



An
Bord
Pleanála

Inspector's Report ABP-300840-18.

Development	Baldoyle to Portmarnock Pedestrian and Cyclist Scheme.
Location	Between Baldoyle and Portmarnock, Co. Dublin.
Local Authority	Fingal County Council.
Type of Application	Application for approval made under Section 177(AE) of the Planning and Development Act, 2000
Prescribed Bodies	<ul style="list-style-type: none">• Department of Culture, Heritage and the Gaeltacht• National Transport Authority.
Observer(s)	<ul style="list-style-type: none">• John Fay• Cllr. David Healy• Brendan Ryan TD and Cllr. Brian McDonagh• Portmarnock Community Association• Marie Cummins.
Date of Site Inspection	29 th May 2018
Inspector	Deirdre MacGabhann.

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1.0 Introduction

- 1.1. Fingal County Council is seeking approval from An Bord Pleanála to undertake the construction of c.1.8km of pedestrian and cycleway adjacent to the Coast Road (R106) from Baldoyle (Red Arches Road) to Portmarnock (just south of the Coast Road/Station Road roundabout).
- 1.2. The development lies adjacent to Baldoyle Bay, a designated European site (SAC and SPA) and in proximity to other European sites. A Natura Impact Statement (NIS) and application under Section 177AE was lodged by the local authority on the basis of the proposed development's likely significant effect on a European site.
- 1.3. Section 177AE of the Planning and Development act 2000 (as amended) requires that where an appropriate assessment is required in respect of development by a local authority, the authority shall prepare an NIS and the development shall not be carried out unless the Board has approved the development with or without modifications. Furthermore, Section 177V of the Planning and Development Act 2000 (as amended) requires that the appropriate assessment shall include a determination by the Board as to whether or not the proposed development would adversely affect the integrity of a European site and the appropriate assessment shall be carried out by the Board before consent is given for the proposed development.

2.0 Proposed Development

- 2.1. The proposed development comprises a new 1.8km pedestrian and cyclist scheme between Baldoyle and Portmarnock, Co. Dublin. The pedestrian/cyclist scheme will run approximately parallel to, and on the inland (west) side of, Coast Road (R106). It will lie almost wholly within Racecourse Park a new regional park, and consists of:
 - A 3m wide cycletrack and a 2m wide footpath separated by a 2.4m wide grass verge,
 - A new 30m long, 4m wide bridge over the Mayne River,

- Upgrading of the existing priority junction between the Coast Road (R106) and Moyne Road to a signal controlled junction with pedestrian facilities,
- Provision of toucan crossing facilities on Coast Road at either end of the proposed scheme,
- Provision of a controllable, intelligent public lighting scheme, and
- Provision of landscaping, signage and other works ancillary to the construction and operation of the proposed development.

2.2. The detailed design of Regional Park has been informed by recommendations set out in the Baldoyle-Stapolin Local Area Plan, 2013 and the Portmarnock South Local Area Plan, 2013 which seek protect the integrity of the neighbouring nationally and internationally designated sites e.g. by providing suitable habitat for key species and the new walking and cycling route located away from the shoreline to attract users away from the sensitive habitat areas (Figures 2.3 and 2.4, NIS).

2.3. The proposed pedestrian/cyclist route will merge as a shared path at the start and finish of the route and as it approaches and crosses the Mayne River. The 4m wide bridge over the River will be a concrete deck bridge supported by steel piles on each side of the River (depth of pile will depend on encountered ground conditions but are expected to be greater than 3m). The route will be finished in black asphalt. Lighting is proposed along the length of the scheme and will consist of 6m columns at 25m intervals. Poles will be located at the back of the footpath (landward side of the path), with the lights dimming by 50% between 11pm and 6am. No boundary fencing is proposed alongside the track and the development will form part of the new public park to be developed on adjoining lands. (The route is, and will remain, fenced off from proposed conservation areas within Racecourse Park to the west).

2.4. During construction a site compound will be located at the north-eastern portion of the Red Arches/Coast Road junction, within the lands of the proposed route. Access to the site will be from this end with haul routes running along the line of the proposed path (see Figure 2.2, NIS).

2.5. The application to the Board is accompanied by the following:

- Planning Report – This principally sets out the strategic and local planning context for the development. In Section 3.3.2 it sets out the rationale for the

width of the pedestrian/cycle scheme, which differs from the 3m width referred to in the Baldoyle-Stapolin LAP and the Portmarnock LAP. Essentially the wider route, and separation of pedestrians from cyclists, better provides for the anticipated volume of users in the longer term (the development will become part of, and link to a wider cycle network connecting the urban and rural areas in the Dublin area). The report also states that it is important that the development be delivered as soon as possible to ensure that new residents of the c.2000 new homes provided under the two LAPs (c.800 already built) have no impact on the European site Baldoyle Bay,

- Options Assessment Report – This report sets out the policy context for the development, key constraints along the route and four options for the pedestrian/cyclist scheme, namely (1) Upgrade Coast Road, (2) Off Road Shared Facility, (3) Off Road Segregated Facility and (4) Shared Boardwalk. Options are compared on economy, safety and environmental grounds and a preferred option, no. 3, Off Road Segregated Facility, is identified (the proposed scheme).
- Preliminary Design Report – This report considers the context of the scheme, in terms of Local, Regional and National Planning policy and outlines the preliminary design of the preferred option. The report includes details on the junction design, crossing facilities, bus stops, drainage, public lighting, pavements, structures and services. In Section 8 it sets out a preliminary construction methodology. If approved, detailed design of the project will be developed. The methodology includes that construction be completed by the 1st November, to ensure no impacts on wintering wildfowl in Baldoyle SPA, and specific measures to manage construction of the bridge over the River Mayne, to prevent pollution of waters.
- Drawing booklet.
- Natura Impact Statement – This report includes (a) a screening exercise which screens out likely significant effects of the development on 16 European sites lying within 15km of the proposed development (it also rules out the likelihood of significant effects on European sites over 15km from the

site), and (b) an appropriate assessment of the likelihood of significant effects on the Baldoyle Bay SAC, which the proposed development runs through, and Baldoyle Bay SPA. The report concludes that the development will not have any significant negative effect on either site.

- EIA Screening Statement – The purpose of this report is to determine if the project requires Environmental Impact Assessment. It considers that EIA is not mandatory, as the development does not fall within the list of activities requiring EIA, set out in Schedule 5 of the Planning and Development Regulations, 2001 (as amended). Further, having regard to the characteristics of the proposed development and the receiving environment, it considers that likely environmental effects will not be significant or warrant EIA. The report recommends that a non-statutory Environmental Report be prepared to accompany the application to the Board in order to outline the environmental baseline and the predicted extremely low impacts of the project.
- Environmental Report – This report predicts the likely effects of the development on material assets; land, soils and geology; water; landscape and visual amenity; cultural heritage and biodiversity. It again concludes that the development is unlikely to have any significant effect on any environmental resource and, in some instances, that it will have a positive effect.
- List of prescribed bodies.
- Newspaper and site notices.
- Application CD.

3.0 Site and Location

- 3.1. The proposed 1.8km pedestrian/cyclist scheme extends from the roundabout junction of Coast Road (R106) with Red Arches Road, in Baldoyle, in a northerly direction, crossing Mayne River and Moyne Road, to the southern side of the R106/Strand Road/Station Road roundabout in Portmarnock.

- 3.2. Red Arches Road, with an off-road pedestrian and cyclist routes along its northern pavement, serves a new residential area to the north of Baldoyle. The Coast Road, between Red Arches Road and its junction with Moyne Road, is a narrow road which carries a large volume of traffic, much of which is travelling at speed. On the eastern side of the carriageway is a narrow pavement which extends alongside the R106 to Moyne Road. To the west is a low wall. The proposed pedestrian/cyclist scheme lies on grassland to the west of Coast Road which is already fenced off from adjoining lands (see photographs).
- 3.3. To the south west of the junction of Coast Road and Moyne Road is Mayne River and an existing pumping station. Mayne River flows under Coast Road and outfalls into Baldoyle Bay to the east of Coast Road. To the north of the junction, the footpath to the east of Coast Road comes to an end. To the west, the adjoining land is separated from the road by a bank, which extends alongside the road towards DAA Transmitter Station and beyond. To the north of this Station are three residential properties. Moving north from the junction of Coast Road/Moyne Road the proposed pedestrian/cyclist scheme is routed to the west of Coast Road and to the rear of the DAA Transmitter Station and residential property, joining the R106 just south of its junction with Strand Road and Station Road. Along this length the scheme is routed across existing grassland/agricultural land. Where the proposed pedestrian/cyclist scheme joins Coast Road there is a narrow pavement on the eastern side of Coast Road. This extends north to the roundabout junction and east along Strand Road.

4.0 **Planning History**

- 4.1. Section 4.0 of the Planning Report refers to the main planning applications associated with the Baldoyle-Stapolin and Portmarnock Local Area Plans for lands to the west of the scheme. These include a strategic housing development for 150 units on land to the north west of the application site, granted by the Board in March 2018 (ABP-300514).

5.0 Legislative and Policy Context

- 5.1. **The EU Habitats Directive (92/43/EEC):** This Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) and 6(4) require an appropriate assessment of the likely significant effects of a proposed development on its own and in combination with other plans and projects which may have an effect on a European Site (SAC or SPA).
- 5.2. **European Communities (Birds and Natural Habitats) Regulations 2011:** These Regulations consolidate the European Communities (Natural Habitats) Regulations 1997 to 2005 and the European Communities (Birds and Natural Habitats) (Control of Recreational Activities) Regulations 2010, as well as addressing transposition failures identified in CJEU judgements.
- 5.3. **National nature conservation designations:** The Department of Culture, Heritage and the Gaeltacht and the National Parks and Wildlife Service are responsible for the designation of conservation sites throughout the country. The three main types of designation are Natural Heritage Areas (NHA), Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) and the latter two form part of the European Natura 2000 Network.
- 5.4. Principle European sites located in proximity to the subject site include:
- Baldoyle Estuary SAC (site code 000199),
 - Baldoyle Estuary SPA (site code 004016).
- 5.5. **Planning and Development Acts 2000 (as amended):** Part XAB of the Planning and Development Acts 2000-2017 sets out the requirements for the appropriate assessment of developments which could have an effect on a European site or its conservation objectives.
- 177(AE) sets out the requirements for the appropriate assessment of developments carried out by or on behalf of local authorities.
 - Section 177(AE) (1) requires a local authority to prepare, or cause to be prepared, a Natura impact statement in respect of the proposed development.

