



An
Bord
Pleanála

Inspector's Addendum Report ABP-307006-20

Development	Demolition of house and construction of a 3-storey apartment development consisting of 8 apartments.
Location	Osprey, Kilrock Road, Howth, Co. Dublin, D13 N259
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F19A/0405
Applicant	Emmet McLoughlin
Type of Application	Permission
Planning Authority Decision	Grant permission (20 no. conditions)
Type of Appeal	Third Party (2 no.)
Appellants	Ciara Ní Laoi Niall Gleeson and Others
Observers	Hillwatch Daire Ní Laoi Patrick Brazel Paul and Mairead Byrne John and Catherine Beckett Jeanette Byrne

Melanie and Patrick McCaughey

Margaret Ruxton

Eamon Reid

Johnny White

Mary Sheehan

John Ruxton

Andy and Kay Burke

Brian Lynch

Inspector

Conor McGrath

1.0 Introduction

- 1.1. I refer to my previous report and recommendation dated 07/07/2020 in respect of this appeal. The Board issued a S.132 notice to the applicant to which a response was received on 8th October 2020. The first party response included a Natura Impact Statement and revised public notices were subsequently submitted to the Board.

2.0 S.132 Notice

The S.132 notice raised the following issues:

There is significant variation in ground levels on the site of the proposed development and the proposed development involves the raising of ground levels on parts of the site by several metres. The Board requests further information in relation to these works, including in particular:

- a) The extent of fill to be undertaken across the site and the relationship between the proposed development site and adjoining lands to the west and north having regard to existing and proposed ground levels.
- b) the nature and volume of fill material which will be required as part of the site development works,
- c) the proposed haul route and the nature and quantum of traffic movements associated with the importation of such materials,
- d) the gradient and stability of the embankment to the west of the site having regard to inconsistencies between the information provided in the engineering report and the submitted architectural drawings in this regard.

Furthermore, the Board could not be satisfied on the basis of the information on the file, particularly in relation to the proposed haul route and the nature and quantum of traffic movements with potential for vibration, dust and spillages, that the proposed development would not be likely to have a significant effects on the Howth Head Special Area of Conservation (Site code: 000202). The applicant is therefore requested to submit an updated Appropriate Assessment Screening Report to take account of the further information request detailed above, and in

particular to address any potential for significant effects on the Howth Head Special Area of Conservation (Site code: 000202), or any other European site, in view of the sites' Conservation Objectives.

3.0 **S.132 Response**

3.1. The first party response to the S.132 notice included the following:

- A report from consulting engineers addressing issues of site levels, the extent and nature of filling works, materials and traffic movements, as well as issues relating to the gradient and stability of the adjoining embankment.
- A revised architectural site section drawing.
- An Appropriate Assessment Screening and Natura Impact Statement Report.

3.2. The engineering report describes the current variation in ground levels across the site and the embankment to the west and notes the following points:

- The proposed replacement of the existing open chamber accessing the surface water culvert with a new backdrop manhole was accepted by the County Council.
- The raising of ground levels in the northern part of the site was developed in discussion with the planning authority, to afford better access and amenity use of this open space.
- Fill material will partly comprise cut from elsewhere in the site and inert masonry from demolition of the existing house.
- Importation of approx. 550-cu.m. of clean fill material will be required, comprising approx. 250-cu.m. of hardcore for under parking areas, and approx. 300-cu.m. of clean soil.
- This would generate 70-90 HGV deliveries, comprising a maximum of 6 loads per day for three weeks.
- Reducing proposed ground levels in the northern open space from 23.4m OD to 22m OD would reduce the volume of imported fill materials to approx. 290-cu.m.
- This would require 36 – 48 deliveries, comprising up to 6 loads per day over 8 working days.

- The proposed haul route is from the south via Thromanby Road, Nashville Road and Kilrock Road.
- Surveys of the embankment recorded a height of 8.5m and a slope of 37 degrees. The stability of the slope at this angle of repose is not an issue.
- Architectural drawings incorrectly described the angle of the slope as 47 degrees and this has been corrected in a revised section drawing.

3.3. Appropriate Assessment Screening and Natura Impact Statement Report

The AA Screening Report confirms that field surveys did not identify any habitats or species of conservation interest on the site. No non-native invasive species were recorded thereon. The site does not contain or overlap with any European site. The report identifies all European Sites within 15km.

