



An
Bord
Pleanála

Inspector's Report

ABP-317131 -23

Development	Public realm improvements for a pedestrianised New Street
Location	Malahide, County Dublin
Local Authority	Fingal County Council
Type of Application	Appropriate Assessment (AA) Screening Determination (Application under Article 250 (3) (b) of the Planning and Development Regulations 2001, as amended)
Applicant(s)	Malahide Old Village Residents Association
Date of Site Inspection	2nd August 2023
Inspector	Tomás Bradley

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1.0 Introduction

Under the provisions of Article 250 (3) (b) of the Planning and Development Regulations 2001, as amended (PDR) applications for an Appropriate Assessment (AA) Screening Determination were made to An Bord Pleanála (the Board) as to whether the development of public realm improvements for a pedestrianised New Street by Fingal County Council (FCC) at Malahide, Co. Dublin would be likely to have significant effects on a European site.

The proposed development is a local authority development and is being applied for under Part XI of the Planning and Development Act 2000, as amended (PDA), and Part XIII of the PDR. It is not a direct planning application to the Board.

A total of one party made applications under the provisions of Article 250 (3) (b) requesting the Board to make an AA Screening Determination. A concurrent and separate application for an Environmental Impact Assessment (EIA) Screening Determination is being considered under ABP-317130-23.

FCC is of the opinion that the proposed development would not likely have significant effects on a European site and an AA is not required. This is evidenced in an AA Screening Report submitted to the Board. The applicants question this conclusion and contend the proposed development would likely have significant effects on a European site.

2.0 Site Location and Description

The site is located at New Street, Malahide, Co Dublin. It is in the centre of the town between Main Street (to the south) and Strand Street (to the north). The street slopes from south to north and is approximately 140-150 m in length. The site also incorporates a small portion of Ross Cottages which is a vehicular cul-de-sac on the southern end of New Street which serves residential dwellings and car parking.

There is a mix of uses including commercial, community and residential. There are several premises offering food and beverages as well as retail stores and office based uses.

In the past, the street was two-way for vehicular traffic with car parking and a footpath on both sides of the street. The site is currently closed to vehicular traffic except deliveries at certain hours. There is street furniture including seating and

planter boxes occupying the former areas of car parking. The main carriageway and footpaths of past vehicular arrangements are still legible.

The majority of buildings on either side of the street date from the 19th century and are generally two-story, many with shop fronts on the ground floor. The street is part of a wider architectural area made up of four streets meeting at a diamond at the south end of New Street. There are trees located at certain junctures on the street along with street lighting and other utilities.

The site is in close proximity to the coast and the natural resources and designations of the Malahide Estuary. The designated sites relate primarily to the marine and estuarine areas, largely aligning with the coastline.

3.0 Proposed Development

The proposed development includes:

- i. Widening of footpaths and provision of new kerb edges with existing kerbstones retained, realigned and protected within the widened footpaths and public spaces.
- ii. Realignment and narrowing of the trafficable section of New Street (c.150m in length, 0.22ha) and insertion of control measures and all necessary signage to provide for a pedestrianised street with associated traffic flow routes and restrictions allowing for time limited one-way access from 7am to 11am each day for deliveries and emergency vehicles from Main Street/ The Mall to New Street and a two-way access from Strand Street to Ross's Terrace via New Street.
- iii. Upgrade of all street surfaces.
- iv. Provision of 2no. loading bays at the southern and northern ends of New Street and an accessible parking space in front of the HSE building.
- v. Installation of cycle stands at 6no. locations on New Street with capacity for 23no. cycle parking spaces.
- vi. Removal and replacement of 11no. existing trees with 37no. trees of species appropriate to the location and environment and provision of soft landscaping and green infrastructure with planting zones for seeded, planted and hedging areas and associated bioretention and tree pit areas.

- vii. Provision of outdoor dining zones including tables and chairs and other ancillary moveable structures.
- viii. Provision of street furniture including seating, benches and litter and recycling bins and a water feature.
- ix. New public lighting.
- x. Upgrade of the watermain and foul drainage networks and upgrade and relocation of the surface water drainage network including provision of sustainable urban drainage systems (SUDs) features as part of hard and soft landscaping.
- xi. Provision of ducting for existing and future utilities and piped infrastructure.
- xii. All associated site and development works. Fingal County Council will be providing regulatory traffic signs (including regulatory signs which give effect to a pedestrianisation of New Street) in accordance with Section 95 of the Road Traffic Act 1961 (as amended).

These details of the proposed development are set out in the Part XIII Public Notice.