- Section 177(AE) (2) states that a proposed development in respect of which an appropriate assessment is required shall not be carried out unless the Board has approved it with or without modifications.
- Section 177(AE) (3) states that where a Natura impact assessment has been prepared pursuant to subsection (1), the local authority shall apply to the Board for approval and the provisions of Part XAB shall apply to the carrying out of the appropriate assessment.
- Section 177(V) (3) states that a competent authority shall give consent for a proposed development only after having determined that the proposed development shall not adversely affect the integrity of a European site.
- Section 177AE (6) (a) states that before making a decision in respect of a proposed development the Board shall consider the NIS, any submissions or observations received and any other information relating to:
 - The likely effects on the environment.
 - The likely consequences for the proper planning and sustainable development of the area.
 - The likely significant effects on a European site.

5.6. National Policy

5.6.1. The following legal instruments/national policy documents are referred to in the application documents:

- Climate Action and Low Carbon Development Act, 2015.
- Our Sustainable Future – A Framework for Sustainable Development for Ireland.
- National Planning Framework 2018.
- Sustainable Residential Development in Urban Areas, 2009.
- Smarter Travel – A Sustainable Transport Future: A New Transport Strategy for Ireland 2009-2020.
- National Cycle Policy Framework, 2009-2020.
- Strategy for the Development of Irish Cycle Tourism, 2007.

5.6.2. The legislation and policy documents referred to, amongst other things, provide for transitioning to a low carbon economy, climate resilience and an environmentally sustainable economy. They advocate the development of alternative modes of transport, for environmental, health and tourism reasons, and encourage the development of greenways and provision of facilities for walking and cycling in the design of development.

5.7. Regional Policy

- Regional Planning Guidelines for the Greater Dublin Area, 2010-2022
- Transport Strategy for the Greater Dublin Area, 2016-2035.
- Greater Dublin Area Cycle Network Plan (NTA, 2013).
- National Cycle Manual (NTA, undated).

5.7.1. Policies within these documents seek to guide development in the region to provide a compact urban form, supported by the provision of alternative transport modes in new development which encourage a much greater proportion of trips on foot, by bicycle or by public transport. The Greater Dublin Area Cycle Network Plan (NTA, 2013) specifically refers to the proposed scheme as a 'Primary/Secondary Route (P1)' and as a Greenway (see attachments). The National Cycle Manual provides guidance on the design of cycling schemes.

5.8. Local Policy

5.8.1. The development plan context for the application site comprises the overarching Fingal County Development Plan 2017-2023, and within this, the Portmarnock South LAP, 2013 and the Baldoyle-Stapolin LAP, 2013.

Fingal County Development Plan 2017 to 2023

5.8.2. Attached to this report are extracts from Sheets 9 and 10 of the County Plan. Sheet 10 refers to the lands in the lower section of the route and Sheet 9 to the uppermost area. Both indicate the proposed pedestrian/cyclist route as an 'indicative cycle/pedestrian route' alongside the coast and to preserve views along this section of Coast Road. Between Baldoyle and Moyne Road the application site is zoned 'High Amenity' with the objective to 'Protect and enhance high amenity areas'. To

the north of Moyne Road land for the proposed scheme is designated as 'Open Space' to 'Preserve and provide for open space and recreational amenities'.

5.8.3. To the west of the route, separated by zoned high amenity or open space lands, two large areas of land are designated as 'Residential Area', the objective of which is to '*Provide for new residential communities subject to the provision of the necessary social and physical infrastructure*'.

5.8.4. The strategic vision for the County, set out in the Plan, includes objectives to:

- Consolidate urban areas to provide a vibrant, attractive environment for living and working, facilitating efficient movement by sustainable modes of transport throughout the County;
- Protect and enhance Green Infrastructure (including landscape and nature conservation areas), and
- To promote active and healthy lifestyles through increased opportunities for walking, cycling and active sport and recreation.

5.8.5. A number of objectives within the Plan support this overall vision, including the following:

- In Chapter 5, Rural Fingal, policies promoting walking trails (RF111 and RF114),
- In Chapter 6, Economic Development, the Plan seeks to establish a strategic greenway for pedestrians and cyclists along the coastal corridor from Howth to Balbriggan, 'Fingal Coastal Way (Objective ED55) '*taking full account of the need to protect the natural and cultural heritage of the coast and the need to avoid significant adverse impacts on European sites and species protected by law and ensure the integration of the Fingal Coastal Way with other strategic trails within Dublin City and adjoining counties*'. The Plan specifically seeks to '*Prioritise the section between Baldoyle and Portmarnock where the current road design is particularly hostile to pedestrians and cyclists*'.
- In Chapter 7, Transportation – Sustainable Transport, policies promote walking and cycling as modes of transport through the development of a network of safe cycle routes and footpaths (MT13). In Policy MT14, it is stated that the Council will work in cooperation with the NTA and adjoining

local authorities to implement the *Greater Dublin Area Cycle Network Plan*, subject to detailed engineering design and the mitigation measures presented in the SEA and NIS accompanying the NTA Plan.

- In Chapter 8, Green Infrastructure, policies promote the provision of walking and cycle routes and protection of biodiversity and landscape resources (GI07, GI08 and GI30).

- 5.8.6. On Sheet 14, Green Infrastructure, the application site falls within an Estuary landscape that is highly sensitive. The proposed pedestrian/cyclist scheme is also shown as a Rural Greenway forming part of the GDA Cycle Network, on this Sheet. Mapped objectives GIM1 and GIM8 seek to provide new active recreational hub and Regional Park at Baldoyle (Racecourse Park), subject to Appropriate Assessment screening.
- 5.8.7. In Chapter 9, Natural Heritage, Baldoyle Bay is listed as a Special Area of Conservation, a Special Protection Area and proposed Natural Heritage Area (Table BD01, Sheet 2 of the CDP). The application site lies to the west of Baldoyle Bay and largely to the west of the designated areas (but within the ecological buffer zone to the west of the Bay). However, it traverses a small section of the Baldoyle Bay SAC, south of Mayne River. A Flora Protection Order Site and a Fingal Rare Flora Site lie to the south of Mayne River (see attachments). Other coastal sites, in the vicinity of the application site, are also designated sites of European or national interest and are shown in Sheet 15 of the Plan (Green Infrastructure 2). Policies NH15 to NH17 afford protection to European and national sites of nature conservation interest and to protected species.
- 5.8.8. The landscape of Baldoyle Estuary is recognised in the Plan as having exceptional value (nature conservation interest), outstanding aesthetic quality and having a high sensitivity to development. Policy objectives afford protection to landscape character (Objective NH33 to NH39). Views from Coast Road alongside the application site are afforded protection from inappropriate development by policy Objective NH40.
- 5.8.9. The application site is not affected by flooding (Sheet 16, CDP) and the River Mayne in the vicinity of the site has a 'Poor' status. There are no archaeological sites or monuments along the route alignment itself.

Baldoyle-Stapolin LAP, 2013

5.8.10. This LAP, and the Portmarnock South LAP, were prepared in a co-ordinated manner and provide for substantial new residential development to the west of the application site. The Plans have regard to the proximity of the Baldoyle Bay, and its status as a designated European site, and seek to create an attractive place to live with minimal impact on the surrounding environment and coast.

5.8.11. In the Baldoyle-Stapolin LAP, land to the west of the application site is zoned for major new housing development (41ha). To the east of this, land is identified for a new Regional Park, to include playing pitches and the Mayne Marsh Conservation Area. The Fingal Coastal Way is indicated running along the eastern side of the zoned lands, to the west of Coast Road (LAP Map). The accompanying Landscape Master Plan (attached) provides a more detailed approach to the management of lands within the Conservation Area, including for marsh grassland, species rich grassland and short grass sward. Relevant policies include Objective GI 13, which seeks to provide a pedestrian/cycle route of no wider than 3m through Racecourse Park and TM 22, to provide as part of the Fingal Coastal Way, an agreed and appropriately designed combined pedestrian and cycle route, of no wider than 3m, through the eastern edge of Racecourse Park. The policy objectives seek to minimise access points and signage to avoid disturbance/impact on the integrity of the protected habitats and species.

Portmarnock South LAP, 2013

5.8.12. This Plan also provides for substantial new housing development, of up to 1200 residential units (Section 4.2) and the provision of a new Regional Park to the south and east of the zoned residential lands. The Green Infrastructure and Landscape Strategy (attached) provides proposals for the detailed management of the open space lands and indicates the proposed pedestrian/cycle route through meadow, inland of Coast Road and to the rear of housing development alongside the road.

5.8.13. Relevant policy objectives include GI 33 and TM 10 which seek to promote and develop a combined greenway (as part of the Fingal Coastal Way) of no more than 3m in width along the eastern edge of the plan lands, which is integrated with amenity lands to the south and further along the coastal corridor. Again, objectives require that access points and signage will be minimised to avoid disturbance/impact on the integrity of protected habitats and species.

5.8.14. Both LAPs deal with lighting and identify Racecourse Park as category 'E1', an intrinsically dark landscape (national parks, areas of outstanding beauty etc.).

6.0 The Natura Impact Statement.

6.1.1. As stated, the application for the proposed development was accompanied by a Natural Impact Statement (NIS). It describes the development and the methodology adopted for screening and appropriate assessment. It includes an appropriate assessment screening exercise for all sites likely to be affected by the proposed development (in view of the conservation objectives for these sites), and an appropriate assessment in respect of Baldoyle Bay SAC and SPA. The appropriate assessment includes an assessment of the likely effects of the proposed development on these sites, in combination with other plans or projects. The assessment is based on best scientific knowledge and provides information to enable the Board to carry out an appropriate assessment of the proposed works.

7.0 Consultations

7.1. The application was circulated to the following bodies:

- An Taisce
- The Heritage Council
- Inland Fisheries Ireland
- Minister for Culture, Heritage and the Gaeltacht
- Minister for Communications, Climate Action and Environment
- Minister for Housing, Planning and Local Government
- Dublin City Council
- National Transport Authority
- Irish Water
- Dublin Bus
- Dublin Airport Authority
- Irish Aviation Authority

7.2. Responses were received from the following bodies:

Department of Culture, Heritage and the Gaeltacht

- Archaeology – Historic wrecks have been recorded in the Portmarnock area. The proposed new bridge structure over the River Mayne is within an area of underwater archaeological potential. Recommend, therefore, that an Underwater Archaeological Impact Assessment be undertaken.
- Nature conservation:
 - In any decision reached the Board should ensure that those parts of the route close to European sites are adequately screened and/or fenced to ensure no disturbance to the habitats and species which are qualifying interests of the SAC or features of interest of the SPA.
 - The route stops before Portmarnock roundabout, but it is likely that people will travel further north towards Portmarnock and there is potential for impacts on the SAC and SPA from such activity. The Department is aware that the route is to continue northwards as a separate, but linked project. In order to avoid any concerns regarding project splitting the impact of the next part of the scheme northwards needs to be considered in any assessment by the Board.
 - In Section 6.11 to 6.13 the NIS refers to the NIS for the Broadmeadow Way. This development has not yet been referred to the Department. It includes a new route over the estuary from Malahide to Donabate and is likely to result in permanent loss of habitat in the Malahide Estuary SAC and SPA. The Board should assess cumulative impacts of the development with other linked greenways along the coast including the proposed Broadmeadow Way and Sutton to Malahide green route.
 - The Department is aware of otter kills along the stretch of road from Red Arches to Portmarnock roundabout. Any permission should ensure that adequate construction and design details are given to ensure there are no impediments to otter movements particularly along Mayne River.

