



An
Bord
Pleanála

Inspector's Report ABP 304966-19

Development	61 Apartments, 6 houses
Location	Ard Na Glaise, Stillorgan Park, Stillorgan, County Dublin.
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D19A/0313
Applicant(s)	Homeland Estates B Limited.
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party vs Refusal
Appellant(s)	Homeland Estates B Limited
Observer(s)	<ol style="list-style-type: none">1. Coppinger Glade Res. Assoc.2. Alan Killian3. Alan/Niamh O'Regan Doyle4. Caitriona Walsh
Date of Site Inspection	13 th December 2019
Inspector	Hugh Mannion

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1.0 Site Location and Description

- 1.1. The site has a stated area of 0.81ha and is located south of Stillorgan Park, Stillorgan, County Dublin. Stillorgan Park is the main connection between Stillorgan in the west and Blackrock in the east. The site is irregularly shaped but is generally a rectangle. The northern boundary and site access are onto Stillorgan Park. The eastern boundary adjoins the Coppinger residential development and the western and southern boundaries adjoin the Orpen housing development. The Carysfort/Maretimo runs south to north along the western boundary in a relatively deep channel, it is culverted under Stillorgan Park and thereafter continues northeast to the sea. There is tree cover on all the boundaries with substantial cover particularly along the Carysfort/Maretimo to the west, in the south of the site and on the eastern boundary with the Coppinger housing. The existing house on site - Ard Na Glaisce – is proposed for demolition and comprises a two storey Victorian/Edwardian house which has a number of more modern single storey extensions to the rear.
- 1.2. The area is residential character, the Coppinger and Orpen houses are generally two storey semidetached houses. Both developments have substantial areas of public open space and are linked to the Stillorgan Road/N11 by footpaths and cycle paths along Stillorgan Park.

2.0 Proposed Development

- 2.1. The proposed development comprises the demolition of the existing house on site (Ard na Glaise) erection of three apartment blocks providing 61 apartments and 6 houses at Ard na Glaise, Stillorgan Park, Stillorgan, County Dublin.

3.0 Planning Authority Decision

3.1. Decision – Refuse permission

- Having regard to the proximity of the proposed development to all boundaries, the excessive, width, length and bulk of the blocks would comprise over-development of the site and appear overbearing when

viewed from the adjoining streetscape and houses. The proposed development would seriously injure the residential and visual amenity of the area and depreciate the value of property in the vicinity.

- The existing house on site is of architectural significance and its demolition would be contrary to Sections 6.1.3.5, 6.1.3.8 and 8.2.3.4 of the County Development Plan.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.3. The planner's report recommended refusal as set out in the Manager's Order.

3.3.1. Other Technical Reports

3.3.2. Transport Planning

3.3.3. The main vehicular access should be provided through Coppinger Glade, details should be submitted of the cyclist/pedestrian/vulnerable road uses paths through the proposed development and how they may be taken in charge.

3.3.4. The applicant should submit a road safety audit, access audit, cycle audit and walking audit. The applicant should submit detailed drawings that demonstrate compliance with DMURS and the planning authority's policy on taking in charge.

3.3.5. The applicant should submit drawings showing two spaces per house and one space per apartment.

3.3.6. **Drainage Planning** recommended, *inter alia*, that a more comprehensive Flood Risk Assessment be submitted, that discrepancies in the submitted drawings be cleared up, that some manholes are higher than finished floor levels and this should be amended, the nature of footbridge crossing of the stream on site be clarified, the area of surface water drainage should be clarified.

3.3.7. **Conservation Officer** reported that the existing house on site was of architectural merit, sections 2.1.3.4 and 8.2.3.4 and Policies AR5 and AR8 are relevant to this application.

