1 - dated 19 September 2023), for each of the listed SCIs, the Conservation Objective maintain or restore the favourable conservation condition of the species for which the SPA has been selected. 		
Rockabill to Dalkey Island SAC (site code 003000) c. 6.2km to the east	<ul style="list-style-type: none"> ■ 1170 Reefs ■ 1351 Harbour Porpoise (<i>Phocoena phocoena</i>) <p>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.</p>	<p>There is no direct hydrological link or any other pathway between the proposed residential development and this SAC. It is approximately 6.2km distant and is completely unconnected via surface water pathway.</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 Portrane WWTP. However, as detailed above, considering the capacity available at Portrane WWTP, and the substantial dilution factor in the sea/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>Furthermore there will be no loss of species, fragmentation or disturbance to the QI's of this SAC as a result of the proposed development.</p>	No
Rockabill SPA (site code 004014), c. 8.6km to the north-east	<ul style="list-style-type: none"> ■ A148 Purple Sandpiper (<i>Calidris maritima</i>) ■ A192 Roseate Tern (<i>Sterna dougallii</i>) ■ A193 Common Tern (<i>Sterna hirundo</i>) ■ A194 Arctic Tern (<i>Sterna paradisaea</i>) 	<p>There is no direct hydrological link or any other pathway between the proposed residential development and this SPA. It is approximately 8.6km distant and is completely unconnected via surface water pathway.</p> <p>There is a potential indirect hydrological pathway between the proposed development and European Sites in Irish Sea via the municipal wastewater drainage network (which</p>	No

Site	Reasons for designation (information correct as of December 2023) (*denotes a priority habitat)	Discussion of Source-Pathway-Receptor Link	Likely Significant Effect?
	<p>According to this SPA's site Conservation Objectives document (Version 1 - dated 08 May 2013), 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.</p>	<p>contains overflow arrangements) and the Portrane WWTP. However, as detailed above, considering the capacity available at Portrane WWTP, and the substantial dilution factor in the sea, 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>Furthermore there will be no loss of species, fragmentation or disturbance to the SCI's of this SPA as a result of the proposed development.</p>	
<p>Lambay Island SAC (site code 000204) c. 9.2km to the south-east</p>	<ul style="list-style-type: none"> ■ 1170 Reefs ■ 1230 Vegetated sea cliffs of the Atlantic and Baltic coasts ■ 1364 Grey seal (<i>Halichoerus grypus</i>) ■ 1365 Harbour seal (<i>Phoca vitulina</i>) <p>According to this SAC's site Conservation Objectives document (Version 1, dated 22 July 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.</p>	<p>There is no direct hydrological link or any other pathway between the proposed residential development and this SAC. It is approximately 9.2km distant and is completely unconnected via surface water pathway.</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 Portrane WWTP. However, as detailed above, considering the capacity available at Portrane WWTP, and the substantial dilution factor in the sea/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>Furthermore there will be no loss of species, fragmentation or disturbance to the QI's of this SAC as a result of the proposed development.</p>	<p>No</p>
<p>Lambay Island SPA (site code 004069) c. 9.3km to the south-east</p>	<ul style="list-style-type: none"> ■ A043 Greylag Goose (<i>Anser anser</i>) ■ A200 Razorbill (<i>Alca torda</i>) ■ A184 Herring Gull (<i>Larus argentatus</i>) ■ A009 Fulmar (<i>Fulmarus glacialis</i>) ■ A204 Puffin (<i>Fratercula arctica</i>) ■ A183 Lesser Black-backed Gull (<i>Larus fuscus</i>) ■ A188 Kittiwake (<i>Rissa tridactyla</i>) ■ A199 Guillemot (<i>Uria aalge</i>) 	<p>There is no direct hydrological link or any other pathway between the proposed residential development and this SPA. It is approximately 9.3km distant and is completely unconnected via surface water pathway.</p> <p>There is a potential indirect hydrological pathway between the proposed development and European Sites in Irish Sea via the municipal wastewater drainage network (which contains overflow arrangements) and the Portrane WWTP. However, as detailed above, considering the capacity available at Portrane WWTP, and the substantial dilution factor in the sea, 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>No</p>

Proposed Local Authority Own Housing Development at Rathmore Road, Lusk, Co. Dublin
Appropriate Assessment Screening Report

