

Part XI Church Fields Housing and Eastern Linear Park Development

AA Screening Report

Environmental Assessment **Built Environment**

Client:

Fingal County Council

Date:

07 December 2021

DOCUMENT CONTROL SHEET

6806_RPAA01_AA Screening Report

Project No. 6806
Client: Fingal County Council
Project Name: Part XI Church Fields Housing and Eastern Linear Park Development
Report Name: AA Screening Report
Document No. RPAA01
Issue No. 01
Date: 07/12/2021

This document has been issued and amended as follows:

Issue	Status	Date	Prepared	Checked
01	Draft	22 Oct 2021	LG	MH/TB
02	Public Consultation	07 Dec 2021	MH	TB



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1 Introduction

1.1 Introduction and Background

Fingal County Council is seeking permission for a residential and open space / park development at Church Fields, Mulhuddart, Dublin 15 ('the proposed development' hereafter). Brady Shipman Martin (BSM) has been appointed by the Applicant to prepare a report to assist Fingal County Council in undertaking a screening exercise for Appropriate Assessment (AA).

The purpose of the screening exercise is to assess, in view of best scientific knowledge, if the proposed development, individually or in combination with other plans or projects, is likely to have a significant effect on European sites, taking into account their conservation objectives. This document constitutes an Appropriate Assessment Screening Report ('AA Screening Report') prepared for this purpose.

1.2 Expertise and Qualifications

This AA Screening Report has been prepared by Lorraine Guerin, Environmental Consultant at Brady Shipman Martin. Lorraine holds a BSc (Hons) in Ecology from University College Cork, and a MSc in Environmental Management & Policy from Lund University, Sweden. Lorraine has over two years of experience in environmental assessment – EIA and AA – and is a member of the Irish Environmental Law Association (IELA).

A technical review of this document has been completed by Senior Ecologist 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 over 18 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 2011-2015¹ (the "Birds and Natural Habitats Regulations") and the Planning and Development Act, 2000 - 2021 (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,

¹ SI No. 477 of 2011

- (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 and Regulation 42 of the Birds and Natural Habitats Regulations 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 and the Birds and Natural Habitats Regulations.

2 Methodology

2.1 Guidelines

This report has had regard to the aforementioned legislation and the following guidance documents:

- Chartered Institute of Ecology and Environmental Management (CIEEM) (2019). *Guidelines for Ecological Impact Assessment in the UK and Ireland: Terrestrial, Freshwater, Coastal and Marine (Version 1.1)*.
- 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 (2018). *Managing Natura 2000 sites: The Provisions of Article 6 of the Habitats Directive 92/43/EEC*.
- European Commission Environment Directorate-General (2001). *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*.
- 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*.

² Now Transport Infrastructure Ireland (TII).

2.2 Baseline Data Collection and Field Visits

A desk-based assessment was undertaken in October and December 2021 of the proposed development site and its environs. Surveys of the site were undertaken on 16th June 2020 (initial site visit by project ecologist), 19th August 2020 (detailed site walkover by project ecologist) and 19th – 20th August 2020 (bat survey by specialist ecologist). A final site walkover was undertaken on 24th September 2021.

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. Assessments of habitat suitability for species with links to European sites were undertaken, in order to appraise the potential for *ex-situ* effects on European sites.

Information was collated from the organisations and websites listed below:

- Fingal County Council (FCC)
- Environmental Protection Agency (EPA)
- Google Maps © 2021
- National Biodiversity Data Centre (NBDC)
- National Parks and Wildlife Service (NPWS)
- OpenStreetMap © 2021
- Waterways Ireland

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.

Given the amount of information available, including from the developer, NPWS and other sources, it has been possible to gather adequate information on the site and the adjacent area (in particular, the European sites), in order to make an informed, sound judgement as to the potential impacts of the proposed development on the QIs and SCIs of European sites.

3 Screening for Appropriate Assessment

3.1 Background

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

In accordance with sections 177U 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.

The test is a 'possibility' of effects rather than a 'certainty' of effects. The test of significance is whether a plan or project could undermine the site's conservation objectives. Furthermore, AA screening must be undertaken without the inclusion of mitigation, and it is in this context that this AA Screening Report has been prepared.

If the AA screening test concludes that significant effects on any European site(s), 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 for the purposes of Article 6(3) of the Habitats Directive. This is in accordance with established precedent and case law.

3.2 Potential Zone of Influence

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

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

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

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

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

It is common practice to include all European sites within 15 km. However, in some instances where there are hydrological connections, a whole river catchment or a groundwater aquifer may need to be included. Similarly, where bird flight paths are involved, there may be the potential for impacts on SPAs more than 15 km away.

Taking into account the nature, scale and location of the proposed development, as a starting point, a search was carried out for all European sites within 15 km of the site. It is considered highly unlikely that impacts could accrue to Natura 2000 sites over 15 km from the site of the proposed development.

3.3 Study Area and Surrounding Environment

3.3.1 Site Location and European Sites

The proposed development is situated on a c. 9.5 hectare greenfield site at Mulhuddart in Dublin 15. It is situated north of Mulhuddart Village; and is bounded to the north by Damastown Avenue, to the south by

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existing residential and open space development at Wellview, and to the west by the new Church Fields Link Road (under construction) (FCC reg. ref. PARTXI/011/19). To the east of the site are (in order of increasing distance) further greenfield lands, a belt of mature trees dominated by Beech (*Fagus* spp.) and Church Road.

No protected habitats are present on the site, which is dominated by rough ground and rank grassland. Scrub, encroachment, including Bramble (*Rubus* spp.), Rosebay Willowherb (*Chamaenerion angustifolium*) and *Buddleja davidii*, is occurring in places. Running from south-west to north-east through the site is a partially constructed, abandoned roadway. Associated with this roadway is a short line of planted Oak (*Quercus* spp.). The southern margin of the site is bounded by an earthen embankment, hedgerow and damp drainage ditch. No rare or protected species of flora were identified on the site. No invasive species listed on the Third Schedule of the European Communities (Birds and Natural Habitats) Regulations 2011 – 2015 were recorded on the site.