Apart from Howth Head SAC (000202), all sites are screened out on the basis of separation or lack of hydrological connections to the appeal site. Howth Head Coast SPA is screened out in particular because of separation of the appeal site from the closest record of the qualifying interest of the SPA (kittiwake).

The site does not contain any habitats suitable to support Annex 1 bird species and direct impacts from the development on the SAC are ruled out. Potential indirect impacts on Howth Head SAC are identified as follows:

- Accidental pollution event during construction impacting on water quality in Coolcour Brook, discharging to the SAC.
- Accidental pollution event at operational stage impacting on water quality in Coolcour Brook, discharging to the SAC.
- Truck movements resulting in disturbance by way of vibration, dust and spillage.
- Introduction of invasive species arising from imported fill material.

The Screening Report concludes that it is not possible to exclude likely significant effects on Howth Head SAC due to potential effects on water quality with the potential to affect the conservation objectives of the European site alone, or in combination with other plans or projects.

Natura Impact Statement

The NIS considers potential impacts on Howth Head SAC (000202) for which the qualifying interests of conservation objectives are to maintain the favourable conservation condition of the habitats of vegetated sea cliffs of the Atlantic and Baltic Coasts (1230) and European dry heaths (4030).

Direct impacts on the qualifying interests are ruled out. Potential impacts are identified as

- Accidental construction or operational events negatively impacting on water quality in Howth Harbour.
- Reduction in water quality affecting the quality of the aquatic and estuarine environments supporting the qualifying interest habitats.
- Introduction of invasive species.
- Dust and spillage from truck movements associated with infill materials.

The NIS assesses the potential impacts of the development against the attributes and targets of the qualifying interests as set out in the conservation objectives for the site. While the NIS indicates that the only potentially affected qualifying interest is “Vegetated Sea Cliffs” which occurs in the vicinity of the appeal site, the assessment also identifies potential impacts of invasive species on “European Dry Heath”.

Mitigation measures are required in respect of the following:

- Maintenance of water quality in receiving waters.
- Dust emissions from the transport of construction materials.
- Spread of invasive species.

Mitigation measures identified in section 4.2 of the NIS include:

- Water quality during construction:

Measures include standard best practice environmental controls during construction to minimise potential run-off impacts, including adherence to CIRIA guidance and IFI guidelines. The primary mitigation measure to reduce suspended solids to less than 25mg/l is the provision of a silt fence around the construction area. Measures are identified to reduce or eliminate pollution from other substances including concrete, washdown, fuels and lubricants and waste, in accordance with published guidelines. The NIS is accompanied by a Site

Specific Construction Environmental Management Plan (Appendix B), which identifies the proposed location of silt fencing to be erected on the site.

- Surface Water Drainage:

A new pipe of greater diameter will be connected to the culverted stream in the southwestern corner of the site. The existing piped stream will not be disturbed.

- Foul drainage:

No wastewater connections to the SAC arise at construction or operational stages, while impacts from the discharge of treated effluent at Ringsend is not deemed likely to result in indirect habitat loss or deterioration.

- Introduction of Invasive Species

Control measure in accordance with NRA guidance, the Horticultural Code of good practise and IFI guidelines are to be contained in the construction methodology. It is indicated that certification of quality from quarries supplying construction materials should be available.

- Vibration, Dust and Spillages

Adherence to specified guidelines is identified. Hoarding around the site will retain dust while spillages from delivery trucks will be retained on-site.

In terms of success of identified mitigation measures, the NIS notes that they have been developed in accordance with standard policy, regulations and guidelines. No residual effects are therefore anticipated.

In respect of potential in-combination effects, the NIS notes that the only connection to the SAC is via the culverted watercourse. Subject to the identified mitigation measures, it concludes that the proposed development will not adversely affect the integrity of the SAC and no residual effects will arise. No potential for any other plan or project to adversely affect the SAC in combination with the proposed development is identified.

Conclusion of Assessment

The NIS concludes that none of the potential direct or indirect impacts of the development will affect the conservation objectives of any of the qualifying interests of the SAC. It is stated that mitigation measures ensure that water quality is

protected and no invasive species are introduced. The proposed development does not pose a risk of adversely affecting (either directly or indirectly) the integrity of Howth Head SAC and there is no reasonable scientific doubt with the conclusion.

4.0 Planning Authority Response

Fingal County Council had no further comment to make.

