

DEVOY BARRACKS SHD, NAAS, CO. KILDARE  
APPROPRIATE ASSESSMENT SCREENING  
REPORT

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# 1 Introduction

## 1.1 Background

The Land Development Agency is seeking permission for a proposed strategic housing development (SHD) on a site at John Devoy Road, Naas, County Kildare (known locally as Devoy Barracks). The proposed development consists of 219 residential units, a childcare facility, public and communal open spaces and all associated site works and infrastructure.

Brady Shipman Martin was appointed by the applicant to prepare a report to assist An Bord Pleanála in undertaking a screening exercise for Appropriate Assessment (AA). The purpose of the screening exercise is to assess, in view of best scientific knowledge, if the proposed development, individually or in combination with other plans or projects, is likely to have a significant effect on European sites taking into account their conservation objectives.

This document constitutes the Appropriate Assessment Screening Report (“AA Screening Report”) prepared for this purpose.

A comprehensive desk study review and a number of site visits were undertaken and the potential impacts on European sites, both as a result of the proposed development and in-combination with other plans and projects, are appraised in this report.

## 1.2 Expertise and Qualifications

The work was carried out by Senior Ecologist Matthew Hague BSc MSc Adv. Dip. Plan. & Env. Law CEnv MCIEEM. Matthew is a highly experienced and qualified ecologist, with a master’s degree in Ecosystem Conservation and Landscape Management. He has 20 years of experience in ecological and environmental consultancy, across a wide range of sectors. He has prepared numerous reports for AA Screening as well as Natura Impact Statements, for projects of all scales, from small residential developments to nationally important infrastructure projects.

Matthew is a Chartered Environmentalist (CEnv) and a full member of the Chartered Institute of Ecology and Environmental Management (MCIEEM). Matthew has also completed an Advanced Diploma in Planning and Environmental Law, at King’s Inns and is a member of the Irish Environmental Law Association (IELA).

## 1.3 Legal requirement for Appropriate Assessment

European sites make up a network of sites designated for nature conservation under Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (the “Habitats Directive”) and Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (the “Birds Directive”). The requirements for Appropriate Assessment are set out under Article 6 of the Habitats Directive, transposed into Irish law by the European Communities (Birds and Natural Habitats) Regulations 2011<sup>1</sup> (as amended) (the “Birds and Natural Habitats Regulations”) and the Planning and Development Act, 2000 (as amended)(the “Planning Acts”).

European sites are also known as Natura 2000 Sites (Special Areas of Conservation (SAC) and Special Protection Areas (SPA)). As defined in section 177R of the Planning Acts “European site” means:

- (a) a candidate site of Community importance,
- (b) a site of Community importance,
- (ba) a candidate special area of conservation,

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<sup>1</sup> SI No. 477 of 2011

- (c) a special area of conservation,
- (d) a candidate special protection area and
- (e) a special protection area.

Article 6(3) of the Habitats Directive states that:

“(3) Any plan or project not directly connected with or necessary to the management of the site but likely to have 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. In light of the conclusions of the assessment of the implications for the site and subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public.”

The first test is to establish whether, in relation to a particular plan or project, appropriate assessment is required. Section 177U of the Planning Acts and Regulation 42 of the Birds and Natural Habitats Regulations require that screening for appropriate assessment must be carried out:

- To assess, in view of best scientific knowledge, if the development, individually or in combination with another plan or project is likely to have a significant effect on the European site;

An appropriate assessment is required if it cannot be excluded, on the basis of objective information, that the development, individually or in combination with other plans or projects, will have a significant effect on a European site.

The project is not required for the management of any European Site and this AA Screening Report has been prepared in accordance with the requirements of the Birds Directive, the Habitats Directive, the Planning Acts and the Birds and Natural Habitats Regulations.

## 2 Methodology

### 2.1 Baseline data collection and field visits

A desk-based assessment was undertaken in February and March 2022 of the former Devoy Barracks site and the wider area. This focused on habitats and species that are listed as Qualifying Interests (QI) (in the case of SACs) and Special Conservation Interests (SCI) (in the case of SPAs) in the designations for European sites. A preliminary ecological survey was undertaken at the site by the author on 31 January 2020. A full habitat survey, an invasive alien plant species survey and bat detector survey were all carried out on 9 June 2020, as part of the previous SHD application for development at the site.

In the preparation of this planning application a habitat and bat survey, including bat detector survey, was undertaken on 23 September 2021. A final site visit and comprehensive habitat survey took place on 4 March 2022.