No evidence of badgers or other protected mammals was recorded on the site. A range of typical bird species were noted. No evidence was found of rare or threatened avifauna. Bat surveys were carried out at the site on 19th – 20th August 2020 and 20th – 21st August 2020, to monitor bat activity and identify potential bat roosts / trees with bat potential. Three species of bat were recorded: Common Pipistrelle (*Pipistrellus pipistrellus*), Soprano Pipistrelle (*P. pygmaeus*) and Leisler's Bat (*Nyctalus leisleri*). No roosts were confirmed but it was determined that several of the mature Beech trees to the east of the site (i.e. outside of the site of the proposed development) have high roost potential, and it is probably that roosts (especially of Leisler's) are present in proximity to the site. The survey found that the amenity grassland immediately east of the site is used more intensively by bats than the site itself, which is relatively exposed.

Overall, the site of the proposed residential development is regarded as being of local (lower) ecological value, while the area of the proposed Eastern Linear Park is regarded as being of local (higher) ecological value as per the criteria of the NRA *Guidelines for Assessment of Ecological Impacts of National Road Schemes* (2009). The mature, Beech-dominated treeline to the east of the site (adjacent to Church Road) is regarded as being of local (higher) ecological value, considering its value for commuting and foraging (and potentially roosting) bats. This treeline is outside of the site of the proposed development, and will not be directly affected.

The site of the proposed development is situated in the Tolka_SC_010 subcatchment of the greater Liffey and Dublin Bay catchment. With the exception of the aforementioned drainage ditch, the nearest watercourse is a stream, situated c. 180 m to the west, separated by the new Church Fields Link Road and further greenfield lands. This stream is a tributary of the Pinkeen River, which is situated c. 400 m to the west of the site.

For the purposes of Water Framework Directive (WFD), the EPA has identified both of these watercourses (the Pinkeen and the tributary in question) as 'TOLKA_030' (WFD code IE_EA_09T010800). Both were determined to be of poor status during the 2013 – 2018 WFD cycle, and are considered to be at risk of not achieving their WFD objectives by 2027, due to bad biological status and concentrations of phosphate and ammonia. The WFD cycle 2 report for the Tolka_SC_010 subcatchment states that "Evidence of enrichment and heavy siltation were identified within Tolka_030 with a [IE] licensed facility highlighted as a significant pressure" (p. 3).

The Pinkeen enters the River Tolka at Mulhuddart Village. Between here and Drumcondra, the Tolka is of poor status or unassigned status (WFD 2013 – 2018) and at risk of not achieving WFD objectives / good status. Between Drumcondra and Fairview, the Tolka becomes an estuary (WFD code IE_EA_090_0200) of moderate status (WFD 2013 – 2018) and at risk of not achieving WFD objectives / good status. The WFD cycle 2 report for the Tolka_SC_010 subcatchment identifies urban wastewater (and more specifically, combined sewer overflows) as a significant pressure affecting the Tolka Estuary. The estuary is identified as a 'nutrient sensitive area', on account of the presence of a Designated Site, the South Dublin Bay and River Tolka Estuary SPA,

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which shall be discussed further below. Refer to **Figures 2** and **3**, below, which illustrate the water bodies at the location of the proposed development and in the wider area. The site is not subject to flooding.

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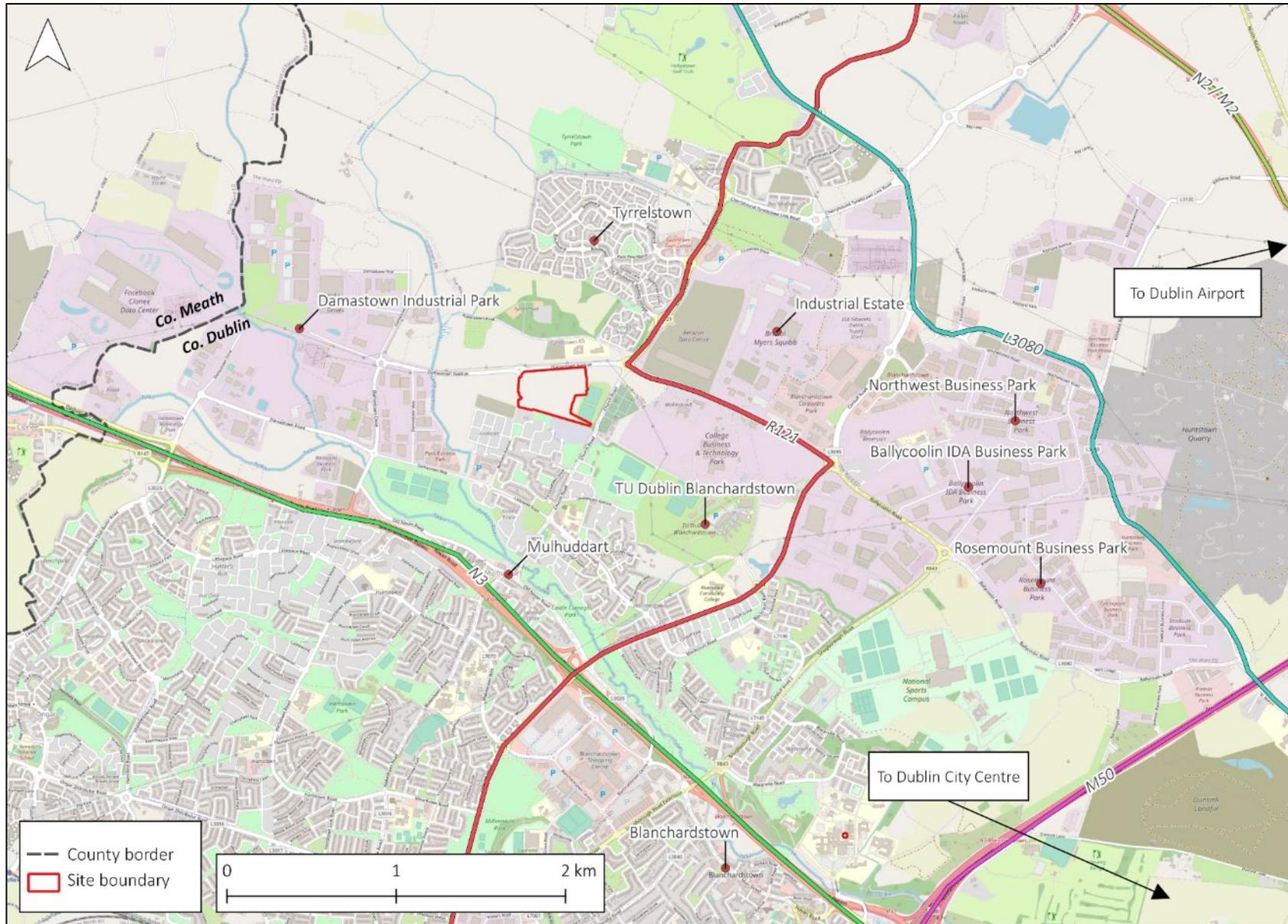