5.0 Third Party Submissions

5.1. Third party submissions on the S. 132 Response

5.1.1. Ciara Ni Laoi

- Permission should have been refused due to the deficiencies in the information submitted with the application.
- In response to site levels, only one additional section drawing has been provided.
- No sections illustrating the extent of infill or the effect on Balscadden Road are provided. Section and elevation drawings are inconsistent with regard to levels on Balscadden Road.
- No contiguous elevations are provided or information demonstrating effects on Binn Eadair, a protected structure, on the opposite side of Balscadden Road.
- The development is contrary to development plan objectives relating to the protection of the landscape character of the area.
- The refusal of permission on the adjoining site under PL06F.125142 on the basis of visual amenity could equally apply to the subject development.

5.1.2. Hillwatch

- The reshaping of levels on the site raises the possibility of environmental damage in this sensitive area.
- Mitigation measures may not be adhered to during construction.
- Construction traffic will cause congestion on Kilrock Road due to its narrow width and on-street parking.

5.1.3. Niall Gleeson and Others.

- The information submitted is now materially different to that which was originally submitted to the planning authority.
- The response should be reviewed by all technical departments of the Council.
- Proposals for reduced fill and provision of a sunken garden do not address drainage issues on the site.
- The new design proposals raise issues regarding the provision of retaining walls and protection of the embankment adjoining the appellant's property.
- The full volume of construction traffic has not been described.
- The source of proposed fill materials is not clear, nor is the destination for waste and spoil removed from the site.
- The full extent of the construction haul route, not just the section in the immediate vicinity, should be identified to allow for a full assessment of impacts.
- The NIS does not consider the proposed haul route and potential effects on European Sites.
- No assessment of geology underlying the site is provided and any potential requirement for rock blasting.
- Given issues with embankments of this nature, drainage should be carefully designed and appropriate retaining wall provided at the base of the slope.
- The impacts on the amenities of the area and of adjoining properties raised in previous submissions are not addressed.
- The proposal is contrary to the zoning of the site and objectives for the SAAO.
- A reduced scale of development should be provided.
- Amendments to west facing balconies and windows are identified.

5.2. **Observations on foot of the revised public notices:**

5.2.1. Submissions were received from the following parties:

Patrick Brazel

Paul and Mairead Byrne

Jeanette Byrne

Melanie and Patrick McCaughey

Margaret Ruxton
Eamon Reid
Johnny White
Mary Sheehan
John Ruxton
Andy and Kay Burke
Brian Lynch

Having regard to the overlap in many of the issues raised, these submissions are summarised together below:

Visual and landscape Character Impacts

- This is an important and sensitive site within the SAAO buffer zone and adjoining an SAC.
- Binn Eadair, opposite the site, is a protected structure, while Kilrock House to the east of the site is listed on the NIAH.
- The development would interfere with views along Kilrock Road and would be obtrusive in protected views from the East Pier of the harbour to Howth Head.
- The changes at further information stage will increase visual impacts on Kilrock Road and on protected views along the road.
- The proposal, including demolition of a house, is inappropriate and out of character with the area.
- The proposal materially contravenes the development plan and the objectives for the SAAO and would set an undesirable precedent within the buffer zone.
- The zoning objective provides for residential development but also the protection and improvement of residential amenity.
- The development description is inaccurate and the development actually comprises a 4-storey property.
- The proposal exceeds the permitted density for the area and constitutes over-development of this low-density suburban area.
- The scheme will not contribute to affordable housing provision.
- There is a precedent for refusal of permission on the adjoining site to the south on grounds of visual impact.
- The proposed boundary treatment is contrary to the objectives of the SAAO.

- Adjoining and permitted development is not illustrated on the drawings.
- Detail regarding materials and finishes is inadequate.
- There is a lack of detail regarding future management and maintenance.
- The proposal would result in overlooking and overshadowing of proposed adjoining development to the south.
- A reduced scale of development should be considered for the site.

Access and Parking

- The proposal will contribute to traffic problems on local roads.
- Visitors numbers to this area are significant and existing congestion at peak times blocks access for residents and emergency services.
- Fingal County Council are currently working on a new parking plan for the area.
- The relocation of the entrance will result in dangerous access and egress.
- Sightline drawings are misleading and adjoining roads cannot accommodate two cars passing.
- Landscaping will interfere with sightlines and views along Kilrock Road.
- Cars waiting to access the proposed site entrance will obstruct adjoining roads.
- The gradient of the driveway is unclear and may be hazardous.
- Inadequate on-site parking will result in obstructive on-street parking.
- Construction related traffic and associated parking will obstruct residents and other road users, including emergency services.
- Vehicular movements would result in noise pollution.