- The Board should ensure that they have adequate details of construction methods to allow for complete appropriate assessment i.e. that the Construction Management Plan provide adequate and effective mitigation, supported by scientific information and analysis and that measures are feasible within the physical constraints of the site.

National Transport Authority

- The delivery of the scheme, which will form part of the East Coast Trail, is included in the *Greater Dublin Area Cycle Network Plan*. The scheme should be developed in accordance with the requirements set out in the NTA's *National Cycle Manual*.

7.3. Public Submissions

- 7.3.1. Five public submissions were made on the application. Issues raised are summarised below:

Need - Cycleway/walkway is much needed. There is no continuous footpath between Portmarnock and Baldoyle. Road is narrow in sections and makes it very hazardous for cyclists and motorists, trying to overtake. The development will provide a high-quality greenway through amenity and greenbelt zoned lands, a safe and pleasant link for travel between Baldoyle and Portmarnock and, appropriately, provides segregated paths for walkers and cyclists. Residents of Portmarnock, for the first time, can cycle to school/work outside of the village and the development will allow for tourists/leisure cyclists from the city northwards to Portmarnock, with positive economic benefits. While there may be some conditions and minor alterations, the current application must be substantial passed intact in order to ensure the sustainable development of the Baldoyle and Portmarnock areas (>3,000 housing units planned for the areas immediately south and north of the Racecourse Park).

- Lighting - Arrangements for lighting have not been assessed in the visual/landscape assessment and are excessive. There is no case made that lighting is necessary at all along the route, between junctions. Lighting, if it is to be provided, should be low level, directed at the ground and triggered by the approach of greenway users.

- Surface - Provision of different coloured paths is important, as it will guide users to the correct path and reduce collisions. This should be done by the use of red tarmac and black tarmac, not by the placing of a surfacing on top of the tarmac. This, latter approach, results in an uneven surface and frequently breaks up due to winter conditions.
- Edging - Brick, concrete or similar edging (flush with surface of pedestrian/cycleway) should be placed on the edges of the route to ensure that grass/vegetation does not encroach onto the greenway and to provide a clear edge for maintenance.
- Foundations - The greenway must be constructed on stable foundations (e.g. to avoid sinkholes in the surface) and capable of bearing the heavy vehicles which will construct and maintain it.
- Impact on estuary - Walkway is on land side and will protect the estuary.

7.4. Further Submissions

- 7.4.1. The submission made by statutory bodies and third parties were circulated to the local authority. Comments were made on each matter and these are summarised in the assessment below.

8.0 Assessment

8.1. The likely consequences for the proper planning and sustainable development of the area

- 8.1.1. Relevant policy documents at national, regional and local level are set out above in Section 5 of this report and are not repeated here. The existing Coast Road between Baldoyle and Portmarnock is narrow, with tight margins, a modest footpath along some of its length and high traffic speeds, making walking and cycling difficult and dangerous. The proposed development comes forward within a national and regional policy framework which encourages the integration of land use and transportation planning, seeks greater use of sustainable forms of transport, encourages and facilitates active recreation in the population and the development and provision of greenways for residents and visitors. At a local level, the proposed

pedestrian/cyclist scheme provides part of a long-planned Fingal Coastal route and comprises part of the planned development of LAP lands in Baldoyle and Portmarnock.

- 8.1.2. As a pedestrian/cyclist route, the development will contribute to national, regional and local policy objectives, with potential social and economic benefits. It will provide a recreational facility for the new and existing population of Baldoyle and Portmarnock and sustainable options for walking and cycling between destinations north and south of the proposed Regional park and in the wider area. The provision of the pedestrian/cyclist route is therefore in principle consistent with its policy context.
- 8.1.3. The width of the pedestrian cyclist route, set out in policies of the Fingal County Development Plan 2017-2023, and in the two LAPs, is stated to be no wider than 3m. Appendix 2 of the Planning Report provides minutes of meetings of the local authority with the NPWS. These explain that the initial width of 3m, proposed in the LAP, was based on a 3m wide shared pathway. However, with the construction of the planned houses, it was envisaged that the amount of usage would require a segregated route, for safety reasons.
- 8.1.4. Section 6 of the Options Assessment Report, therefore, considers a number of options for the proposed pedestrian/cyclist scheme. These include, upgrading Coast Road, an off-road shared facility (3m), an off road, segregated facility (3m cycleway and 2m footpath, separated by a 2.4m grass verge) and a shared boardwalk facility. Options are compared under the headings economy, safety, environment and integration, with the wider route being the preferred option under three headings and largely neutral under the remaining heading (see page 28 of Report).
- 8.1.5. In practice, it is likely that the proposed pedestrian/cyclist route will carry a high level of pedestrian and cyclist traffic, given its location between the urban centres of Baldoyle and Portmarnock, the lack of availability of alternative options for pedestrians and cyclists and its additional strategic function. The proposal before the Board, for a segregated route, which is wider than originally planned in the statutory development plans for the area, therefore seems in principle, reasonable and consistent with the proper planning and long term sustainable development of the area.

8.1.6. Third parties refer to the detailed design of the scheme and I comment on these matters below:

- Tarmac – In response to submissions the local authority states that red tarmac is used typically to improve legibility and to highlight the presence of cyclists in key areas (e.g. as they approach junctions), as shown in various figures in the National Cycle Manual. They argue that overuse will reduce effectiveness of the use of red tarmac in such areas, is unnecessary as pedestrians and cyclists will be segregated for over 80% of the route, will be more-costly and have a greater visual impact. The comments made by the local authority seem reasonable, and I am therefore not persuaded of the need for different colour finishes on the cycle and pedestrian routes.
- Edging – In response to the submission made, the local authority state that edging will be timber or concrete, flush with the level of the path.
- Foundations – The local authority state that the depth of pavement will be designed to cater for maintenance vehicles and will be determined on completion of the ground investigation. Again, this approach seems reasonable and consistent with the long-term requirements for the use and maintenance of the scheme.

8.2. The likely effects on the environment

8.2.1. The proposed development is not of a type which falls within the activities listed in either Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations, 2001 (as amended). However, it could be construed as a 'road' project under the definitions set out in the Roads Act 1993 (as amended) and be considered for environmental impact assessment under this legislation. In this regard, I note that the development is relatively modest in scale, does not require the use of significant natural resources or result in the production of substantial waste, pollution or nuisance. Whilst the development will take place within a sensitive coastal landscape, significant environmental effects are unlikely to arise and I do not consider that environmental impact assessment is warranted. Notwithstanding the above, I comment below on the likely environmental effects of the development on standard environmental factors.

Population and human health

- 8.2.2. The proposed development will involve modest construction works within and adjoining the public road network. During construction, there may be disruption to the local population, however such impacts can be minimised via a Temporary Traffic Management Plan, as proposed by the applicant in the Preliminary Design Report (Section 8.4). In the long term, the development will provide opportunities for safe access to nearby urban areas and for recreation. Overall, impacts are therefore likely to be positive.

Biodiversity

- 8.2.3. Section 8 of the Environmental Report deals with biodiversity. The proposed pedestrian/cyclist scheme runs parallel to Baldoyle Bay. The Bay is designated as a Special Area of Conservation and as a Special Protection Area. Other Natura 2000 sites are designated to the north, south and east of Baldoyle Bay protecting estuarine and coastal habitats. Impact of the development on these European sites (and wetland and waterbirds associated with them) is dealt with in the Appropriate Assessment section of this report below. It is concluded that no significant effects on the integrity of European sites will arise in light of their conservation objectives.

Baseline

- 8.2.4. Baseline information on the ecology of the application site, and surrounding lands, is set out in the Environmental Report and related appendices, including the Vegetation Assessment Report, Bat Assessment, Study of Breeding Birds and Assessment of Potential Impacts on Birds (wintering and migratory). Key findings of the baseline survey work are as follows:

- **Vegetation:** The route of the proposed development runs through two distinct areas of vegetation. To the north of the Mayne River, land is principally in agricultural use. To the south of Mayne River, a range of habitats are present, some falling within the area of the Baldoyle SAC and being, therefore of European importance (see appropriate assessment below) and providing a locally important and diverse habitat (including dry grassland, scrubland/dry grassland, wet grassland, reed bed, freshwater marsh, wet brackish grassland/upper saltmarsh and degraded saltmarsh (see Figure 8.2 Environmental Report)). The majority of the grassland in the route corridor

corresponds to Fossitt's (2000) *dry calcareous and neutral grassland (GS1)*, and is of local conservation value, but does not correspond to the EU Annex I habitat (absence of indicator species). Within the route corridor a small number of species of conservation interest were also identified; with Yellow oat-grass or golden oat grass (*Trisetum flavescens*) and Downy oat-grass (*Avenula pubescens*) as the most important grass species to conserve, being occasional/locally rare in Fingal and occasional in Dublin as a whole. Pyramidal Orchid (*Anacamptis pyramidalis*) was found in two locations on dumped subsoil at the northern section of the study area (Figure 8.2).

- Mammals: Otters have been recorded in the vicinity of Mayne River, with otter road mortality at the junction of the R106 at Mayne Bridge (considered to be due to Otters being forced onto the road in very high tides when the bridge would be impassable). No evidence has been found of badgers in or near the site area. The Bat Assessment of Racecourse Park, with the study area extending along the length of the entire route, (Appendix C, Environment Report) found three species of bat within the survey area (between Baldoyle and Portmarnock), Common pipistrelle, Soprano pipistrelle and Leisler's bat, all common species and widespread in the county, with bat activity noted along Red Arches Road, relatively limited along Coast Road and increasing as one moved away from Coast Road.
- Breeding Birds - Studies of Breeding Birds in Racecourse Park (land to the south of Mayne River) identified >60 species in the Park lands in 2016 and 2017 (with a slight increase in 2017), with 33 species breeding within the survey area, including species of conservation concern (Lapwing, Meadow Pipit, Skylark, Linnet and Stonechat). The report concluded that the lands at Baldoyle Racecourse are an important habitat for birds, with a good range and diversity of breeding bird species.
- Wetland and waterbirds (see appropriate assessment below).