3.1. Documents supporting the Proposed Development

The following documents were submitted by FCC following the application under Article 250 (3) (b):

- Cover Letter dated 7th of July 2023
- Letter from Faith Wilson, Ecological Consultant dated 5th of July 2023, including information:
 - responding to the An Bord Pleanála request for submission,
 - information responding to the applicant's submissions,
- AA Screening Report dated February 2023 (including appendices)
- AA Screening Determination dated April 2023
- Plans and Particulars including Drawings.
- Letter regarding the Designation of North-West Irish Sea cSPA (Site Code: 004236)

4.0 Planning History

A review of the FCC Planning Portal and the Board's case files was carried out on the 11th of August 2023 to collate any planning history for the site. There was no

recent planning history for the subject site, save for the planning application the subject of this AA Screening Determination. Relevant planning history for adjoining sites are set out below.

Town Centre Planning Applications

There are numerous planning applications to the buildings and structures on each side of the street and on surrounding streets which is to be expected in a such an urban location. The planning applications largely relate to changes of use and alterations to the buildings and structures. These are noted and considered in the assessment below.

Public Realm Developments

There a several other proposed and existing development that relate to the public realm in the Malahide area being progressed by the local authority. The Malahide Public Realm Strategy is also considered. These include:

- Broadmeadow Greenway
- Sutton to Malahide Pedestrian and Cycle Scheme
- Malahide Green
- Bridgefield Car Park
- Parklets on Old Street, Church Street and Main Street
- General Traffic Diversions
- Furniture Licences

These are all noted and considered in the assessment below.

5.0 Policy Context

5.1. Zoning Objective

The Fingal County Development Plan 2023-2029 (FCDP) is the relevant plan for the subject site. The site itself has no specific zoning given it relates primarily to the street. The lands surrounding the street is zoned 'TC – Town and District Centre'. The general objective for such areas is "*protect and enhance the special physical and social character of town and district centres and provide and/or improve urban facilities.*" This is marked on Sheet 9 that accompany the plan.

5.2. Architectural Conservation Area (ACA)

The site is located in an ACA. It is Policy HCAP14 of the plan to

“Protect the special interest and character of all areas which have been designated as an Architectural Conservation Area (ACA). Development within or affecting an ACA must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and it’s setting wherever possible. Development shall not harm buildings, spaces, original street patterns, archaeological sites, historic boundaries, or features, which contribute positively to the ACA.”

5.3. Specific Policies in respect of New Street, Malahide

The plan identifies Malahide as a Self-Sustaining Town which benefits from a high quality built and natural environment. There is a specific objective for New Street, Malahide and a pedestrianised core set out in Objective CSO63, which states:

“Continue to promote and facilitate the recently implemented pedestrianised core of New Street, Malahide.”

5.4. Other Relevant Policies

There are numerous related policies in respect of self-sustaining towns, sustainable placemaking, clean air and noise reduction, connectivity and movement and heritage. There are also development standards for public realm works in ACAs which is noted.

5.5. Specific Policies in respect of Natural Heritage

Chapter 9 of the plan includes several policies to protect, conserve, and enhance the county’s biodiversity and ecological connectivity having regard to national and EU legislation and strategies. These are noted.

6.0 Legal Context

Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora (‘the Habitats Directive’) is European Community legislation aimed at nature conservation. The Habitats Directive requires that where a plan or project is likely to have a significant effect on a European site(s), (and where the plan or project is not directly connected with or necessary to the nature conservation management of the

European site), the plan or project will be subject to AA to identify any implications for the European site(s) in view of the site's Conservation Objectives. The Habitats Directive is transposed into Irish law by Part XAB of the PDA, and the PDR.

Case law of the European Court of Justice (ECJ) has determined that AA is required if likely significant effects cannot be excluded on the basis of objective information. Case law has also clarified that measures intended to avoid or reduce harmful effects on European sites, must not be considered when determining whether it is necessary to carry out an AA.

Under the provisions of Article 250 (3) (b) of the PDR, where any person considers that a development proposed to be carried out by a local authority under Part XIII 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.

Under Article 250 (3) (d), where the Board determines that a development would be likely to have a significant effect on a European site it shall require the local authority to prepare a Natura Impact Statement (NIS).

7.0 Request for Determination

A total of one party made applications under the provisions of Article 250 (3) (b) requesting the Board make an AA Screening determination. This submission is summarised below:

- The applicant considers that Schedule 5, Part 2, Class 10 (vi) of the PDR applies and should be considered 'sub-threshold' under the relevant assessment.
- It also notes Section (1) (b) to (d) of SI 29/2019 applies. Any road improvement projects which would likely have significant effects on the environment should be subject to EIA.
- The site adjoins and is directly linked to an ecologically protected site which is a designated ACA.
- The diversion of traffic over a wide area conceived by the Malahide Public Realm Strategy has not been adequately assessed. There are potential environmental and ecological effects as well as cumulative effects. Table 1 of

the submission sets out several proposed and existing developments which need to be considered in this context. Several topics are considered in this respect including local population, traffic, noise, ecology, and cultural heritage.