Biodiversity / SAC

- No study of biodiversity effects in this SAAO buffer zone was undertaken.
- The NIS erroneously refers to the Coolcour Brook discharging to the harbour rather than cliffs at Balscadden Bay.

Site Works

- Emissions from trucks and site machinery will negatively impact on air quality with health implications.

- There is a history of landslides at the adjoining cliffs due to heavy rain and surface water flows, undermining Balscadden Road.
- Construction activity and traffic movements threaten the integrity of Balscadden Road and may result in structural impacts on adjoining properties, including protected structures.
- Inadequate detail is provided in relation to geotechnical and flooding issues.
- There are concerns regard the integrity of the western embankment.
- Inadequate information on the substantial infill works is provided. No sections drawing are provided.
- There is minimal detail and conflicting information regarding levels on the site and adjoining lands.
- The proposed increase of ground levels is inappropriate for the SAAO buffer.
- Dust mitigation will be impossible on such an exposed site.

Drainage

- Inadequate drainage information is provided. The site floods regularly and the increased ground levels will interfere with drainage in the area.
- The proposed open space is deficient and located in an area which floods.
- There are concerns regarding the capacity of the foul sewer network and impacts on integrity during construction.
- During periods of heavy rain, foul sewers on Balscadden Road overflow with run-off to adjoining properties at Binn Eadair and Strandvilla, and to the SAC.
- There has also been sewage discharge from Asgard Park onto the steps adjoining the appeal site in October 2020.
- There have been issues with excess surface water running down Kilrock Road with flooding at Balscadden Road / Binn Eadair.
- Ground floor level in Binn Eadair is below road level and there are concerns regarding the impacts from run-off in the area.

6.0 Assessment

- 6.1.1. I refer to my original report dated 07/07/2020 in respect of this appeal, wherein, I considered the proposed development under a number of headings. I concluded that the development was acceptable in principle at this location. The proposed density was acceptable and it was not considered that the development would give rise to unacceptable impacts on the visual amenities of the area. The development would provide acceptable levels of residential amenity. Undue impacts on adjoining residential amenities were not anticipated and minor amendments were identified in this regard. The proposed entrance arrangements were acceptable subject to condition and a requirement for some additional parking was identified. Operational surface water drainage arrangements were generally acceptable.
- 6.1.2. I note the third-party submissions received subsequent to the S.132 response, however, I am not persuaded that the previous assessment and conclusions reached are not still reasonable and valid in this case.

I note that the submission on behalf of Niall and Louise Gleeson and Others, argues that the information submitted in the S.132 response is materially different to that submitted to the planning authority. I do not concur, however, that there has been a material change to the nature and extent of development proposed in the application and in respect of which the planning authority made their decision. I note also that proposed levels on the site do not raise concerns with regard to lands to the south or adjoining boundary walls.

I refer now to the matters specifically raised in the S.132 notice, which requested further information in relation to works on the site, including in particular:

- a) *The extent of fill to be undertaken across the site and the relationship between the proposed development site and adjoining lands to the west and north having regard to existing and proposed ground levels.*

The first party response provides a written description of existing ground levels across the site; however, little additional detail is provided in respect of the proposed filling works. In particular, the response does not describe the relationship between the raised levels on the site and adjoining lands to the west. It is not clear whether

graded slopes or retaining walls are proposed at the interface. Only one section drawing is provided, east-west through the proposed block and the western embankment. While this section drawing is not to scale it suggests that levels on the site at that point will be graded to meet adjoining lands to the west and north. It does not describe the approach in the northern open space where the difference in levels is significantly greater.

Having regard to the nature of the adjoining embankment, I do not consider that either the grading of slopes or provision of a retaining wall would directly impact on third parties, however, proximity of the proposed backdrop manhole is a constraint in this area. In the event of a decision to grant permission, I consider that the treatment of the difference in levels would be amenable to condition by the Board.

