



An
Bord
Pleanála

Inspector's Report

ABP-309154-21

Development

Construction of 62 no. residential units in accordance with Part 8 of the Planning and Development Regulations 2001 (as amended)

Location

Old Road, Hayestown, Rush, Co. Dublin

Planning Authority

Fingal County Council

Applicants

Sarah Karbowski
Sean McBride and others

Type of Application

AA screening determination

Date of Site Inspection

9 February 2021

Inspector

Dolores McCague

1.0 Introduction

- 1.1.1. This is an AA screening determination request in respect of a local authority project.
- 1.1.2. Fingal County Council is proposing to develop a residential scheme on lands to the north west of the town centre of Rush. Under the provisions of Article 250 (3) (b) of the Planning and Development Regulations 2001 (as amended) Sarah Karbowski, and Sean McBride and others have sought a direction as to whether or not Appropriate Assessment is required.
- 1.1.3. Fingal County Council (FCC) have carried out an Appropriate Assessment Screening for the proposed development in which it was determined that an Appropriate Assessment is not required, and has initiated the process set out in Part XI of the Planning and Development Act 2000, as amended and Part 8 of the Planning and Development Regulations, 2001, as amended.
- 1.1.4. There is a concurrent request for the Board to make a screening determination under Article 120(3)(b) of the Planning and Development Regulations 2001, as amended, as to whether the development application would be likely to have significant effects on the environment requiring Environmental Impact Assessment (ABP-309155-21).

2.0 Site Location and Description

- 2.1.1. The site is located in the townland of Rush, to the north west of Rush town centre, bounded to the south by Old Road and to the north by Hayestown Housing Estate.
- 2.1.2. The site is relatively flat, varying in elevation from 19m OD Malin to the north west to c 17m OD Malin to the north east and 17m OD Malin to the south. It is T-shaped, with the north-south section approximately 50m wide by 115-160m long, and the east-west section 230m by 50-70m. The smaller section (north-south orientation), closest to Old Road contains a detached single storey dwelling, garage and outbuildings, former garden, and adjoining field. The larger section consists of two adjoining fields. Horestown Stream flowing from west to east near the centre of the site separates the two northerly fields from the house and field to the south. A drainage ditch crosses the centre of the northern part of the site. There are drainage ditches along the site boundaries.

- 2.1.3. The site has extensive frontage to Old Road. The proposed access is approx. 280m from its junction with Whitestown Road. A long narrow portion of the site, comprising an overgrown access, runs between two residential properties to the east of the main frontage.
- 2.1.4. There are dwellings to the east and north, and along the public road to the south.
- 2.1.5. The site has a stated area of 2.41 Hectares.

3.0 Proposed Development

- 3.1.1. The development will include 62 new dwellings: two storey semi-detached dwellings, two storey terraced dwellings and three storey duplex apartments (17no 2 bed units and 45 no. 3 bed units); arranged along a north south and east west axis, with a singular vehicular access off Old Road. A 10m riparian strip is to be maintained on either side of the Horestown Stream. A pedestrian / vehicular bridge will cross Horestown Stream providing internal access within the development. Open space will be provided in the centre of the site north of Horestown Stream.
- 3.1.2. Access to development shall be provided to the south will be via Old Road. A new vehicular and pedestrian crossing of Horestown Stream will be approximately 10m wide (6m carriageway and 2m footpaths either side). The proposed structure will comprise a 3-sided 'bottomless' box culvert with precast concrete footings.
- 3.1.3. The Civil Engineering Report by Downes Associates Consulting Structural & Civil Engineers includes drainage proposals, a flood risk assessment, access and traffic management and OCMP. It sets out proposals for foul and surface water disposal, and the provision of a water supply to the proposed development and the provision of a culvert for the road crossing. The report includes:

Subject to confirmation from Irish Water, it is proposed that the gravity foul sewer will flow to the south of the site and connect into the existing foul sewer on Doctor's Lane.

