Inspector's Report

ABP-305699-19

Development	Demolition of remnants of buildings, construction of 3 terraced houses and the construction of a commercial building.
Location	31 Main Street, Raheny, Dublin 5.
Planning Authority	Dublin City Council North
Planning Authority Reg. Ref.	2322/19
Applicant(s)	McGrath Lennon.
Type of Application	Permission.
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Trevor Plunkett
Observer(s)	Raheny Heritage Society.
Date of Site Inspection	25th January 2020.
Inspector	Sarah Lynch

1.0 Site Location and Description

1.1. The site is located within the village of Raheny and is accessed directly from the main street. The site has an area of c. 1098m^2 and is located north east of the junction with Watermill road. The Santry River bounds the site to the north and, rear residential gardens bound the site to the south.

1.2. The site was formerly the site of a 2-3 storey building that contained a nursing home and formed part of a semi-detached pair to a mainly mono-pitched 2-storey dash finished Health Centre building. The remaining health care building is propped up with steel girders at present in order to secure the 3rd party wall at no. 33 Main Street.

1.3. The development site extends to the north east in a narrow strip which opens out into a wider site whereby it is proposed to construct a terrace of three units.

2.0 Proposed Development

2.1. It is proposed to construct the following:

- Construction of 3 no. 2 ½ storey 3-bed (+ 1st floor study) terrace dwellings.
- Construction of a three-storey commercial building (gross 466.5sqm), comprising: Ground floor restaurant (137.5sqm) & 1st & 2nd floor medical & related consultants use (329sqm),
- Internal access road,
- 3 no. car parking spaces,
- 10 no. cycle spaces
- Rearrangement of footpath and apron crossing to public Road to provide a relocated entrance to the site and all associated site works

3.0 Planning Authority Decision

3.1. Decision

Dublin City Council determined to grant permission subject to standard conditions.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The planners report is consistent with the decision of the planning authority. Further information was requested in relation to the following items:

- Installation of a flood defence wall and location of housing relative to river wall, details of surface water outfalls to river including at times flood.
- Green infrastructure for site and details of any invasive species or biodiversity habitats.
- Visual assessment of the proposed roof plant and proposals to mitigate.
- Clarification in relation to building design and ventilation.
- Increase in usable area of private open space for dwellings.
- Details of sunlight and daylight accessibility.
- Details of impacts on third parties in terms of overlooking and overshadowing.
- Details in relation to any legal right of way from the site to the side of no. 43&45 Watermill road.
- On-street parking must be retained.
- Consider managed gates to prevent conflict with delivery vehicles and pedestrians.
- Details in relation to refuse.
- Provision of a preliminary Construction Management Plan.
- Details as to how the proposed development would facilitate mews like development to the rear of cottages at Watermill Road.

3.2.2. Other Technical Reports

- Drainage Division – further information was initially requested in relation to flood risk, the drainage division responded to the further information submission with no objections subject to conditions.

- Transport Division – further information was requested in relation to servicing of site, on-street carparking and lack of loading bay.
- Archaeology – no objections subject to standard conditions.

3.3. Prescribed Bodies

- Inland Fisheries Ireland – a response to the appeal has been submitted and can be summarised as follows:
    - Santry River is a non-salmonid river.
    - DCC have secured funding for a river restoration and greenway project.
    - Short term storage and removal of excavated material must be considered in order to minimise risk of pollution.
    - Drainage may need to be directed to a settlement pond prior to discharge.
    - A CMP should provide a mechanism to comply with environmental legislation.
    - No entry of solids during connection of pipework to surface water can occur.
    - Any dewatering must be piped over land or into an attenuation area before being discharged.

3.4. Third Party Observations

A number of 3rd party submissions were received from residents in the area. The issues raised can be summarised as follows:

- Visual impact of property, design is not in keeping with character of the village.
- Site would be more suited to a play area.
- No meaningful natural supervision of river from houses.
- No archaeology report submitted.
- Commercial building is too bulky.

