

Appropriate Assessment (AA) Screening Determination for proposed Local Authority Development

Project Name: Residential Development at Rathmore Road, Lusk, Co. Dublin

Ref No:

**Description:**

Fingal County Council intend to apply for planning permission for a proposed residential development at Rathmore Road, Lusk, Co. Dublin. The proposed development consists of the construction of 18 no. dwellings and associated infrastructure.

**Legislative Context:**

This determination has considered the relevant legislative context and guidance, including;

- 1) Articles 6(3) and (4) of European Union (EU) Council Directive 92/43/EEC (Habitats Directive)
- 2) European Communities (Birds and Natural Habitats) Regulations S.I. No 477 of 2011 (as amended)
- 3) Assessment of plans and projects significantly in relation to Natura 2000 sites: Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC (EU Commission, Brussels (2021))
- 4) Appropriate Assessment of plans and projects in Ireland: Guidance for planning authorities (DoEHLG, 2009), Appropriate Assessment Screening for Development Management (Office of the Planning Regulator, 2021).

**Screening Report:**

Fingal County Council requested that an Appropriate Assessment Screening Statement be prepared by Brady Shipman Matin. The Report, entitled 'Proposed Housing Development at Rathmore Road, Lusk, Co. Dublin: Appropriate Assessment Screening Report', was reviewed by Fingal Ecologist, Jessica Clarke, prior to this Screening Determination being prepared.

The AA Screening Report screened out any potential for alone or in combination effects of the proposed project on any SAC or SPA. From the report and reviewed literature, it is apparent that;

- The nearest European sites are Rogerstown Estuary SAC & SPA (1.6 km).
- There is no direct pathway for noise, dust, visual or hydrological impacts to affect any European Sites.
- Foul wastewater will be directed to an **existing** public foul network and treated therein before discharging via the Portrane 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.
- Any surface water discharged from the site during the operational phase will be collected via SuDS measures implemented to a design standard. It is noted the SuDS measures proposed do not require any in-stream works or additional mitigation measures during their construction for the protection of downstream SACs or SPAs.
- While the surface water network will discharge to the local river network (Regles Stream and River Rathmooney), watercourses that ultimately discharge to Rogerstown Estuary, the likelihood of significant inputs of silt or contaminants reaching downstream SACs or SPAs during these works is considered low as no in-stream works are required and the risk of contaminating the culverted surface water network during the connection works with volumes of silt, dirty water or hydrocarbons can be controlled by adhering to best practice

measures (e.g. Uisce Eireann Codes of Practice<sup>1,2</sup>). In addition, as described in the AA Screening Report, 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 and would not impact Rogerstown Estuary SAC/ SPA. The assumption of dilution is supported in the literature<sup>3</sup>.

The report by Brady Shipman Martin concludes “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.”

#### **Further considerations.**

In addition to the considerations outlined in the screening report, it is also considered that while the development site is improved grassland and could therefore have the potential to be an ex-situ feeding site for QI of SPAs, no evidence of birds such as Brent geese was noted in the AA following ecological walkovers surveys (feathers, droppings), this may indicate that the site is not utilised as a feeding site by QIs. This assumption is supported by a Light-bellied Brent geese study commissioned by Fingal County Council that did not find that any GPS tagged birds utilised lands within or adjacent to the development site (Handby et al., 2022<sup>4</sup>). The nearest greenfield site utilised by Brent geese during winters 2018 and 2019 was within fields immediately north of Rogerstown Estuary, over 2 km southeast of the proposed development (Handby et al., 2022<sup>4</sup>).

#### **Screening Determination:**

Fingal County Council have examined, analysed and evaluated the content of the proposed Residential Development at Rathmore Road, Lusk, Co. Dublin, including the information and assessments presented in the screening for appropriate assessment report, and are in agreement with the conclusion of the screening for appropriate assessment report with respect to the potential for the proposed project to have a likely significant effect on any European sites.

Fingal County Council have determined that, in light of best scientific knowledge, including in particular the nature of the predicted impacts that may arise from the project, and in the absence of any measures intended to avoid or reduce any harmful effects on European sites, that the project is not likely to have a significant effect on any European sites, either alone or in combination with other plans or projects.