- The applicant submits their own EIA Screening Assessment which follows the Schedule 7 Criteria which considers, at a high level, Characteristics of proposed development; Location of proposed development; types and characteristics of potential impacts.
- The AA Screening Report is invalid as it fails to consider the Zone of Impact as a result of increased traffic volumes on roads adjacent to the Special Area of Conservation (SAC) and associated impacts. There is an example of oil spillage occurring provided which resulted in flushing of pollutants into the estuary. It also fails to consider the in combination effect of a list of other public realm projects. The AA Screening relies on demonstrably ineffective mitigation including questions on drainage design.
- Several attachments are submitted including:
 - Zone of Impacts.
 - Evidence of pathway between proposed development.
 - Evidence of Pollution Events caused by re-directed traffic.
 - Evidence of exposure of residential area to increased traffic.
 - Evidence of Anti-social behaviour.
 - Evidence of efforts of local residential population and employers to stop the adverse effects of the whole of the proposed development.
 - Evidence that the proposed project is part of a wider scale change.
 - Evidence that the proposed project and zone of impact are located adjoining, adjacent and directly connected to European Sites
 - Evidence that the proposed project and zone of impact are located within a zone that experiences significant pluvial flooding that overwhelms existing surface water interception systems.
 - Evidence that the proposed project and zone of impact have significant effects on the efficiency and safety of a number of key transport and access routes.
 - Evidence about the exposure of children to alcohol advertising as well as public alcohol consumption.

- Evidence about the other Malahide Public Realm Projects in the area
- Evidence of Prior notification to FCC about Project splitting to avoid EIA.

8.0 Assessment

The proposed development will not be located within a Natura 2000 site and the closest Natura 2000 sites are approximately 200 m downstream from the site. The proposed development will occur primarily on an existing area of hardstanding. The surface water drainage system from the site provides a hydrological link to the Natura 2000 sites.

The proposed development includes the provision of Sustainable Drainage System (SuDS) measures which is an enhancement of the existing surface water drainage network. Both the proposed SuDS and existing surface water drainage network system are hydrologically linked to the Natura 2000 Sites. The current surface water system from New Street outfalls into the estuary at the marina and near the corner of Strand Street and James Terrace.

It is noted that there is no existing foul sewer at the site and that foul sewage from properties adjoining the site may be entering the surface water drainage network and in turn the estuary. A foul sewer is proposed to separate the foul and storm water. The foul sewer would connect into an existing network which is treated at Malahide Wastewater Treatment Plant (WWTP) and would result in it not entering the Natura 2000 sites. It should be noted that the public realm improvements in of itself does not require foul sewage.

Pollutants from motor vehicles may enter the surface water drainage network on New Street – this is to be expected in such an urban location where motor vehicles are present. It is noted that vehicular traffic will be limited on New Street and will be utilise by the adjoining road network.

8.1. Revant European Sites

An AA Screening Report was prepared by Faith Wilson Ecological Consultant on behalf of FCC and accompanied the Part XIII planning application. The AA Screening Report describes the proposed development, its receiving environment and relevant European Sites in the zone of influence of the development.

No habitats or species listed as qualifying interests for any nearby European Sites or corresponding with Annex I are identified on the site in the AA Screening Report.

The proposed development 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 any European sites.

The AA Screening Report considers European sites with a source-pathway-receptor link and within 15 km of the proposed development. This Zone of Influence was established based on the extent at which potential impacts may be carried via identified pathways (i.e., surface water drainage). Having regard to the nature of the proposed development, the nature of the receiving environment and the source-pathway-receptor model, it is considered that this is a reasonable Zone of Influence.

There are 20 no. European Sites in total and it is noted that Malahide Estuary SAC and SPA are in close proximity to the site.

Table 1 below lists the qualifying interests of these sites, their conservation objectives.

Having regard to:

- the information and submissions available.
- the nature, size and location of the proposed development.
- its likely direct, indirect and cumulative effects.
- the source-pathway-receptor model; and
- the sensitivities of the ecological receptors,

It is considered that:

- Malahide Estuary SAC (Site Code: 000205)
- Malahide Estuary SPA (Site Code: 004025)
- Baldoyle Bay SAC (Site Code: 000199)
- Baldoyle Bay SPA (Site Code: 004016)
- Rockabill to Dalkey Islands SAC (Site Code: 003000)
- Rogerstown Estuary SAC (Site Code: 000208)
- Rogerstown Estuary SPA (Site Code: 004015)
- Ireland's Eye SPA (Site Code: 004117)
- North Bull Island SPA (Site Code: 004006)

- North Dublin Bay SAC (Site Code: 000206)
- Ireland's Eye SAC (Site Code: 002193)
- Lambay Island SAC (Site Code: 000204)
- Lambay Island SPA (Site Code: 004069)
- Howth Head SAC (Site Code: 000202)
- Howth Head Coast SPA (Site Code: 004113)
- Rockabill SPA (Site Code: 004014)
- Skerries Islands SPA (Site Code: 004122)
- South Dublin Bay SAC (Site Code: 000210)
- South Dublin Bay/Tolka Estuary SPA (Site Code: 004024)
- North-West Irish Sea SPA (Site Code: 004236)

are relevant to include for the purposes of initial screening for the requirement for Stage 2 AA on the basis of likely significant effects.

