



An  
Bord  
Pleanála

# Inspector's Report

## ABP-317781-23

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<b>Development</b>	Deansgrange Cycle Route Scheme
<b>Location</b>	Deansgrange, Co. Dublin
<b>Planning Authority</b>	Dun Laoghaire Rathdown County Council
<b>Applicant</b>	Grange Terrace Residents and Businesses
<b>Type of Application</b>	Appropriate Assessment (AA) Screening Determination under Article 250(3)(b) of the Planning and Development Regulations 2001, as amended
<b>Date of Site Inspection</b>	19th December 2023
<b>Inspector</b>	David Ryan

## 1.0 Introduction

- 1.1. Under the provisions of Article 250(3)(b) of the Planning and Development Regulations 2001, as amended, an application for an Appropriate Assessment Screening Determination was made to the Board as to whether the development of the Deansgrange Cycle Route Scheme at Deansgrange, Co. Dublin by Dun Laoghaire Rathdown County Council would be likely to have a significant effect on a European Site.
- 1.2. The proposed development is a local authority project which has been subject to a Part XI process under the Planning and Development Act 2000, as amended, and Part 8 of the Planning and Development Regulations 2001, as amended. It is not a direct application to the Board. The development was amended by resolution on 13<sup>th</sup> March 2023.
- 1.3. The applicant, Grange Terrace Residents and Businesses under the provisions of Article 250(3)(b) of the Planning and Development Regulations 2001, as amended has requested the Board make an AA screening determination. A separate application for an Environmental Impact Assessment (EIA) was received and deemed invalid under ABP-317782-23.
- 1.4. Dun Laoghaire Rathdown County Council is of the opinion that the proposed development will not have a significant effect on a European Site and that AA is not required. In support of this opinion the Council has submitted an EIA & AA Screening Report (April 2022) and EIA & AA Screening Report Addendum (April 2023). The applicant contends the proposed development would likely have significant effects on a European Site.

## 2.0 Site Location and Description

- 2.1. The site is located in Deansgrange which is located in the centre of the county, with Dun Laoghaire to the east, Blackrock to the north and Stillorgan to the west. The majority of the site of the proposed scheme which is currently under construction comprises public roads and footpaths, with a number of grass verges and covers a length of approximately 1km. At its southern area the site proceeds along a section of Kill Lane (R830), providing access to and from Clonkeen Park, and onto the

junction of Kill Lane and Deansgrange Road. The site then runs to the north traveling along Deansgrange Road (R827) and terminates south of the Deansgrange Road/Brookville Park junction. A minor element of the scheme is located within Deansgrange Cemetery to the west of the R827, which includes buildings, artificial surfaces, dry meadow, amenity grasslands, treelines and mixed coniferous woodland.

- 2.2. The site is surrounded by developed land, including residential, commercial, educational developments and Deansgrange Cemetery. The southern area of the route is located in the Deansgrange Neighbourhood Centre, which entails commercial and retail development including a Supervalu, Lidl and public house with a national school located to its east. The southern area of the route on Deansgrange Road includes for car dealerships on both sides of the route and commercial units on the eastern side of the road. This area includes a permitted Strategic Housing Development (ABP-307332) to the south adjacent Deansgrange Cemetery which is substantially complete. At its mid-section the cycle route adjoins Deansgrange Cemetery to its west for approx.400m with residential development to its east. The northern area of the route near the junction of Deansgrange Road and Brookville Park is bounded by residential development. On-street parking, including regulated pay and display, residential disk parking and unregulated parking is provided at a number of locations along the Deansgrange Road. Footpaths are located on both sides of the Deansgrange Road.
- 2.3. The site includes for an uncontrolled pedestrian crossing on Kill Lane and signalised pedestrian crossing on all arms of the R830/R827 Deansgrange Junction.
- 2.4. The site is not located within any sensitive natural heritage designations.
- 2.5. The site is considered under the Catchment Flood Risk Assessment and Management (CFRAM) Programme. The mapping indicates that Deansgrange Stream to the south neighbouring the site is liable to fluvial flooding. The mapping also indicates a flooding event occurred at Deansgrange Village in 2011.
- 2.6. On the date of my site inspection development works on the project the subject of this determination were being carried out along the Deansgrange Road and within the cemetery.