The existing 150mm foul sewer on Doctor's Lane, to which the proposed development will discharge is at capacity, and, as directed by Irish Water, the 150mm foul sewer on Doctor's Lane is to be upgraded to a 225mm foul sewer to serve the proposed development over a distance of approximately 150m.

The foul sewer within the site will cross under the existing watercourse running through the centre of the site. The watermain will also cross under the watercourse.

Surface Drainage - To the north of the stream, rainwater is conveyed by seepage through the upper soils in a south-easterly direction towards the stream. To the south of the stream, only a small proportion of the site is elevated above the stream, which allows rainwater conveyance in a north-easterly direction to the stream. Based on the topography, the remaining portion of the southern part of the site conveys rainwater towards the existing watercourse to the southwest. Due to the location of the existing watercourse through the middle of the site, the topography of the site north and south of the watercourse, and the proposed housing layout, separate SuDS measures have been adopted for the Northern site and the Southern site. Surface water proposals include the use of SuDS with discharge at greenfield rates to the watercourse for part of the land, and to the existing drainage culvert to the south west for the remainder.

The site is not affected by coastal/tidal flood events. The predictive fluvial maps do not indicate any significant overland flooding adjacent to the watercourse within the site; flooding up to the 1000- year return period is contained wholly within the stream bed profile.

Consultation will be held as required with the OPW regarding the details of the new crossing.

- 3.1.4. The Preliminary Ecological Appraisal (PEA) refers to the habitats on site and to mammals, bats, birds and amphibians either encountered or for which the site offers potential habitat; and concludes that overall the treelines, hedgerows and watercourses provide valuable wildlife corridors and connectivity to the rural landscape to the west of the site. These habitats have the potential to provide a number of protected species (e.g. Hedgehog; Badger; Otter and Pygmy Shrew) with a means of safe commuting under cover of vegetation across the landscape, or as a point of reference for aerial commutes (bats). These habitats also offer suitable foraging ground, as well as den / burrow / sett potential for the species listed above. The drainage ditches also provide a water source for the listed species. It includes recommendations in relation to habitats - retention of willow trees and riparian vegetation along Horestown Stream, retention of buffer zone of semi-natural wet

grassland grading into drier grassland to north of this. This will allow supporting habitat for invertebrate prey for bats, as well as pollinating insects

There are recommendations to ensure foraging and commuting of bats in the area continues unhindered during the construction phase and the operational phase; and recommendations in relation to birds and amphibians.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- EIA Screening Preliminary screening No real likelihood of significant environmental effects – EIAR not required.
- Impact on Natura 2000 Sites

An Appropriate Assessment Screening report was submitted. The closest Natura 2000 Sites are Rogerstown SAC and SPA c1.1km to the south, Skerries Islands SPA 5.2km to the north Malahide Estuary SAC and SPA 5.5km to the south-east.

Horestown Stream, which traverses the site has a direct hydrological connection to Rogerstown Estuary. The proposal includes the provision of a bridge over Horestown Stream. The AA Screening report identifies that runoff during construction could potentially result in an increase in sediment loading entering Horestown Stream and in turn Rogerstown Estuary SAC and SPA.

The report states that during construction, works, including the excavation of topsoil, will be undertaken within the site and the construction of a pedestrian and vehicular crossing of the watercourse. With the exception of the crossing no works will take place within 10 metres of the watercourse. The bridge is a pre-cast structure and will allow the stream bed to remain intact. The structure is three sided and bottomless allowing for the passage of aquatic life. Given the characteristics of the site and proposed development it is highly unlikely that contaminated run-off would reach Rogerstown Estuary and, in the unlikely event of run-off reaching Rogerstown Estuary, it would be of a scale that there would be no realistic likelihood of any significant effects that could

interfere with the conservation objectives of the European sites and that no mitigation is necessary.

Having regard to the nature of the proposed development and its location, the project is not likely to have a significant effect on any European site, either alone or in combination with other plans or projects.