- 3.3.8. The **Housing Department** noted that the applicant proposes to comply with Part V.
- 3.3.9. The **Parks and Landscape Section** recommended submitting further information but in the event of a grant of planning permission that conditions relating to the provision of an insurance bond for the protection/replacement of trees, revised landscape design and boundary treatment, details of the proposed play area within the site should be submitted to and agreed with the planning authority.
- 3.3.10. **Irish Water** reported no objection subject to connection agreement.

4.0 **Planning History**

- 4.1. No relevant planning history.

5.0 **Policy and Context**

5.1. **National Policy**

- 5.2. The **National Planning Framework** (2018) sets out a number of national objectives.
- Objective 3c is to deliver at least 50% of new houses in the city/suburbs of Dublin, Cork, Galway, Limerick and Waterford.
 - Objective 11 is to favour development that can encourage more people to live or work in existing settlements.
 - Objective 27 is to prioritise walking and cycling accessibility to existing and proposed development.
 - Objective 33 is to prioritise the provision of new homes that can support sustainable development.
 - Objective 35 is to increase residential density in settlements.

- 5.3. The **Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas** (2009) sets out general principles of sustainable development and residential design, including the need to prioritise walking, cycling and public transport over the use of cars, and to provide residents with quality of life in terms of amenity, safety and convenience. Section 5.11 states that densities for housing development on outer suburban greenfield sites between 35 and 50 units/ha will be encouraged, and those below 30 units/ha will be discouraged. A design

manual accompanies the guidelines which lays out 12 principles for urban residential design.

- 5.4. The **Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments (2018)** contains several specific requirements with which compliance is mandatory. The minimum floor area for one-bedroom apartments is 45m², for two-bedroom apartments it is 73m² and for three-bedrooms it is 90m². Most apartments in new schemes of more than 10 must exceed the minimum floor areas by at least 10%. Requirements for individual rooms, for storage and for private amenity space are set out in the appendix to the guidelines, including a requirement for 3m² storage for one-bedroom apartments, 6m² for two-bedroom apartments and 9m² for three-bedroom apartments. In suburban locations a minimum of 50% of apartments should be dual aspect. Ground level apartments should have floor to ceiling heights of 2.7m.
- 5.5. The **Guidelines for Planning Authorities on Urban Development and Building Heights (2018)** state (section 3.6) that development in suburban locations should include an effective mix of 2, 3 and 4 storey development. SPPR 4 is that planning authority must secure a mix of building heights and types and the minimum densities required under the 2009 guidelines in the future development of greenfield and edge of city sites.
- 5.6. The **Design Manual for Urban Roads and Streets (DMURS 2013)** sets out (Section 1.2) a policy that street layouts should be interconnected to encourage walking and cycling and offer easy access to public transport. Section 3.2 identifies types of street. Arterial streets are major routes, link streets provide links to arterial streets or between neighbourhoods, while local streets provide access within communities. Section 3.3.2 recommends that block sizes in new areas should not be excessively large, with dimensions of 60-80m being optimal and 100m reasonable in suburban areas. However maximum block dimensions should not exceed 120m. Section 4.4.1 states that the standard lane width on link and arterial streets should be 3.25m, while carriageway width on local streets should be 5-5.5m or 4.8m where a shared surface is proposed.

5.7. Development Plan

5.8. The site is zoned objective A – ‘to protect and or improve residential amenity’ in the Dun Laoghaire Rathdown County Development Plan 2016-2022.

5.9. AR5 – Buildings of Heritage Interest

5.10. It is Council policy to:

5.11. i. Retain, where appropriate, and encourage the rehabilitation and suitable reuse of existing older buildings/structures/features which make a positive contribution to the character and appearance of a streetscape in preference to their demolition and redevelopment and to preserve surviving shop and pub fronts of special historical or architectural interest including signage and associated features.

5.12. ii. Identify buildings of vernacular significance with a view to assessing them for inclusion in the Record of Protected Structures.

5.13. Policy AR 8 Nineteenth and Twentieth Century, Buildings Estates and Features.

5.14. It is Council policy to:

5.15. i. Encourage the appropriate development of exemplar nineteenth and twentieth century buildings and estates to ensure their character is not compromised.