Site	Reasons for designation (information correct as of December 2023) (*denotes a priority habitat)	Discussion of Source-Pathway-Receptor Link	Likely Significant Effect?
	<ul style="list-style-type: none"> ■ A018 Shag (<i>Phalacrocorax aristotelis</i>) ■ A017 Cormorant (<i>Phalacrocorax carbo</i>) <p>According to this SPA's First Order Site Specific Conservation Objectives document (Version 1.0, dated 12 October 2022), for each of the listed SCIs, the Conservation Objective is to maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.</p>	<p>Furthermore there will be no loss of species, fragmentation or disturbance to the SCI's of this SPA as a result of the proposed development.</p>	
<p>Skerries Island SPA (site code 004122), c. 7.2km to the north-east</p>	<ul style="list-style-type: none"> ■ A017 Cormorant (<i>Phalacrocorax carbo</i>) ■ A018 Shag (<i>Phalacrocorax aristotelis</i>) ■ A046 Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) ■ A148 Purple Sandpiper (<i>Calidris maritima</i>) ■ A169 Turnstone (<i>Arenaria interpres</i>) ■ A184 Herring Gull (<i>Larus argentatus</i>) <p>According to this SPA's First Order Site Specific Conservation Objectives document (Version 1.0, dated 12 October 2022), for each of the listed SCIs, the Conservation Objective is to maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.</p>	<p>There is no direct hydrological link or any other pathway between the proposed residential development and this SPA. It is approximately 9.3km distant and is completely unconnected via surface water pathway.</p> <p>There is a potential indirect hydrological pathway between the proposed development and European Sites in Irish Sea via the municipal wastewater drainage network (which contains overflow arrangements) and the Portrane WWTP. However, as detailed above, considering the capacity available at Portrane WWTP, and the substantial dilution factor in the sea, 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>Furthermore there will be no loss of species, fragmentation or disturbance to the SCI's of this SPA as a result of the proposed development.</p>	No

Site	Reasons for designation (information correct as of December 2023) (*denotes a priority habitat)	Discussion of Source-Pathway-Receptor Link	Likely Significant Effect?
<p>Baldoyle Bay SPA (site code 004016) c. 11.5km to the south-east</p>	<ul style="list-style-type: none"> ■ A046 Brent Goose (<i>Branta bernicla hrota</i>) ■ A048 Shelduck (<i>Tadorna tadorna</i>) ■ A137 Ringed Plover (<i>Charadrius hiaticula</i>) ■ A140 Golden Plover (<i>Pluvialis apricaria</i>) ■ A141 Grey Plover (<i>Pluvialis squatarola</i>) ■ A157 Bar-tailed Godwit (<i>Limosa lapponica</i>) ■ A999 Wetlands <p>According to this SPA’s site Conservation Objectives document (Version 1 - dated 27 February 2013), 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.</p>	<p>There is no direct hydrological link or any other pathway between the proposed residential development and this SPA. It is approximately 11.5km distant and is completely unconnected via surface water pathway.</p> <p>There is a potential indirect hydrological pathway between the proposed development and European Sites in Irish Sea via the municipal wastewater drainage network (which contains overflow arrangements) and the Portrane WWTP. However, as detailed above, considering the capacity available at Portrane WWTP, and the substantial dilution factor in the sea, 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>Furthermore there will be no loss of species, fragmentation or disturbance to the SCI’s of this SPA as a result of the proposed development.</p>	<p>No</p>
<p>Baldoyle Bay SAC (site code 000199) c. 11.8km to the south-east</p>	<ul style="list-style-type: none"> ■ 1140 Mudflats and sandflats not covered by seawater at low tide ■ 1310 Salicornia and other annuals colonising mud and sand ■ 1330 Atlantic salt meadows (<i>Glaucopuccinellietalia maritimae</i>) ■ 1410 Mediterranean salt meadows (<i>Juncetalia maritimi</i>) <p>According to this SAC’s site Conservation Objectives document (Version 1, dated 19 November 2012), for each of the listed QIs, the Conservation Objective is to maintain the favourable conservation condition of the</p>	<p>There is no direct hydrological link or any other pathway between the proposed residential development and this SAC. It is approximately 11.8km distant and is completely unconnected via surface water pathway.</p> <p>There is a potential indirect hydrological pathway between the proposed development and European Sites in Irish Sea via the municipal wastewater drainage network (which contains overflow arrangements) and the Portrane WWTP. However, as detailed above, considering the capacity available at Portrane WWTP, and the substantial dilution factor in the sea, 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>Furthermore there will be no loss of species, fragmentation or disturbance to the QI’s of this SAC as a result of the proposed development.</p>	<p>No</p>