Table 1: European Sites considered for Stage 1 Screening				
European Site (Code)	Distance	Qualifying Interest(s)	Conservation Objectives	Source-Pathway-Receptor and Potential for Likely Significant Effects
Malahide Estuary SAC (Site Code: 000205)	200 m	<ul style="list-style-type: none"> (1140) Mudflats and sandflats not covered by seawater at low tide (1310) Salicornia and other annuals colonizing mud and sand (1320) Spartina swards (Spartinion maritimae) (1330) Atlantic salt meadows (Glauco-Puccinellietalia maritimae) (1410) Mediterranean salt meadows (Juncetalia maritimi) (2130) Fixed coastal dunes with herbaceous vegetation (grey dunes) * (2120) Shifting dunes along the shoreline with Ammophila arenaria (white dunes) 	To maintain the favourable conservation condition of the Annex I habitats for which the SAC has been selected	Hydrological connection to site could give rise to changes in water quality.
Malahide Estuary SPA (Site Code: 004025)	200 m	<ul style="list-style-type: none"> Great Crested Grebe (Podiceps cristatus) [A005] Light-bellied Brent Goose (Branta bernicla hrota) [A046] Shelduck (Tadorna tadorna) [A048] Pintail (Anas acuta) [A054] □ Goldeneye (Bucephala clangula) [A067] Red-breasted Merganser (Mergus serrator) [A069] ystercatcher (Haematopus ostralegus) [A130] □ Golden Plover (Pluvialis apricaria) [A140] Grey Plover (Pluvialis squatarola) [A141] Knot (Calidris canutus) [A143] □ Dunlin (Calidris alpina) [A149] Black-tailed Godwit (Limosa limosa) [A156] Bar-tailed Godwit (Limosa lapponica) [A157] Redshank (Tringa totanus) [A162] Wetland and Waterbirds [A999] 	To maintain the favourable conservation condition of the bird species listed as Qualifying Interests for this SPA	Hydrological connection to site could give rise to changes in water quality.
Baldoyle Bay SAC (Site Code: 000199)	3.7 km	<ul style="list-style-type: none"> (1140) Mudflats and sandflats not covered by seawater at low tide (1310) Salicornia and other annuals colonizing mud and sand (1330) Atlantic salt meadows (Glauco-Puccinellietalia maritimae) (1410) Mediterranean salt meadows (Juncetalia maritimi) 	To maintain the favourable conservation condition of the Annex I habitats for which the SAC has been selected	No potential for meaningful biological or relevant hydrological connectivity to this site as it is connected via the Irish Sea. Given the separation of the proposed development from this site and the dilution and dispersion action of the sea, it is considered that the potential for impacts to arise from the construction and operation phase of the proposed development is unlikely.
Baldoyle Bay SPA (Site Code: 004016)	3.7 km	<ul style="list-style-type: none"> Light-bellied Brent Goose (Branta bernicla hrota) [A046] Shelduck (Tadorna tadorna) [A048] Ringed Plover (Charadrius hiaticula) [A137] Golden Plover (Pluvialis apricaria) [A140] Grey Plover (Pluvialis squatarola) [A141] 	To maintain the favourable conservation condition of the bird species listed as Qualifying Interests for this SPA	No potential for meaningful biological or relevant hydrological connectivity to this site as it is connected via the Irish Sea. Given the separation of the proposed development from this site and the dilution and dispersion action of the sea, it is considered that the potential for impacts to arise from the construction and operation phase of the proposed development is unlikely.