Potential Impacts

- 8.2.5. The main impacts on the ecology of the site and surrounding area, arising from construction and operation of the development, would be temporary and permanent loss of habitat, disturbance of species e.g. bats, badgers, otter and bird species

using the site and adjoining lands, and potential effects on water quality in Mayne River.

Land Take

- 8.2.6. Land take for the proposed development comprises a 7.4m wide strip along a distance of c.2km. The Environmental Report assumes a width of 10m for construction works, giving a temporary loss of principally grassland/agricultural land of 2000sqm or 0.2ha. On completion the land take will be restricted to the cycle route and pedestrian route of 5m, separated by a 2.4m strip of managed grassland, strip, reducing land take to c.0.1ha. The proposed development comes forward, hand in hand, with detailed proposals for the active management of lands within Racecourse Park to achieve nature conservation objectives, including seeding and grazing regimes to improve the dry grassland habitat. Having regard therefore to the relatively modest land take and to wider proposals to enhance the nature conservation value of grasslands within the new regional park, I consider that the development will not result a significant loss of dry calcareous grassland.

Watercourses

- 8.2.7. The applicant proposes no in-stream works and the design of the bridge over the River Mayne will not impact on or obstruct flows in the river (the bridge will be higher than Coast Road and the underside of the bridge beams will be higher than the top of the existing culverts under the R106). The applicant proposes ecological advice at detailed design stage to ensure that the construction and operation of the bridge does not interfere with Otter passage or the proposed flap valve project (recently tendered and to provide for the management of brackish habitats and fish at Mayne River). Means to minimise pollution of the waterbody during construction and operation are discussed below. Subject to these measures, I do not consider that adverse impacts on the waterbody or on Otter species will arise.

Mammals

- 8.2.8. As no badgers were identified along the route corridor, no impacts on this species should arise. As a mitigation measure, the applicant proposes that a pre-construction survey of the site is undertaken, including of habitats that would be used by badgers (e.g. in the event of delay of the project). This approach is reasonable and would prevent any adverse impacts on this species.

8.2.9. The Bat survey found that the route corridor is not a significant habitat for bats. It nonetheless proposes specific, LED, low directional lighting, with a night time curfew. This approach seems reasonable to minimise impacts on bat species. I do not consider that it is necessary to provide a lighting curfew (as the site is not one which is significant for bats).

Birds

8.2.10. Land comprising the proposed Racecourse Park, notably to the south of Mayne River clearly provides an important habitat for bird species, including breeding birds and species of conservation concern. The proposed development will remove some of this habitat and introduce cyclists and pedestrians along the length of the route. However, as stated land take is relatively modest and the development is (and will be) fenced off from the conservation area to the west of the scheme (to prevent access by pedestrians and dogs) and will be screened from the wetland area to the west of the conservation area by topography and vegetation. Further, the development comes forward within wider plans for the active development and management of the parkland (to include monitoring of the effect of management on bird species), to provide a suitable habitat for rare plants, breeding and migratory birds. Mitigation measures also include that works take place outside of the breeding season. Within this context, in particular with the on-going active management of lands within the Park for nature conservation, adverse impacts on breeding birds and species of conservation concern should not arise (the Environment Report provides evidence of some of the management measures are having a positive impact on bird species).

Land, soil and water

8.2.11. Sections 4 and 5 of the Environmental Report provides information on existing ground conditions, flood risk, hydrology and hydrogeology of the site. Land take for the proposed development is very modest. Construction of the proposed development will generally entail shallow excavation of soils (c. 0.5m but locally up to 1.1m), with reuse on site and export of surplus soils under appropriate waste management regulations. The new bridge over the River Mayne will be constructed using a piling method, with limited excavation. Having regard to the above, impacts on land and soil during construction, are therefore unlikely to be significant. Operational impacts may arise from maintenance equipment; however, such impacts

can be mitigated by the infrequent nature of such works, use of light access vehicles and adoption of good work practices. Impacts are therefore unlikely to be significant.

- 8.2.12. The OPW flood maps indicate that Mayne River, and its tributary to the west of the route, are prone to flooding. However, the pedestrian/cyclist route avoids those areas at risk of flooding and the development itself is designed such that it will not exacerbate flooding i.e. it introduces a relatively small area of hard paving to the area, with surface water draining freely over the edge to filter drains, which will be SuDS compliant. Further, the proposed bridge over the River Mayne is higher than Coast Road and the underside of the bridge beams are higher than the top of the existing culverts for the River under the R106. The bridge structure, will therefore, neither be flooded or cause flooding.
- 8.2.13. The proposed groundworks are generally confined to the upper layers of the soil, providing no direct interaction with groundwater, and the bridge over the River Mayne will be constructed with no in-stream works (see page 17, Preliminary Design Report). Further, the applicant proposes standard construction practices to minimise the risk of water pollution (to be set out in the CEMP) near the river and along the proposed route itself. Subject to these measures, adverse impacts on ground and surface water during construction are unlikely. During operation, routine maintenance works will be subject to industry best practice standards, and adverse effects are again unlikely.

Air and climate

- 8.2.14. Impacts on air quality and climate may arise during construction (e.g. emissions from construction traffic, dust). However, given the modest nature of the proposed works and the proposed mitigation measures for dust nuisance (to be set out in a CEMP, see Section 1.22 of Environment Report), impacts will be short term, very local and not significant. During operation, beneficial impacts on air and climate will arise as residents choose to use alternative and more sustainable forms of transport.

Material assets, cultural heritage and the landscape

- 8.2.15. The Preliminary Design Report indicates that the proposed development has been designed to limit impacts on existing built services and to futureproof the development e.g. with existing services generally avoided, or if necessary lowered to accommodate the development and the inclusion of spare ducts in the service

corridor beneath the proposed footpaths. Existing overhead services will be undergrounded as part of the development. As stated excavated soils will be re-used on site, but if necessary surplus soils will be disposed of in accordance with all relevant waste legislation. Short term impacts are likely to arise during construction, as a result of works to services. There will also be short term impacts on traffic at construction stage. None of these impacts are likely to be significant, given the nature and scale of the project. However, any effects could be further reduced through a CEMP.

8.2.16. Impacts on cultural heritage are set out in Section 7 of the Environment Report. No items of cultural heritage significance lie within the site area. Within 1km of the site is one National Monument; eleven recorded monuments and four National Inventory of Architectural sites within 500m of the development (see attachments). Given the prevalence of archaeological remains in the area, the proposed development may disturb previously unrecorded archaeological deposits. The Environment Report therefore recommends a programme of archaeological monitoring along the alignment of the route in all greenfield areas.

8.2.17. In response to the application for the development, the Department of Culture, Heritage and the Gaeltacht refer to the potential for underwater archaeological remains at Mayne Bridge. Responding to this, the applicant draws the Board's attention to flood alleviation works carried out in 2002 on the River (widening, construction of gabion basket island and installation of two new culverts and flap valves) which was subject to archaeological monitoring, and to the works which were subsequently carried out and which removed the potential for any remaining underwater archaeology. The archaeological monitoring report is attached to the local authority's submission to the Board in May 2018. It concludes that the monitoring exercise revealed no archaeological features or finds and recommended that no further mitigation measures were necessary. Having regard to the findings of this report, the flood alleviation works carried out and the proposed means to construct the bridge over the River outside of the Riverbed and on lands previously disturbed by the flood alleviation works, I do not consider that an underwater archaeological impact assessment is required.

8.2.18. Landscape and visual impacts are considered in Section 6 of the Environment Report. Views of the route (existing) are shown in Appendix B. Predicted landscape

and visual effects are set out in Tables 6.5 and 6.6 of the Report. The Report concludes that whilst short term effects will arise during construction, having regard to the modest land take and with mitigation, which includes grading out cuttings and embankments into the surrounding lands and planting, no significant or long-term landscape effects will arise. The Report refers to the proposed lighting scheme and considers that positioning of the columns on the landward side of the path will allow users to enjoy full views towards the coast and that the lighting along the track will not be out of character and would be seen in a wider context that already contains street lighting at selected areas (Red Arches roundabout, Station Road junction and Portmarnock roundabout, in adjacent residential and urban areas). The applicant's visual assessment concludes that the development would have a neutral effect on opening year from 5 of 9 viewpoints (Appendix B) and a slight beneficial effect on 4 viewpoints. Long term slight beneficial effects would occur from 8 no. viewpoints, and moderate beneficial from one.

- 8.2.19. The proposed development is situated in a sensitive estuarine environment. The proposed pedestrian/cyclist route would be introduced to a generally flat and open landscape comprising primarily grassland. However, for the most part the scheme will be low lying, screened in many views from the R106 by a mix of existing road side boundaries, topography, vegetation and to a lesser extent by existing roadside development. It also comes forward within wider plans to develop the area between Baldoyle and Portmarnock as a new regional park. Consequently, landscape change and visual effects will occur anyway. I would, therefore, accept the applicant's conclusions that in the short term there would be slight adverse landscape and visual effects but with the implementation of the proposed mitigation measures (set out in Tables 6.5 and 6.6), in the longer-term landscape and visual effects would diminish.
- 8.2.20. Third parties raise concerns regarding the landscape/visual effect of the 6m lighting columns and consider them to be excessive. In particular, they argue that there is no case made that lighting is necessary at all along the route, between junctions. Lighting, if it is to be provided, should be low level, directed at the ground and triggered by the approach of greenway users.
- 8.2.21. In response to the submissions made, the local authority puts forward three options for lighting, with different advantages and disadvantages:

- Ground lighting – At 1.65m intervals, sideways projection of lights to path, c.€630,000; require leaning 3-4 times/year, light dimming impractical and unsafe.
- Bollard lighting – At 16m intervals, light projected towards path and away from estuary, c.€160,000, light dimming an option, require cleaning once a year and can be vandalised.
- Pole mounted lighting – At 25m intervals, LED lanterns, suitable for light dimming and with the light footprint covering the pathway c.€145,000, less prone to vandalism.

8.2.22. The local authority acknowledge that the poles may have a greater visual impact on the parkland than other options, but are favoured on cost and maintenance grounds and as because are less prone to vandalism.

8.2.23. As previously stated, the proposed development lies in a sensitive and attractive estuarine landscape which is afforded protection in policies of the County Development Plan and Local Area Plans. The proposed development would introduce multiple structures along the 1.8km coastal route. Whilst these structures would be within the context of the new regional park, which itself would be framed by new housing development, they would be situated very close to Baldoyle Bay and, because of their height, would impact on the relatively uncluttered coastal landscape (lit or unlit). I would recommend, therefore, that the Board require provision of bollard lighting that would be less visually obtrusive, would minimise light spill towards the estuary, could be subject to a dimming system and would not be excessive in terms of cost.