- Development will result in overlooking to properties and children's play area in creche.
- Description of uses needs to be clarified.
- Privacy glazing in windows to rear of commercial building.
- Parking and servicing of the site.
- Flood barriers.
- The site has not been accessed by the gateway for 28 years.
- Proposal is not reflective of the policies in the development plan.

4.0 Planning History

The following history is of relevance:

0071/19 Permission was granted for a social housing exemption certificate.

5.0 Policy Context

5.1. Development Plan

Dublin City Development Plan 2016-2022

The site is zoned Z1, 'Sustainable Residential Neighbourhoods' which seeks to 'protect, provide and improve residential amenities'

- QH8 – Promote development of vacant sites
- QH22 – New houses to be in keeping with character of existing.
- Section 16.6 – Site Coverage
- Section 16.10.8 Backland Development.
- Section 16.10.10 Infill Housing

National Planning Framework Project Ireland 2040

- Section 2.2 - Compact Growth
- NSO 1 – Compact growth

Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities 2018.

- Appendix 1 – Required minimum floor areas and standards

Quality Housing for Sustainable Communities 2007

Section 5 – Dwelling design

5.2. Natural Heritage Designations

The nearest Natura 2000 sites to the proposed development are as follows:

- North Dublin Bay SAC and North Bull Island SPA are located c. 900 metres east of the site.
- South Dublin Bay and River Tolka Estuary SPA is located c. 2.187km south of the application site.
- Howth Head SAC is located c. 5km east of the site.
- Rockabill and Dalkey Island SAC are located c. 6.2 km south west of the site.

5.3. EIA Screening

5.4. Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, 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

This is a third-party appeal against Dublin City Councils decision to permit the proposed development the grounds of appeal have been submitted by Trevor Plunkett and are in relation to the visual impact of the development. In particular, the Board is asked to consider the incongruous and jarring design of the commercial element of this development in the context of the historical streetscape.

6.2. **Applicant Response**

- None

6.3. **Planning Authority Response**

- None

6.4. **Observations**

- One observation has been received from the Raheny Hertiage Society; the issues raised are outlined in the grounds of appeal above.

6.5. **Further Response**

6.6. Dixon McGaver Nolan has submitted a response to the Inland Fisheries submission on behalf of the applicant in which it is stated that the Inland Fisheries are not party to this appeal and the submission made by them is in relation to the planning application submitted and not the appeal.

7.0 Assessment

7.1. The proposed development is located within an area subject to the Z1 zoning objective which seeks to protect, provide and improve residential amenities. The principle of residential and commercial development is accepted within this zoning objective subject to compliance with the requirements of the Dublin City Development Plan. This is a third-party appeal against Dublin City Council's decision to refuse permission. The issues for consideration before the Board relate solely to the design of the proposed three storey commercial building, I have reviewed all the plans and particulars submitted with the appeal and note that an NIS has been submitted with the application, as has an invasive species management plan. The issues for consideration before the Board are as follows:

- Visual Impact
- Japanese Knotweed Management
- Flooding

- Open Space
- Appropriate Assessment.

Visual Impact

7.2. It is contended by the appellant that the proposed commercial building would appear incongruous when viewed in the context of the existing streetscape. Raheny Heritage association have also raised concerns in relation to the design of the proposed commercial development in the context of the surrounding 18th & 19th Century properties. It is stated within the observation submitted that the proposed development makes no attempt to blend in with the existing development in the vicinity. It is further contended within the observation that the proposed building will appear overbearing and detract from the amenity of dwellings both on the main street and along Watermill Road.

7.3. I note that Raheny is identified as a level 4 district centre within the Dublin City Development Plan 2016-2022 and is not designated as an Architectural Conservation Area. It is of further note that none of the buildings on site or in the immediate vicinity of the site are Protected Structures. Whilst I acknowledge that the overriding character of this district centre comprises 18th and 19th Century buildings of various design and that the prevailing height within the main street is two storey, it is important to note that there are no policy limitations in terms of heights or design for development at this location.

7.4. In considering the proposed development, I have had regard to the design, character and bulk of the previous building onsite which was a part two, part three storey property comprising both pitched and flat roofed sections. This building was a dominant feature within the streetscape of the main street and also from the rear gardens of properties along Watermill Road.