Figure 1: Location of the proposed development (© OpenStreetMaps, 2021)



Figure 2: Watercourses – location of the proposed development (© Bing Maps, 2021)

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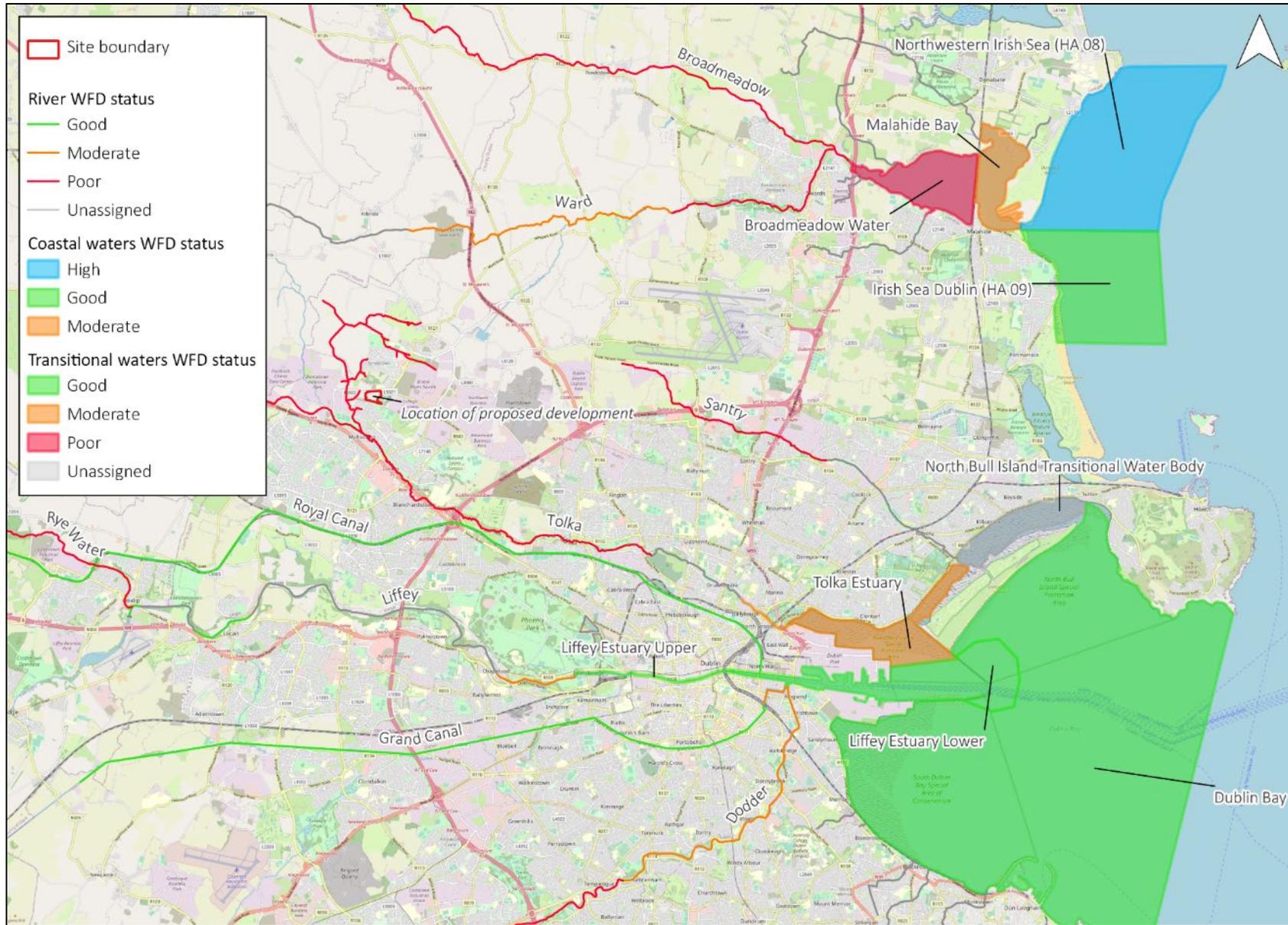


Figure 3: Water bodies – wider area (© OpenStreetMap, 2021)

The site of the proposed development is not situated within or in close proximity to a Designated Site. There are seven European sites located in the wider area (i.e. within a 15 km radius of the site), as follows:

- Rye Water Valley / Carton SAC (site code: 001398), c. 8 km south-west
- South Dublin Bay and River Tolka Estuary SPA (004024), c. 12.5 km south-east
- Malahide Estuary SAC (000205), c. 13.5 km north-east
- Malahide Estuary SPA (004025), c. 13.5 km north-east
- South Dublin Bay SAC (000210), c. 14.5 km south-east
- North Dublin Bay SAC (000206), c. 15 km south-east
- North Bull Island SPA (004006), c. 15 km south-east

These sites are mapped in **Figures 4** and **5**, below. Details of these are provided in **Table 1**. Their Conservation Objectives are summarised in **Appendix II**.