Cumulative Effects

8.2.24. As stated above, the proposed development comes forward with the development of wider lands for housing, for active recreation and nature conservation. Given the relatively modest scale of the proposed development, cumulative effects will primarily arise from the change in character of the area. However, for the reasons stated impacts will not be significant.

8.2.25. The Department raises concerns regarding the cumulative impact of the development with other linked greenways along the coast. The proposed development has been designed as a strategic coastal route. In the longer term

cumulative environmental effects will arise as the development becomes integrated with other sections of the route, for example, from the collective increase in human activity along the route. These impacts may be positive, i.e. with beneficial social and economic impacts, but possibly negative for coastal (and other affected) habitats. Currently, the proposed development comes forward largely as a standalone project, being integrated only with the existing local network of footpaths/cycle routes, at its northern and southern end. Strategic use of the route is therefore less likely at this stage, as are associated impacts. Assessment of cumulative effects at this stage is therefore difficult and would be better addressed as connecting elements of the project are brought forward (as well as at a strategic level). In this regard, I understand from the information on file, that the schemes, north and south of the route, are currently being development but are not yet sufficient detailed to enable assessment.

Environmental Effects (Summary)

- 8.2.26. Having regard to the above discussion, and subject to the implementation of mitigation measures referred to in the application documentation, I consider that the proposed development would not give rise to adverse or significant effects on the environment. A Construction Methodology is set out in Section 8 of the Preliminary Design Report and, having regard to the modest scale of the project, I consider that it provides an adequate basis for the assessment of the application and can be further controlled by way of condition.

8.3. The likely significant effects on a European site

Compliance with Articles 6(3) of the EU Habitats Directive

- 8.3.1. The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a 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. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site.

The Natura Impact Statement

- 8.3.2. The application to the Board is accompanied by an NIS. It describes the proposed development, route selection and environmental considerations, including the proximity of the proposed development to surrounding European sites. The NIS contains a Stage 1 Screening Assessment which concludes that a Stage 2 Appropriate Assessment was required. The NIS outlines the methodology used for assessing potential impacts on the habitats and species within the European Sites that have the potential to be affected by the proposed development. It predicts the potential impacts for these sites and their conservation objectives, identifies appropriate mitigation measures, assesses in-combination effects with other plans and projects and it identifies any residual effects on the European sites and their conservation objectives.
- 8.3.3. The NIS was informed by the following studies, surveys and consultations:
- A desk top study, which includes reference to NPWS data on European sites within 15km of the development, existing data on the ecology and habitats of the area, the Natura Impact Report for the Baldoyle-Stapolin and Portmarnock South LAPs and the NIS for the proposed Broadmeadow Way Cycle/Walkway,
 - Recently completed vegetation, bird and bat surveys of the route of the proposed development (listed in section 3.15 and 3.20, NIS),
 - Consultations with the National Parks and Wildlife Service.
- 8.3.4. The report concluded that the proposed development, which is routed through Baldoyle Bay SAC, will not negatively impact on the area, the integrity or function of habitats for which this site has been designated, or therefore on the integrity of the SAC. Furthermore, it concludes that with the implementation of mitigation measures, there will be no significant negative effects on bird species for which Baldoyle Bay SPA has been designated.
- 8.3.5. Having reviewed the NIS and the supporting documentation, I am satisfied that it provides adequate information in respect of the baseline conditions, clearly identifies potential impacts on European sites and uses best scientific information and knowledge. Details of mitigation measures are provided and they are set out in Section 5 of the NIS. I am satisfied, therefore, that the information is sufficient to

allow for appropriate assessment of the proposed development (see further analysis below).

Screening

8.3.6. The proposed development is not directly connected with or necessary to the management of any European site.

8.3.7. Having regard to the nature, size and location of the proposed development and its likely direct, indirect and cumulative effects, the source pathway receptor principle and sensitivities of the ecological receptors, the following European Sites within 15km of the proposed development are considered relevant to include for the purposes of initial screening for appropriate assessment, on the basis of likely significant effects. Sites outside of 15km are not considered relevant, given the modest scale of the project and the absence of direct or indirect links to sites which are further afield.

European sites considered for Stage 1 screening:

European site (SAC/SPA)	Qualifying Interests	Distance (km)
Baldoyle Bay SAC (000199)	<ul style="list-style-type: none"> • Mudflats and sandflats not covered by seawater at low tide [1140] • <i>Salicornia</i> and other annuals colonising mud and sand [1310] • <i>Spartina</i> swards [1320] • Atlantic salt meadows [1330] • Mediterranean salt meadows [1410] 	0
Malahide Estuary SAC (000205)	<ul style="list-style-type: none"> • Mudflats and sandflats not covered by seawater at low tide [1140] • <i>Salicornia</i> and other annuals colonising mud and sand [1310] • <i>Spartina</i> swards [1320] • Atlantic salt meadows [1330] • Mediterranean salt meadows [1410] 	c.2.5km

European site (SAC/SPA)	Qualifying Interests	Distance (km)
	<ul style="list-style-type: none"> • Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120] • Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] 	
Howth Head SAC (000202)	<ul style="list-style-type: none"> • Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] • European dry heaths [4030] 	c.4km
Ireland's Eye SAC (002193)	<ul style="list-style-type: none"> • Perennial vegetation of stony banks [1220] • Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] 	c.4.5km
Rogerstown Estuary SAC (000208)	<ul style="list-style-type: none"> • Estuaries [1130] • Mudflats and sandflats not covered by seawater at low tide [1140] • <i>Salicornia</i> and other annuals colonising mud and sand [1310] • <i>Spartina</i> swards [1320] • Atlantic salt meadows [1330] • Mediterranean salt meadows [1410] • Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120] • Fixed coastal dunes with herbaceous 	c.9km

European site (SAC/SPA)	Qualifying Interests	Distance (km)
	vegetation (grey dunes) [2130]	
North Dublin Bay SAC (000206)	<ul style="list-style-type: none"> • Mudflats and sandflats not covered by seawater at low tide [1140] • Annual vegetation of drift lines [1210] • <i>Salicornia</i> and other annuals colonising mud and sand [1310] • <i>Spartina</i> swards [1320] • Atlantic salt meadows [1330] • Petalwort [1395] • Mediterranean salt meadows [1410] • Embryonic shifting dunes [2110] • Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120] • Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] • Humid dune slacks [2190] 	c.1.8km
South Dublin Bay SAC (000210)	<ul style="list-style-type: none"> • Mudflats and sandflats not covered by seawater at low tide [1140] • Annual vegetation of drift lines [1210] • <i>Salicornia</i> and other annuals colonising mud and sand [1310] • Embryonic shifting dunes [2110] 	c.7.5km
Lambay Island SAC (000204)	<ul style="list-style-type: none"> • Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] • Grey seal [1364] 	c.10km

European site (SAC/SPA)	Qualifying Interests	Distance (km)
Rockabill to Dalkey Island SAC (003000)	<ul style="list-style-type: none"> • Reefs [1170] • <i>Phocoena phocoena</i> (Harbour porpoise) [1351] 	c.4km
Baldoyle Bay SPA (004016)	<ul style="list-style-type: none"> • Light-bellied Brent Goose [A046] • Shelduck [A048] • Ringed Plover [A137] • Golden Plover [A140] • Grey Plover [A141] • Bar-tailed Godwit [A157] • Wetlands [A999] 	c.0km
Malahide Estuary SPA (004025)	<ul style="list-style-type: none"> • Great Crested Grebe [A005] • Light-bellied Brent Goose [A046] • Shelduck [A048] • Pintail [A054] • Goldeneye [A067] • Red-breasted Merganser [A069] • Oystercatcher [A130] • Golden Plover [A140] • Grey Plover [A141] • Knot [A143] • Black-tailed Godwit [A156] 	c.2.5km

European site (SAC/SPA)	Qualifying Interests	Distance (km)
	<ul style="list-style-type: none"> • Bar-tailed Godwit [A157] • Redshank [A162] • Wetlands [A999] 	
Howth Head Coast SPA (004113)	<ul style="list-style-type: none"> • Kittiwake [A188] 	c.5.5km
Ireland's Eye SPA (004117)	<ul style="list-style-type: none"> • Cormorant [A017] • Herring Gull [A184] • Kittiwake [A188] • Guillemot [A199] • Razorbill [A200] 	c.4km
Rogerstown Estuary SPA (004015)	<ul style="list-style-type: none"> • Greylag Goose [A043] • Light-bellied Brent Goose [A046] • Shelduck [A048] • Shoveler [A056] • Oystercatcher [A130] • Ringed Plover [A137] • Grey Plover [A141] • Knot [A143] • Dunlin [A149] • Black-tailed Godwit [A156] • Redshank [A162] 	c.9km

European site (SAC/SPA)	Qualifying Interests	Distance (km)
	<ul style="list-style-type: none"> • Wetlands [A999] 	
North Bull Island SPA (004006)	<ul style="list-style-type: none"> • Light-bellied Brent Goose [A046] • Shelduck [A048] • Teal [A052] • Pintail [A054] • Shoveler [A056] • Oystercatcher [A130] • Golden Plover [A140] • Grey Plover [A141] • Knot [A143] • Sanderling [A144] • Dunlin [A149] • Black-tailed Godwit [A156] • Bar-tailed Godwit [A157] • Curlew [A160] • Redshank [A162] • Turnstone [A169] • Black-headed Gull [A179] • Wetlands [A999] 	c.1.5km
South Dublin Bay & River Tolka SPA	<ul style="list-style-type: none"> • Light-bellied Brent Goose [A046] 	c.6km

European site (SAC/SPA)	Qualifying Interests	Distance (km)
(004024)	<ul style="list-style-type: none"> • Oystercatcher [A130] • Ringed Plover [A137] • Grey Plover [A141] • Knot [A143] • Sanderling [A144] • Dunlin [A149] • Bar-tailed Godwit [A157] • Redshank [A162] • Black-headed Gull [A179] • Roseate Tern [A192] • Common Tern [A193] • Arctic Tern [A194] • Wetlands [A999] 	
Lambay Island SPA (004069)	<ul style="list-style-type: none"> • Fulmar [A009] • Cormorant [A017] • Shag [A018] • Greylag Goose [A043] • Lesser Black-backed Gull [A183] • Herring Gull [A184] • Kittiwake [A188] 	c.10km

European site (SAC/SPA)	Qualifying Interests	Distance (km)
	<ul style="list-style-type: none"> • Guillemot [A199] • Razorbill [A200] • Puffin [A204] 	
Dalkey Island SPA (004172)	<ul style="list-style-type: none"> • Roseate Tern [A192] • Common Tern [A193] • Arctic Tern [A194] 	c.14km

8.3.8. Nine Special Areas of Conservation lie within 15km of the application site. It is closest to Baldoyle SAC and is routed through a small area of the site. The likelihood of significant effects cannot therefore be ruled out for this site, and I would conclude, therefore, that a Stage 2 Appropriate Assessment is required for this site.