7.5. The proposed development will comprise of a flat roof three storey development with active street frontage at ground floor. I consider the proposed commercial building to be a significant improvement over the previous building on site. Whilst I acknowledge that the proposed development will be slightly higher than the adjoining building I consider given the roof profile of the proposed development, that such a minor increase is of little significance and will not create a discord within the streetscape to such a degree as to warrant a refusal of the development.

7.6. The proposed brick finish is reflective of the existing palate of materials within the immediate vicinity which comprise red brick, white painted brick, dash and stone. The use of similar materials to those of existing properties gives a level of coherence to the streetscape. The proposed development although of modern design will integrate adequately within the existing suburban form of the street and will not have a negative visual impact on the streetscape.

7.7. I note that the applicants, in response to the further information request, addressed concerns in relation to the potential visual impact of the proposed roof top plant by relocating this plant to a location over the stairwell, thus significantly reducing the visibility of this element of the development. I consider this alteration to be acceptable and to be an improvement to the overall design of the building.

Overall, I consider the proposed development, which does not significantly break the established heights within Raheny main street, to be an acceptable and sustainable use of brownfield lands in a well connected suburban location. The design of the proposed commercial building is a significant improvement over the previous development on site and will not detract from the visual amenities of this streetscape to such a degree as to warrant a refusal.

Open Space

7.8. In response to the further information request, the applicants reduced the overall floorspace of the proposed dwellings by 8% and increased the quantum of open space to the rear of these units to 60sqm. A shadow analysis was also carried out and indicated that adequate levels of sunlight and daylight will be available to the proposed units at 11, 12 and 13.00 hours on the 21st March. These properties will also have adequate access to sunlight throughout the year in accordance with the BRE guidelines.

7.9. Section 16.10.2 of the Dublin City Development Plan 2016-2022 states that private amenity space can be provided for, to either the side or the rear of a dwelling. A minimum standard of 10sqm per bed space is applicable to residential development in the city with this figure reducing to 5-8sqm in inner city locations. The proposed dwellings will accommodate three bedrooms, the quantum of open space provided is therefore in accordance with the requirements of the development plan.

Japanese Knotweed

7.10. I note that Japanese Knotweed was observed on site and as a result a Japanese Knotweed eradication report was submitted by the applicant in order to outline the management and removal process proposed for the eradication of the plant within the development site. It is stated within this document that an invasive plant survey was carried out on the 17th July 2019 and 400m^2 of well-established untreated knotweed was observed within the site at the time.

7.11. It is recommended within this report that dig and dump and cell burial methods are to be used. All infested material to be buried on site will be contained in a root barrier membrane cell and buried 3 metres in depth on the site. It is stated that the plant will be treated with Glyphosate prior to excavation to prevent plant vigour. Plants to be removed will be dug out by a specialist contractor and removed to an incinerator.

The mix of both methods are proposed in order to reduce the quantity of waste for incineration and to reduce the costs for the developer. The overall area of the site is 0.1 hectare and is located directly adjacent to the Santry River, given the limited site area and the sensitivity of the site in terms of flooding and linkages to SAC's I do not consider the use of Glyphosate to be appropriate at locations adjacent to the river, I also have concerns in relation to the burial of plant material on site and consider that the removal of this plant from the site is the most appropriate method given the sensitivities of this location. This can be adequately dealt with by way of condition should the Board be minding to approve permission.

Flooding

7.12. The site is adjacent to the Santry River and is partially located within flood zone B. A Site Specific Flood Risk Assessment was submitted with the application. The flood risk assessment submitted indicates that the primary risk to the subject site can be attributed to fluvial flooding from the adjacent Santry River. A secondary flood risk can be attributed to a surcharge due to a potential blockage at the Main Street culvert upstream of the appeal site.

7.13. Section 5.15 of the Flood guidelines requires that where a vulnerable development which includes housing is located in a flood zone A or B the planning authority must be satisfied that the proposed development complies with the requirements of a justification test in that the lands are (i) zoned; (ii) will not increase flood elsewhere;

(iii) includes measures to minimise flood risk; (iv) that residual risks to the area and/or development can be managed to an acceptable level as regards the adequacy of existing flood protection measures or the design; (v) development is compatible with the achievement of wider planning objectives in relation to development of good urban design and vibrant and active streetscapes.