5.16. ii. Encourage the retention of features that contribute to the character of exemplar nineteenth and twentieth century buildings and estates such as roofscapes, boundary treatments and other features considered worthy of retention.

5.17. Natural Heritage Designations

5.18. None within 15kms of the application site.

5.19. EIA Screening

5.20. The applicant submitted an EIA screening assessment report which identified the project as within a class but below the threshold for triggering the need to submit an EIAR. The report went on to test the need for a subthreshold EIAR having regard to the criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended. Following the screening assessment, the report concluded that

the proposed development would not give rise to significant effects on the environment which would require submission of an EIAR.

- 5.21. Having regard to the material submitted with the application, to the nature of the development comprising a significantly sub-threshold residential development on appropriately zoned lands where public piped services are available there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- The application has had specific regard to the Carysfort stream along its western boundary and the residential uses on adjoining sites.
- The 2/3 storey duplex blocks are set back from the boundary and balconies are located on the front to face into the application site. On the eastern boundary the proposed houses are 11.6m off the boundary. On the western side the new buildings are about 16m off the boundary. Blocks A on the northern edge provides a visual marker for the site. Both block A and B are set back from the boundaries on all sides.
- The visual analysis submitted with the application establishes that the visual impact will be acceptable on Coppinger Glade, Coppinger Close, Orpen Dale and Stillorgan Park. Where trees are to be removed will be replaced with appropriate new planting.
- A revised site layout (drawing 1807-OMP-ZZ-00-DR-A-1002) is submitted which replaces 2/3 storey duplex units on the eastern boundary with four two-storey houses and moves them further off the boundary. Revisions to the most southern duplex block improves their visual integration into the overall scheme.
- The revisions provide 53 apartments and 10 houses for a density of 77units/ha.

- The existing house on site (Ard na Glaise) is not a protected structure. The Architectural Conservation Assessment submitted with the application concluded that the house is not architecturally significant and is not an important element of the streetscape.

6.2. Planning Authority Response

- The unit mix, density and excessive building height and loss of trees are inappropriate on this site.
- Stillorgan Park (R825) should not be subject to additional access points as it is the main connection between Stillorgan and Blackrock.
- Parking provision on site is inadequate and does not meet the Development Plan standards.
- The surface water drainage section sought further information.
- The proposed development is subject to flood risk.

6.3. Observations

6.4. Observations were received from Coppinger Glade Res. Association, Alan Killian, Alan/Niamh O'Regan Doyle, Caitriona Walsh.

- The existing house on site should be retained.
- The proposed heights are excessive.
- The proposed development would seriously injure the residential amenity of the area and thereby contravene the zoning objective for the area.
- The proposed houses are too close to Coppinger Glade housing and will give rise to negative visual impact.
- The proposed development will give rise to a loss of privacy to adjoining property particularly 75 and 76 Coppinger Glade.
- The proposed development will give rise to additional traffic on the local road network which will give rise to traffic hazard.

- The bin storage areas will impact on the amenity of adjoining property.
- The proposed development will negatively impact on flora and fauna and on the stream, which runs through the site.
- The proposed development should have been subject to a traffic impact assessment. The proposed access is 100m of a roundabout where traffic congestion will arise. The proposed pedestrian access to Coppinger Glade will disturb residents of that area.
- The amendments submitted with the appeal do not overcome the justified reasons for refusal. The separation distance off the boundaries remain unacceptable low.

6.5. **Further Responses**

6.6. No further responses

7.0 **Assessment**

7.1. The principal planning issues in this case are;

1. Refusal Reason 1 -Impact on Adjoining Property.
2. Refusal Reason 2 – Architectural Conservation.
3. Traffic Safety/Access.
4. Density
5. Parking.
6. Flooding.
7. Apartment quality.
8. Landscaping.
9. AA Screening.