		<ul style="list-style-type: none"> Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Wetland and Waterbirds [A999] 		
Rockabill to Dalkey Islands SAC (Site Code: 003000)	5.4 km	<ul style="list-style-type: none"> (1170) Reefs (1351) Harbour Porpoise (<i>Phocoena phocoena</i>) 	To maintain the favourable conservation condition of the Annex I habitat and the Annex II species for which the SAC has been selected	No potential for meaningful biological or relevant hydrological connectivity to this site as it is connected via the Irish Sea. Given the separation of the proposed development from this site and the dilution and dispersion action of the sea, it is considered that the potential for impacts to arise from the construction and operation phase of the proposed development is unlikely.
Rogerstown Estuary SAC (Site Code: 000208)	5.4 km	<ul style="list-style-type: none"> (1130) Estuaries (1140) Mudflats and sandflats not covered by seawater at low tide (1310) Salicornia and other annuals colonizing mud and sand (1330) Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) (1410) Mediterranean salt meadows (<i>Juncetalia maritimi</i>) (2120) Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) (2130) Fixed coastal dunes with herbaceous vegetation (grey dunes) * 	To maintain the favourable conservation condition of the Annex I habitats for which the SAC has been selected	No potential for meaningful biological or relevant hydrological connectivity to this site as it is connected via the Irish Sea. Given the separation of the proposed development from this site and the dilution and dispersion action of the sea, it is considered that the potential for impacts to arise from the construction and operation phase of the proposed development is unlikely.
Rogerstown Estuary SPA (Site Code: 004015)	5.4 km	<ul style="list-style-type: none"> Greylag Goose (<i>Anser anser</i>) [A043] Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Shelduck (<i>Tadorna tadorna</i>) [A048] Shoveler (<i>Anas clypeata</i>) [A056] Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Ringed Plover (<i>Charadrius hiaticula</i>) [A137] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Knot (<i>Calidris canutus</i>) [A143] □ Dunlin (<i>Calidris alpina</i>) [A149] Black-tailed Godwit (<i>Limosa limosa</i>) [A156] Redshank (<i>Tringa totanus</i>) [A162] Wetland and Waterbirds [A999] 	To maintain the favourable conservation condition of the bird species listed as Qualifying Interests for this SPA	No potential for meaningful biological or relevant hydrological connectivity to this site as it is connected via the Irish Sea. Given the separation of the proposed development from this site and the dilution and dispersion action of the sea, it is considered that the potential for impacts to arise from the construction and operation phase of the proposed development is unlikely.
Ireland's Eye SPA (Site Code: 004117)	6.8 km	<ul style="list-style-type: none"> Cormorant (<i>Phalacrocorax carbo</i>) [A017] Herring Gull (<i>Larus argentatus</i>) [A184] Kittiwake (<i>Rissa tridactyla</i>) [A188] Guillemot (<i>Uria aalge</i>) [A199] Razorbill (<i>Alca torda</i>) [A200] 	To maintain or restore the favourable conservation condition of the bird species listed as Qualifying Interests for this SPA	No potential for meaningful biological or relevant hydrological connectivity to this site as it is connected via the Irish Sea. Given the separation of the proposed development from this site and the dilution and dispersion action of the sea, it is considered that the potential for impacts to arise from the construction and operation phase of the proposed development is unlikely.
North Bull Island SPA (Site Code: 004006)	7.3 km	<ul style="list-style-type: none"> Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Shelduck (<i>Tadorna tadorna</i>) [A048] Teal (<i>Anas crecca</i>) [A052] Pintail (<i>Anas acuta</i>) [A054] Shoveler (<i>Anas clypeata</i>) [A056] 	To maintain the favourable conservation condition of the bird species listed as Qualifying Interests for this SPA	No potential for meaningful biological or relevant hydrological connectivity to this site as it is connected via the Irish Sea. Given the separation of the proposed development from this site and the dilution and dispersion action of the sea, it is considered that the potential for impacts to arise from the construction and operation phase of the proposed development is unlikely.

North Dublin Bay SAC (Site Code: 000206)	7.3 km	<ul style="list-style-type: none"> (1140) Mudflats and sandflats not covered by seawater at low tide (1210) Annual vegetation of drift lines (1310) Salicornia and other annuals colonizing mud and sand (1320) Spartina swards (Spartinion maritimae) (1330) Atlantic salt meadows (Glauco-Puccinellietalia maritimae) (1395) Petalwort (Petalophyllum ralfsii) (1410) Mediterranean salt meadows (Juncetalia maritimi) (2110) Embryonic shifting dunes (2120) Shifting dunes along the shoreline with Ammophila arenaria (white dunes) (2130) Fixed coastal dunes with herbaceous vegetation (grey dunes) (2190) Humid dune slacks 	To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected	No potential for meaningful biological or relevant hydrological connectivity to this site as it is connected via the Irish Sea. Given the separation of the proposed development from this site and the dilution and dispersion action of the sea, it is considered that the potential for impacts to arise from the construction and operation phase of the proposed development is unlikely.
Ireland's Eye SAC (Site Code: 002193)	7.4 km	<ul style="list-style-type: none"> Perennial vegetation of stony banks [1220] Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] 	To maintain the favourable conservation condition of the Annex I habitats for which the SAC has been selected	No potential for meaningful biological or relevant hydrological connectivity to this site as it is connected via the Irish Sea. Given the separation of the proposed development from this site and the dilution and dispersion action of the sea, it is considered that the potential for impacts to arise from the construction and operation phase of the proposed development is unlikely.
Lambay Island SAC (Site Code: 000204)	9.1 km	<ul style="list-style-type: none"> (1230) Vegetated sea cliffs of the Atlantic and Baltic coasts (1170) Reefs (1364) Halichoerus grypus (1265) Phoca vitulina 	To maintain the favourable conservation condition of the Annex I habitats for which the SAC has been selected	No potential for meaningful biological or relevant hydrological connectivity to this site as it is connected via the Irish Sea. Given the separation of the proposed development from this site and the dilution and dispersion action of the sea, it is considered that the potential for impacts to arise from the construction and operation phase of the proposed development is unlikely.
Lambay Island SPA (Site Code: 004069)	9.1 km	<ul style="list-style-type: none"> Fulmar (Fulmarus glacialis) [A009] Cormorant (Phalacrocorax carbo) [A017] Shag (Phalacrocorax aristotelis) [A018] Grey Lag Goose (Anser anser) [A043] Lesser Black-backed Gull (Larus fuscus) [A183] Herring Gull (Larus argentatus) [A184] Kittiwake (Rissa tridactyla) [A188] Guillemot (Uria aalge) [A199] Razorbill (Alca torda) [A200] Puffin (Fratercula arctica) [A204] 	To maintain the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA	No potential for meaningful biological or relevant hydrological connectivity to this site as it is connected via the Irish Sea. Given the separation of the proposed development from this site and the dilution and dispersion action of the sea, it is considered that the potential for impacts to arise from the construction and operation phase of the proposed development is unlikely.
Howth Head SAC (Site Code: 000202)	9.2 km	<ul style="list-style-type: none"> Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] European dry heaths [4030] 	To maintain or restore the favourable conservation condition of the Annex I habitats for which the SAC has been selected	No potential for meaningful biological or relevant hydrological connectivity to this site as it is connected via the Irish Sea. Given the separation of the proposed development from this site and the dilution and dispersion action of the sea, it is considered that the potential for impacts to arise from the construction and operation phase of the proposed development is unlikely.
Howth Head Coast SPA	9.4 km	<ul style="list-style-type: none"> Kittiwake (Rissa tridactyla) [A188] 	To maintain or restore the favourable conservation	No potential for meaningful biological or relevant hydrological connectivity to this site as it is connected via the Irish Sea. Given