7.14. The lands as mentioned above are zoned for development and are within the urban core of Raheny. The proposed development is within a derelict site and the design and layout, as outlined above, it acceptable and in accordance with the policies of the Dublin City Development Plan.

7.15. The applicant, within the Site Specific Flood Risk Assessment, has outlined a number of measures to manage flood waters on site. Pluvial flooding from the existing urban drainage in the vicinity of the subject site will be managed via a number of overland flow gullies along the northern boundary with the Santry River. All hard surfaces within the site will be designed as self draining permeable pavements. It is proposed to install a non-return value in order to ensure that any surcharging of the river would not adversely affect the proposed mixed use development.

7.16. A proprietary cellular attenuation tank is proposed to provide storage for surface water on site as the restricted area of the site does not allow for the implementation of SUDs measures such as retention ponds and swales. This underground attenuation tank coupled with the proprietary flow throttle device in the surface water outfall manhole will restrict the rate of surface water outfall from this site during periods of peak rainfall. Sufficient storage is to be provided within the underground tank to accommodate a 30 year and 100 year storm event. It is stated within the Flood Risk Assessment submitted that the proposed measures are adequate to prevent pluvial flooding on site and the risk would be negligible.

7.17. With regard to Fluvial flood risk, AEP water level is 14.3m AOD (Malin), however a further study competed in 2012 considered higher levels of 14.5m for the 100 year storm event at the main street culvert. These levels at the front of the proposed dwellings are predicted to be 14.3 AOD.

7.18. The ground floor of the proposed commercial building will be 14.6m AOD, this provides a 100mm freeboard above the estimated 1% AEP water level of 13.3m AOD. The risk of fluvial flooding to the commercial building is therefore considered to be low.

7.19. The ground floor level of the proposed houses is 14.6m AOD, this provides 300mm above the estimated 1.0% AEP water level of 14.3m AOD. The ground level will also be raised to 14.4m AOD. The risk of flooding to the proposed dwellings is considered to be negligible and no further mitigation measures are considered to be necessary.

7.20. Concerns were raised by the Council in this regard and further information was requested in relation to the installation of a flood defence wall, details of surface water outfalls and onsite storage calculations during times of flood.

7.21. It was agreed with the Council engineers that the proposed flood defence wall would be 300mm over the highest flood level, onsite storage has been designed to cater for a 100 year storm event and as mentioned above surface water outfalls will be fixed with a throttle device to manage outflows.

7.22. Having regard to the foregoing I consider that the applicant has appropriately applied the requirements of the justification test in order to demonstrate that the risk of flooding to the proposed development is low and will not exacerbate flood levels downstream or within the surrounding area.

Appropriate Assessment

7.23. A NIS was submitted in response to the further information request of the Council.

7.24. The NIS was prepared by Seán Meehan Ecologist which described the proposed development, its receiving environment and relevant European Sites in the zone of influence of the development. The NIS outlined the methodology used for assessing potential impacts of the development on the habitats and species within this SAC. It predicted the potential impacts for this site and its conservation objectives, set out proposed mitigation measures, assessed in-combination effects with other projects and identified any residual effects on the European site and its conservation objectives.

7.25. The NIS was informed by a desk top study and maps, ecological and water quality data from a range of sources (Section 3.3 of the NIS), field surveys were carried out in the form of a walkover habitat survey on the 28th April 2019. Habitats recorded on the site are categorised as per level 3 habitat mapping classification (Fossit, 2000). A search for signs of species protected under Annex II of the Habitats Directive was also undertaken.

7.26. The report concluded that, taking into account the project design and the implementation of mitigation measures identified in the NIS, the proposed development will not result in adverse effects on the integrity of any Natura 2000 site.