3.2.2. Other Technical Reports

3.2.3. Other reports are referred to in the planning report:

3.2.4. Parks and Green Infrastructure - it is proposed to remove 23 of the 51 trees on the site. None of the trees proposed to be removed are category A trees. Subject to the implementation of the landscape plan they consider the proposal acceptable.

3.2.5. Transportation Section – no objection, subject to certain amendments, some of which are included in the planner’s recommendation, condition no. 8 including reduction in the entrance junction radii and the carrying out of a road safety audit.

3.2.6. Water Services Section – no objection

3.2.7. Community Archaeologist – test excavation in advance of development.

4.0 Planning History

F17A/0391 (within the proposed site) Lands north of Old Road, Rush, Co Dublin. Permission granted for demolition of existing 3 bedroom bungalow, adjoining garage and outbuildings, discontinue use of 2 no. existing vehicular site entrances and form 1 new site entrance off Old Road; construct new housing development consisting of 1 x 4 bed detached dormer bungalow, 3 x 3 bed detached dormer bungalows, 2 x 2 bed semi-detached dormer bungalows and 14 x 3 bed two storey semi-detached dwellings (20 total) new footpaths and access road (3 dormer bungalows to front onto and to have vehicular access directly off Old Road); site 0.748ha, 18-Dec-2017, not implemented to date

F19A/0320 Permission granted for alterations to already approved development Reg. Ref. F17A/0739, comprising: (a) Minor alterations to house types and 5 no. additional houses as follows: (i) 2 no.4 bedroom 2 storey semi-detached houses in lieu of 4 no. 4 bedroom 2storey semi-detached houses; (ii) 38 no. 3 bedroom 2 storey semi-detached houses in lieu of 31 no. semi-detached, end & mid

terrace houses (from 35 to 40 dwelling units in total); (b) New gravity foul main to connect into existing manhole to the east of the site and adjacent to Seabrook at Brook Lane and omission of pumping station, (c) Associated alterations to internal road layout and relocation and reduction in public open space; (d) All associated site works; all on this 1.292ha site on the south side of Brook Lane Haystown Rush Co Dublin (opposite Daffodil Stores glass houses)

The current application is registered under Ref: PART XI/005/20.

5.0 Legislative & Policy Context

5.1. Planning and Development Regulations, 2001 (as amended).

- 5.1.1. The Planning & Development Regulations, states under Article 250(1), that where a local authority proposes to carry out a development it is required to carry out a screening of the proposed development to assess if the development individually or in combination with other plans or projects would be likely to have a significant effect on a European site. If on the basis of a screening under 250(1), it cannot be excluded, on the basis of objective information, that the proposed development, individually or in combination with other plans or projects, would have a significant effect on a European site, the local authority is required to determine that appropriate assessment of the proposed development is required and to prepare an NIS and submit the proposed development for approval to the Board under section 177AE of the Planning and Development Act, 2000, as amended.
- 5.1.2. Under the provisions of article 250(3)(b) of the Planning and Development Regulations 2001, as amended, where any person considers that a development proposed to be carried out by a local authority would be likely to have a significant effect on a European site, he or she may apply to the Board for a determination as to whether the development would be likely to have such significant effect. Where the Board determines that a development would be likely to have a significant effect on a European site it would require the local authority to prepare a Natura Impact Statement.
- 5.1.3. The guidance contained in 'Appropriate Assessment for Plans and Projects in Ireland -Guidelines for Planning Authorities' (DoEHLG 2009) advises that all plans and

projects not directly connected to, or, for the management of a Natura 2000 site must be assessed for its potential significant effects on that site before any decision is made to allow that plan or project to proceed. Each plan or project must also be assessed for its possible in combination effects with other plans or projects. This process is designated 'appropriate assessment' and arises from obligations under Article 6(3) and 6(4) of the Habitats Directive.

5.2. **Development Plan**

5.3. Fingal Development Plan 2017-2023 is the operative plan.

5.3.1. Relevant provisions include:

The land is zoned RS-Residential: 'Provide for residential development and protect and improve residential amenity.'

Objective RUSH 1

Facilitate the development of Rush as a vibrant town and retain its market gardening tradition.