8.3.9. With regard to the remaining eight SACs, qualifying interests comprise habitats found within the sites. Having regard to these interests, the distance to the proposed development from these eight sites, the modest nature of the proposed development, the lack of substantial impacts on environmental parameters e.g. air or water quality, and the lack of significant pathway between the application site and the SAC's, the likelihood of significant effects can be ruled out for these sites.

8.3.10. Nine Special Protection Areas also lie within 15km. The western boundary of Baldoyle SPA lies to the east of Coast Road. It therefore lies outside of the application site, but impacts on species of conservation interest cannot be ruled out due to the nature of the development and the risk of impacts on bird species (e.g. by way of disturbance). I would conclude, therefore, that a Stage 2 Appropriate Assessment is required for this site.

8.3.11. Four of the remaining eight SPAs, are marine/coastal sites and the rest, estuarine. Qualifying interests of the four marine/coastal sites (Howth Head SPA, Ireland's Eye SPA Lambay Island SPA and Dalkey Islands SPA), are breeding populations of

seabird, and for Dalkey Islands SPA, with the site also providing a major breeding and pre-migration autumn roost for three tern species.

8.3.12. The NIS refers to the habits of species of conservation interest identified in these marine/coastal sites and presents no evidence that the application site forms an important part of the wider feeding or roosting habitat of any of the species concerned. In this regard, I note:

- The applicants Survey of Breeding Birds (July 2017) recorded a small number of the species of conservation concern using Racecourse Park in the breeding season April to June 2017 (Cormorant, Herring Gull, Lesser Black-backed Gull), with none of the species breeding.
- The winter survey of waterbirds (June 2017) identified no significant populations of any of these bird species within 200m of the development.

8.3.13. The NIS states that for some species which may on occasion make use of inshore waters to feed (as observed in the applicant's surveys), the environs of the application site are already affected by activity and development (e.g. existing walks, public beaches, busy roads, residential development) and it is unlikely that the proposed scheme would disturb species should they choose to enter Baldoyle Bay to forage.

8.3.14. Having regard to the limited use of the application site (and surrounding lands) by the qualifying interest of these four coastal/marine SPAs as demonstrated by the information presented by the applicant, the location of development, adjoining the busy R106 and in proximity to existing residential development, I would accept that it is unlikely, on the basis of the scientific information which is available, that the proposed development would have a significant effect on these four marine/coastal SPAs. These remaining sites can therefore be screened out from further assessment.

8.3.15. For the four remaining SPAs, Malahide Estuary, Rogerstown Estuary, North Bull Island and South Dublin Bay, each are dominated by intertidal mudflats, with qualifying interests predominantly comprising species of wintering waterfowl. The four sites and Baldoyle SPA share some of the same qualifying interests. The NIS states that the possibility of movement of waders and wildfowl between these sites (and Baldoyle SPA), is poorly understood, but cannot be discounted. The report

refers to on-going monitoring programmes that will allow a better understanding of the ecological requirements of birds using Dublin Bay. Having regard to this potential connectivity between Baldoyle Bay SPA and these four sites, I consider that these sites should be carried forward for Stage 2 appropriate assessment.

Appropriate Assessment (Screening) Conclusion

8.3.16. Having regard to the scale of the proposed works, the nature of the Conservation Objectives, Qualifying and Special Conservation Interests, the separation distances and the lack of a substantive linkage between the proposed works and the European sites, it is therefore reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site No(s) 000202, 000204, 000205, 000206, 000208, 000210, 002193, 003000, 004069, 004113, 004117 and 004172 in view of the sites conservation objectives and a Stage 2 Appropriate Assessment is not therefore required for these sites.

Appropriate Assessment

8.3.17. Having regard to the above, six European sites are therefore carried forward for appropriate assessment, Baldoyle Bay SAC, Baldoyle Bay SPA, Malahide Estuary SPA, Rogerstown Estuary SPA, North Bull Island SPA and South Dublin SPA. (N.B. The applicant only carries forward two sites for appropriate assessment, Baldoyle Bay SAC and Baldoyle Bay SPA. For the reasons stated below, regardless of the treatment of the additional sites in the NIS, I consider that there is sufficient information available to carry out a Stage 2 appropriate assessment on all of the sites that I have carried forward for assessment).

- **Baldoyle Bay SAC (000199)**

8.3.18. Baldoyle Bay SAC, extending from just below Portmarnock village to the west pier at Howth, is a tidal estuarine bay protected from the sea by a large sand-dune system. Two small rivers, the Mayne and the Sluice, flow into the bay.

8.3.19. Large areas of intertidal flats are exposed at low tide. These are mostly sand but grade to muds in the inner sheltered parts of the estuary. Areas of saltmarsh occur near Portmarnock Bridge and at Portmarnock Point, with narrow strips along other parts of the estuary (see Appendix I, NPWS Supporting Document, Coastal Habitats

and Figure 5.1 of NIS). The site includes a brackish marsh (saltmarsh) along the Mayne River and two plant species, legally protected under the Flora (Protection) Order, 1999, occur in Mayne marsh, Borrer's Saltmarsh grass and Meadow Barley. The site is also an important site for wintering waterfowl (see below). The NPWS Site Synopsis states that the area surrounding Baldoyle Bay is densely populated and so the main threats to the site include visitor pressure, disturbance to wildfowl and dumping.

Conservation Objectives

8.3.20. Conservation objectives are to maintain the favourable conservation condition of:

- Mudflats and sandflats not covered by seawater at low tide [1140],
- *Salicornia* and other annuals colonising mud and sand [1310],
- Atlantic salt meadows [1330], and
- Mediterranean salt meadows [1410].

8.3.21. Favourable conservation status is defined by attributes and targets for each qualifying interest e.g. habitat area, community distribution etc. (see attached Conservation Objectives).

Potential direct effects:

8.3.22. Part of the proposed development, extending to c.455m, will be constructed across part of the Baldoyle SAC, which extends to the west of Coast Road. The Environmental Report assumes a construction impact across 10m. This would amount to a habitat loss during construction of 4,550sqm or 0.455ha. As the SAC covers c.538, with c.89% marine (NWPS Standard Data Form) and, therefore, c.60ha terrestrial. The loss of grassland during construction would therefore be 0.084% of the area of the SAC or 0.75% of the terrestrial habitat. On completion, land take will be confined to a width of 5m, with a 2.4m median (to be restored to a species rich grassland after construction), reducing the area of SAC permanently lost to c.0.2275ha or 0.4% of terrestrial habitat.

8.3.23. Land take will be primarily from dry grassland (see Figure 5.2, NIS; Figure 9, Appendix C, Environmental Report). The grassland does not correspond to any Annex I habitats, but it is considered to be of local conservation value (discussed above, under 'Biodiversity').

8.3.24. Potential direct impacts on qualifying features of the SAC are negligible as follows:

- Mudflats and sandflats [1140] – These occur within the SAC area to the east of Coast Road and the development will have no direct effect on this conservation interest (see Conservation Objectives report, NPWS, attached).
- *Salicornia* [1310] – Again this habitat lies to the east of Coast Road and the development will have no impact on it.
- Atlantic salt meadows [1330] – This habitat mostly to the east of Coast Road, with a small area to the south of Mayne River, west of the development and upstream of it. There will be no direct impact on this habitat as the pedestrian/cyclist scheme is routed away from the saltmarsh.
- Mediterranean salt meadows [1410] – This habitat lies to the west of the pedestrian/cyclist route and is removed from it (see attachments). Again, no direct impacts on this habitat will arise.

Potential indirect effects:

8.3.25. Potential indirect effects may arise during construction, from works in proximity to the Mayne River and the Atlantic salt meadows, upstream of it, and from permanent land take i.e. the loss of dry calcareous grassland, if it influences the creation or maintenance of qualifying habitats.

Potential in-combination effects:

8.3.26. The proposed development comes forward within wider plans for (a) the development of lands to the west of the scheme for major new residential development, and (b) for integration with a wider coastal route and other strategic pedestrian/cyclist networks within the County. The following strategic pedestrian/cyclist routes are referred to in the NIS and/or by the Department, in their submission to the Board:

- Broadmeadow Way – Linking Malahide to Donabate.
- Sutton to Malahide Green Route – To connect Sutton with the current scheme and continue northwards from Portmarnock Bridge to Malahide (which will connect to Broadmeadow Way).
- S2S – Sutton to Sandycove Promenade and Cycleway.

8.3.27. Both introduce the risk of additional footfall and, therefore, indirect effects on the SAC lands from human activity.

Mitigation measures:

8.3.28. Mitigation measures include the following:

- The appointed contractor will be required to put in place a construction management plan which will include consideration of surface water management to avoid loss of silty waters from the works area.
- The central median and path edges will be maintained as species rich grassland by means of a cut and collect regime in Autumn each year.
- All ecologically sensitive areas along the route have been fenced off by the applicant, including the Atlantic salt meadows and Mediterranean Salt Meadows, to the west of the application site.
- The proposed development comes forward as part of a suite of mitigation measures set out in the Portmarnock South and Baldoyle-Stapolin LAPs to manage Racecourse Park, which include providing a buffer zone to separate the new residential developments from the SAC lands, active management of pedestrian movements (again to protect SAC lands) and habitat creation and enhancement works, inside and outside the SAC lands.
- A programme of ongoing ecological monitoring is being undertaken by the applicant to judge the success of ecological measures and to modify these if required. Initial reports indicate that measures are being successful.

Residual effects/Further analysis

8.3.29. With the adoption of best practices for works in proximity to watercourses, I do not consider that significant adverse effects on Mayne River (or upstream Atlantic salt meadows) are likely to arise.

8.3.30. The NIS considers whether the loss of land due to the walking/cycle route can be considered an adverse effect on the integrity of the Baldoyle Estuary SAC (JBA Report, 2017, NIS), having regard to the range, area, structure, function and future prospect of the habitats of conservation interest. The report concludes that the grassland habitat does not play an important role in any of these factors.