In addition to the seven European sites within 15km, the following sites are, potentially, located within the Zone of Influence of the proposed development, as follows:

- Rogerstown Estuary SAC (site code: 000208), c. 16.5 km north east
- Baldoyle Bay SAC (000199), c. 16.7 km east
- Baldoyle Bay SPA (004016), c. 16.8 km east
- Baldoyle Bay SPA (004016), c. 16.8 km east
- Glenasmole Valley SAC (001209), c. 17.1 km south west
- Rogerstown Estuary SPA (004015), c. 17.2 km north east
- Howth Head SAC (000202), c. 20.2 km east
- Rockabill to Dalkey Island SAC (003000), c. 20.9 km east
- Ireland's Eye SPA (004117), c. 21.4 km east
- Howth Head SPA (004113), c. 22.7 km east

However, for the reasons set out in this report in relation to the sites within 15km (see **Table 2**) there will be no significant effects on these sites as a result of the proposed development.

3.3.2 Other Designated Areas

Designated areas other than European sites within a 15 km radius of the development site, and which do not fall within the area of a European site listed above, have been included in this assessment in order to address their potential to act as supporting sites for the Natura 2000 network. They are as follows:

- Royal Canal pNHA (002103), c. 3.5 km south
- Liffey Valley pNHA (000128), c. 4.5 km south
- Grand Canal pNHA (002104), c. 9 km south
- Santry Demesne pNHA (000178), c. 9 km east
- Feltrim Hill pNHA (001208), c. 13 km east
- Dodder Valley pNHA (000991), c. 14 km south
- Dolphins, Dublin Docks pNHA (000201), c. 15 km south-east

Figure 6 illustrates all of the pNHA within a 15 km distance of the site of the proposed development (including those which overlap with European Sites).

Note that all of the above-listed distances are linear (i.e. 'as the crow flies') and are not necessarily representative of the distance of potential impact pathways.

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Table 1: Details of European sites within 15 km of the proposed development

Site	Distance ³	Qualifying Interests ⁴	Overview
Rye Water Valley / Carton SAC [001398]	c. 8 km south-west	[7220] Petrifying Springs* [1014] Narrow-mouthed Whorl Snail (<i>Vertigo angustior</i>) [1016] Desmoulin's Whorl Snail (<i>Vertigo moulinsiana</i>)	This site is located between Leixlip and Maynooth, in Counties Meath and Kildare, and extends along the Rye Water, a tributary of the River Liffey. A mineral spring at Louisa Bridge is of a type considered to be rare in Europe and corresponds with a habitat listed on Annex I of the Habitats Directive, Petrifying Springs. The rare Narrow-mouthed and Desmoulin's Whorl Snails occur in marsh vegetation near Louisa Bridge. In addition to these QIs, the site supports a range of other rare and / or protected habitats and species. The conservation importance of the site lies in the presence of several rare and threatened plant and animal species, and the petrifying springs. The woods at Carton Estate and their avifauna are of additional interest.
South Dublin Bay and River Tolka Estuary SPA [004024]	c. 12.5 km south-east	[A046] Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A130] Oystercatcher (<i>Haematopus ostralegus</i>) [A137] Ringed Plover (<i>Charadrius hiaticula</i>) [A141] Grey Plover (<i>Pluvialis squatarola</i>) [A143] Knot (<i>Calidris canutus</i>) [A144] Sanderling (<i>Calidris alba</i>) [A149] Dunlin (<i>Calidris alpina</i>) [A157] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A162] Redshank (<i>Tringa totanus</i>) [A179] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A192] Roseate Tern (<i>Sterna dougallii</i>) [A193] Common Tern (<i>Sterna hirundo</i>) [A194] Arctic Tern (<i>Sterna paradisaea</i>) [A999] Wetland and Waterbirds	This site overlaps partially with the South Dublin Bay SAC (discussed below) and extends further eastward out to sea. It is an important site for wintering waterfowl, being an integral part of the internationally important Dublin Bay complex. An internationally important population of Light-bellied Brent Goose occurs regularly, and there are nationally important numbers of a further nine species: Oystercatcher, Ringed Plover, Grey Plover, Knot, Sanderling, Dunlin, Bar-tailed Godwit, Redshank and Black-headed Gull. Common Tern and Arctic Tern breed in the Dublin Docklands, on the man-made ESB mooring structure known as the 'dolphin', which has been included in the site. Roseate Terns also occur at the site in the autumn months.
Malahide Estuary SAC [000205]	c. 13.5 km north-east	[1140] Mudflats and sandflats not covered by seawater at low tide	This site takes in the Malahide Estuary, which is situated immediately north of Malahide and east of Swords in Co. Dublin, in the estuary of the River Broadmeadow. It provides

³ These distances are linear (i.e. 'as the crow flies').