### 3.0 Proposed Development

3.1. The proposed development is seeking to deliver a high quality, safe walking and cycling route to meet current demand within the Deansgrange area. The scheme provides a key connection between the “Park to Park” Route and the “Mountains to Metals” Route proposed as part of the overall Active School Travel Project. The development will include for the following:

- Upgrade of existing cycling facilities along Kill Lane between entrance to Clonkeen Park and Junction with Deansgrange Road with new pedestrian crossing at entrance to the park – distance of c.100 metres
- Along Deansgrange Road segregated cycle facilities which will necessitate removal of public parking – distance of c. 900 metres
- Junction improvements including traffic signal upgrades
- Remodelling of road junctions
- Entrances works and pedestrian path at Deansgrange Cemetery

3.2. The majority of the works will be on existing road surfaces and paved surfaces, with some works requiring the removal of narrow strips of grassland. An existing track will be upgraded to a footpath in the cemetery. Gullies along Deansgrange Road on the western side will be relocated in order to locate the two way cycle track on the western side of the road carriageway. There will be no change in the area of existing hardstanding under the scheme for the Deansgrange Road, therefore there will be no additional surface water run off to the existing roadside drainage network, which discharges to local watercourses.

3.3. Part of the initial scheme prior to amendment was routed through Deansgrange Cemetery. The proposed two-way segregated cycle lane in the amended scheme is to be located on the west side of Deansgrange Road and as the scheme would retain two vehicular traffic lanes and footpaths the controlled public on street car parking on the east side is removed.

3.4. The local authority outlines the scheme has been subject to a Part XI process, pursuant to the Planning and Development Act 2000, as amended and Part 8 of the Planning and Development Regulations 2001, as amended.

**Accompanying Documents include:**

- Correspondence from Ken Kennedy Solicitors on behalf of applicant dated 10<sup>th</sup> August 2023
- Cover letter from Dun Laoghaire Rathdown County Council dated 6<sup>th</sup> September 2023 with attached correspondence from MacCabe, Durney Barnes Planning/Environment/Economics dated 6<sup>th</sup> September 2023
- Chief Executive Order
- Public Consultation Report (February 2023)
- EIA & AA Screening Report (April 2022) and EIA and AA Screening Report Addendum (April 2023)
- Part 8 Report (August 2022)
- Archaeological and Architectural Assessment (August 2022)
- Verified Photomontages
- Ecological Impact Assessment (August 2022)
- Invasive Species Management Plan (August 2022)
- Technical Notes
- Original Part 8 drawings and amended Part 8 drawings

## 4.0 Planning History

4.1. There are a number of recent planning applications made in the vicinity of the site, which relate to residential, commercial and other developments. This includes the permitted ABP-307332-20 Strategic Housing Development at Deansgrange Road which included the construction of 151 no. apartments and is substantially complete.

## 5.0 Policy Context

- 5.1. The Dun Laoghaire Rathdown County Development Plan 2022-2028 is the relevant plan which came into effect 21<sup>st</sup> April 2022.
- 5.2. The road/pathway site subject of the development is partially within Zoning Objective 'Boundary of Deansgrange Local Area Plan', Boundary of lands for which a Local Area Plan will be prepared. The cemetery has a 'F' zoning objective 'To preserve and provide for open space with ancillary active recreational amenities'. The road and pathway are located adjacent to a range of zonings including residential, neighbourhood centre, sustainable neighbourhood infrastructure, and open space with ancillary active recreational amenities zonings.
- 5.3. Relevant provisions of the plan in respect of Natural Heritage include:  
  
*Policy Objective GIB21: Designated Sites - It is a Policy Objective to protect and preserve areas designated as proposed Natural Heritage Areas, Special Areas of Conservation, and Special Protection Areas. It is Council policy to promote the maintenance and as appropriate, delivery of 'favourable' conservation status of habitats and species within these areas.*
- 5.4. The CDP outlines the R830/R827 junction is liable to pluvial surface water flooding.

## 6.0 Legal Context

- 6.1. **The Habitats Directive (92/43/EEC)** deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. The Directive requires that any plan or project not directly connected with or necessary to the management of the European Site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. This process is designated 'Appropriate Assessment' and arises from obligations under Article 6(3) and 6(4) of the Habitats Directive.
- 6.2. Under 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.

## 7.0 Request for Determination

7.1. Grange Terrace Residents and Businesses have made an application under the provisions of Article 250 (3) (b) requesting the Board to make an AA Screening Determination. The applicant represents a group of business and residents in the vicinity of Grange Terrace, Deansgrange Road, Blackrock, Co. Dublin. The application was prepared by Ken Kennedy Solicitors.

7.2. The applicant's submission is summarised as follows:

- On approx. 13<sup>th</sup> March 2023 Dun Laoghaire Rathdown County Council voted to amend the route of the Deansgrange Cycle Route Scheme which until then proposed a route through Deansgrange Cemetery and had been the subject of a planning process under Part 8 of the P&DR 2001, as amended.
- The effect of the vote is to significantly modify the original scheme, altering and diverting the cycleway route away from the cemetery and requiring the removal of roadside car parking spaces affecting 29 no. dwellings and 11 no. business premises on the Deansgrange Road. The scheme as amended also proposes a new car park for cemetery visitors but not for displaced motor vehicles and no new Part 8 process has commenced.
- The South Dublin Bay SAC, the Rockabill to Dalkey Island SAC, the South Dublin Bay and River Tolka Estuary SPA and the Dalkey Islands SPA are located nearby and offshore but there are direct pathways from land via surface water, groundwater, soil and air. There is an indirect pathway via the combined surface water and foul sewer to the Ringsend Wastewater Treatment Plant. It is submitted construction works can generate pollutants including suspended solids, oil spillages, airborne particles and chemicals which can cause impacts on habitats and species.