Site	Reasons for designation (information correct as of December 2023) (*denotes a priority habitat)	Discussion of Source-Pathway-Receptor Link	Likely Significant Effect?
	Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.		
Ireland's Eye SPA (site code 004117) c. 14km to the south-east	<ul style="list-style-type: none"> ■ A017 Cormorant (<i>Phalacrocorax carbo</i>) ■ A184 Herring Gull (<i>Larus argentatus</i>) ■ A188 Kittiwake (<i>Rissa tridactyla</i>) ■ A199 Guillemot (<i>Uria aalge</i>) ■ A200 Razorbill (<i>Alca torda</i>) <p>According to this SPA's First Order Site Specific Conservation Objectives document (Version 1.0, dated 12 October 2022), for each of the listed SCIs, the Conservation Objective is to maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.</p>	<p>There is no direct hydrological link or any other pathway between the proposed residential development and this SPA. It is approximately 14km distant and is completely unconnected via surface water pathway.</p> <p>There is a potential indirect hydrological pathway between the proposed development and European Sites in Irish Sea via the municipal wastewater drainage network (which contains overflow arrangements) and the Portrane WWTP. However, as detailed above, considering the capacity available at Portrane WWTP, and the substantial dilution factor in the sea, 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>Furthermore there will be no loss of species, fragmentation or disturbance to the SCI's of this SPA as a result of the proposed development.</p>	No
Ireland's Eye SAC (site code 002193) c. 13.8km to the south-east	<ul style="list-style-type: none"> ■ 1220 Perennial vegetation of stony banks ■ 1230 Vegetated sea cliffs of the Atlantic and Baltic coasts <p>According to this SAC's site Conservation Objectives document (Version 1, dated 27 January 2017), for each of the listed QIs, the Conservation Objective is to maintain the favourable conservation condition of the Annex I habitat(s) for which the SAC has been selected.</p>	<p>There is no direct hydrological link or any other pathway between the proposed residential development and this SAC. It is approximately 13.8km distant and is completely unconnected via surface water pathway.</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 Portrane WWTP. However, as detailed above, considering the capacity available at Portrane WWTP, and the substantial dilution factor in the sea/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>Furthermore there will be no loss of species, fragmentation or disturbance to the QI's of this SAC as a result of the proposed development.</p>	No
Howth Head Coast SAC (site code 000202) c. 16.5km to the south-east	<ul style="list-style-type: none"> ■ 1230 Vegetated sea cliffs of the Atlantic and Baltic coasts ■ 4030 European dry heaths 	<p>There is no direct hydrological link or any other pathway between the proposed residential development and this SAC. It is approximately 16.5km distant and is completely unconnected via surface water pathway.</p>	No

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Site	Reasons for designation (information correct as of December 2023) (*denotes a priority habitat)	Discussion of Source-Pathway-Receptor Link	Likely Significant Effect?
	<p>According to this SAC's site Conservation Objectives document (Version 1, dated 06 December 2016), for each of the listed QIs, the Conservation Objective is to maintain the favourable conservation condition of the Annex I habitats for which the SAC has been selected.</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 Portrane WWTP. However, as detailed above, considering the capacity available at Portrane WWTP, and the substantial dilution factor in the sea/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>Furthermore there will be no loss of species, fragmentation or disturbance to the QI's of this SAC as a result of the proposed development.</p>	
<p>Howth Head Coast SPA (site code 004113) c. 16.2km to the south-east</p>	<ul style="list-style-type: none"> ■ A188 Kittiwake (<i>Rissa tridactyla</i>) <p>According to this SPA's First Order Site Specific Conservation Objectives document (Version 1.0, dated 12 October 2022), for the listed SCI, the Conservation Objective is to maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.</p>	<p>There is no direct hydrological link or any other pathway between the proposed residential development and this SPA. It is approximately 16.2km distant and is completely unconnected via surface water pathway.</p> <p>There is a potential indirect hydrological pathway between the proposed development and European Sites in Irish Sea via the municipal wastewater drainage network (which contains overflow arrangements) and the Portrane WWTP. However, as detailed above, considering the capacity available at Portrane WWTP, and the substantial dilution factor in the sea, 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>Furthermore there will be no loss of species, fragmentation or disturbance to the SCI's of this SPA as a result of the proposed development.</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.

There will also be no significant effects on any European sites as a result of:

- Habitat loss and/or fragmentation;
- Land-take;
- Resource requirements such as water abstraction;
- Impacts to habitat structure;
- Mortality to species (such as roadkill);
- Noise pollution / vibration impacts;
- Light pollution;
- Emissions to air (including dust);
- Emissions to water.

No invasive plant species (*i.e.* those species listed on Schedule 3 of the *Birds and Habitats Regulations, 2011-2015*, such as Japanese knotweed or giant hogweed) were identified on site.

Additionally, for the reasons outlined in this report for the European sites, no impacts on any other designated sites including proposed Natural Heritage Areas, will occur.