Kenure Rush Local Area Plan 2009-2015 (extended to 2019) is for an area is to the northwest of the proposed site.

Variation no 2 to Fingal Development Plan 2017-2023 includes Rush as a Self-Sustaining Towns in the Core Area.

Objective SS20

Manage the development and growth of Lusk, Rush and Skerries in a planned manner linked to the capacity of local infrastructure to support new development.

A 5% growth level is appropriate. (Rush had a population of c. 8,500 persons per the CDP therefore the provision of 62 houses is well within the 5% (425 persons) planned growth of the settlement).

Fingal Development Plan 2017-2023 has been subject to Strategic Environmental Assessment.

5.4. **Natural Heritage Designations**

- 5.4.1. The nearest Natura sites are Rogerstown Estuary SPA (site code 004015) and Rogerstown Estuary SAC (site code 000208) located c1km from the subject site.

6.0 **AA Screening**

- 6.1.1. Appropriate Assessment Screening was carried out by the planning authority of the proposed development in which it was determined that an Appropriate Assessment is not required. Documents which they relied on in support of this determination include an Appropriate Assessment Screening document was prepared by JBA – Environmental Services on behalf of Fingal County Council and a review of that report prepared by Brady Shipman Martin (BSM).

6.2. **JBA Report**

- 6.2.1. The JBA report 'Screening for Appropriate Assessment' includes:

A review of Statutory Designated Sites within 10km of the site, considered to lie within a potential Zone of Influence is carried out:

Rogerstown Estuary SAC - 1.1km

Rogerstown Estuary SPA - 1.1km

Rockabill to Dalkey Island SAC - 2.7km

Malahide Estuary SAC - 5.6km

Skerries Islands SPA - 5.2km

Malahide Estuary SPA - 5.6km

Rockabill SPA - 5.8km

Lambay Island SPA - 5.9km

Lambay Island SAC - 6.0km

- 6.2.2. Of these sites, Rogerstown Estuary SAC and Rogerstown Estuary SPA are assessed as occurring within the zone of influence of the project. The other sites are located at too great a distance and/or are not connected via any pathways to the proposed site, such as to be impacted by the proposed work.

6.2.3. Potential Impacts

6.2.4. Construction phase - There must be no discharge to Horestown Stream or drainage ditches which connects to Rogerstown Estuary, including any suspended solids or other deleterious matter to watercourses. All site runoff will be controlled and if necessary diverted to a sediment tank and the contents will be removed off site by a licenced waste contractor.

Operation phase - During the operational phase of this project SuDS measures are proposed: all surface water runoff from roads and hardstandings shall be pre-treated by natural means to remove pollutants and suspended solids as the water passes through filter strips, tree pits and retention basins. The proposal may consider the use of petrol interceptors, to be agreed with Fingal County Council.

6.3. **Brady Shipman Martin**

6.4. The BSM further report includes:

Having reviewed the Appropriate Assessment Screening report, together with the details of the proposed development and other relevant documentation submitted with the Part 8 planning application, we consider that it is likely that the requirement for Appropriate Assessment can be screened out.

As noted in Section 6.2.2 of the AA Screening report, 'Runoff during the construction period could potentially bring an increased sediment load to the watercourse and potentially to Rogerstown Estuary SAC and SPA'. The preceding paragraph states that "During construction, works will entail excavation of topsoil and subsoil within the construction site boundary and the construction of a new vehicular and pedestrian crossing of Horestown Stream. Major works will not take place within 10m of Horestown Stream except for the proposed road crossing, which is a pre-cast structure. This will allow the natural stream bed to remain intact and maintaining the existing hydraulic characteristics of the watercourse. The proposed structure of the bridge will comprise a 3-sided 'bottomless' box culvert with precast concrete footings. Precast concrete box culverts are important design features for maintaining essential connectivity for aquatic life along the course of a waterbody, and provide the best solution for maintaining water body status in WFD terms and overall ecological quality".