- As locations of alternative car parking spaces for vehicles displaced have yet to be identified, it has not been possible for the Council to carry out screening of the modified development, to assess in view of best scientific knowledge, if the development, individually or in combination with other plans and projects, would be likely to have a significant effect on a European Site, as required by Article 250 (1) of the P&DA 2000, as amended.
- No proper assessment made of waterbodies at risk of contamination, including those in vicinity of displaced parking and the impact on Water Framework Directive objectives for same, as well as their function as hydraulic links to European Sites. Waterbodies likely to be impacted by substitute parking arrangements not identified. Recent background monitoring of waterbodies not conducted and up to date EPA monitoring information not identified. Ecological status of Deansgrange Stream when last assessed was poor.
- It is submitted without information on the alternative location for parking of displaced cars, scientific assessments of impact of same and combined effect with other plans and projects and emissions from the cemetery car park, the Board cannot exclude, on the basis of objective information, the possibility that the proposed development, individually or in combination with other plans or projects, would have a significant effect on a European Site. On this basis alone, applicant submits a Natura Impact Assessment and AA must be carried out, to allow proper assessments and to apply precautionary principle, as required by Article 6 of the Habitats Directive. It is submitted pathways to European Sites are already contaminated and further development can only worsen situation.
- Applicant requests Board to apply precautionary principle to conclude that a Natura Impact Assessment and AA must be carried out.
- Submission further states should the Board seek a submission from the Council applicant requests to be given an opportunity to comment on same.



## 8.0 Planning Authority Response

8.1. In response the Planning Authority by way of correspondence has set out details in relation to the project. The submission is summarised as follows:

- *Project location* - Details are set out in relation to the project location and description
- *Status of proposed development* – It is outlined the scheme has been subject to a Part XI process, pursuant to the P&DA 2000, as amended and Part 8 of the P&DR 2001, as amended. The Chief Executive’s Report on the public consultation was brought to Elected Members and its recommendations were noted by Councillors and amended by resolution on 13<sup>th</sup> March 2023
- *Amendment to Scheme* – Details submitted outline part of the proposed scheme passed through Deansgrange Cemetery, with the proposed two way segregated cycle lane in the amended scheme instead of proceeding through the cemetery is to be fully located on the west side of the Deansgrange Road and as the scheme retains two vehicular traffic lanes and footpaths the controlled on street carparking on the east side is removed.
- *AA screening of the Scheme* – It is outlined MacCabe, Durney Barnes in association with NM Ecology prepared an EIA Screening Report and AA Screening Report for the scheme (dated April 2022). The AA Screening report excluded on the basis of objective scientific information following screening, that the plan or project, individually or in combination with other plans or projects, will have a significant effect on a European site and concluded AA is not required.
- *AA Screening of Amendments to Scheme* – It is outlined in view of the amendments an EIA & AA Screening Report Addendum was prepared by MacCabe, Durney Barnes (dated April 2023). The report conclusion for the amended scheme was unchanged from the conclusion outlined in the initial AA Screening Report.

- *Local Authority Opinion on proposed development having significant effects on a European Site* – DLRCC has considered both reports and an explanatory letter by MacCabe, Durney Barnes (September 2023) with regard to the scheme having significant effects on a European Site and basis for that opinion. It is outlined the proposed development will not cause any direct or indirect impacts on Natura 2000 Sites, therefore there is no risk of in-combination effects. DLRCC outline a significant effect on a European site, individually or in combination with other plans or projects is ruled out and therefore it is considered no AA stage 2/NIS is required. It is outlined no mitigation measures have been considered in reaching this conclusion.
- The local authority response includes correspondence from MacCabe, Durney Barnes which includes the following:
  - The applicant's submission incorrectly states the scheme proposes to develop a new car park for cemetery visitors (not for the displaced motor vehicles)
  - The potential for direct and indirect pathways from the scheme to European sites within 5km was considered
  - Contrary to the submission assertion, the ecological status of the Deansgrange Steam was considered as was the potential for any pollution of same and the potential for indirect impacts during construction, with reference made to section 4.2 of report
  - The omission of on-street car parking spaces as part of the scheme does not prevent the consenting authority from making an assessment of the potential impact on a European Site
  - Omission of on-street parking is primarily a traffic and transportation issue. The omission of the spaces have no bearing on the AA and EIA Screening Assessments. It would be inaccurate for the Screening Report to consider elements that are outside the project. If said parking spaces are to be re-allocated within the area or subject of car park project then this will be considered on its own merits. From