7.27. Having reviewed the NIS and the supporting documentation, I am generally satisfied that it provides adequate information in respect of the baseline conditions, identifies the potential impacts, uses best scientific information and knowledge and provides details of mitigation measures. Whilst I have concerns in relation to the quality of information contained within the NIS and that the NIS underestimates the potential risk to the North Dublin Bay SAC and North Bull Island SPA from water pollution and spread of invasive species, as a consequence of the development, I am satisfied, that the information provided is generally sufficient to allow for appropriate assessment of the development.

Stage 1 Screening

7.28. Notwithstanding the submission of a NIS, it is prudent to review the screening process to ensure alignment with the sites brought forward for AA and to ensure that all sites that may be affected by the development have been considered.

7.29. Having regard to the information and submissions available, 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 are considered relevant to include for the purposes of initial screening for the requirement for Stage 2 appropriate assessment on the basis of likely significant effects**.**

European Site Name & Code	**Distance**	**Qualifying Interest**	**Source-pathway-receptor**	**Considered further in screening**
North Bull Island SPA (004006)	c.903m	Wintering Waterfowl	River Santry discharges to the Dublin Bay, there is a direct hydrological pathway	**Yes** - Potential for significant effects arising from increased sedimentation,

			between the sites.	contaminated surface water, runoff from construction and operation. Potential to spread invasive species.
North Dublin Bay SAC (000206)	c. 903m	Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330] Mediterranean salt meadows (Juncetalia maritimi) [1410] Embryonic shifting dunes [2110] Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] Humid dune slacks [2190] Petalophyllum ralfsii (Petalwort) [1395]	River Santry discharges to the Dublin Bay, there is a direct hydrological pathway between the sites.	**Yes** - Potential for significant effects arising from increased sedimentation, contaminated surface water, runoff from construction and operation. Potential to spread invasive species.
South Dublin Bay and River Tolka Estuary SPA (004024)	2km	Wintering Waterfowl	River Santry discharges to the Dublin Bay, there is a direct hydrological pathway	**No** No potential for effects given the separation distance of the works from the SPA and the

			between the sites.	dilution and dispersion factor provided by the sea.
South Dublin Bay SAC (000210)	c. 4.3km	[1140] Tidal Mudflats and Sandflats [1210] Annual vegetation of drift lines [1310] Salicornia and other annuals colonising mud and sand [2110] Embryonic shifting dunes	River Santry discharges to the Dublin Bay, there is a hydrological pathway between the sites.	**No** No potential for effects given the separation distance of the works from the SAC and the dilution and dispersion factor provided by the sea.
Baldoyle Bay SPA (004016)	c.4km	Wintering Waterfowl	River Santry discharges to the Dublin Bay, there is a hydrological pathway between the sites.	**No** No potential for effects given the separation distance of the works from the SPA and the dilution and dispersion factor provided by the sea.
Baldoyle Bay SAC (000199)	c.4km	[1140] Tidal Mudflats and Sandflats [1310] Salicornia Mud [1330] Atlantic Salt Meadows [1410] Mediterranean Salt Meadows	River Santry discharges to the Dublin Bay, there is a hydrological pathway between the sites.	**No** No potential for effects given the separation distance of the works from the SAC and the dilution and dispersion factor provided by the sea.

Rockabill to Dalkey Island SAC (003000)	c. 6km	[1170] Reefs [1351] Harbour Porpoise (Phocoena phocoena)	River Santry discharges to the Dublin Bay, there is a hydrological pathway between the sites.	**No** No potential for effects given the separation distance of the works from the SAC and the dilution and dispersion factor provided by the sea.
Howth Head Coast SPA (004113)	C. 8km	[A188] Kittiwake (Rissa tridactyla) [breeding]	River Santry discharges to the Dublin Bay, there is a hydrological pathway between the sites.	**No** No potential for effects given the separation distance of the works from the SPA and the dilution and dispersion factor provided by the sea.
Howth Head SAC (000202)	c.6km	[1230] Vegetated Sea Cliffs [4030] Dry Heath	River Santry discharges to the Dublin Bay, there is a hydrological pathway between the sites.	**No** No potential for effects given the separation distance of the works from the SAC and the dilution and dispersion factor provided by the sea.
Irelands Eye SPA (004117)	7.5km	[A017] Cormorant (Phalacrocorax carbo) [breeding] [A184] Herring Gull (Larus argentatus) [breeding]	River Santry discharges to the Dublin Bay, there is a hydrological	**No** No potential for effects given the separation