⁴ * denotes priority habitat under the Habitats Directive

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Site	Distance ³	Qualifying Interests ⁴	Overview
		<p>[1310] <i>Salicornia</i> and other annuals colonising mud and sand</p> <p>[1330] Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>)</p> <p>[1410] Mediterranean salt meadows (<i>Juncetalia maritimi</i>)</p> <p>[2120] Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes)</p> <p>[2130] Fixed coastal dunes with herbaceous vegetation (grey dunes)</p>	<p>a fine example of an estuarine system with all the main habitats represented. The outer estuary drains almost completely at low tide, exposing sand and mud flats. The estuary contains a large sand spit which has a well-developed outer dune ridge. In the inner estuary, patches of saltmarsh and salt meadows occur.</p>
Malahide Estuary SPA [004025]	c. 13.5 km north-east	<p>[A005] Great Crested Grebe (<i>Podiceps cristatus</i>)</p> <p>[A046] Light-bellied Brent Goose (<i>Branta bernicla hrota</i>)</p> <p>[A048] Shelduck (<i>Tadorna tadorna</i>)</p> <p>[A054] Pintail (<i>Anas acuta</i>)</p> <p>[A067] Goldeneye (<i>Bucephala clangula</i>)</p> <p>[A069] Red-breasted Merganser (<i>Mergus serrator</i>)</p> <p>[A130] Oystercatcher (<i>Haematopus ostralegus</i>)</p> <p>[A140] Golden Plover (<i>Pluvialis apricaria</i>)</p> <p>[A141] Grey Plover (<i>Pluvialis squatarola</i>)</p> <p>[A143] Knot (<i>Calidris canutus</i>)</p> <p>[A149] Dunlin (<i>Calidris alpina</i>)</p> <p>[A156] Black-tailed Godwit (<i>Limosa limosa</i>)</p> <p>[A157] Bar-tailed Godwit (<i>Limosa lapponica</i>)</p> <p>[A162] Redshank (<i>Tringa totanus</i>)</p> <p>[A999] Wetland and Waterbirds</p>	<p>This site overlaps substantially with the Malahide Estuary SAC. It encompasses estuary, saltmarsh and shallow subtidal areas at the mouth of the estuary. The site is of high importance for wintering waterfowl, providing both feeding and roosting areas for a range of species. It supports internationally important populations of Light-bellied Brent Goose and Black-tailed Godwit, and nationally important populations of an additional 12 species: Great Crested Grebe, Shelduck, Pintail, Goldeneye, Red-breasted Merganser, Oystercatcher, Golden Plover, Grey Plover, Knot, Dunlin, Bar-tailed Godwit and Redshank.</p>
South Dublin Bay SAC [000210]	c. 14.5 km south-east	<p>[1140] Mudflats and sandflats not covered by seawater at low tide</p> <p>[1210] Annual vegetation of drift lines</p> <p>[1310] <i>Salicornia</i> and other annuals colonising mud and sand</p> <p>[2110] Embryonic shifting dunes</p>	<p>An intertidal site extending from the South Wall of Dublin Bay to the west pier at Dún Laoghaire. Several small sandy beaches with incipient dune formation and drift line vegetation occur at the margins of the site. Additionally, a small area of pioneer saltmarsh occurs in the lee of an embryonic sand dune north of Booterstown Station.</p>
North Dublin Bay SAC [000206]	c. 15 km south-east	<p>[1140] Mudflats and sandflats not covered by seawater at low tide</p> <p>[1210] Annual vegetation of drift lines</p> <p>[1310] <i>Salicornia</i> and other annuals colonising mud and sand</p>	<p>This site covers most of the same area as the North Bull Island SPA (discussed below) but does not extend as far seaward at the Howth (eastern) side. It provides an excellent example of a coastal site with all the main habitats represented. The North Bull Island is the focal point of the SAC. It features a</p>

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Site	Distance ³	Qualifying Interests ⁴	Overview
		<p>[1330] Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>)</p> <p>[1410] Mediterranean salt meadows (<i>Juncetalia maritimi</i>)</p> <p>[2110] Embryonic shifting dunes</p> <p>[2120] Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes)</p> <p>[2130] Fixed coastal dunes with herbaceous vegetation (grey dunes)</p> <p>[2190] Humid dune slacks</p> <p>[1395] <i>Petalophyllum ralfsii</i> (Petalwort)</p>	<p>variety of habitats, including a well-developed dune system, saltmarsh, drift lines and intertidal lagoons. <i>Petalophyllum ralfsii</i>, a rare liverwort listed on Annex II of the Habitats Directive, occurs on the island.</p>
North Bull Island SPA [004006]	c. 15 km south-east	<p>[A046] Light-bellied Brent Goose (<i>Branta bernicla hrota</i>)</p> <p>[A048] Shelduck (<i>Tadorna tadorna</i>)</p> <p>[A052] Teal (<i>Anas crecca</i>)</p> <p>[A054] Pintail (<i>Anas acuta</i>)</p> <p>[A056] Shoveler (<i>Anas clypeata</i>)</p> <p>[A130] Oystercatcher (<i>Haematopus ostralegus</i>)</p> <p>[A140] Golden Plover (<i>Pluvialis apricaria</i>)</p> <p>[A141] Grey Plover (<i>Pluvialis squatarola</i>)</p> <p>[A143] Knot (<i>Calidris canutus</i>)</p> <p>[A144] Sanderling (<i>Calidris alba</i>)</p> <p>[A149] Dunlin (<i>Calidris alpina</i>)</p> <p>[A156] Black-tailed Godwit (<i>Limosa limosa</i>)</p> <p>[A157] Bar-tailed Godwit (<i>Limosa lapponica</i>)</p> <p>[A160] Curlew (<i>Numenius arquata</i>)</p> <p>[A162] Redshank (<i>Tringa totanus</i>)</p> <p>[A169] Turnstone (<i>Arenaria interpres</i>)</p> <p>[A179] Black-headed Gull (<i>Chroicocephalus ridibundus</i>)</p> <p>[A999] Wetland and Waterbirds</p>	<p>This site takes in the North Bull Island sand spit and most of the inner part of north Dublin Bay, extending from the Ball Wall to Howth Head. The site is an excellent example of an estuarine complex, and is one of the top sites in Ireland for wintering waterfowl. It contains a variety of habitats, including saltmarsh and intertidal lagoons. It is of international importance on the basis that it regularly supports in excess of 20,000 waterfowl. It supports internationally important populations of three species: Light-bellied Brent Goose, Black-tailed Godwit and Bar-tailed Godwit; and nationally important populations of a further 14 species: Shelduck, Teal, Pintail, Shoveler, Oystercatcher, Grey Plover, Golden Plover, Knot, Sanderling, Dunlin, Curlew, Redshank, Turnstone and Black-headed Gull.</p>



Figure 4: SAC within 15 km of the proposed development (© Bing Maps, 2021)



Figure 5: SPA within 15 km of the proposed development (© Bing Maps, 2021)