AA/EIA Screening perspective the implementation of the scheme is not dependant on parking spaces being provided/constructed in other locations or omitted altogether

## 9.0 Screening for Appropriate Assessment

- 9.1. The proposed development will comprise the upgrade of existing cycling facilities along Kill Lane, new pedestrian crossing at entrance to Clonkeen park, segregated cycle facilities along Deansgrange Road which will necessitate removal of public parking, junction improvements including remodelling of road junctions and entrances works and a pedestrian path at Deansgrange Cemetery, on a site covering a length of approximately 1km. The site is described in Section 2.0 of this Inspectors Report, in Section 2 of the EIA & AA Screening Report and in Section 2 of the EIA & AA Screening Report Addendum accompanying the Part 8 scheme.
- 9.2. MacCabe, Durney Barnes in association with NM Ecology on behalf of Dun Laoghaire Rathdown County Council prepared an EIA & AA Screening Report and an EIA & AA Screening Report Addendum for the scheme.
- 9.3. The AA screening report provides a description of the proposed development, its receiving environment and identifies European Sites within a zone of influence.
- 9.4. The proposed development is not directly connected with or necessary to the management of any European site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s).
- 9.5. Section 4 of the AA screening report identifies potential impacts that could arise. In relation to direct impacts, the report outlines the site is not located within or adjacent to any Natura 2000 sites so there is no risk of habitat loss, fragmentation or any other direct impacts. Indirect impacts identified include potential changes in water quality at construction phase through the release of sediment and pollutants and potential changes in water quality at operational phase. The AA screening report outlines the scheme will not generate any foul water, so this can be screened out.
- 9.6. The AA screening report concludes that there is no potential for significant effects, because there is no risk of direct or indirect impacts on any Natura 2000 Sites. The AA screening report concludes that Appropriate Assessment is not required. The AA

Screening Report Addendum outlines there is no risk of direct or indirect impacts on any Natura 2000 Sites from the amended scheme, with the conclusion unchanged from that outlined in the AA screening report, and the Addendum concludes that Appropriate Assessment is not required.

**9.7. Relevant European Sites**

9.8. The AA screening report and Addendum Report submitted considers European Sites within 5km of the proposed development, with this potential zone of influence considered to be proportionate due to the small scale of the proposed development and its suburban setting. These European Sites include South Dublin Bay and River Tolka Estuary SPA, South Dublin Bay SAC, Dalkey Islands SPA, Rockabill to Dalkey Islands SAC.

9.9. Table 9.1 below sets out my assessment of the European Sites within a potential zone of influence and the potential for pathways between the subject site and these European Sites. For completeness European Sites within 15km of the proposed development site are set out.

**9.10 - Table 9.1 European Sites within a Potential Zone of Influence**

European site (SAC/SPA)	Distance	Connections/source/pathways
South Dublin Bay SAC (000210)	1.3km	Yes – via drainage network, Monkstown Stream, and coastal waters  Yes – via Deansgrange Stream and coastal waters  Yes – Via drainage network and Ringsend WWTP

European site (SAC/SPA)	Distance	Connections/source/pathways
Rockabill to Dalkey Island SAC (003000)	4.8km	Yes – via Deansgrange Stream and coastal waters
North Dublin Bay SAC (000206)	6.6km	Yes – Via drainage network and Ringsend WWTP
Balydoyle Bay SAC (000199)	12.2km	Given the separation distance of the proposed development from this site, limited potential for hydrological connectivity to this site, the dilution and dispersion action of watercourses and seawaters and the absence of a viable pathway, the potential for significant effects on this site to arise from the proposed development is unlikely.
Glenasmole Valley SAC (001209)	13.3km	Given the separation distance of the proposed development from this site, no potential for hydrological connectivity to this site, and the absence of a viable pathway, the potential for significant effects on this site to arise from the proposed development is unlikely.

European site (SAC/SPA)	Distance	Connections/source/pathways
Howth Head SAC (000202)	10.0km	Given the separation distance of the proposed development from this site, limited potential for hydrological connectivity to this site, the dilution and dispersion action of watercourses and seawaters and the absence of a viable pathway, the potential for significant effects on this site to arise from the proposed development is unlikely.
Wicklow Mountains SAC (002122)	9.0km	Given the separation distance of the proposed development from this site, no potential for hydrological connectivity to this site, and the absence of a viable pathway, the potential for significant effects on this site to arise from the proposed development is unlikely.
Bray Head SAC (000714)	10.2km	Given the separation distance of the proposed development from this site, limited potential for hydrological connectivity to this site, the dilution and dispersion action of watercourses and seawaters and the absence of a viable pathway, the potential for significant effects on this site to arise from the proposed development is unlikely.
Ballyman Glen SAC (000713)	7.9km	Given the separation distance of the proposed development from this site, no potential for hydrological connectivity to this site, and the absence of a viable pathway, the potential for significant effects on this site to arise from the proposed development is unlikely.
Knocksink Wood SAC (000725)	7.9km	Given the separation distance of the proposed development from this site, no potential for hydrological connectivity to this site, and the absence of a viable pathway, the potential for significant effects on this site to arise from the proposed development is unlikely.