(Site Code: 004113)			condition of the bird species listed as Special Conservation Interests for this SPA	the separation of the proposed development from this site and the dilution and dispersion action of the sea, it is considered that the potential for impacts to arise from the construction and operation phase of the proposed development is unlikely.
South Dublin Bay/Tolka Estuary SPA (Site Code: 004024)	10.3 km	<ul style="list-style-type: none"> • Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] • Oystercatcher (<i>Haematopus ostralegus</i>) [A130] • Ringed Plover (<i>Charadrius hiaticula</i>) [A137] • Grey Plover (<i>Pluvialis squatarola</i>) [A141] • Knot (<i>Calidris canutus</i>) [A143] • Sanderling (<i>Calidris alba</i>) [A144] • Dunlin (<i>Calidris alpina</i>) [A149] • Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] • Redshank (<i>Tringa totanus</i>) [A162] • Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] • Roseate Tern (<i>Sterna dougallii</i>) [A192] • Common Tern (<i>Sterna hirundo</i>) [A193] • Arctic Tern (<i>Sterna paradisaea</i>) [A194] • Wetland and Waterbirds [A999] 	To maintain the favourable conservation condition of the bird species listed as Qualifying Interests for this SPA	No potential for meaningful biological or relevant hydrological connectivity to this site as it is connected via the Irish Sea. Given the separation of the proposed development from this site and the dilution and dispersion action of the sea, it is considered that the potential for impacts to arise from the construction and operation phase of the proposed development is unlikely.
South Dublin Bay SAC (Site Code: 000210)	12.3 km	<ul style="list-style-type: none"> • 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] • Embryonic shifting dunes [2110] 	To maintain or restore the favourable conservation condition of the Annex I habitats for which the SAC has been selected	No potential for meaningful biological or relevant hydrological connectivity to this site as it is connected via the Irish Sea. Given the separation of the proposed development from this site and the dilution and dispersion action of the sea, it is considered that the potential for impacts to arise from the construction and operation phase of the proposed development is unlikely.
Skerries Islands SPA (Site Code: 004122)	13.6 km	<ul style="list-style-type: none"> • Cormorant (<i>Phalacrocorax carbo</i>) [A017] • Shag (<i>Phalacrocorax aristotelis</i>) [A018] • Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] • Purple Sandpiper (<i>Calidris maritima</i>) [A148] • Turnstone (<i>Arenaria interpres</i>) [A169] • Herring Gull (<i>Larus argentatus</i>) [A184] 	To maintain the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA	No potential for meaningful biological or relevant hydrological connectivity to this site as it is connected via the Irish Sea. Given the separation of the proposed development from this site and the dilution and dispersion action of the sea, it is considered that the potential for impacts to arise from the construction and operation phase of the proposed development is unlikely.
Rockabill SPA (Site Code: 004014)	14.1 m	<ul style="list-style-type: none"> • Purple Sandpiper (<i>Calidris maritima</i>) [A148] • Roseate Tern (<i>Sterna dougallii</i>) [A192] • Common Tern (<i>Sterna hirundo</i>) [A193] • Arctic Tern (<i>Sterna paradisaea</i>) [A194] 	To maintain the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA	No potential for meaningful biological or relevant hydrological connectivity to this site as it is connected via the Irish Sea. Given the separation of the proposed development from this site and the dilution and dispersion action of the sea, it is considered that the potential for impacts to arise from the construction and operation phase of the proposed development is unlikely.
North-West Irish Sea cSPA (Site Code: 004236)	2 km	<ul style="list-style-type: none"> • Common Scoter (<i>Melanitta nigra</i>) [A065] • Red-throated Diver (<i>Gavia stellata</i>) [A001] • Great Northern Diver (<i>Gavia immer</i>) [A003] • Fulmar (<i>Fulmarus glacialis</i>) [A009] • Manx Shearwater (<i>Puffinus puffinus</i>) [A013] • Shag (<i>Phalacrocorax aristotelis</i>) [A018] • Cormorant (<i>Phalacrocorax carbo</i>) [A017] 		No potential for meaningful biological or relevant hydrological connectivity to this site. Given the dilution and dispersion action of the sea, it is considered that the potential for impacts to arise from the construction and operation phase of the proposed development is unlikely.