There remain deficiencies in the drawings submitted, particularly north-south sections through the site. Only the engineering section drawing through the proposed culvert, submitted at further information stage, appears to reflect proposed ground levels on the site and correct levels on Balscadden Road to the north. The architectural site sections otherwise appear to show the road significantly elevated above the surveyed levels. I note that the internal planning authority reports did not raise concerns regarding the impact of proposed filling works on the structure or stability of Balscadden Road.

The submitted section drawings do not otherwise identify existing ground levels. The engineering report accompanying the S.132 response, refers to proposed levels of 23.4m OD in the northern public open space, although this is lower than the levels indicated on the site layout plans and engineering section drawing. It is suggested in the response that a reduction in ground levels in the open space would reduce the volumes of fill required on the site, necessitating a ramped access to the open space. No detail or revised site layout plans are provided in respect of such proposals; however, I note that reduced levels in this area would potentially impact on the accessibility and amenity value of this space for future residents as concluded by the planning authority in the early stages of this application. Having regard to the absence of detail provided, I do not consider that this matter would be amenable to condition by the Board in the event of a decision to grant permission in this case.

I remain of the view that the application has failed to adequately describe the full extent of works proposed on the site. The infill works are substantial in nature, up to approx. 3.5m in parts and the drawings and documentation submitted do not accurately or consistently describe the extent of works or the relationship with adjoining lands / public roads.

- b) the nature and volume of fill material which will be required as part of the site development works,

The response identifies a requirement for the importation of approx. 550-cu.m. of clean fill material to the site, comprising approx. 250-cu.m. of hardcore for under parking areas, and approx. 300-cu.m. of clean soil. In addition, it is proposed that inert masonry arising from the demolition of the existing house as well as cut from works elsewhere on the site will meet the remaining fill requirements. While the engineering report refers to rigorous analysis of the volumes required, no detail of such analysis is provided. With regard to materials from the existing structure on the site, the volume and suitability of such materials for filling operations at this sensitive location is not documented.

- c) the proposed haul route and the nature and quantum of traffic movements associated with the importation of such materials,

The first party describes the haul route as traversing Kilrock Road and Nashville Road from Thormanby Road, avoiding use of Balscadden Road by construction traffic and potential impacts on the adjoining SAC. Such avoidance is in line with a previous conclusions of the Board under ABP-305828-19 in respect of a SHD development at the former Baily Court Hotel, to the west of the appeal site. I note also that avoidance of Balscadden Road would increase separation from houses on the seaward side of the road and potential vibration impacts thereon.

The response describes the likely traffic volumes associated with importation of the identified fill volumes, which would be in addition to other construction traffic arising from the development. I note that the surrounding road network is constrained, however, this is not a unique situation. Construction traffic impacts arising would be

temporary in nature and it is considered that the implementation of a construction traffic management plan to be agreed with the planning authority would satisfactorily address impacts in this regard. This should include a restriction on on-street construction employee parking.

While third parties argue for details of the entire construction haul routes to be provided, I regard the level of information provided to be acceptable and sufficient to address specific concerns identified in the S.132 notice.

d) the gradient and stability of the embankment to the west of the site having regard to inconsistencies between the information provided in the engineering report and the submitted architectural drawings in this regard.

The S.132 response acknowledges the errors in the original planning application documentation in relation to the slope of the adjoining embankment. A revised architectural section drawing is submitted in this regard.

With regard to potential vibration emissions, I note that the proposed construction methodology provides for the use of bored rather than driven piles which will reduce potential emissions from activities on the site. The Environmental Construction Management Plan also specifies control of activities in compliance with relevant BS and BRE standards. Having regard to the confirmed angle of repose and separation of construction works from the embankment, and the assessments and statements from the consulting engineers, I am satisfied that concerns regarding the stability of the slope have been addressed.

Furthermore, the Board could not be satisfied on the basis of the information on the file, particularly in relation to the proposed haul route and the nature and quantum of traffic movements with potential for vibration, dust and spillages, that the proposed development would not be likely to have a significant effect on the Howth Head Special Area of Conservation (Site code: 000202). The applicant is therefore requested to submit an updated Appropriate Assessment Screening Report to take account of the further information request detailed above, and in particular to address any potential for significant effects on the Howth Head Special Area of Conservation (Site code: 000202), or any other European site, in view of the sites' Conservation Objectives.