7.2. Refusal Reason 1 Impact on Adjoining Property.

- 7.3. The first reason for refusal and the observers state that the proposed building heights are excessive. The Urban Development and Building Heights Guidelines make the point that in order to achieve the objectives set out in the NPF and the Sustainable Residential Development in Urban Areas Guidelines that new development in suburban and edge of city and town locations should have a mix of 2, 3 and 4 storeys. Block A of the proposed development has four storeys and Block B is 3 and 5 storeys.
- 7.4. Block A (the more northerly block) faces onto Stillorgan Park on its northern elevation and does not give rise to amenity concerns. The planning authority states that this block will negatively impact on the visual amenity of the streetscape in the area. Having regard to the set back from the roadside boundary and screening available I conclude that the proposed Block A will not be visually intrusive when viewed from the public realm.
- 7.5. Block A has a single terrace on its western elevation which is about 15m off the site boundary at its closest. Across the site boundary are two 2 storey houses which share an access onto Stillorgan Park. The Carysfort stream and screening intervene along this boundary and having regard to these circumstances I conclude that Block A will not unreasonably impact on the amenity of property to the west. Otherwise the western and southern elevation of Block A face into the application site and will not seriously injure the amenity of adjoining property.
- 7.6. Block B (the more southerly block) faces west onto the gable ends of houses on Orpen Dale. The Orpen Dale houses are semi-detached dormer houses accessed off Stillorgan Park to the west of the application site. There are terraces all along the eastern elevation at first and second floors of this block at between 15m and 23m from the western site boundary. Here again the existing screening is largely maintained and is augmented in the landscape proposals submitted and the Carysfort stream intervenes. There are terraces at third and fourth floors on the higher end-element of Block B and this is where the block is closest to neighbouring property. These last two floors of terraces will face onto the public road and front gardens of the houses on Orpen Dale, areas that are not regarded as private open space and where a measure of overlooking is acceptable.

- 7.7. Having regard to the separation distances off the western boundary, the intervention of screening, the orientation of the proposed terraces generally towards gable walls, roads and front gardens I conclude that this element of the proposed development is acceptable in terms of impacts on adjoining property.
- 7.8. In the original application there were a pair of duplex units proposed in the middle of the eastern boundary. The grounds of appeal amend these duplex units to four two storey houses moved further into the site to increase the separation distance off the eastern boundary to 10.4m (for detail see drawing 1807-OMP-H3-ZZ-DR-1003 submitted with the appeal). The single rear facing bedroom window at first floor is set back behind a flat non-accessible roof area to remove the window further off the boundary. I conclude that this arrangement is reasonable and will protect the amenity of adjoining property.
- 7.9. There is a revised terrace of three storey duplex units along the southern boundary backing onto the rear of houses in Orpen Green. These units are illustrated on the amended plans 1807-OMP-ZZ-00-DR-A-1002, 1807-OMP-ZZ-00-DR-A-1003 and 1807-OMP-ZZ-00-DR-A-1004 submitted with the grounds of appeal. The first and second floor kitchen and bedroom windows are between 9m and 10m off the boundaries with the rear gardens number 75 Coppinger Glade and number 9 Orpen Green. This is marginal in terms of distance, but I consider that having regard to the boundary screening that this separation distance is acceptable.
- 7.10. Having regard to the above factors I consider that the proposed development will not seriously injure the amenity or depreciate the value of property in the vicinity through overshadowing or overlooking or unacceptable visual intrusion.
- 7.11. **Refusal Reason 2 - Architectural Conservation**
- 7.12. The planning authority's second refusal reason referred to the architectural value of the existing house on site and that the demolition of the house would be contrary to policy objectives AR5 and AR 8. AR5 encourages the retention and reuse of older buildings which contribute to the character of the streetscape and ASR8 seeks to ensure an appropriate form of redevelopment for good examples of 19th and 20th century buildings. While the Architectural Heritage Protection Guidelines for Planning Authorities (DoAHG 2011) make the point that there are possibilities for other forms of architectural protection such as including objectives in County

Development Plans it is significant that the planning authority has not previously considered this building as being of special architectural significance sufficient to warrant its inclusion in the RPS.