		[A188] Kittiwake (Rissa tridactyla) [breeding] [A199] Guillemot (Uria aalge) [breeding] [A200] Razorbill (Alca torda) [breeding]	pathway between the sites.	distance of the works from the SPA and the dilution and dispersion factor provided by the sea.
Irelands Eye SAC (002193)	c.7.5km	[1220] Perennial Vegetation of Stony Banks [1230] Vegetated Sea Cliffs	River Santry discharges to the Dublin Bay, there is a hydrological pathway between the sites.	**No** No potential for effects given the separation distance of the works from the SAC and the dilution and dispersion factor provided by the sea.
Malahide Estuary SPA (004025)	c.7.5km	Wintering Waterfowl	River Santry discharges to the Dublin Bay, there is a hydrological pathway between the sites.	**No** No potential for effects given the separation distance of the works from the SPA and the dilution and dispersion factor provided by the sea.
Malahide Estuary SAC (000205)	c.7.6km	[1140] Tidal Mudflats and Sandflats [1310] Salicornia Mud [1330] Atlantic Salt Meadows [1410] Mediterranean Salt Meadows [2120] Marram Dunes (White Dunes)	River Santry discharges to the Dublin Bay, there is a hydrological pathway between the sites.	**No** No potential for effects given the separation distance of the works from the SAC and the dilution and dispersion

		[2130] Fixed Dunes (Grey Dunes)*		factor provided by the sea.
Dalkey Islands SPA (004172)	7.6km	[A192] Roseate Tern (Sterna dougallii) [passage] [breeding] [A193] Common Tern (Sterna hirundo) [passage] [breeding] [A194] Arctic Tern (Sterna paradisaea) [passage] [breeding]	River Santry discharges to the Dublin Bay, there is a hydrological pathway between the sites.	**No** No potential for effects given the separation distance of the works from the SPA and the dilution and dispersion factor provided by the sea.
Rogerstown Estuary SPA (004015)	13km	Wintering Waterfowl	River Santry discharges to the Dublin Bay, there is a hydrological pathway between the sites.	**No** No potential for effects given the separation distance of the works from the SPA and the dilution and dispersion factor provided by the sea.
Rogerstown Estuary SAC (000208)	13km	[1130] Estuaries [1140] Tidal Mudflats and Sandflats [1310] Salicornia Mud [1330] Atlantic Salt Meadows [1410] Mediterranean Salt Meadows [2120] Marram Dunes (White Dunes) [2130] Fixed Dunes (Grey Dunes)*	River Santry discharges to the Dublin Bay, there is a hydrological pathway between the sites.	**No** No potential for effects given the separation distance of the works from the SAC and the dilution and dispersion factor provided by the sea.

7.30. The NIS submitted screens out all Natura 2000 sites except North Dublin Bay SAC and North Bull Island SPA, on the grounds that they are removed from the development and will not be affected by disturbance. This approach seems reasonable.

7.31. Therefore, based on my examination of the NIS report and supporting information, the scale of the proposed development, its likely effects by way of its potential to contaminate the North Dublin Bay SAC and North Bull Island SPA by way of water pollution and sedimentation from surface water runoff and potential to spread Japanese Knotweed, I would conclude that a Stage 2 Appropriate Assessment is required for both of these Natura 2000 sites, site codes: 000206 and 004006.

Stage II Appropriate Assessment

7.32. The following Appropriate Assessment of the implications of the proposed works alone and in combination with other relevant plans and projects will be carried out in relation to the following European sites in view of their conservation objectives:

- North Dublin Bay SAC
- North Bull Island SPA

7.33. The NIS submitted by the applicant concluded that the proposal will not beyond reasonable scientific doubt, adversely affect the integrity of any European Site either directly or indirectly.

7.34. The following is a summary of the objective scientific assessment of the implications of the project on the qualifying interest features of the European sites using the best scientific knowledge in the field. All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are considered and assessed.