The original planning application submitted to the planning authority was not the subject of an AA Screening Report by the applicants. In my previous report, dated 07/07/2020, I identified potential impacts on Howth Head SAC in respect of

- The potential for run-off of silt and other materials from the site at construction stage due to extent of drainage and site filling works proposed.
- Potential impacts on the SAC in terms of vibration, dust and spillage from HGV movements on Balcadden Road.

The S.132 response is accompanied by an AA Screening Report and NIS as noted above.

7.0 Appropriate Assessment

As part of the S.132 response, the first party submitted an AA Screening report and NIS – *Appropriate Assessment Screening and Natura Impact Statement Report, ‘Osprey’ No. 11 Kilrock Road, Howth Co. Dublin. October 2020* (Ash ecology and Environmental). The report is accompanied by an Environmental Construction Management Plan. I have described the content and conclusions of the report in section 3.3 above.

The applicants Screening Report concluded that it was not possible to exclude likely significant effects on Howth Head SAC (000202) arising from the potential of the proposed development to affect water quality in the receiving aquatic and estuarine environments with potential to affect the conservation objectives of the European site alone. It therefore concludes that a Natura Impact Statement is required in order to assess the significance of the potential impacts.

7.1. Screening for Appropriate Assessment

The proposed development has previously been described in section 2.1 of my earlier report. I note in particular, proposals for the demolition of existing structures

and infilling of the site. The applicant provides a brief description of the project in section 1.3 of the AA screening report.

The site assessments undertaken indicate that the appeal site does not contain any habitats or features of conservation interest, or any habitat that might support any Annex I bird species that comprise part of the conservation interests of the nearby SPA's. My observations on the site would generally support this description.

Submissions and Observations

Submissions on the appeal make reference to issues with the capacity of sewers on Balscadden Road and the potential for overflow to the SAC / sea cliffs.

European Sites

The development site is not located in any European site. The closest European site is Howth Head SAC (000202) located within approx. 10m of the appeal site, across Balscadden Road. A summary of European Sites that occur within a possible zone of influence of the proposed development is set out in the table below. The site is hydrologically connected to Howth Head SAC via the Coolcour Stream / culvert under Balscadden Road and this site is considered in more detail below. There are no other direct connections to European Sites and having regard to the scale of development proposed and separation from those sites, significant effects are not considered likely. With respect to Howth Head Coast SPA, I note the reported location of qualifying interest for that site, kittiwake, at a remove from the site and consider that significant effects due to disturbance from the redevelopment of this site are unlikely.

I would concur with the conclusions of the first party AA Screening Report in relation to the European Sites potentially affected by the proposed development.

European Site (code)	Qualifying / Special conservation Interest	Separation from site	Connections (source, pathway receptor)	Considered in screening
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Howth Head SAC (000202)	Vegetated sea cliffs of the Atlantic and Baltic coasts European dry heaths	5-10m	Coolcour Stream. Disturbance - emissions to air given proximity.	Y
Howth Head Coast SPA (004113)	Kittiwake	300m	No.	N
Irelands Eye SPA (004117)	Cormorant, Herring Gull, Kittiwake, Guillemot and Razorbill	1km	No	N
Irelands Eye SAC (002193)	Perennial vegetation of stony banks and Vegetated sea cliffs of the Atlantic and Baltic coasts	1.4km	No	N
Rockabill to Dalkey Island SAC (003000)	Harbour porpoise and Reefs within the SAC	700m	No	N
Baldoyle Bay SAC (000199)	Mudflats and sandflats not covered by seawater at low tide, of Salicornia and other annuals colonizing mud and sand, of Atlantic salt meadows, of Mediterranean salt meadows	1km	No	N

Identification of likely effects

The proposed development is located in close proximity to Howth Head SAC and is hydrologically connected thereto by Coolcour Stream. In my previous report, dated 07/07/2020, I identified potential indirect impacts on Howth Head SAC which are reflected in the findings of the AA Screening Report as follows:

- Impacts on water quality in Coolcour Stream, discharging to the SAC, during construction and filling works on the site.
- Potential impacts on water quality in Coolcour Brook, discharging to the SAC, at operational stage.
- HGV movements resulting in potential disturbance by way of vibration, dust and spillage.
- Introduction of invasive species arising from importation of fill material

Development in the surrounding area has generally been limited and the Screening Report does not identify any other projects in the area likely to give rise to in-combination effects. I note the expired permission for two houses on lands to the south of the appeal site. The most significant application for development in the area related to the redevelopment of the Baily Court site, which was granted permission for a SHD development under ref. ABP-305828-19. That development was subject to AA Screening and the Board concluded that it would not be likely to have a significant effect on any other European Site in view of the sites' conservation objectives, either individually or in combination with any other plan or project. That decision was set aside following a judicial review in November 2020.