- 7.13. The application included an architectural impact assessment (AIA) which makes the point that the proposed development is not a protected structure, is not located within an architectural conservation area and that the NIAH has not been published an assessment for buildings of significant architectural quality for Dun Laoghaire Rathdown County Council. The AIA makes the point that the house on site (Ard na Glaise) dates from the late Victorian/Edwardian period and is Arts and Crafts in style. The house is two storey and has a more modern single storey return. Inside there are some decorative features – a cornice and door surrounds and a large fire place in the sitting room. The AIA concluded that the house is a run-of the mill later 19th house which lacks the decorative style and coherence that would be expected of a good example of an Arts and Crafts style house.
- 7.14. I have reviewed the material on file including the planning authority's conservation officer's report, the architectural assessment submitted with the application and carried out an internal and external inspection of Ard Na Glaise. It may be noted that the contribution of the house to the streetscape is very limited since it is set well back from the roadside boundary behind a high wall with good screening. The features noted in the AIA are *in situ* but the modesty of internal scale is noticeable. I agree with the AIA that the best examples of this architectural type are listed in the RPS and that this building is not one of them.
- 7.15. In conclusion it may be noted the overall objective for the application site and the wider area set out in the County Development Plan is to protect and improve residential amenity. Encouraging residential development on infill and brownfield sites close to public transport infrastructure and community facilities is a national and local objective. Weighing the relative importance of these wider objectives against the considerations set out in the planning authority's decision I conclude that the proposed development would not undermine the architectural heritage or streetscape value of the site to the wider area in a manner as to materially contravene an objective in the County Development Plan.

7.16. Traffic safety/Access.

7.17. The Roads Department reported that the proposed development should be required to provide vehicular access through the adjoining Coppinger development because Stillorgan Park is a regional route (R825) linking Stillorgan village to Blackrock in the east. The Spatial Planning and National Roads Guidelines for Planning Authorities (2012) make the point that where there are non-national roads in urban areas which are particularly significant, they should be identified in the County Development Plan and the guidelines applied to those roads. Stillorgan Park is not identified in the County Development Plan as being of special significance or planned for improvement works (see Map T3 attached to the County Development Plan).

On the issue of the principle of access from Stillorgan Park/R825 to the site it may be noted that there is an existing access from the site to Stillorgan Park, that the speed limit of 50kph applies on that road and that there are footpaths and bike paths on both sides of Stillorgan Park which can be knitted into the new development. If a new access were proposed for, say, a single house, the Transport Department would have a better case but in this case of 67 units are proposed which, I consider, warrant an additional access in their own right. The Roads Layout and Site Entrance Plan submitted with the appeal (drawing 1002 PL4) provides for the integration of the new vehicular entrance with the footpath/cycleway and road at Stillorgan Park. It may be noted that a condition under section 48(2)(c) could be imposed allowing the planning authority to recoup the costs of road works/markings on Stillorgan Park necessitated by the proposed development.

7.18. The Roads Department makes the further point that the planning authority has taken in charge the adjoining Coppinger development and that there is an opportunity at Coppinger Glade to create a new vehicular access. I viewed this potential access through Coppinger Glade and can confirm that such an opportunity exists. However, this matter was not raised with the applicant and a new vehicular access through Coppinger would require amendments to proposed site layout. I consider it reasonable to link the proposed development to Coppinger by a cycle path and footpath. The amended layout submitted with the appeal (see especially the landscape drawing 18DR02-DR-200) provides for a pedestrian access and, if the Board is minded to grant a planning permission in this case I recommend a condition

requiring the provision a pedestrian/bicycle access open permanently between the application site and Coppinger.