European site (SAC/SPA)	Distance	Connections/source/pathways
Irelands Eye SAC (002193)	14.0km	Given the separation distance of the proposed development from this site, limited potential for hydrological connectivity to this site, the dilution and dispersion action of watercourses and seawaters and the absence of a viable pathway, the potential for significant effects on this site to arise from the proposed development is unlikely.
South Dublin Bay and River Tolka Estuary SPA (004024)	1.3km	<p>Yes – via drainage network, the Monkstown Stream</p> <p>Yes – via Deansgrange Stream and coastal waters</p> <p>Yes – Via drainage network and Ringsend WWTP</p>
Dalkey Islands SPA (004172)	4.5km	Yes – via Deansgrange Stream and coastal waters
North Bull Island SPA (004006)	6.6km	Yes – Via drainage network and Ringsend WWTP
Balydoyle Bay SPA (004016)	12.2km	Given the separation distance of the proposed development from this site, limited potential for hydrological connectivity to this site, the dilution and dispersion action of watercourses and seawaters and the absence of a viable pathway, the potential for significant effects on this site to arise from the proposed development is unlikely.
Wicklow Mountains SPA (004040)	9.2km	Given the separation distance of the proposed development from this site, no potential for hydrological connectivity to this site, and the absence of a viable pathway, the potential for significant effects on this site to arise from the proposed development is unlikely.

European site (SAC/SPA)	Distance	Connections/source/pathways
Howth Head Coast SPA (004113)	11km	Given the separation distance of the proposed development from this site, limited potential for hydrological connectivity to this site, the dilution and dispersion action of watercourses and seawaters and the absence of a viable pathway, the potential for significant effects on this site to arise from the proposed development is unlikely.
Irelands Eye SPA (004117)	14km	Given the separation distance of the proposed development from this site, limited potential for hydrological connectivity to this site, the dilution and dispersion action of watercourses and seawaters and the absence of a viable pathway, the potential for significant effects on this site to arise from the proposed development is unlikely.
North-West Irish Sea SPA (004236)	6.6km	Yes – Via drainage network and Ringsend WWTP

9.11. In establishing the zone of influence, I have had regard to the nature, scale and location of the proposed development, the separation distances to Natura 2000 Sites, the source-pathways-receptor model and likely direct, indirect and in-combination effects. A large number of the sites as set out can be screened out from further assessment because of the nature and scale of the proposed works, their separation distances from the proposed development site, the lack of a substantive hydrological linkage between the proposed works and the European sites, that dilution and dispersion of any potential pollutants in watercourses and seawaters would occur, and the lack of suitable habitat for qualifying interests within the subject site. It is therefore considered that the potential for significant effects on these sites to arise from the proposed development are unlikely.

9.12. Having regard to the details set out in table 9.1 and the source-pathway-receptor model, I consider that there are 7 European Sites within the zone of influence which have a potential for hydrological linkage to the proposed development. These sites are identified in Table 9.2.



9.13. Table 9.2 European sites considered for Stage 1 screening

European site (SAC/SPA)	Distance to site and any potential pathway	Qualifying Interests QI / Special conservation interests (SCI)	Conservation Objective
South Dublin Bay SAC (000210)	<p>1.3km</p> <p>Yes - hydrological link via drainage network to the Monkstown Stream, and coastal waters</p> <p>Yes - hydrological link via Deansgrange Stream and coastal waters</p> <p>Yes – Via drainage network and Ringsend WWTP</p>	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Embryonic shifting dunes [2110]</p>	<p>To maintain the favourable conservation condition of Mudflats and sandflats not covered by seawater at low tide in South Dublin Bay SAC</p>
Rockabill to Dalkey Island SAC (003000)	<p>6.6km</p> <p>Yes - hydrological link via</p>	<p>1170 Reefs</p> <p>1351 Harbour porpoise <i>Phocoena phocoena</i></p>	<p>To maintain the favourable conservation condition</p>