No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise.

Screening Determination

The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually (or in combination with other plans or projects) could have a significant effect on European Site Howth Head SAC No. 000202, in view of the site's Conservation Objectives, and Appropriate Assessment is therefore required.

7.2. Appropriate Assessment of implications of the proposed development

The following is a summary of the objective assessment of the implications of the project on the qualifying interest features of the European sites. All aspects of the project which could result in significant effects are assessed and proposed mitigation measures designed to avoid or reduce any adverse effects are considered and assessed. The site subject to Appropriate Assessment is Howth Head SAC (000202) for which the qualifying interests are:

- Vegetated sea cliffs of the Atlantic and Baltic coasts (1230)
- European dry heaths (4030)

A description of the site and its Conservation and Qualifying Interests /, including any relevant attributes and targets for these sites, are set out in the NIS. The NIS notes that Vegetated Sea Cliffs are the only qualifying interest likely to be affected as it is the only QI occurring in the vicinity of the site, although it does identify mitigation measures to address the risk of the spread of invasive species to European Dry Heath habitats.

The main aspects of the proposed development that could adversely affect the conservation objectives of European sites are identified as;

- Construction impacts on water quality and discharge to the SAC, particularly arising from filling operations and drainage works on the site.
- Operational impacts on water quality in the SAC due to accidental pollution events.
- Potential spread of invasive species.
- Disturbance due to vibration noise and dust impacts, including HGV movements.

In respect of Vegetated Sea Cliffs of the Atlantic and Baltic Coasts (1230) potential adverse effects are described below:

Vegetated Sea Cliffs of the Atlantic and Baltic Coasts (1230)	
Targets and attributes	Potential adverse effects

Habitat length and Distribution	No
Physical structure: functionality and hydrological regime	There is potential for the release to polluted waters from the site with impacts on habitats, at construction or operational stages.
Vegetation structure: zonation	No
Vegetation structure: vegetation height	No
Vegetation composition: typical species and subcommunities	The release of polluted or silt-laden waters from the site could impact on vegetation composition and range. There is potential for dust impacts on vegetation occurring on the cliffs.
Vegetation composition: negative indicator species	Importation of fill materials and machinery has the potential to introduce invasive species to the site.
Vegetation composition: bracken and woody species	No

In respect of European Dry Heath (4030), I note that the NIS considers that the only potential impact arises in respect of the possible spread of invasive species. This conclusion is considered to be reasonable, given separation from this qualifying interest.

Mitigation

The principle mechanism for impacts on the European Site arise from potentially polluted or silt laden waters discharging from the appeal site. In particular, significant construction and site filling works adjoining the Coolcour Stream and culvert present a significant risk to the site.

Section 4.2.1 of the NIS refers to standard best practice environmental controls during construction to minimise potential run-off impacts, including adherence to

CIRIA guidance and IFI guidelines. As well as standard measures, the primary mitigation measure identified to reduce suspended solids to less than 25mg/l is the provision of a silt fence around the construction area. The Environmental Construction Management Plan accompanying the NIS (Appendix B) identifies the proposed location of silt fencing to be erected on the site. Measures to reduce or eliminate pollution from other substances including concrete, washdown, fuels and lubricants and waste are identified, in accordance with published guidelines.

While the NIS identifies potential impacts from the filling operations in respect of HGV movements, it does not specifically identify or assess the substantial filling work on the site, or the operation and likely effectiveness of proposed mitigation measures. While the use of silt fencing is an established mitigation measure, the efficacy of the measure in this case is not clear having regard to its location within the area of proposed deep filling works. I note also that the NIS does not identify or consider the reuse of inert materials from the demolition of existing structures on the site. I do not consider therefore that the identified mitigation measures satisfactorily address the identified risk from the proposed development to water quality in the European Site.

The timing and phasing of drainage and filling works may serve to mitigate the impacts of the development, however, I do not consider that there is insufficient certainty with regard to viability and effectiveness of such measures for the Board to attach conditions in this regard. There is not sufficient information before the Board to determine with confidence that the project would not adversely affect the integrity of the SAC in view of the Conservation Objectives of this site. In this regard, I do not consider that the response fully addresses the concerns raised in the second part of the S.132 request.