Having regard to case law of the Irish High Court and the CJEU (e.g. Case C-258/11, Sweetman and others) which established that determinations cannot have lacunae and must contain complete, precise and definitive findings capable of removing all reasonable scientific doubt as to the effects of a project on a European site, the AA Screening report, must fully and unambiguously confirm that the proposal would not result in significant effects on European sites.

Section 6.2.2 of the report states that 'the best practice methodology in place for the proposed work and the pre-cast nature of the crossing will ensure minimal risk to the downstream SAC/ SPA'. However, given the characteristics of both the site and the proposed development it is highly unlikely that contaminated surface water run-off from the construction (or operation) of the proposed development would reach Rogerstown Estuary. Even if such an unlikely event were to occur, the volume of run-off arising at the site and making its way to the European site would be of a scale that would mean there would be no realistic likelihood of any significant effects arising that could interfere with the achievement of the conservation objectives of the European sites. No mitigation is necessary.

The screening assessment is consistent with the judgment of the European Court in Case C-323/17, People Over Wind & Sweetman v Coillte (Judgment of the Court (Seventh Chamber) of 12 April 2018) and the recent case-law of the High Court, including Heather Hill Management Company CLG v An Bord Pleanála [2019] IEHC 450 and Sweetman v An Bord Pleanála [2020] IEHC 39.

The proposed development, in view of best scientific knowledge, individually or in combination with another plan or project, is not likely to have a significant effect on a European site.

6.5. **Direction Request**

6.6. Requests for an AA screening determination were submitted by Sean McBride and a list of other named observers, and Sarah Karbowski.

6.6.1. The following summarises the content of these submissions.

- EIAR Screening Report reasons do not appear to substantially justify the omission of an EIA.

- 4.4.1 (references are to numbering in the *JBA Consulting EIAR Screening Report*) surface water – the stream has flooded in previous years.
- 4.8 landscape and visual – the development is not low in landscape and visual impact.
- 4.9.1 traffic – the proposed new road has seen little to no progress. The planned development would likely be operational before any relief is provided to the Old Road. There is genuine concern with the increase in traffic along a narrow road with room for only one vehicle in places, frequented by large agriculture machinery during the busy farming season. The road has no footpaths. The introduction of 62 houses with small children in addition to the existing resident's children will increase accident risk. Traffic calming measures should be determined before any further is put on this road.
- Table 5.1 characteristics of the proposed development – screening questions
 - The scale and design could be considered significant.
 - The density is significant – far higher than any developments surrounding. More town centre than outer boundary of Rush.
 - There are other developments under construction, due consideration to the overall picture has not been given: significant shortages of school places, doctor availability, and public transport capacity will be exacerbated.
 - A significant amount of nuisance will be created
- Ecology – 3.3 (*this refers to the numbering in the JBA Screening for Appropriate Assessment, Technical Report*) – there have been sightings of hedgehogs by neighbouring properties, and sightings of native birds; photos provided.
- Consistency of drawings – the layout has changed between EIAR screening report and uploaded drawings as highlighted in the submission.
- The field has been untouched for a number of years and has become home to numerous species of mammals and birds.
- There is a natural border of hawthorn, blackberry and other plants and trees. This will be removed and replaced by a fence. It will cut off access to the regular visitors: foxes, rabbits, hares and hedgehogs.

- The site has a ditch which regularly fills with water.
- Re. no sign of frogs and toads – there would have been 8 in in Ms Karbowski’s pond at that time.
- Referrer lists birds seen in her garden and questions why the survey missed all signs of life.