European site (SAC/SPA)	Distance to site and any potential pathway	Qualifying Interests QI / Special conservation interests (SCI)	Conservation Objective
	Deansgrange Stream and coastal waters		
South Dublin Bay and River Tolka Estuary SPA (004024)	1.3km  Yes - hydrological link via public network to the Monkstown Stream  Yes - hydrological link via Deansgrange Stream and coastal waters  Yes – Via drainage network and Ringsend WWTP	A046 Light Bellied Brent Goose A130 Oystercatcher  A137 Ringed Plover  A141 Grey Plover  A143 Knot  A144 Sanderling  A149 Dunlin  A157 Bar-tailed Godwit  A162 Redshank  A179 Black-headed Gull  A192 Roseate Tern Sterna A193 Common Tern Sterna A194 Arctic Tern Sterna  A999 Wetlands	To maintain the favourable conservation condition
Dalkey Islands SPA (004172)	4.5km  Yes - hydrological	A192 Roseate Tern  A193 Common Tern  A194 Arctic Tern	To maintain or restore the favourable conservation condition

European site (SAC/SPA)	Distance to site and any potential pathway	Qualifying Interests QI / Special conservation interests (SCI)	Conservation Objective
	link via Deansgrange Stream and coastal waters		
North Dublin Bay SAC(000206)	6.6km Yes – Via drainage network and Ringsend WWTP	1140 Mudflats and sandflats not covered by seawater at low tide 1210 Annual vegetation of drift lines 1310 salicornia and other annuals colonising mud and sand 1330 Atlantic salt meadows (Glauco-Puccinellietalia maritimae) 1395 Petalwort 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

European site (SAC/SPA)	Distance to site and any potential pathway	Qualifying Interests QI / Special conservation interests (SCI)	Conservation Objective
North Bull Island SPA (004006)	6.6km  Yes – Via drainage network and Ringsend WWTP	A046 Brent Goose  A048 Shelduck  A052 Teal  A054 Pintail  A056 Shoveler  A130 Oystercatcher  A140 Golden Plover  A141 Grey Plover  A143 Knot  A144 Sanderling  A149 Dunlin  A156 Black-tailed Godwit  A157 Bar-tailed Godwit  A160 Curlew  A162 Redshank  A169 Turnstone  A179 Black-headed Gull  A999 Wetlands	To maintain the favourable conservation condition
North-West Irish Sea SPA (004236)	6.6km  Yes – Via drainage network and Ringsend WWTP	A001 Red-throated Diver  A003 Great Northern Diver  A009 Fulmar  A013 Manx Shearwater	To maintain or restore the favourable conservation condition

European site (SAC/SPA)	Distance to site and any potential pathway	Qualifying Interests QI / Special conservation interests (SCI)	Conservation Objective
		A017 Cormorant A018 Shag A065 Common Scoter A179 Black-headed Gull A182 Common Gull A183 Lesser Black-backed Gull A184 Herring Gull A187 Great Black-backed Gull A188 Kittiwake A192 Roseate Tern A193 Common Tern A194 Arctic Tern A195 Little Tern A199 Guillemot A200 Razorbill A204 Puffin A862 Little Gull	

#### 9.14. Potential Effects on European Sites

9.15. The overall aim of the Habitats Directive is to maintain or restore the favourable conservation status of habitats and species of community interest. Conservation objectives are set out in the South Dublin Bay SAC Conservation Objective Series (NPWS, 2013). The conservation objective seeks to maintain the favourable conservation condition of mudflats and sandflats, subject to a list of targets and attributes. In the Rockabill to Dalkey Island SAC Conservation Objective Series

(NPWS, 2013), conservation objectives seek to maintain the favourable conservation condition of the Reefs and of Harbour porpoise, subject to a list of targets and attributes. In the North Dublin Bay SAC Conservation Objective Series (NPWS, 2013) conservation objectives seek to maintain or restore the favourable conservation condition of the QI, subject to a list of targets and attributes.

- 9.16. For South Dublin Bay and River Tolka Estuary SPA (NPWS, 2015), conservation objectives seek to maintain the favourable conservation condition of the bird species and wetland habitat listed as qualifying interests. For Dalkey Islands SPA (NPWS, 2022) the conservation objective is to maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA. In the North Bull Island SPA Conservation Objective Series (NPWS, 2015) conservation objectives seeks to maintain the favourable conservation condition of the QI, subject to a list of targets and attributes. In the North-West Irish Sea SPA Conservation Objective Series (NPWS, 2023) conservation objectives seeks to maintain or restore the favourable conservation condition of the QI, subject to a list of targets and attributes.
- 9.17. Under the Water Framework Directive Status Assessments 2016-2021 on the EPA website, it is noted the Brewery Stream (indicated at the location of Monkstown Stream) is of Poor Status, and the coastal waters at the mouth of the stream at Dublin Bay is Good Status. Under the same assessment timeline, the Kill Of The Grange Stream (indicated at the location of Deansgrange Stream) is of Poor Status, and the coastal waters at the mouth of the stream at Killiney Bay is High Status.
- 9.18. Construction Phase
- 9.19. The proposed development is not located within or adjacent to any Natura 2000 Sites and therefore will not result in any direct impacts on Natura 2000 sites or their qualifying interests.
- 9.20. The site is located upstream of four European Sites in Dublin Bay and the Irish Sea (South Dublin Bay SAC, Rockabill to Dalkey Islands SAC, Dalkey Islands SPA, South Dublin Bay and River Tolka Estuary SPA) and this raises the potential for indirect effects on these sites and their 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 watercourses / via the public drainage network to same, and general disturbance during the works, which could in turn have localised adverse impacts on qualifying interests.