		<ul style="list-style-type: none"> • Little Gull (<i>Larus minutus</i>) [A177] • Kittiwake (<i>Rissa tridactyla</i>) [A188] • Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] • Common Gull (<i>Larus canus</i>) [A182] • Lesser Black-backed Gull (<i>Larus fuscus</i>) [A183] • Herring Gull (<i>Larus argentatus</i>) [A184] • Great Black-backed Gull (<i>Larus marinus</i>) [A187] • Little Tern (<i>Sterna albifrons</i>) [A195] • Roseate Tern (<i>Sterna dougallii</i>) [A192] • Common Tern (<i>Sterna hirundo</i>) [A193] • Arctic Tern (<i>Sterna paradisaea</i>) [A194] • Puffin (<i>Fratercula arctica</i>) [A204] • Razorbill (<i>Alca torda</i>) [A200] • Guillemot (<i>Uria aalge</i>) [A199] 		
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8.2. Potential Impacts on European Sites and Test of Likely Significant Effects

8.2.1. Construction Phase

During the construction phase, the existing hardstand and vegetation on the site will be removed. There will be some soil and earth movement to prepare the site, including installation and diversion of services and utilities. As a result, there will be general construction related noise, dust, lighting, traffic and potential for pollutants to enter the watercourses. The site is not located within a European site and there will be no direct impacts on the Natura 2000 sites or their qualifying interests.

As the proposed development is located upstream of the Malahide Estuary and the wider complex of European sites, this raises the potential for indirect effects on those Natura 2000 sites and qualifying interests during the construction phase. Potential impacts could arise from any deterioration in water quality as a result of the uncontrolled or unmitigated release of sediments and pollutants to the adjacent surface water drainage and general disturbance during the works, which could in turn have localised adverse impacts on qualifying interests.

Notwithstanding these concerns, the construction works associated with the proposed development will take place largely on the existing hardstanding and will incorporate standard best practice construction methods to protect the general environment and ensure water quality in the surface water drainage network is protected. In addition the dilution and dispersion action of the estuary/sea is such that that impacts as a result of discharges from construction phase on the maintenance of the favourable conservation condition of species and habitats for which the Natura 2000 sites would be unlikely.

Therefore, having regard to the separation distance from the European sites; the environment between the site and the Malahide Estuary; the nature of the site, which is existing hardstanding and surrounded by existing urban development; and the scale of the proposed development, and best practice construction methods to be used it is considered that there is no significant hydrological pathway between the proposed development and the European Sites during the construction phase.

Considering the characteristics of the qualifying interests of the European Sites, as listed above, it is considered that no other form of pathway exists and that the site

would not be likely to play a supporting or ex situ role for any of the identified habitats or species.

It is therefore considered that the construction phase of the proposed development is not likely to have a significant effect on the European Sites, or any other European site, in view of the conservation objectives for these sites.

8.2.2. Operation Phase

During the operational phase, New Street will operate as a pedestrianised street with certain traffic restrictions. There will also be an ability to congregate and socialise on the street. As a result, there will be general operation related noise, lighting, traffic and potential for pollutants to enter the SuDS. The site is not located within a European site and there will be no direct impacts on the Natura 2000 sites or their qualifying interests.

As the proposed development is located upstream of the Malahide Estuary sites, this raises the potential for indirect effects on those Natura 2000 sites and qualifying interests during the operation phase. Potential impacts could arise from any deterioration in water quality as a result of the uncontrolled or unmitigated release of sediments and pollutants to the SuDS, which could in turn have localised adverse impacts on qualifying interests.

Notwithstanding these concerns, it is considered the hydrological connection to European Sites in Malahide Estuary are limited as a result of the proposed surface water drainage systems. The project has been the subject of a Flood Risk Assessment which concluded that it is not likely to give rise to a significant flood risk. It is also noted the proposed development is classified as a 'Water Compatible Development' under "The Planning Scheme and Flood Risk Management" Guidelines and as such is considered appropriate in this location.