6.7. Planning Authority Response

- 6.7.1. The Planning Authority has responded to the referrals stating that the internal consultation planning report contains the screening undertaken for the purpose of AA. They refer to the engagement of JBA Consulting by the FCC Architects Department to provide reports to assist the Competent Authority in the process of screening for the purposes of Appropriate Assessment and for Environmental Impact Assessment.
- 6.7.2. A review of the report provided by JBA for the purpose of assisting in screening for Appropriate Assessment was undertaken by Matt Hague, Senior Ecologist, Brady Shipman Martin at the request of the Planning Department. The report provided by Mr Hague, dated 3rd November 2020, assisted the screening process undertaken by the Competent Authority as contained in the Internal Consultation Planning Report (dated 6th November 2020).
- 6.7.3. The response states that it is considered that the items requested by An Bord Pleanála in the letters dated 20th January and 27th January regarding information to be provided under Schedule 7A of the Planning and Development Regulations 2001 (as amended), and the likelihood of effects on a European Site are contained in the following documentation as appended.
- 1) FCC Planning Department Internal Consultation Report (6th November 2020)
 - 2) Brady Shipman Martin Review of Appropriate Assessment (AA) Screening report (3rd November 2020)
 - 3) JBA Consulting - Screening for Appropriate Assessment Technical Report (August 2020)
 - 4) JBA Consulting - EIAR Screening Report (August 2020).

5) Civil Engineering Report (July 2020) containing Stage 2 Site Specific Flood Risk Assessment.

6) Preliminary Ecological Report, which details that no invasive species are present on the site

6.7.4. They consider that the these submissions and the information available on the consult.fingal portal at the link provided provide the information required.

7.0 Appropriate Assessment

7.1.1. I have read the documents submitted by the planning authority and those provided for consultation on the consult.fingal portal.

7.1.2. The Board has before it sufficient information to enable it to carry out screening for appropriate assessment.

7.1.3. There are two expert reports on file, together with the screening carried out by the Planning Authority. A detailed report by JBA titled 'Screening for Appropriate Assessment' dated August 2020, reviews nine Natura sites and concludes that only 2 have the connectivity which would indicate potential for impact from the proposed development. These are Rogerstown Estuary SAC (site code 000208) and Rogerstown Estuary SPA (site code 004015) both located 1.1km from the subject site and connected via the Horestown Stream to the protected sites 1.6km downstream. In terms of construction impacts it includes:

Runoff during the construction period could potentially bring an increased sediment load to the watercourse and potentially to Rogerstown Estuary SAC and SPA. However, the best practice methodology in place for the proposed work and the pre-cast nature of the crossing will ensure minimal risk to the downstream SAC/ SPA. It is considered that the extent and duration of the work will mean that risk of significant stream pollution and sediment delivery to the downstream Natura sites during the Construction phase is unlikely.

7.1.4. The second expert report dated 3rd November 2020, by the Senior Ecologist at Brady Shipman Martin, refers to the earlier report and states regarding impacts, that:

given the characteristics of both the site and the proposed development it is highly unlikely that contaminated surface water run-off from the construction (or

operation) of the proposed development would reach Rogerstown Estuary. Even if such an unlikely event were to occur, the volume of run-off arising at the site and making its way to the European site would be of a scale that would mean there would be no realistic likelihood of any significant effects arising that could interfere with the achievement of the conservation objectives of the European sites. No mitigation is necessary.

- 7.1.5. The submissions in the requests for a screening determination made no specific reference to either Rogerstown Estuary SAC or SPA.

7.2. Appropriate Assessment - Screening

- 7.2.1. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on European sites.

7.3. Development Description

- 7.4. The proposed development involves a relatively small residential development which will be carried out on both sides of the Horestown Stream, a small stream which discharges to Rogerstown Estuary. The proposed development involves bridging the stream with the provision of a 3-sided 'bottomless' box culvert with precast concrete footings, and the provision of crossings under the stream for services.

7.5. Potential Impacts

- 7.5.1. The proposed development would be carried out on land which has no connection other than via the watercourse with any protected sites or associated protected species.
- 7.5.2. There is potential for contaminants, mainly suspended solids, to enter the local watercourses which discharge to the protected estuary during the construction or operational phases.
- 7.5.3. Other than Rogerstown Estuary SAC and SPA, there is no potential for impact on any other European site.