- 8.3.31. In this regard, I note, Mudflats and Sandflats and *Salornica* habitats to the east of Coast Road are maintained principally by tidal movements and the pedestrian/cyclist scheme, is removed from the habitats and does not play an active role in influencing the regime or the development of habitat type.
- 8.3.32. Similarly, the Atlantic salt meadows and Mediterranean salt meadows habitats to the west of the application site, are principally influenced by flooding of the habitat by tidal water. This in turn would appear to be affected by the flapped outfalls located on the downstream face of the road bridge at Mayne River. Again, the pedestrian/cyclist scheme, including the bridge over the River Mayne, will not directly impact on this regime (soffit level of proposed bridge is same as or above the existing road bridge soffit levels). However, the JBA report does state that the proposed surface water drainage of the scheme needs to consider the potential for changes in runoff patterns and sediment rates and how these may affect the habitats present (e.g. how the route traverses low lying ditches).
- 8.3.33. I note that the scheme will be designed to allow surface water from the paved area to drain freely over the edge of the pavement to filter drains, that will be SuDS compliant. Scheme design will mimic natural conditions, providing localised discharge of modest runoff. Significant impacts on runoff patterns and drainage rates, in this context, are unlikely.
- 8.3.34. The JBA report, submitted with the application, refers to case law dealing with the significance of loss of SAC habitat. It includes the case *Sweetman v An Bord Pleanála*, 2013 [C-258/11], and considers that, having regard to case law, it is appropriate to examine (a) whether or not the loss of the grassland habitat from the SAC will affect the overall integrity of the site and the ability of the site to achieve its conservation objectives, and (b) whether or not habitat loss is significant. I would consider this conclusion/test to be reasonable.
- 8.3.35. The JBA report also states that there are no published EU Habitat Directive cases available that have relevance to the project in terms of a non-qualifying interest habitat and non-Annex I priority habitat and that there appears to be no guidance as to determination of what should be regarded as significant.
- 8.3.36. Having regard to the above, and the following, I consider that the loss of grassland for the proposed pedestrian/cyclist route is unlikely to have a significant effect on the

overall integrity of Baldoyle SAC or the ability of the site to achieve its conservation objectives, and that the habitat loss, within this context is not significant:

- The proposed development will result in the loss of a small area of grassland habitat from within Baldoyle SAC (0.4-0.75% of terrestrial habitat). The habitat is not a qualifying interest of the SAC nor does it comprise an Annex I habitat.
- The proposed development is physically removed from the qualifying habitats in the SAC and the grassland habitat that will be directly affected by the development, on the basis of the scientific information which is available, does not play a significant role in the development or maintenance of qualifying habitats in the SAC.
- The development comes forward in conjunction with a range of measures to actively manage and improve the nature conservation value of the habitats in Racecourse Park (and to minimise the potentially adverse impacts of substantial new residential development).
- The construction project is very modest in scale and potential indirect effects can readily be mitigated by condition requiring implementation of all mitigation measures, including compliance with SuDS and best practice construction methodology.

8.3.37. With regard to impacts arising from the proposed development, in-combination with other plans and projects, I comment as follows:

- The development comes forward within the context of the adopted LAPs for Portmarnock South and Baldoyle-Stapolin. These have been subject to appropriate assessment and the NIS Reports for both plans conclude that, with the proposed mitigation measures, no significant effects on the conservation objectives of European sites will arise. Further, both plans come forward with the suite of mitigation measures envisaged, and very clearly seek to manage pedestrian and cyclist movements in and around the SAC lands, directing movements away from the sensitive habitats, and actively managing the SAC lands themselves develop and support the favourable conservation status of their qualifying interests.

- The proposed development that is assessed here has been ‘future proofed’ and is of a scale to cater for the anticipated volume of pedestrian and cyclist traffic now and into the foreseeable future. However, currently the development comes forward as a standalone project, connecting only to the existing network of local cycle routes and pedestrian infrastructure north and south of the development.
- Whilst impacts on adjoining European sites may arise from future connectivity to other planned pedestrian/cyclist routes, adjudication on the cumulative impact of these routes would more appropriately be carried out when detailed design of these development has been carried out and when they come forward for approval. Until such time, the proposed development will remain a standalone project and significant in-combination effects on Baldoyle SAC cannot arise.

8.3.38. In conclusion, therefore, I am satisfied that the proposed development individually or in combination with other plans or projects would not adversely affect the integrity of this European site in light of its conservation objectives (subject to the implementation of mitigation measures outlined above).

- **Baldoyle SPA (004016)**

8.3.39. Baldoyle SPA extends across Baldoyle Bay, between Portmarnock Golf Course and the R106. It is a relatively small, narrow estuary separated from the open sea by a large sand dune system. Two small rivers, the Mayne River and the Sluice River flow into the inner part of the estuary. Large areas of intertidal flats are exposed at low tide. These are mostly sands but grade to muds in the inner sheltered parts of the estuary. The Bay is an important site for wintering waterfowl, providing good quality feeding areas and roost sites for a diversity of waterfowl species.

Conservation Objectives

8.3.40. Conservation objectives are to maintain the favourable conservation condition of the following species:

- Brent Goose [A046]
- Shelduck [A048]
- Ringed Plover [A137]

- Golden Plover [A140]
- Grey Plover [A140]
- Bar-tailed Godwit [A157]
- Wetlands [A999]

8.3.41. Favourable conservation status is defined by attributes and targets for each qualifying interest, typically with long term population trends for bird species stable or increasing; no significant decrease in range (distribution of bird species); and stable area of wetland habitat (see attached Conservation Objectives).

Potential direct effects:

8.3.42. The proposed development is situated outside of the SPA. No direct effects on the European site will arise, as a consequence of the development.

Potential indirect effects

8.3.43. Potential indirect effects principally arise on the SPA from the following:

- Loss of habitat for bird species, using lands outside of the SPA for feeding or roosting.
- Disturbance to bird species (using the SPA lands or adjoining lands) during construction and operation of the proposed development e.g. from cyclists/pedestrians using the route.
- Changes to water quality e.g. with contaminated discharge waters from the site entering Mayne River, with impacts on wetland habitat.

Potential in-combination effects

8.3.44. Potential in-combination effects arising from the development of wider lands near the application site, are principally associated with the development of the Portmarnock South and Baldoyle-Stapolin LAP lands and, to a lesser extent with the integration of the proposed development with adjoining pedestrian/cyclist routes (set out above).

Mitigation measures

8.3.45. The NIS refers to the following mitigation measures:

- Construction works outside of the winter months (avoiding impacts on migratory birds).
- The appointed contractor will be required to put in place a construction management plan which will include consideration of surface water management to avoid loss of silty waters from the works area.
- Directional lighting along the pathway (although generally public lighting is not thought to impact negatively on wintering waterbirds).
- No tree planting along the edge of the route (which would provide perches for predatory species).
- The erection of signs at three locations where the route is closest to the shoreline of the Bay, providing information on birds and the area and advising that dogs be kept on leads.

Residual effects/Further analysis

8.3.46. The Local Area Plans for Portmarnock South and Baldoyle-Stapolin were accompanied by an Natura Impact Statement. Both reports refer to studies carried out in the area associated with the LAPs, adjoining Baldoyle SPA, to provide baseline information on bird species using these lands. Both NIS conclude that a number of species of conservation interest use the lands for feeding and roosting, including Brent Goose, a qualifying interest of Baldoyle SPA (see attachments). Both NIS reports go on to assess the likely impact of the LAPs on the SPA and conclude that with the mitigation measures proposed in the LAPs for the management of Racecourse Park, which include provision of Mayne Marsh Conservation Area (with managed feeding areas for Brent Gees), quiet area for migratory birds, arable crops for migratory and species rich grassland, the development proposed in the LAP would have no significant effect on the conservation objectives of the Baldoyle SPA (or related European sites).

8.3.47. The NIS for the proposed development refers to 2011/2012 NPWS count data for waterbirds using Baldoyle Bay, which indicates high levels of occurrence of the species of conservation interest in Baldoyle Bay and the use of sub-site in proximity to the proposed development (Table 5.4 and 5.6, NIS). Furthermore, the NIS refers to additional survey work carried out in the winter of 2016/2017, comprising 10

surveys of waterbird populations on Baldoyle Bay over this period, and peak waterbird occurrences within 200m of three key sites (either side of the route) along the proposed route at Portmarnock roundabout, Mayne River bridge and Red Arches roundabout where the route approaches the shoreline (Bird Impact Study, Appendix C, NIS). Again, this more recent survey work indicates the occurrence of species of conservation interest on Baldoyle Bay, and to high numbers of some species of conservation interest within 200m of three sites, where the route runs closest to the Bay e.g. a peak of 96 Brent Goose at Portmarnock Roundabout (see Tables 3, Bird Impact Study). However, numbers of birds occurring at the sites represented a relatively small proportion of peak numbers of the same species recorded on the Bay (e.g. peak number of Brent Goose at low tide was 784). In addition, when the full length of the route was walked on 12 separate dates over the same period, only two disturbance events involving waterbirds at hightide occurred and only one of these involved species of conservation interest, Brent Goose, with the bird swimming away from the disturbance at Red Arch Roundabout.

- 8.3.48. The Bird Impact Study also reviews studies on disturbance of waterbirds, including in South Dublin Bay, and provides evidence that there is generally a high level of habituation of waterbirds to disturbance by people and cycleways.
- 8.3.49. The NIS concludes that the majority of the route was sufficiently far from the tidal area, and is separated from it by a busy road so that it will not cause significant disturbance to non-breeding waterbirds (even where it runs close to the Bay at Portmarnock roundabout, Mayne River Bridge and Red Arches Roundabout) or therefore any significant impact on Baldoyle SPA.
- 8.3.50. This conclusion seems reasonable given that the pedestrian/cycle route is proposed to the west of Coast Road, it is separated from Baldoyle Bay by this busy stretch of road, the DAA transmitter station and residential property along the northern section of the route, and, most notably, the observed absence of significant disturbance of species during a large number of site visits in 2016/2017. Based on this survey work, it would also indicate that there is no need for screening of the Bay from the route.
- 8.3.51. With regard to in-combination effects, the LAPs for Portmarnock South and Baldoyle-Stapolin will introduce a larger population to the coastal environment, in proximity to

the SPA. However, as stated above, these plans have been subject to appropriate assessment which concluded that, with mitigation, significant effects on conservation objectives of the Natura 2000 site would be avoided. Further, the Plans embody the proposed mitigation measures and seek to actively manage pedestrian/cyclist movements, keeping them away from the SPA; to provide a buffer between the residential lands and the European site and to actively manage this buffer zone for nature conservation, including the provision of managed grassland and quiet areas for Brent Goose.