Signed: Jessica Clarke

Role/ Department: Ecologist, Planning and Strategic Infrastructure

Date: 11<sup>th</sup> December 2023

<sup>1</sup> [Wastewater-Code-of-Practice.pdf](#)

<sup>2</sup> [Water-Code-of-Practice.pdf](#)

<sup>3</sup> [The effect of dilution on the fate and behaviour of chemicals in the environment \(marinebiodiversity.org\)](#)

<sup>4</sup> Handby, Bearhop and Colhoun (2022) Understanding patterns of urban habitat use in overwintering light-bellied Brent geese in Dublin, Ireland (Unpublished Project Report in collaboration with Irish Brent Goose Research Project)



Environmental Impact Assessment (EIA) Screening Determination for proposed Local Authority Development

Project Name: Residential Development at Rathmore Road, Lusk, Co. Dublin

Ref No:

**Description:**

Fingal County Council intend to apply for planning permission for a proposed residential development at Rathmore Road, Lusk, Co. Dublin. The proposed development consists of the construction of 18 no. dwellings and associated infrastructure.

**Legislative Context:**

This determination has considered the relevant legislative context and guidance as set out in the EIA Screening Report including;

- Directive 2014/52/EU (amending Directive 2011/92/EU) on the assessment of the effects of certain public and private projects on the environment;
- Planning and Development Act 2000, as amended ('PDA 2000');
- Planning and Development Regulations 2001, as amended ('PDR 2001').
- Department of Housing, Planning and Local Government (DoHPLG) (2018). Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment;
- Environmental Protection Agency (EPA) (2022). Guidelines on the Information to be Contained in Environmental Impact Assessment Reports;
- European Commission (2017). Environmental Impact Assessment of Projects – Guidance on Screening; and
- Office of the Planning Regulator (OPR) (2021). OPR Practice Note PN02: Environmental Impact Assessment Screening.

**Screening Report:**

Fingal County Council requested that an Environmental Impact Screening Statement be prepared by Brady Shipman Martin. The Report, entitled "Proposed Housing Development at Rathmore Road, Lusk, Co. Dublin: EIA Screening Report in Accordance with Article 120 of the Planning and Development Regulations 2001, as amended", was reviewed and evaluated by, Fingal Ecologist, Jessica Clarke.

The development site is an area of 0.41 ha, located in a residential area in Lusk. The habitats on site consist of Improved Amenity Grassland (GA2), Buildings and Artificial Surfaces (BL3) and Hedgerow (WL1). The hedgerow to the east of the site is a managed cherry laurel hedge, which is a non-native species. The treeline along Rathmore Road within the south of the site consists of a sparse standard treeline with no understory. Both hedgerows/ treelines are of therefore of low ecological value and their loss as part of the proposal is not significant as replacement planting is proposed, in line with Objective GI 21 of the Fingal Development Plan 2023-2029. There are no indications the site is utilised by rare or protected flora or fauna and no invasive plant species were noted on site.

No surface water features are present onsite. Foul and surface water will connect to the existing foul and surface water network via works within the road network outside of the boundary of the construction site. The risk of contaminating the culverted surface water network with volumes of silt, dirty water or hydrocarbons necessary to cause significant effects to the Qualifying Interests of downstream Designated Sites during construction or operational phase is therefore considered unlikely.

The nearest designated sites are Rogerstown Estuary SAC & SPA, which are located 1.6 km south-east of the site. While the development site is improved grassland and could therefore have the potential to be an ex-situ feeding site for QI of SPAs, no evidence of bird use during ecological

walkovers surveys (feathers, droppings) is noted in the EIA Screening, which may indicate that the site is not utilised as a feeding site by QIs. This assumption is supported by a Light-bellied Brent geese study commissioned by Fingal County Council that found the nearest greenfield site utilised by Brent geese during winters 2018 and 2019 was within fields immediately north of Rogerstown Estuary, over 2 km southeast of the proposed development (Handby et al., 2022<sup>5</sup>).