The foul water arising within the proposed development will discharge to the existing treatment plant at Malahide. Irish Water's Annual Environmental Report, 2022, for this facility, stated that it had excess capacity which would not be exceeded in the next three years. Given the scale of the proposed development and number of new connections to the proposed foul sewer the impact on capacity at the WWTP will be negligible, the potential for impacts including in-combination impacts with the operation of the WWTP on the Malahide Estuary is unlikely.

As noted above, pollutants from motor vehicles may enter the surface water drainage network on New Street – this is to be expected in such an urban location where motor vehicles are present. It is noted that vehicular traffic will be limited on New Street and will be utilised by the adjoining road network – this relatively minor change in traffic patterns is not considered to increase or decrease the likelihood of pollutants entering the surface water drainage network. It is accepted that unintended pollutants from motor vehicles using the road network entering the surface water drainage network could occur on any road, in any location, at any time in the general Malahide area – the proposed development would not in of itself be the reason for such an occurrence.

It is not considered that the proposed drainage measures, both storm water and foul water, comprise mitigation for the purpose of AA, as they would be required irrespective of the presence of European Sites in the vicinity or not. It is also considered that surface water discharge from the site will not have any measurable impact on water quality or any significant effects on Natura 2000 sites or their qualifying interests due to the scale of the development.

Therefore, having regard to the separation distance from the European sites; the distance and environment between the site and the Malahide Estuary; the design of the proposed development including the surface water drainage systems and design measures to limit transference of pollutants, the nature of the site which is surrounded by existing urban development; and the scale of the proposed development, and best practice operation practices to be used it is considered that there is no significant hydrological pathway between the proposed development and the European Sites during the construction phase.

Considering the characteristics of the qualifying interests of the European Sites, as listed above, it is considered that no other form of pathway exists and that the site would not be likely to play a supporting or ex situ role for any of the identified habitats or species.

It is therefore considered that the operational phase of the proposed development is not likely to have a significant effect on the European Sites, or any other European site, in view of the conservation objectives for these sites.

8.3. In-Combination Effects

The adopted FCDP has been subject to AA and SEA and considered the policy set out in 'Objective CSO63' to pedestrianise New Street. The SEA for the plan concluded that its implementation would not result in significant effects on the European sites.

It is also noted that the development is on serviced lands in an urban area and does not constitute a significant urban development in the context of the wider town and the other projects identified above in Section 4.0.

The development is not associated with any significant loss of habitat or pollution which could act in an in-combination manner to result in significant negative effects to any Natura 2000 sites. There are no plans or projects which can act in combination with the development which can give rise to significant effect to Natura areas within the zone of influence.

Similarly, the development is not associated with any significant generation of traffic which could act in an in-combination manner to result in significant negative effects to the European sites.

Should the construction of the proposed development occur in tandem with other urban development, including those set out in Section 4.0 of this report, or indeed projects set out in plans such as the Malahide Public Realm Strategy, any impacts would be of a temporary nature and short-term given:

- the limited nature of works (i.e., no significant structures, length of street),
- the expected duration of the works (15 months),
- the location of lands to be developed (town centre),
- the location and distance to the other existing and/or approved projects.
- the likelihood of temporal overlap of construction works between projects.
- the implementation of standard and best practice construction and operation measures.

It is considered unlikely that in-combination effects with other existing and/or approved projects would arise.

8.4. Mitigation Measures

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.

8.5. Conclusion

Having regard to the foregoing, it is reasonable to conclude, on the basis of the information on the file, which is considered adequate in order to issue a screening determination, that the proposed development, either individually or in combination with other plans or projects would not be likely to have a significant effect on any European Site, in view of the conservation objectives of these sites and that a Stage 2 AA and the submission of a NIS for the proposed development is not required.

9.0 Other Issues

9.1. Duplicate Submissions

A concurrent and separate application for an EIA Screening Determination is being considered under ABP-317130-23. The submissions of the applicant is similar and blend issues related to EIA and AA. This is unavoidable given the manner in which the legislation is set out. Regardless the author of this report is satisfied to have address all issues raised in both determination requests.

10.0 Recommendation

Having regard to the above assessment, it is considered that the proposed development would not be likely to have significant effects on any European sites and, accordingly, an AA is not required.

It is therefore recommended that FCC be advised that the preparation and submission of a NIS is not required in respect of the proposed development.

11.0 Reasons and Considerations

Having regard to the following:

- the nature and scale of the proposed development,
- the location of the proposed development and the separation distance from the Natura 2000 sites,
- the hydrological connection between the site and the European sites via an adjacent watercourse,

- the ecological connection between the site and the European sites via an adjacent watercourse and treelines and vegetation,
- the submission made by the local authority, including the AA Screening Report,
- the submissions made by the applicants requesting a determination,
- the report and recommendation of the Inspector,

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 the identified Natura 2000 sites, in view of the conservation objectives of these sites and that a Stage 2 AA and the submission of a NIS for the proposed development is not required.

Professional Declaration

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Tomás Bradley,

Senior Planning Inspector

28th August 2023