7.19. The observations made to the Board raise the issue of traffic safety on Stillorgan Park. Having regard to the speed limit on Stillorgan Park, the availability of cycling and pedestrian paths and the pattern of residential development in the area I do not consider that an access to Stillorgan Park will give rise to traffic hazard.

7.20. **Density**

7.21. The original proposal was for 61 apartments and 6 houses on 0.81ha. This has been amended by additional drawings submitted with the appeal to provide for 53 apartments and 10 houses for a density of 77 units/ha. Given the site's location in a built-up suburban area and its proximity to community and educational facilities and, to the QBC on the Stillorgan Road/N11, I conclude that this density accords with the Sustainable Housing in Urban Areas Guidelines and is acceptable in this context.

7.22. **Parking.**

7.23. The planning authority's Transport Planning Section states that the parking provision does not meet the requirements of the Development Plan and that two spaces per house and 1 per apartment units should be provided.

7.24. The application proposes 44 car parking spaces. Table 8.2.3 in the development plan requires one space per one/two bed unit and one space per one bed apartment with additional space for larger units and visitor parking. Factoring in the mix of units and visitor spaces proposed the proposed development generates a requirement of about 75 spaces. The Sustainable Urban Housing Design Standards for New Apartments recommend that in 'intermediate urban locations', that is areas with public transport or close to town centres and employment opportunities, planning authorities should reduce the requirement for car parking spaces.

7.25. In the present case the area is suburban but close to educational, employment and community uses. I conclude that the car parking provision is acceptable.

7.26. **Flooding**

7.27. The Carysfort Maretimo stream runs along the western site boundary. The planning authority's Drainage Department recommended submission of further information in relation to flooding.

- 7.28. The relevant national guidance is the Planning System and Flood Risk Management Guidelines for Planning Authorities which identifies three flood zones according to their vulnerability to flood events. Zone A where there is a high probability of flooding and where most types of development should be avoided. Zone B where highly vulnerable developments (hospitals, residential uses, garda, fire ambulance services) would be inappropriate and zone C where there is a low probability of flooding and where development is acceptable subject to normal planning criteria. The County Development Plan includes a Strategic Flood Risk Assessment which assesses the flood risk for the area of the site (section 5.3.7) and maps the Carysfort Maretimo stream in Map 6. The SFRA does not record flooding on the site but does list areas where the stream has given rise to floods elsewhere.
- 7.29. The application includes a Flood Risk Assessment (see Barrett Mahony Civil Engineering Infrastructure Report) and states that the site is in Flood Zone C where risk of flooding is low (1 in 1000 years return events) and where residential development is acceptable. The assessment includes a detailed site map (figure 3 adopted from the CFRAM study) which indicates that a section in the southwestern corner of the site has been subject to flooding, but defence works along the stream have been completed.
- 7.30. I carried out a site inspection including a walk along the Carysfort stream. The stream bed is set substantially below the level of the site and completed flood defence works are visible in the area of Orpen Dale. There was no evidence of flooding on site by way of debris deposits further into the site from the stream despite heavy rain in Dublin in November¹. Therefore, having regard to the SFRA published by the planning authority, the flood risk assessment and additional material (including the surface water attenuation arrangements) submitted with the application and appeal and the conditions observable on site I conclude that the proposed development will not be unreasonably liable to floods or give rise to flooding elsewhere.

¹ Met Eireann recorded total rainfall for Dublin airport of 36.9mm November 2016, 81.5mm November 2017, 131.2mm November 2018 and 173mm in November 2019.

7.31. Apartment Quality.

7.32. The unit mix (altered slightly in the amendments lodged with the appeal) is 20 one bed/studio units, 32 two bed apartments and 15 three bed apartments/houses; this mix meets the standards set out in the New Apartment guidelines and is acceptable. The floor areas, private open space provision and internal storage also meet the minimum standards and are acceptable.