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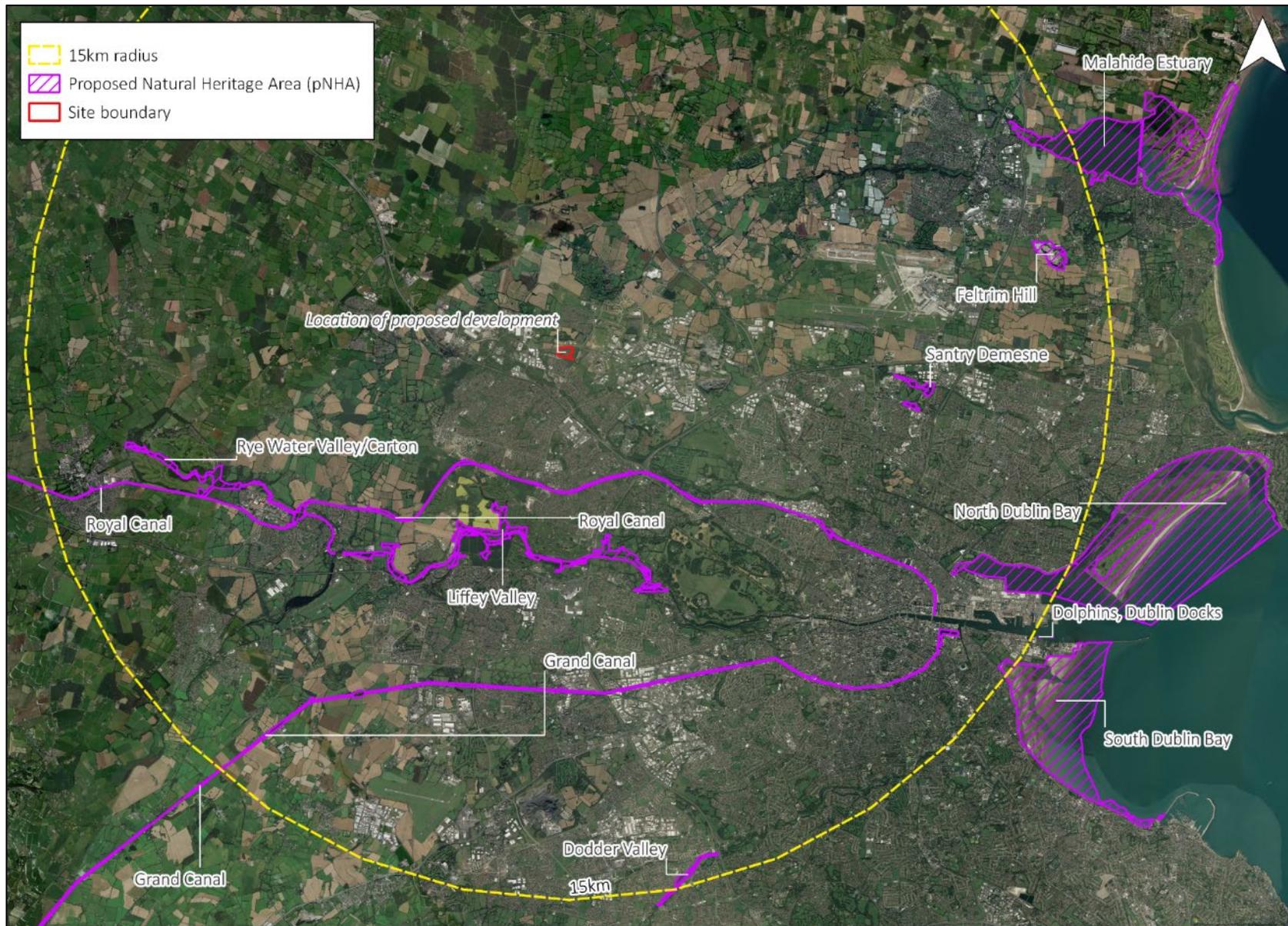


Figure 6: pNHA within 15 km of the proposed development (© Bing Maps, 2021)

4 Description of the Proposed Development

4.1 Overview

The proposed development will comprise the following on a site of c. 9.5 hectares:

- 300 residential units, comprising:
 - 220 houses (including two, three and four-bed two and three-storey houses);
 - 80 one and two-bed apartments in three four-storey blocks;
- A crèche of approx. 570 m²;
- A community facility of approx. 270 m²;
- Two retail units with a combined area of approx. 280 m²;
- Three ESB sub-stations;
- Access roads, car parking, bike parking and storage and associated infrastructure;
- Public open spaces including play areas and kick-about areas and new pedestrian and cycle connections; and
- A linear park of c. 1.9 hectares, including destination play facilities, walks, and new pedestrian and cycle connections.

The proposed development will be connected to existing public wastewater network. The site will be served by the public water supply; and ESB, Eircom and GNI utilities; to which connections are all available adjacent to the site. Public lighting will be provided to roads adjacent to and within the site, and along the principal north-south connections within the proposed linear park.

Surface and foul water collection and drainage networks will be entirely separate. Surface water drainage will include on-site sustainable drainage system (SuDS) measures, designed in accordance with the *Greater Dublin Strategic Drainage Study* (GSDS) and the requirements of Fingal County Council. Surface water discharge will be attenuated both within the site and again in the attenuation ponds to be provided as part of the Church Fields Link Road and Cycle Network, prior to discharge at greenfield rates to the Pinkeen River. The proposed foul water drainage network will connect to the existing municipal wastewater network in the area, which conveys foul water to the Ringsend Wastewater Treatment Plant (WwTP) for tertiary treatment prior to discharge to Dublin Bay.



Figure 5: Proposed development – site layout

4.2 Construction Method

The construction of the proposed development will involve typical construction activities associated with residential developments of this nature and scale; including site preparation, clearance of vegetation and topsoil, ground works, construction of foundations and buildings, construction of internal road network, utilities and services installations, fit-out, landscaping and finishes. No unusual construction activities will be involved. As this is a greenfield site, no demolition works will be required. An on-site construction compound will be provided for materials storage areas and facilities for site personnel, situated within the lands made available (LMA) to the contractor.

5 Potential Impacts from the Proposed Development

During the construction phase, the proposed development will result in typical environmental effects, including elevated levels of noise, emissions of dust, direct and indirect greenhouse gas emission, localised impacts on visual amenity, etc. There will also be environmental risks associated with the presence of potential pollutants (hydrocarbon, solvents, cementitious materials, etc.).