The European sites with potential for impact are:

Site Name	Site Code	Site Description Qualifying Interests/Special Conservation Interests	Proximity to Site
Rogerstown Estuary SAC	000208	<p>The site comprises a relatively small estuarine system in north County Dublin. A typical eastern estuary with fairly extensive intertidal sand and mud flats. Quality variable owing to pollution from a number of sources, especially a large landfill site which was built on the mudflats. The salt marshes which fringe the estuary are of moderate importance and quality and include both Atlantic and Mediterranean salt meadows. The site has three Red Data Book plant species (Hairy Violet <i>Viola hirta</i>, Meadow Barley <i>Hordeum secalinum</i> and Green-winged Orchid <i>Orchis morio</i>) (JBA report)</p> <p>Designated for: Estuaries Tidal Mudflats and Sandflats <i>Salicornia</i> Mud Atlantic Salt Meadows Mediterranean Salt Meadows Marram Dunes (White Dunes) Fixed Dunes (Grey Dunes)*</p>	1.1km 1.6km downstream.
Rogerstown Estuary SPA	004015	<p>*denotes priority habitat</p> <p>Rogerstown Estuary SPA is an important link in the chain of estuaries on the east coast. It supports an internationally important population of Light-bellied Brent Goose and nationally important populations of a further 10 species. The presence of Little Egret and Golden Plover is of note as these species are listed on Annex I of the E.U. Birds Directive. Rogerstown Estuary is also a Ramsar Convention site, and part of Rogerstown Estuary SPA is designated as a Statutory Nature Reserve and a Wildfowl Sanctuary. (JBA report)</p> <p>Designated for: Greylag Goose Light-bellied Brent Goose Shelduck Shoveler Oystercatcher Ringed Plover Grey Plover Knot Dunlin Black-tailed Godwit Redshank and Wetlands and Waterbirds</p>	1.1km 1.6km downstream.

Having regard to the overlapping nature of the SPA SAC the natura 2000 details for both are similar.

SPA

Site specific conservation objectives have been defined for the SPA which would be summarised as to maintain the favourable conservation condition of species and habitats for which the SPA has been designated.

The Site Synopsis and standard data form the SPA state that the site comprises a relatively small estuarine system in north County Dublin. It receives freshwater from the Ballyboghil and Ballough rivers, both of which flow through an intensive agricultural catchment. It is a funnel shaped estuary, extending for about 6 km from east to west and up to 2 km at its widest. It has a wide salinity range, from full sea water to near full fresh water. The estuary is bisected by a causeway and bridge which carries the Dublin-Belfast railway line. A sandy peninsula stretches across the outer part of the estuary, restricting water flow to a channel of c.200 m. In addition to salt marsh and sand dune habitats, some agricultural fields which adjoin the estuary are included in the site, as these have ornithological or botanical interests. A section of shallow marine water is included in the SPA site.

Rogerstown Estuary is a typical eastern estuary with fairly extensive intertidal sand and mud flats. Of high importance for wintering waterfowl, with an internationally important population of Light-bellied Brent Goose that accounts for 5.9% of the national total. It supports nationally important populations of a further 15 species and notably Knot (8.6% of national total), Shelduck (5.3% of national total) and Grey Plover (4.5% of national total)

Some of the wader species also occur on passage, notably Black-tailed Godwit with numbers often exceeding 300 in April. The estuary is a regular staging post for scarce migrants, especially in autumn when Green Sandpiper, Ruff, Little Stint, Curlew Sandpiper and Spotted Redshank may be seen. Shelduck breed within the site.

SAC

Site specific conservation objectives have been defined for the SAC which would be summarised as to maintain the favourable conservation condition of species and habitats for which the SAC has been designated.

The Site Synopsis and standard data form the SAC state that quality is variable owing to pollution from a number of sources, especially a large landfill site which was built on the mudflats. The salt marshes which fringe the estuary are of moderate importance and quality and include both Atlantic and Mediterranean salt meadows, as well as Salicornia flats. The sand dune element at site is limited in its distribution

and quality. It has three Red Data Book plant species. Of high importance for wintering waterfowl, with an internationally important population of Light-bellied Brent Goose and nationally important populations of a further 16 species including Golden Plover. Little Tern has bred.