7.33. Landscaping.

7.34. The application included an arboriculture report and associated drawings. Following my site inspection, I consider that the disposition of the trees on site illustrated in the application documents is accurate and I consider that the level of tree removal consistent with the construction of the proposed development is achieved. Most of the trees being lost are along the eastern boundary and an amended landscape plan submitted with the appeal (see Áit Urbanism + Landscape drawing 18DR02-DR-200) illustrates replacement planting on the boundary. Most of the more important trees are along the western boundary along the Carysfort stream and are incorporated into the landscaping proposals.

7.35. I note the report of the parks department in relation to the retention, where appropriate and protection of trees on site during construction phase, and the desirability of greater detail in the landscaping proposals plans including hard and soft finishes. I conclude that these issues are matters of detail which could be agreed between the application and the planning authority in accordance with a condition attached to a grant of permission if the Board decided to grant permission.

7.36. Appropriate Assessment

7.37. The applicant submitted an AA screening assessment report. The report identified all the Natura 2000 sites within 15kms of the application site (see table 3.1 in Screening Report by Ecology Ireland). The screening report identified the South Dublin Bay & River Tolka Estuary SPA and the South Dublin Bay SAC as the Natura 2000 sites with potential to be impacted by the proposed development. The conservation objectives of the South Dublin Bay & River Tolka Estuary SPA are to maintain the favourable conservation condition of a number of bird species and a wetlands habitat. The conservation objectives of the South Dublin Bay SAC (000210)

are to maintain the favourable conservation condition of mudflats and sandflats not covered by seawater at low tide.²

- 7.38. The AA screening includes pollution control measure including the bunding of hydrocarbon stores in areas with 110% volume capacity. The screening report states that further details of areas for machinery refuelling, machinery servicing and concrete mixing will be provided. Areas for stockpiling sand and gravel will be identified on maps, sediment runoff will be minimised by placing sediment retention barriers on site and petrol interceptors will be fitted in the surface water network.
- 7.39. Applying the source-pathway-receptor model I would identify the source of contaminants arising within the site as sediments and hydrocarbons which may be mobilized during the construction phase through site development works and/or machinery movements and fuel oil spills. The pathway is the Carysfort stream, the targets are the South Dublin Bay & River Tolka Estuary SPA and the South Dublin Bay SAC both of which are 1.6kms to the east of the application site. I consider that the measures outlined in the AA Screening Assessment are mitigation measures which may not be relied on to screen out the need for a NIS and appropriate assessment of the proposed development. In the absence of such a Statement, the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects, would not be likely to have a significant effect on the South Dublin Bay & River Tolka Estuary SPA and the South Dublin Bay SAC, and therefore is precluded from granting planning permission.

8.0 Recommendation

- 8.1. I recommend that permission be refused.

² It appears the Screening Report includes other habitats which are not documented by the NPWS – copy of NPWS site synopsis is attached.

9.0 Reasons and Considerations

On the basis of the information provided with the application and appeal and, in the absence of a Natura Impact Statement, the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects, would not be likely to have a significant effect on the South Dublin Bay & River Tolka Estuary SPA (004024) and the South Dublin Bay SAC (000210), in view of the sites' Conservation Objectives. In this regard, the Board noted that the submitted Appropriate Assessment Screening Statement relies on measures (described in the submitted documentation as "housekeeping and pollution control measures") which would have the effect of avoiding or reducing the impact of silt and other potential pollutants arising from the proposed development on the Carysfort Maretime stream that leads directly into these European sites. In the light of the judgement of the European Court of Justice in the case of People Over Wind (C-323/17), reliance on such measures is not appropriate in the context of screening for Appropriate Assessment. Accordingly, it is considered by the Board that a Natura Impact Statement should have been submitted with the application. In the absence of such a Statement, the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects, would not be likely to have a significant effect on the South Dublin Bay & River Tolka Estuary SPA and the South Dublin Bay SAC, and therefore is precluded from granting planning permission.

Hugh Mannion
Senior Planning Inspector

17th December 2019