- 8.3.52. With the completion of the development, there is the potential for people to continue to travel north or south (putting more pressure on the environs of the route at Red Arches Roundabout and at Portmarnock Bridge), and with the development of integrated routes, for more people to travel on the route as a whole.
- 8.3.53. Currently, at the northern end of the route, it is proposed that the pedestrian/cyclist route connects to the footpath on the eastern side of the R106. This footpath continues over Portmarnock Bridge to Portmarnock. The eastern side of the R106 is separated from Baldoyle estuary by a low wall and mudflats are at a lower level than the pavement. Pedestrian access to the mudflats would, therefore, be difficult and pedestrians/cycles are more likely to continue north on the road network or pavement. Further, at the time of site inspection, this area was very busy with vehicular traffic and pedestrian traffic (on Portmarnock Bridge and Station Road) and additional pedestrian/cyclist movements (which would generate little noise relative to that caused by traffic) would add little to the existing level of noise/disturbance. Similarly, at the southern junction of the route, the Bay is difficult to access from the public road and is subject to substantial disturbance, notably from vehicular traffic.
- 8.3.54. As stated above, the proposed development that is assessed here has been 'future proofed' and is of a scale to cater for the anticipated volume of pedestrian and cyclist traffic now and into the foreseeable future. However, currently the development comes forward as a standalone project, connecting only to the existing network of local cycle routes and pedestrian infrastructure north and south of the development. Whilst impacts on Baldoyle Bay (and other connected sites) may arise from future connectivity to other planned pedestrian/cyclist routes, adjudication on the cumulative impact of these routes would more appropriately be carried out when detailed design of these development has been carried out and when they come

forward for approval. Until such time, the proposed development will remain a standalone project and significant in-combination effects on Baldoyle SPA cannot arise.

8.3.55. Potential impacts on water quality can be addressed through the adoption of standard best practices during construction.

8.3.56. Having regard to my assessment above, I consider that subject to the implementation of all mitigation measures set out in the application documentation, significant effects on conservation interests of Baldoyle SPA and the integrity of the site are unlikely. In this regard, the Board may wish to require the applicant to provide, for the public record, a summary of all mitigation measures associated with the development as set out in the application documentation and an annual report on the implementation and efficacy of these.

Conclusion

8.3.57. Having regard to the above, I am satisfied that the proposed development individually or in combination with other plans or projects would not adversely affect the integrity of this European site in light of its conservation objectives (subject to the implementation of mitigation measures outlined above).

- **Malahide Estuary SPA, Rogerstown Estuary SPA, North Bull Island SPA and South Dublin Bay and River Tolka SPA**

8.3.58. As stated, each of these SPAs comprise estuarine habitats. Qualifying interests are set out in Section 8.4 above 'Screening'.

Potential Direct Effects

8.3.59. The proposed development is removed from each of the above SPAs and no direct effects will arise.

Potential Indirect Effects

8.3.60. Potential indirect effects were identified as a consequence of the similar bird species which are identified as qualifying interests of each of these SPAs and Baldoyle SPA (e.g. Brent Goose, Shelduck, Ringed Plover, Grey Plover, Bar-tailed Godwit) and the lack of scientific information on the movement of waders and wildfowl between the sites.

Potential In-combination Effects

8.3.61. As above, potential in-combination effects may arise from the proposed development in conjunction with other plans and projects on species of conservation interest moving between the SPAs.

Mitigation Measures

8.3.62. The mitigation measures referred to above, in respect of Baldoyle SPA, are also relevant to these SPAs, given the similarity in conservation interests.

Residual Effects/Further Analysis

8.3.63. In my assessment of the likely effects of the proposed development on Baldoyle SPA I have concluded that no significant effects on the integrity of the SPA are likely to arise. Of note, whilst species of conservation interest to Baldoyle SPA (and to the SPAs considered here) do occur within 200m of the proposed development, where it is closest to the Bay (Portmarnock Roundabout, Mayne River Bridge, Red Arches Roundabout), few were affected by disturbance in studies undertaken (this may be due to the high levels of noise/disturbance associated with Coast Road and its junctions in the vicinity of the site). It therefore follows that if the bird species using Baldoyle Bay SPA are not adversely affected by the proposed development, then it is unlikely that the development will have a significant effect on the pattern of movements of species of conservation interest between SPAs, or therefore the conservation interests of these SPAs.

Conclusion

8.3.64. Having regard to the above, I am satisfied that the proposed development individually or in combination with other plans or projects would not adversely affect the integrity of these European site in light of their conservation objectives (subject to the implementation of mitigation measures outlined above).

8.4. Appropriate Assessment Conclusions

8.5. Having regard to:

- i. The scientific information on file in respect of Baldoyle Bay SAC, Baldoyle Bay SPA, Malahide Estuary SPA, Rogerstown Estuary SPA, North Bull Island SPA and South Dublin Bay and River Tolka SPA,

- ii. The development plan context for the proposed development and the measures for nature conservation which are set out in the Local Area Plan for the application site and adjoining lands,
- iii. The nature and scale of the proposed development and its location to the west of Coast Road,
- iv. The mitigation measures proposed for the construction and operation phases of the development,

8.6. I consider that it is reasonable to conclude on the basis of the information on the file, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, that the proposed development, individually or in combination with other plans and projects would not adversely affect the integrity of European site nos. 000199, 004016, 004025, 004015, 004006 and 004024 or any other European site, in view of the sites Conservation Objectives.

9.0 Recommendation

9.1. On the basis of the above assessment, I recommend that the Board approve the proposed development subject to the reasons and considerations below and subject to conditions including requiring compliance with the submitted details and with the mitigation measures as set out in the NIS.

10.0 Reasons and Considerations

In coming to its decision, the Board had regard to the following:

- (a) Directive 92/43/EEC (Habitats Directive) and Directive 79/409/EEC as amended by 2009/147/EC (Birds Directive),
- (b) the policies and objectives of the Fingal County Development Plan 2017 to 2023, and the detailed policies and objectives of the Baldoyle-Stapolin LAP and the Portmarnock South LAP,
- (c) the conservation objectives, qualifying interests and special conservation interests for Baldoyle SAC (site code 000199) and Baldoyle Bay SPA (site code 004016), Malahide Estuary SPA (site code 004025), Rogerstown

Estuary SPA (004015), North Bull Island SPA (004006) and South Dublin Bay and River Tolka SPA (004024),

- (d) the nature and extent of the proposed works as set out in the application for approval,
- (e) the information submitted in relation to the potential impacts on habitats, flora and fauna, including the Natura Impact Statement,
- (f) the submissions and observations received in relation to the proposed development,
- (g) the likely effects and consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the likely significant effects of the proposed development on a European Site,
- (h) the report and recommendation of the person appointed by the Board to make a report and recommendation on the matter

Appropriate Assessment:

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that Baldoyle SAC (site code 000199), Baldoyle Bay SPA (site code 004016), Malahide Estuary SPA (site code 004025), Rogerstown Estuary SPA (004015), North Bull Island SPA (004006) and South Dublin Bay and River Tolka SPA (004024) are the only European Sites in respect of which the proposed development has the potential to have a significant effect.

The Board considered the Natura Impact Statement and associated documentation submitted with the application for approval, the mitigation measures contained therein, the submissions and observations on file, and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed development for the affected European Sites, namely Baldoyle SAC (site code 000199), Baldoyle Bay SPA (site code 004016), Malahide Estuary SPA (site code 004025), Rogerstown Estuary SPA (004015), North Bull Island SPA (004006) and South Dublin Bay and River Tolka SPA (004024), in view of the site's conservation objectives. The Board considered that the information before it was adequate to

allow the carrying out of an appropriate assessment. In completing the appropriate assessment, the Board considered, in particular, the following:

- i. the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- ii. the mitigation measures which are included as part of the current proposal, and
- iii. the conservation objectives for the European Sites.

In completing the appropriate assessment, the Board accepted and adopted the screening and the appropriate assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Sites, having regard to their conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Sites, in view of the site's conservation objectives.

Proper Planning and Sustainable Development/Likely effects on the environment:

It is considered that, subject to compliance with the conditions set out below, the proposed development would not have significant negative effects on the environment or the community in the vicinity, would not give rise to a risk of pollution, would not be detrimental to the visual or landscape amenities of the area, would not seriously injure the amenities of property in the vicinity, would not adversely impact on the cultural, archaeological and built heritage of the area and would not interfere with the existing land uses in the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The proposed development shall be carried out and completed in accordance with the plans and particulars and other associated documentation, lodged with An Bord Pleanála on the 6th June 2018 except as may otherwise be required in order to comply with the following conditions. Where such

conditions require details to be prepared by the local authority, these details shall be placed on file prior to commencement of development and retained as part of the public record.

Reason: In the interest of clarity and the proper planning and sustainable development of the area and to ensure the protection of the environment

2. Lighting of the pedestrian/cycle route shall be by bollard mounted lighting at 16m intervals, with light projecting towards the path and land, away from the Baldoyle Bay, and subject to nighttime dimming.

Reason: In the interest of visual amenity and nature conservation.

3. The mitigation measures and associated monitoring outlined in the plans and particulars relating to the proposed development, shall be carried out in full, except as may otherwise be required in order to comply with the following conditions. Prior to commencement of development, details of a time schedule for the implementation of the mitigation measures and associated monitoring shall be prepared by the local authority and placed on file and retained as part of the public record.

Reason: In the interest of clarity and the protection of the environment and in the interest of public health.

4. Prior to commencement of development, the local authority, or any agent acting on its behalf, shall prepare in association with the relevant statutory agencies a Construction and Environmental Management Plan (CEMP), incorporating all mitigation measures indicated in the Natura Impact Statement and application documentation. The CEMP shall include specific proposals as to how the CEMP will be measured and monitored for effectiveness, and it shall be placed on file prior to the commencement of development and retained as part of the public record.

Reason: In the interest of protecting the environment, the protection of European Sites and in the interest of public health.

5. No construction works should take place during the winter season (November to April).

Reason: In the interest of nature conservation and to ensure the protection

of the European sites.

6. The County Council and any agent acting on its behalf shall ensure that all plant and machinery used during the works should be thoroughly cleaned and washed before delivery to the site to prevent the spread of hazardous invasive species and pathogens.

Reason: In the interest of the proper planning and sustainable development of the area and to ensure the protection of the European sites.

7. A suitably qualified ecologist shall be retained by the local authority to oversee site set-up and the construction of the proposed development and implementation of mitigation measures relating to ecology. Upon completion of works, an ecological report of the site works shall be prepared by the appointed ecologist and submitted to the local authority to be kept on file as part of the record.

Reason: In the interest of nature conservation and the protection of terrestrial and aquatic biodiversity.

7. The County Council and any agent acting on its behalf shall facilitate the preservation, recording, protection or removal of archaeological materials or features that may exist within the site. A suitably qualified archaeologist shall be appointed by the County Council to oversee the site set-up and construction of the proposed development and the archaeologist shall be present on site during construction works.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

Deirdre MacGabhann
Senior Planning Inspector

9th July 2018