7.6. Likelihood of Impact

Construction Impacts

The construction of the river crossing/3-sided 'bottomless' box culvert with precast concrete footings, and the installation of a foul sewer and watermain crossing under the stream bed, and groundworks associated with the overall construction have potential for the discharge of contaminants, mainly suspended solids to the stream. The designs of these emplacements have taken account of the need to avoid such impact.

The proposed development is 1.6km upstream of the protected site and therefore the potential for contaminated surface water run-off from the construction to reach Rogerstown Estuary must be considered. The stream discharges to the estuary opposite (north of) the peninsula which stretches across the outer part of the estuary. This inflow is from a small stream, much smaller than the rivers discharging to the estuary and it joins Rodgerstown Estuary at an area of Estuary characterised by mudflats and sand flats not covered by water at low tide and with a sub community of Estuarine sandy mud and mixed sediment with *Tubificoides benedicii*, *Hediste diversicolor* and *Peringia ulvae* community complex. The targets and attributes for these habitats relate to maintaining the area of habitat. Having regard to the nature of the protected sites and the scale of the proposed development, it is not likely, in my opinion, that discharges from construction would interfere with maintenance of the favourable conservation condition of species and habitats for which the SAC and SPA have been designated.

Operational Impacts

Foul Effluent

The foul water arising within the proposed development will discharge to the existing treatment plant at Portrane. Irish Water's Annual Environmental Report, 2019, for this facility, stated that it had excess capacity which would not be exceeded in the

next three years. Appropriate assessment would have been carried out for this modern facility, and the potential for impact on the protected sites Malahide Estuary SPA 004025 and Malahide Estuary SAC 000205 would have been considered, therefore any in-combination impact with the subject development can be discounted.

Surface Water

Detailed consideration has been given to surface water attenuation and disposal in the subject development proposal. Part of the site will discharge to the existing surface water drainage system south west of the site and part to the stream on site. Detention systems will be utilised to allow for natural treatment to remove pollutants and suspended solids.

It is not likely, in my opinion, that discharges during the operational phase would interfere with maintenance of the favourable conservation condition of species and habitats for which the SAC and SPA have been designated.

In-combination effects

Having regard to the fact that other land has been zoned for development, which has not yet been developed, and that the Development Plan allows for a 5% growth in population for the settlement over the plan period, it is likely that there is potential for in-combination effects. Any development proposal will be subject to the requirement for AA screening or Appropriate Assessment and therefore any potential for in-combination effects does not now generate a requirement for appropriate assessment.

7.7. Screening Determination

- 7.7.1. 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 would not be likely to give rise to significant effects on European Site Nos. 000208, 004015 or any other European site, in view of the sites' Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.

7.7.2. In making this screening determination no account has been taken of any measures aimed at or intending to avoid or reduce potentially harmful effects of the project on a European Site.

8.0 Recommendation

8.1.1. I recommend that the local authority be directed not to prepare a Natura Impact Statement in respect of the said development for the reasons and considerations set out below.

9.0 Reasons and Considerations

Having regard to:

- (a) the nature and limited scale of the proposed development,
- (b) the identified capacity in the Waste Water System to cater for the discharges associated with the development,
- (c) the submission made on behalf of the local authority, including the Appropriate Assessment Screening Report dated 6th November 2020.
- (d) the report and recommendation of the person appointed by the Board to make a report and recommendation on the matter,

It is considered reasonable to conclude that on the basis of the information available, which is considered adequate to issue a screening determination, that the proposed development, either individually and in combination with other plans or projects, would not be likely to have a significant effect on Rogerstown Estuary SAC (site code 000208) or Rogerstown Estuary SPA (site code 004015), or any other European site in view of the sites' conservation objectives and that a Stage 2 Appropriate Assessment and the submission of a Natura Impact Statement for the proposed development is not, therefore, required.

Planning Inspector

8 March 2021

Appendices: Appendix 1: photographs

Appendix 2: Fingal Development Plan 2017-2023, as varied, extract.