At operational stage, there will be no open section of surface water drain and significant input of silt or other materials from the development to the drain is not considered likely. Accidental spillages or polluting events can be addressed through the provision of a petrol interceptor prior to discharge to the proposed soakaway as described in the original planning application documentation. This is a standard drainage design measure which is referenced in the NIS but not identified in the drainage drawings of February 7th 2020. I consider that this matter would be amenable to condition with sufficient certainty with regard to its effectiveness.

The NIS notes that it is proposed to connect the development to the public foul sewer on Balscadden Road and that no wastewater connections to the SAC arise at construction or operational stages. Third parties refer to a number of incidents of overflow from this sewer to adjoining properties and the SAC during periods of heavy rainfall. I note that neither the planning authority Water Services Dept. nor Irish Water raised any objections or issues in terms of sewer capacity to accommodate the proposed development. Furthermore, I note that the development will be subject to a connection agreement with Irish Water. The development provides for the on-site management of surface water and there will be no discharge of surface water to the foul sewer. Surface water drainage on Balscadden Road will be improved by the upgrade of the connection from existing road gullies to the new backdrop chamber. The development will not therefore contribute to the surface water inundation issues referenced by third parties and will improve the drainage of surface water at this location.

Measures to control the importation of non-native invasive species onto the site are noted which would address potential impacts in this regard.

The proposed construction haul route avoids Balscadden Road, closest to the SAC significantly reducing potential impacts from HGV movements on the site. Measures to minimise dust emissions are also identified, which, having regard to the limited scale and extent of the site are regarded as adequate to obviate significant dust impacts on habitats in the SAC.

The proposed development would not be likely to have an effect on the SAC that would be rendered significant in combination with any other plan or project.

Appropriate Assessment Conclusion

The proposed development has been considered in light of the assessment requirements of Sections 177U of the Planning and Development Act 2000 as amended. Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on Howth Head SAC (000202). Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of that site in light of its conservation objectives.

On the basis of the information provided with the application and appeal, including the Natura Impact Statement, and in light of the assessment carried out above, I conclude that reasonable doubt remains that the proposed development individually, or in combination with other plans or projects would adversely affect the integrity of European site No. (000202) Howth Head SAC, in view of the site's Conservation Objectives. This conclusion is based on the following:

- A full and detailed assessment of all aspects of the proposed development including proposed mitigation measures identified in the Natura Impact Statement and Environmental Construction Management Plan.
- The extent of drainage and infill works proposed on the site.
- The potential for silt-laden run-off from the site to impact on the qualifying interests of the adjoining SAC to which the surface water drain discharges.
- The absence of specific construction methodologies or mitigation measures to adequately address such potential impacts on the European Site.

8.0 Conclusion and Recommendation

The proposed development involves significant works to raise ground levels on the site. Notwithstanding the S.132 request of the Board and the first party response thereto, there remains a lack of clarity in respect of these works and their relationship with adjoining lands, including Balscadden Road to the north. Significant works occur in the area of the existing drain, which is to be upgraded as part of the development. There is a lack of detail and specific information provided on how works will be undertaken to avoid spoil / silt entry to the watercourse during works. The proposed mitigation measures do not reflect the extent of ground works proposed and there is a lack of certainty with regard to their effectiveness. This might be addressed by a detailed construction methodology and phasing plan, which fully considers the extent of works proposed; however, I do not consider that this matter is amenable to condition, having regard to the location of the SAC approx. 10m downstream of the site.

I therefore recommend that permission be refused.

9.0 **Reasons and Considerations**

There is significant variation in ground levels on the site and the proposed development involves the raising of levels by several metres in parts of the site. Notwithstanding the submission to the Board on 8th October 2020, the Board does not consider that a satisfactory level of information has been provided in relation to these works and their relationship with adjoining lands or the watercourse which discharges to Howth Head SAC in proximity to the site. The Board is not satisfied that the mitigation measures identified in the Natura Impact Statement adequately address the potential impact on the conservation objectives of the European Site from sit-laden or contaminated run-off from the site, particularly during construction works having regard to the extent of filling works proposed.

On the basis of the information provided with the application and appeal 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 Howth Head Special Area of Conservation 000202, or any other European site, in view of the site's Conservation Objectives.

Conor McGrath
Senior Planning Inspector