- 9.21. Notwithstanding these concerns, the construction works associated with the proposed development will take place within the site boundaries which consist largely of road surfaces, paved surfaces, roadside verges and cemetery within an urban location, will not involve any instream works at the site of the Deansgrange Stream. The Deansgrange Stream is culverted at the works area with the existing road and pavements crossing over it with the stream only taking on a surface water form c. 100m to the south of the works site. The proposed development will not involve any works to the culverted Monkstown Stream to the northern area of the site.
- 9.22. The above combined with the separation distances to the Natura 2000 Sites, intervening land uses, the incorporation of standard established best practice construction measures to protect the environment which would be employed for any local authority schemes regardless of the sites proximity or connectivity to any European Site or any intention to protect a Natura Site, and the fact that dilution and dispersion of any potential pollutants in watercourses and sea waters would occur over distances ranging from c.1.3km-6.6km, would result in a very weak hydrological pathway/no pathway for potential pollutants to reach the Natura 2000 Sites. This distance is likely to be significantly increased with the pathway flowing through the drainage network. It is therefore considered that impacts arising from any discharges at construction stage on Natura 2000 Sites and their QI habitats and species would be unlikely. With regard to best practice construction measures, these are not intended to avoid or reduce any harmful potential effect on a Natura 2000 Site.
- 9.23. Having regard to the above, the separation distances to Natura 2000 Sites and the nature and scale of the proposed development, I consider that there is an absence of significant hydrological pathways between the site and the four downstream Natura 2000 Sites identified in section 9.20.
- 9.24. There is no direct surface water pathway to the European Sites in Dublin Bay or the Irish Sea. The site is dominated by made ground and is located within the Killcullen groundwater body with the Deansgrange Stream located within the Wicklow

groundwater body. The Ground Waterbody WFD Status 2016-2021 of the Wicklow (IE\_EA\_G\_076) and Killcullen (IE\_EA\_G\_003) bodies is overall Good. The EPA website lists both bodies as At Risk. The GSI Data Viewer Series outlines that the bedrock of the site entails granite with microcline phenocrysts which is a poor aquifer and groundwater subsoil permeability is classified as low. Having regard to the separation distances between the site and the four European Sites identified in section 9.20 and the nature of the aquifer, low permeability and filtration by soils, I consider there is no real likelihood of any significant effects arising on any European Sites or their QI by way of a groundwater pathway.

9.25. Having regard to the nature and scale of the proposed development, its location and the separation distances between the site and the four European Sites identified in section 9.20 and the lack of any other pathways including those for air and land, the proposed scheme will not result in disturbance/displacement of QI for the identified sites. Considering the QI of the European Sites (identified in Section 9.20) as set out and that the majority of the site entails artificial surfaces, it is considered that ex situ impacts would be unlikely.

9.26. On the basis of the above and nature and scale of the proposed development, I therefore consider that the construction phase of the proposed development would not be likely to have a significant effect on the European Sites identified in section 9.20 or any other European Site, in view of the sites conservation objectives.

9.27. Operational Phase

9.28. The site is located upstream of four European Sites (sites as set out in Section 9.20) in Dublin Bay and the Irish Sea and this raises the potential for indirect effects on these sites and their qualifying interests during the operational 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 watercourses / via the public drainage network to same, which could in turn have localised adverse impacts on qualifying interests. The AA Screening report outlines surface water is intended to be disposed of via the existing roadside drainage network which discharges to local watercourses.

9.29. Notwithstanding these concerns, the separation distances between the site and European Sites and that dilution and dispersion of any potential pollutants in



watercourses and sea waters would occur over distances ranging from c.1.3km-6.6km would result in a very weak hydrological pathway/no pathway for potential pollutants to reach the Natura 2000 Sites. This distance is likely to be significantly increased with the pathway flowing through the drainage network. It is further noted that the scheme will not likely result in any significant increased surface water run off to the existing drainage network from that existing and no amendments to the capacity of the existing surface water network are required. Having regard to the separation distances set out, the limited hydrological pathways/no pathways and the nature and scale of the scheme, I therefore consider the potential for significant effects to arise on the European Sites identified in section 9.20 and their QI at the operational stage are unlikely.