During the operational phase, typical environmental effects associated with the presence and operation of a housing estate are also predicted, including additional foul water loading, emission of attenuated surface water to a watercourse, direct and indirect greenhouse gas emissions, etc. The predicted environmental effects will be typical of and commensurate with contemporary residential development of this nature and scale. No unusual, exceptional or severe environmental effects are predicted to occur at either stage.

The site of the proposed development is a greenfield site of in-part local (lower) and in-part local (higher) ecological value. It is not under any wildlife or conservation designation. No rare, threatened or legally protected plant species, as listed in the *Ireland Red List No. 10: Vascular Plants* (Wyse Jackson *et al.*, 2016); the Flora Protection Order, 2015; or the Annexes of the Habitats Directive; have been recorded within the site.

The nearest Designated Site is the Royal Canal pNHA, c. 3.5 km to the south. The nearest European Site is the Rye Water / Carton SAC, c. 8 km south-west. As will be detailed below, the proposed development will not affect this or any other European Site during its construction or operation.

The site of the proposed development does not support any habitats or species that are QIs / SCIs of any of the above-listed European Sites. There are no terrestrial impact pathways between the site and any Designated Site. And there is no possibility of direct or indirect impacts on any Designated Sites as a result of the habitat loss that will occur during the construction phase.

The site of the proposed development is situated in proximity (c. 180 m east) of a stream which is a tributary of the Pinkeen River. Furthermore, during the operational phase, attenuated surface water run-off will be discharged to the Pinkeen via an existing outfall and attenuation ponds which are being provided as part of the link road and cycle network project. The Pinkeen River is itself a tributary of the River Tolka, which feeds the Tolka Estuary, which supports a European Site, the South Dublin Bay and River Tolka Estuary SPA, and which feeds into the wider Dublin Bay, which supports several additional European Sites. Thus, there is a potential hydrological pathway between the site of the proposed development and European Sites during the construction and operational phases.

However, since there is a set back from the tributary of c. 180 m, accidental discharges to this watercourse from the site of the proposed development are not likely to occur during the construction or operational phase. Even in the event of an accidental discharge or significant dust deposition to an adjacent watercourse during the construction phase, considering the substantial distance from any Designated Site and the high dilution factor in the receiving watercourses, there is no possibility of significant impacts on any such site via this pathway.

As mentioned above, attenuated surface water run-off from the site during the operational phase will be discharged to the Pinkeen via attenuation ponds and outfall being provided under a separate project. However, in accordance with the GSDS, this effluent will be attenuated using SuDS, and discharges at greenfield rates, such that there is no possibility of significant ecological effects. Even in the event of unattenuated or polluted surface water run-off being discharged via this outfall (e.g. due to hydrocarbon leak or failure of SuDS), considering the substantial distance from any Designated Site and the high dilution factor in the receiving watercourses, there is no possibility of significant impacts on any such site via this pathway.

Additionally, during the operational phase, there will be an indirect hydrological pathway via the municipal wastewater system. As stated above, the foul water generated during the operational phase will be discharged from the site to the existing, municipal foul water drainage network, which conveys foul water to the Ringsend WwTP. The proposed development will result in a marginal increase in foul water loading at the Ringsend WwTP, which discharges treated effluent to Dublin Bay and thus, there is an indirect impact pathway linking the proposed development with European Sites in Dublin Bay.

The Ringsend WwTP operates under licence from the EPA (licence no. D0034-01) and received planning permission for upgrade works in 2019 (ABP reg. ref. 301798), which are expected to be completed within five years. This will increase the plant capacity from 1.65 million population equivalent (m PE) to 2.4 m PE.

Regardless of the status of the WwTP upgrade works, considering the relatively small scale of the proposed residential development, the peak discharge will be relatively low, and not significant in the context of the existing capacity available at Ringsend. Though the WwTP is currently operating over capacity (accommodating 1.9 m PE), recent water quality assessment undertaken in Dublin Bay (published by the EPA) confirms that Dublin Bay is classified as “*unpolluted*”, indicating that the over-capacity issues at Ringsend are not having significant effects on water quality in Dublin Bay. Significant indirect hydrological (water quality) effects on European sites or otherwise, resulting from foul water generated during the operation of the proposed development, can therefore be excluded.

The Tolka Estuary was identified as being at risk of not achieving its WFD objectives / good status by 2027. In this regard, combined sewer overflows have been identified as the significant pressure affecting this transitional waterbody. The proposed development will have separate surface water and foul water drainage systems, with the latter discharging to the municipal drainage and treatment network prior to discharge to Dublin Bay. Therefore, it will not create additional pressure on the Tolka catchment in this regard.

In the unlikely event of an accidental groundwater pollution event, there is also a potential indirect groundwater pathway. However, considering the distance between the site of the proposed development and European Sites in the surrounding area, there is no impact pathway by this mechanism.

In short, there are no feasible direct or indirect pathways by which environmental effects resulting from the proposed development could give rise to significant impacts on European Sites.

The potential for impacts to occur on the above-listed pNHAs has been given due consideration, in respect of their potential to support the Conservation Objectives of European Sites. There are no potential impact pathways linking the site of the proposed development with these pNHAs. Potential indirect impacts on European Sites resulting from impacts on other designated areas are, therefore, discounted from further consideration.

A detailed discussion of the potential impacts of the proposed development on European Sites is presented in **Table 2**.