Potential for direct and indirect effects

7.35. These sites cover the inner part of north Dublin Bay, the seaward boundary extending from the Bull Wall lighthouse across to the Martello Tower at Howth Head. The North Bull Island is the focal point of this site. North Bull Island is a sandy spit which formed after the building of the South Wall and Bull Wall in the 18th and 19th centuries. It now extends for about 5 km in length and is up to 1 km wide in places.

7.36. Three rare plant species which are legally protected under the Flora (Protection) Order, 1999 have been recorded on the North Bull Island. These are Lesser Centaury (Centaurium pulchellum), Red Hemp-nettle (Galeopsis angustifolia) and Meadow Saxifrage (Saxifraga granulata). A rare liverwort, Petalophyllum ralfsii, was first recorded from the North Bull Island in 1874 and has recently been confirmed as still present. This species is of high conservation value as it is listed on Annex II of the E.U. Habitats Directive. The North Bull is the only known extant site for the species in Ireland away from the western seaboard. North Dublin Bay and North Bull Island natura 2000 sites are of international importance for waterfowl, regularly supporting in excess of 20,000 waterfowl.

7.37. Tidal Mudflats and Sandflats, Annual Vegetation of Drift Lines, Salicornia Mud, Atlantic Salt Meadows and Mediterranean Salt Meadows are located along the landside of North Bull Island and are susceptible to changes in water quality. Due to the location and nature of the proposed works I consider that the aforementioned along with the waterfowl which feed within the Dublin Bay SAC are the qualifying interests at risk from the proposed development within both the North Dublin Bay SAC and North Bull Island SPA

7.38. The conservation objectives for both the North Dublin Bay SAC and North Bull Island SPA aim to maintain or restore the favourable conservation condition for habitats and/or species at these sites. The maintenance of habitats and species within the Natura 2000 sites at favourable condition will contribute to the overall maintenance of favourable conservation status of those species at a national level.

7.39. The NIS submitted acknowledges that the proposed works will give rise to a potential for both direct and indirect significant impacts and proposes measures to mitigate these impacts.

7.40. Having regard to the NIS submitted, the nature and scale of the proposed work and the location of the qualifying interests listed above relative to the proposed works I consider that the development has the potential to give rise to the following direct and indirect effects:

(I) Spread of invasive plant species throughout the Natura 2000 network as a result of works and,

(II) the potential for deterioration in water quality as a result of works on site and /or as a result of spreading Japanese Knotweed due to increases in sedimentation as a result of such spread.

7.41. The impact of these effects will be discussed in detail within the integrity test section in the context of proposed mitigation measures.

Potential in-combination effects.

7.42. The NIS submitted refers to planning permissions granted from the 1st March to 1st June 2019, 42 were recorded and comprised mainly minor residential schemes. It is stated that the appeal site was formerly developed and therefore, it is considered within the Appropriate Assessment that the proposal will not have an impact on the Natura 2000 sites in the vicinity.

Mitigation measures

7.43. The Appropriate Assessment refers to construction best practice and refers to a Construction Management Plan in which mitigation measures will be detailed to ensure that no contamination of the Santry River occurs. However, the Construction Management Plan submitted predominantly pertains to traffic management and does not specify such measures.

7.44. With regard to the spread of Japanese Knotweed, reference is made to a Japanese Knotweed Management Plan and that adherence to this plan will ensure that the plant does not spread.

The integrity Test

7.45. I have considered the NIS along with the information submitted with the application and have had regard to the mitigation measures outlined. Potential to contaminate the North Dublin Bay SAC and the North Bull Island SPA arise from the construction phase in relation to the leakage of oils and diesels or other such contaminates from construction vehicles and the spillage of sediments from the construction of the development and in particular the construction of the flood wall bounding the Santry River and the discharging of soiled waters from cleaning and washing down of machinery on site.

7.46. As mentioned above a construction management plan has been submitted (see Appendix J) in response to the further information request of the Council and refers in

the main to traffic management. It is stated within this document that a specific construction management plan will be prepared prior to the commencement of the development in order to manage the development of the site. Therefore, no details are available within the information submitted in relation to appropriate mitigation measures which will ensure the protection of the Natura 2000 sites within the vicinity of the site.