- 9.30. The applicant submits there is an indirect pathway via the combined surface water and foul sewer to the Ringsend Wastewater Treatment Plant. The AA screening report outlines the scheme will not generate foul water and this can be screened out of the assessment, with surface water intended to be disposed of via the existing roadside drainage network which discharges to local watercourses. However, should any surface waters be directed to the Ringsend WWTP, this would result in a hydrological pathway to Dublin Bay (which includes South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA, North-West Irish Sea SPA) via the surface water drainage system and WWTP. I note that the WWTP facility has been subject of consent in its upgrading in ABP-301798-18 which was subject to AA. As the current scheme would not give rise to any significant additional loading from a surface water viewpoint and the Ringsend WWTP upgrade has been subject to the strict protection requirements of the AA process, it is considered should any surface waters be directed the Ringsend WWTP, these would not be likely to have any significant effect on any of the aforementioned European Sites or any European Sites.
- 9.31. Deansgrange cemetery is used by foraging bats. As the artificial lighting proposed along the cycle path within the cemetery has been omitted in the amended scheme, it is therefore considered the proposed development would not affect bat species by way of displacement.
- 9.32. In relation to otters using the Deansgrange Stream, the proposed development will not require any instream works. The Monkstown Stream is culverted at the location

of the proposed development and the proposed development will not include any modification of this watercourse. It is therefore considered the proposed development would not affect otter by way of disturbance or water quality.

9.33. On the basis of the above and nature and scale of the proposed development, I therefore consider that the operational phase of the proposed development would not be likely to have a significant effect on the European Sites identified in Table 9.2 above or any other European Site, in view of the sites conservation objectives.

#### 9.34. **In-Combination Effects**

9.35. The AA screening report which takes into account the Dun Laoghaire Rathdown County Development Plan 2016-2022 does not consider there would be in-combination effects. I have had regard to the Dun Laoghaire Rathdown County Development Plan 2022-2028 and land use zonings applicable to the site in same. Having reviewed the details submitted in the AA Screening Report and the AA Screening Report Addendum, the Dun Laoghaire Rathdown County Council website and the Department of Housing, Local Government and Heritages EIA map portal, I note there are a number of projects of varying scale in the general works area. This includes the consented Strategic Housing Development (ABP-307332-20) which was screened out from the requirement for AA and is substantially complete. I note the current Part 8 Deansgrange Stream Flood Relief Scheme, which may only be consented if adverse effects on the integrity of European Site(s) can be objectively ruled out during the AA process. Having regard to the foregoing, the online resources referred to and the nature and scale of the proposed development, I am satisfied that no plans or projects are likely to give rise to significant effects on any European Sites in combination with the proposed development.

9.36. Issues have been raised by the applicant in relation to alternative car parking provision, a new car park and AA requirements. It is noted that alternative/substitute car parking spaces/arrangements for vehicular parking which is being displaced by the proposed development along the Deansgrange Road does not form part of the Part 8 scheme and therefore does not come under consideration in this screening exercise. Should any such proposals arise these would be assessed on their merits and would be subject to the provisions of the Habitats Directive and Birds Directive.

9.37. Furthermore, the submitted scheme plans have not indicated a new car park for cemetery visitors. Should any such proposal arise this would be assessed on its merits and would be subject to the provisions of the Habitats Directive and Birds Directive.

9.38. **Mitigation Measures**

9.39. 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.

9.40. **Conclusion**

9.41. Having regard to the foregoing, it is reasonable to conclude, on the basis of the information on file and other sources, 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 of the European Sites identified in Table 9.2, in view of the sites conservation objectives and a Stage 2 Appropriate Assessment and the submission of an NIS for the proposed development is therefore not required.

9.42. **Procedural Matters**

9.43. The applicant has requested an opportunity to comment on the Council submission. Having regard to the applicant's submission and the response from DLRCC, I am satisfied that there is sufficient information on the file and from other sources to enable for a screening determination to be carried out under Article 250 (3) (b) of the P&DR 2001, as amended in this case.

9.44. The timelines associated with process are noted with the Part 8 scheme amended by resolution on 13<sup>th</sup> March 2023 and the AA Screening Report Addendum prepared in April 2023. The Board is the competent authority in relation to a screening determination under Article 250 (3) (b) of the P&DR 2001, as amended and it is considered that the information on file and from other sources has enabled a comprehensive assessment of the scheme and the Board can make its own determination in this instance.

9.45. **Recommendation**

9.46. Having regard to the above assessment, I consider that the proposed development would not be likely to have significant effects on any European Sites, and accordingly, an AA is not required.

9.47. It is therefore recommended that DLRCC be advised that the preparation of an NIS is not required in respect of the proposed development.

9.48. **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 distances from the Natura 2000 Sites
- The hydrological connections between the site and the European sites
- The submissions made by the local authority, including the EIA and AA Screening Report and the EIA and AA Screening Report Addendum prepared on behalf of the local authority
- The Dun Laoghaire Rathdown County Development Plan 2022-2028
- The submission made by the applicant requesting a determination
- 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 or 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.

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David Ryan

Planning Inspector

21th December 2023