As the site and nearby grasslands are not utilised as ex-situ feeding grounds, there are no surface water features present onsite and the nearest designated sites are located 1.6 km southeast of the site, significant effect to the Qualifying Interests of Designated Sites is considered unlikely.

With regard to Mandatory EIA, the Screening Report states;

“Classes of development listed in Part 1 of Schedule 5 of the PDR 2001 relate to major industrial and infrastructural projects (e.g. power stations, refineries, metal works, major pipelines and powerlines, and mines). The proposed development does not conform to any of the classes of development and is not a ‘project’ as set out in Part 1 of Schedule 5 of PDR 2001. Therefore, there is no requirement for mandatory EIA under this provision.”

With reference to Part 2 of Schedule 5 of the PDR 2001, the authors state “The pre-screening exercise concludes that the proposed development is ‘sub-threshold’ in respect of development classes 10(b)(i) and 10(b)(iv) as listed in Part 2 of Schedule 5 of the PDR 2001, and therefore should be screened for the requirement for ‘sub-threshold EIA’ in accordance with Article 120 of the PDR 2001, to determine whether there is a likelihood of significant effects and, therefore, whether EIA is required for the proposed development.”

As the development is below the thresholds set out in Part 2 of Schedule 5 of the Planning and Development Regulations 2001, EIA Guidelines state that a screening determination, in accordance with Criteria set out in Schedule 7 of the 2001 Regulations (as amended), is required to be undertaken by the competent authority with consideration of 1. Characteristics of the Proposed Development, 2. the Location of Proposed Development and 3. the resulting Types and Characteristics of Potential Impacts.

Following consideration of the proposal in accordance with Schedule 7, the EIA Screening Report concludes;

“It is considered that the proposed development would not be likely to have significant negative effects on the environment. The main reasons for this conclusion are as follows:

- The size of the site and the extent of the proposed development are of a small scale and significantly below the stated thresholds of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended at or above which there is a mandatory requirement for EIA.
- The nature of the proposed construction works and of the proposed development itself are not unusual in the context of the receiving environment. The construction phase of the proposed development is expected to give rise to minor, localised environmental effects that are typical of urban construction projects of this nature;
- The location of the proposed development is a previously developed site in an existing urbanised location, which is not particularly sensitive to the environmental effects of development of this

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<sup>5</sup> Handby, Bearhop and Colhoun (2022) Understanding patterns of urban habitat use in overwintering light-bellied Brent geese in Dublin, Ireland (Unpublished Project Report in collaboration with Irish Brent Goose Research Project)

nature and scale. There are no designated sites or surface water bodies on the site or in the immediate vicinity. The receiving environment is densely populated, with residential and commercial receptors situated in close proximity; however, appropriate best practise environmental protection measures have been incorporated into the proposal in order to avoid/minimise impacts insofar as possible;

■ The provision of landscaping on-site, in the form of open space, the inclusion of tree planting and shrub planting, bat and bird boxes will result in a positive biodiversity impact.

Therefore, it is recommended that, having regard to the information set out above, the Competent Authority (Fingal County Council) may reach a screening determination that there is no real likelihood of significant effects arising as a result of the proposed development; and, therefore, that environmental impact assessment and the preparation of an environmental impact assessment report is not required".

**Screening Determination:**

Having regard to the forgoing, the proposed Residential Development at Rathmore Road, Lusk, Co. Dublin does not trigger a mandatory EIA under the EIA Directive or the 2001 Regulations. Furthermore, having reviewed the EIA Screening Report presented by Brady Shipman Martin and supporting documents (Appropriate Assessment Screening Report and Resource and Waste Management Plan), and in light of best scientific knowledge, the proposed development is not likely to have significant effects of the environment due to the nature, scale or location of the proposed development relevant to areas of environmental sensitivity and the potential for impacts to occur. Fingal County Council therefore accept the conclusions of the EIA Screening Report.

Signed: Jessica Clarke

Role/ Department: Ecologist, Planning and Strategic Infrastructure

Date: 11<sup>th</sup> December 2023