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).

The CJEU, in its ruling on this case dated 15 June 2023 clarified issues defining mitigation in the context of European sites³. It confirmed that Article 6(3) of Directive 92/43 *must be interpreted as meaning that, in order to determine whether it is necessary to carry out an appropriate assessment of the implications of a plan or project for a site, account may be taken of the features of that plan or project which involve the removal of contaminants and which therefore may have the effect of reducing the harmful effects of the plan or project on that site, where those features have been incorporated into*

³<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62021CC0721>

that plan or project as standard features, inherent in such a plan or project, irrespective of any effect on the site.

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 3.2.1 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.

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)⁴. 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 Development Plan 2023-2029 (FCC, 2022);
- The National Planning Application database (www.myplan.ie - accessed December 2023);
- An Bord Pleanála database (www.pleanala.ie – accessed December 2023); and
- EIA Portal (www.housinggov.ie/maps.arcgis.com – accessed December 2023).

No developments are proposed within the immediate vicinity of the site that would, in combination with the development under appraisal in this report, give rise to significant effects. This includes projects that are currently under construction, have recently been granted planning permission or are awaiting a decision.

The Fingal County Development Plan 2023-2029 has a series of objectives intended to protect and enhance the natural environment. For example the plan includes policies for the protection of the county's flood plains, to prevent development in flood plains without satisfying the appropriate justification test and to require the use of sustainable drainage systems (SuDS) to minimise and limit the extent of hard surfacing and paving in order to reduce the potential impact of existing and predicted flooding risks.

The proposed development will not impact on the flow of water through the area, nor increase potential flood impacts. It is in compliance with all of the relevant Plan objectives.

A number of other plans were considered when assessing in-combination effects, but it was determined that there would be no in-combination effects with these:

⁴ Assessment of Plans and Projects Significantly Affecting European sites: Methodological Guidance on the Provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC (European Commission Environment Directorate-General, 2001)

- The National Planning Framework (Project Ireland 2040);
- The Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019 – 2031 (The Eastern and Midland Regional Assembly);
- The Greater Dublin Strategic Drainage Study;
- Greater Dublin Area Transport Strategy 2022-2042;
- Climate Action Plan 2023 (CAP 23 – Changing Ireland for the Better);
- Fingal County Council Draft Fingal Climate Action Plan 2024 – 2029 (public consultation documentation);
- National Biodiversity Action Plan 2017 – 2021.

It is considered that significant in-combination effects on European sites are not likely to occur as a result of the proposed development in combination with other plans or projects.

8 Screening Conclusion

In view of best scientific knowledge, this report concludes that the proposed residential development at Rathmore Road, Lusk, Co. Dublin; 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 Fingal County Council to carry out an Appropriate Assessment Screening, and reach a determination that the proposed development will not have any likely significant effects on European sites under Article 6 of the Habitats Directive in light of their conservation objectives.

9 References

- Chartered Institute of Ecology and Environmental Management (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 (2023). EIA Portal.
- European Commission (2021). *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 (2018). *Managing Natura 2000 sites: The provisions of Article 6 of the ‘Habitats’ Directive 92/43/EEC*.
- European Commission Environment Directorate-General (2021). *Guidance document on the strict protection of animal species of Community Interest under the Habitats Directive*.
- Fingal Development Plan 2023-2029.
- NBDC (2023). Biodiversity Maps.
- NPWS (2021). Guidance for Public authorities on the Application of Articles 12 and 16 of the EU Habitats Directive to development/works undertaken by or on behalf of a Public authority.
- NPWS (2023). *Boundary data – Special Area of Conservation (SAC)*. [Update date 02/10/2023].
- NPWS (2023). *Boundary data – Special Protection Area (SPA)*. [Update date 17/07/2023].
- NPWS (2015). *Boundary data – proposed Natural Heritage Area (pNHA)*. [Update date 01/11/2015].
- NPWS (2019). *Boundary data –Natural Heritage Area (pNHA)*. [Update date 28/06/2019].
- NRA⁵ (2009). *Guidelines for Assessment of Ecological Impacts of National Road Schemes*.
- OPR (2021). *Practice Note PN01 Appropriate Assessment Screening for Development Management*.
- Wyse Jackson, M., FitzPatrick, Ú., Cole, E., Jebb, M., McFerran, D., Sheehy Skeffington, M. & Wright, M. (2016). *Ireland Red List No. 10: Vascular Plants*. Dublin Ireland: NPWS, Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs.

⁵ Now Transport Infrastructure Ireland (TII).

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

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

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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 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.

⁸ European Commission (2021) *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*

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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