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Table 2: Potential impacts on European Sites within 15 km

Site	Distance ⁵	Discussion of Source-Pathway-Receptor Link	Likely Significant Effect?
Rye Water Valley / Carton SAC [001398]	c. 8 km south-west	This site is situated in the Rye Water, which is not connected to the site of the proposed development. It is also situated at a substantial remove from the site, being c. 8 km south-west. The site of the proposed development bears no relation to the QIs of the site or their Conservation Objectives. Therefore, there is no pathway by which impacts on this site could occur as a result of the proposed development.	No
South Dublin Bay and River Tolka Estuary SPA [004024]	c. 12.5 km south-east	<p>This site is situated in the Tolka Estuary, which is connected to the site of the proposed development via the Pinkeen and Tolka rivers. The Tolka Estuary is nutrient sensitive, of moderate status (WFD 2013 – 2018) and at risk of not achieving its WFD objectives or good status by 2027. The significant pressure that has been identified as the driver of this water quality problem is urban wastewater, specifically overflows from combined sewers. The proposed development will have separate surface water and foul water networks and, therefore, will not contribute to this existing pressure.</p> <p>The site of the proposed development is situated substantially upstream of the estuary and is set back from the nearest watercourse by c. 180 m, such that significant construction phase emissions are not likely to occur. However, even in the event of an accidental pollution event, considering the distance to the estuary and the dilution factor in the receiving watercourses, significant impacts are not likely to occur.</p> <p>During the operational phase, it is proposed to discharge attenuated surface water run-off to the Pinkeen via attenuation ponds / outfall currently being provided under a separate project. This effluent will be attenuated using SuDS and discharged at greenfield rates. However, even in the event of an accidental pollution event (e.g. due to hydrocarbon leak or SuDS failure), considering the distance to the estuary and the dilution factor in the receiving watercourses, significant impacts are not likely to occur.</p> <p>As discussed above, there is also an indirect hydrological pathway via the municipal wastewater drainage network and the Ringsend WwTP, which discharges treated effluent to Dublin Bay. However, considering the marginal additional loading resulting from the proposed</p>	No

⁵ Linear distance ('as the crow flies')

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Site	Distance ⁵	Discussion of Source-Pathway-Receptor Link	Likely Significant Effect?
		<p>development, water quality in Dublin Bay and the substantial dilution factor in the 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>This proposed development is situated at a substantial remove from the site, being c. 12.5 km south-east (as the crow flies). The site of the proposed development bears no relation to the QIs of the site or their Conservation Objectives.</p>	
Malahide Estuary SAC [000205]	c. 13.5 km north-east	<p>These sites are situated on the Malahide Estuary and extending eastward into the Irish Sea. The estuary that supports the QIs / SCIs of these sites is fed by several watercourses, including the Broadmeadow and Ward Rivers, none of which are connected to the site of the proposed development. These sites are situated at a substantial remove from the proposed development, being c. 13.5 km north-east. The site of the proposed development bears no relation to the QIs / SCIs of these site or their Conservation Objectives. Therefore, there are no pathways by which impacts on either of these sites could occur as a result of the proposed development.</p>	No
Malahide Estuary SPA [004025]	c. 13.5 km north-east		No
South Dublin Bay SAC [000210]	c. 14.5 km south-east	<p>These sites are situated in Dublin Bay. As discussed above, the proposed development is hydrologically connected to Dublin Bay via surface water bodies (the Rivers Pinkeen and Tolka) and via the municipal wastewater drainage and treatment system, which discharges to Dublin Bay via the Ringsend WwTP. As detailed above in relation to the South Dublin Bay and River Tolka Estuary SPA, there is no potential for significant impacts on any European Sites via these hydrological pathways. The proposed development is situated at a substantial remove from these sites – at least 14.5 km, as the crow flies. Furthermore, the site of the proposed development bears no relation to the QIs / SCIs of these site or their Conservation Objectives.</p>	No
North Dublin Bay SAC [000206]	c. 15 km south-east		No
North Bull Island SPA [004006]	c. 15 km south-east		No

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 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 identified a 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 and the decision of the CJEU is currently awaited. Regardless of the outcome of that case however, in relation to European sites, there will be no impacts as a result of the proposed development. Therefore no mitigation is necessary or proposed for the protection of European sites or which was intended to avoid or reduce impacts on any European sites.

In accordance with the GDSDS and the requirements of Fingal County Council SuDS measures will be provided. However as is made clear in this report, even if no SuDS measures were to be incorporated into the design and surface water arising at the site were to be diverted in its entirety to the existing sewer system there would be no impacts on any European sites. The natural characteristics of the coastal waters ensure rapid mixing of water such that there is no appreciable effect on water quality in European sites in any event.

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) (European Commission Environment Directorate-General, 2001). 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 and projects:

- Fingal County Council Planning Application Map (as of 21st October 2021)
- EIA Portal [Viewer](#) (as of 21st October 2021)
- *Fingal Development Plan 2017 – 2023*

Permitted and proposed projects at the site and in the immediate vicinity were considered in terms of the potential for in-combination effects, including the following:

- FCC reg. ref. FW19A/0177 (Applicant: ESB Engineering & Major Projects)
- ABP reg. ref. VA06F.306834 (Amazon Data Services Ireland Ltd. (ADSIL))
- FCC reg. ref. PARTXI/006/18 (Fingal County Council – Architect’s Department)
- FCC reg. ref. PARTXI/010/19 (Fingal County Council – Architect’s Department)

Projects in the vicinity of the proposed development are predominantly comprised of other small-scale residential developments and developments / upgrade works associated with industrial and ICT activities in the neighbouring areas.

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

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

8 Screening Conclusion

In view of best scientific knowledge, this report concludes that the proposed residential development at Church Fields, Mulhuddart, Dublin 15; individually or in combination with another plan or project, will not have a significant effect on any European sites. This assessment was reached without considering or taking into account mitigation measures or measures intended to avoid or reduce any impact on European sites.

It is considered that this report provides sufficient relevant information to allow the Competent Authority (Fingal County Council) to carry out an AA Screening, 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

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⁶ Now Transport Infrastructure Ireland (TII).

Appendix I: Background

The European⁷ 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 Birds and Natural Habitats Regulations and by the Planning Acts.

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

Stages in the Assessment

European Commission guidance (2001)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

⁷ 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”

⁸ European Commission (2001) *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*

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.

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 Commission (2000) 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.

The conservation objectives of the European sites within a 15 km radius of the site of the proposed development are appended overleaf.

Brady Shipman Martin

DUBLIN

Mountpleasant Business Centre
Mountpleasant Avenue Upper
Ranelagh
Dublin 6
+353 1 208 1900

CORK

Penrose Wharf Business Centre
Penrose Wharf
Cork
+353 21 242 5620
7

mail@bradyshipmanmartin.com
www.bradyshipmanmartin.com