7.47. In addition to the foregoing the Appropriate Assessment refers to mitigation measures contained within a Japanese Knotweed Management Plan submitted in response to the further information request. As mentioned above, it is proposed to spray this plant in situ. I do not consider this to be acceptable given the proximity of the plant to the Santry River and the potential for overspray to pollute these waters. It is also proposed to bury the plant on site, however, the report submitted does not specify the quantities to be buried on site or the quantities to be removed and incinerated.

7.48. The spread of Japanese Knotweed has the potential to damage and destroy plant species including those which are qualifying interests of the North Dublin Bay SAC and the habitat upon which the wintering fowl which are the qualifying interests of the North Bull Island SPA rely on. Therefore, in the absence of any specific management details it is not possible to accurately determine whether Japanese Knotweed can be properly managed within the site in order to prevent impacts on both the North Dublin Bay SAC and the North Bull Island SPA.

7.49. In the absence of such information and information in relation to construction mitigation measures, I consider that the NIS lacks definitive findings sufficient to remove all reasonable scientific doubt as to the effects on the qualifying interests of the North Dublin Bay SAC and North Bull Island SPA in view of the sites conservation objectives.

7.50. Thus, on the basis of the information provided with the application, including the Natura Impact Statement, and in light of the assessment carried out, I 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 European site No. 004006 and 000206, in view of these sites Conservation Objectives. In such circumstances the Board is precluded from granting approval/permission.

Table 2 AA summary matrix – North Dublin Bay SAC

North Dublin Bay SAC, site code: 000206

Summary of likely significant effects

- **Habitat Loss**
- **Water Quality and water dependant habitats**

Conservation Objectives: To maintain or restore the favourable conservation status of habitats and species of community interest

		Summary of Appropriate Assessment			
Qualifying Interest feature	**Conservation Objectives** **Targets and attributes**	**Potential adverse effects**	**Mitigation measures**	**In-combination effects**	**Can adverse effects on integrity be excluded?**
Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330] Mediterranean salt meadows (Juncetalia maritimi) [1410] Petalophyllum ralfsii (Petalwort) [1395]	To maintain favourable conditions	Deterioration of plant occurrence due to increase in Japanese Knotweed. Deterioration of water quality due to construction activities.	Spraying plant, bury on site and remove off site.	None	No

Overall conclusion: Integrity test

Following the implementation of mitigation, the construction of this proposed development may adversely affect the integrity of this European site and reasonable doubt remains as to the absence of such effects due to the lack of certainty regarding the management of Invasive Species.

Table 3. AA summary matrix – North Bull Island SPA

North Bull Island SPA, site code: **004006**

Summary of likely significant effects

- **Habitat Loss**
- **Water Quality and water dependant habitats**

Conservation Objectives: To maintain or restore the favourable conservation status of habitats and species of community interest					
		Summary of Appropriate Assessment			
Qualifying Interest feature	**Conservation Objectives** **Targets and attributes**	**Potential adverse effects**	**Mitigation measures**	**In-combination effects**	**Can adverse effects on integrity be excluded?**
Wintering Fowl.	To maintain favourable conditions.	Deterioration of habitat due to spread of invasive plant species.	Spraying plant, bury on site and remove off site.	None	No
Overall conclusion: Integrity test Following the implementation of mitigation, the construction of this proposed development may adversely affect the integrity of this European site and reasonable doubt remains as to the absence of such effects due to the lack of certainty regarding the management of Invasive Species.					

8.0 Recommendation

8.1. It is recommended that permission is refused for the following reason.

9.0 Reasons and Considerations

1. The Board is not satisfied on the basis of the information provided with the application and appeal that the proposed development individually, or in combination with other plans or projects would adversely affect the integrity of European Site No. 000206 North Dublin Bay and Site No. 004006, North Bull Island SPA , in view of these sites Conservation Objectives. In such circumstances the Board is precluded from granting permission.

Sarah Lynch
Planning Inspector

31st March 2020