Birds present on the site were recorded during the surveys and an assessment of habitat suitability for species with links to European sites was undertaken, in order to appraise the potential for *ex-situ* effects on European sites.

This report takes the following guidance documents into account:

- *Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities* (Department of Environment, Heritage and Local Government, 2010 revision);
- *Appropriate Assessment under Article 6 of the Habitats Directive: Guidance for Planning Authorities*. Circular NPWS 1/10 & PSSP 2/10;
- *Assessment of Plans and Projects in Relation to Natura 2000 sites: Methodological Guidance on Article 6(3) and (4) of the Habitats Directive 92/43/EEC* (European Commission, September 2021);

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- *Managing Natura 2000 sites: The Provisions of Article 6 of the Habitats Directive 92/43/EEC*. Guidance issued by the European Commission (21<sup>st</sup> November 2018);
- *Practice Note PN01 Appropriate Assessment Screening for Development* Management Office of the Planning Regulator, March 2021).

Information was collated from the organisations and websites listed below:

- Data on European sites and rare and protected plant and animal species contained in the following databases:
  - The National Parks and Wildlife Service (NPWS) of the Department of Culture, Heritage and the Gaeltacht ([www.NPWS.ie](http://www.NPWS.ie));
  - The National Biodiversity Data Centre (NDBC) ([www.biodiversityireland.ie](http://www.biodiversityireland.ie));
  - BirdWatch Ireland ([www.birdwatchireland.ie](http://www.birdwatchireland.ie));
  - Bat Conservation Ireland ([www.batconservationireland.org](http://www.batconservationireland.org)).
- Information on land-use zoning from the online mapping of the Department of the Environment, Community and Local Government (<http://www.myplan.ie/en/index.html>);
- Recent and historical OSi mapping and aerial photography, including [www.geohive.ie](http://www.geohive.ie);
- Photographs taken at the site;
- Information on local watercourses from [www.catchments.ie](http://www.catchments.ie);
- Information on water quality in the area ([www.epa.ie](http://www.epa.ie));
- Information on soils, geology and hydrogeology in the area ([www.gsi.ie](http://www.gsi.ie));
- Information on the Status of EU Protected Habitats and Species in Ireland (Article 17 report) (NPWS, August 2019);
- Third National Biodiversity Plan 2017 – 2021 (Department of Culture, Heritage and the Gaeltacht, 2017);
- Kildare County Development Plan 2017 – 2023, including the associated Natura Impact Report;
- Naas Local Area Plan 2021 – 2027, including the associated AA Screening Report and Determination.

The report has regard to the following legislative instruments:

- Planning Acts;
- The Habitats Directive;
- The Birds Directive;
- Birds and Natural Habitats Regulations.

This report takes full account of the design of the proposed development and a detailed examination of all relevant elements of the proposal as it currently stands was undertaken.

### 3 Screening for Appropriate Assessment

#### 3.1 Background

The first part of the Appropriate Assessment process is the screening phase. Screening identifies the likely effects of the proposed development on European sites that could arise, either alone or in combination with other plans or projects, and considers whether these impacts are likely to have a significant effect on the European site in view of the site's conservation objectives.

In accordance with sections 177U of the Planning Acts, screening for appropriate assessment must be carried out:

- To assess, in view of best scientific knowledge, if the development, individually or in combination with another plan or project is likely to have a significant effect on the European site;
- An appropriate assessment is required if it cannot be excluded, on the basis of objective information, that the development, individually or in combination with other plans or projects, will have a significant effect on a European site.

Screening must be undertaken without the inclusion of mitigation and it is in this context that this AA Screening Report is prepared.

Following screening therefore, if there is a possibility of there being a significant effect on a European site, this will generate the need for an appropriate assessment for the purposes of Article 6(3) of the Habitats Directive. This means that if the conclusions at the end of the screening exercise are that significant effects on any European sites, as a result of the proposed development, either alone or in combination with other plans and projects, are likely, uncertain or unknown, then an Appropriate Assessment must be carried out. This is in accordance with established precedent and case law.

#### 3.2 Potential zone of influence

For the risk of a significant effect to occur there must be a 'source', such as a construction site; a 'receptor', such as a designated site for nature conservation; and a pathway between the source and the receptor, such as a watercourse that links the construction site to the designated site. A construction site or completed development may also create a barrier to movement, for example by preventing the migration of fauna along a river corridor, or by obstructing the migration of birds.

Although there may be a risk of an impact it may not necessarily occur, and if it does occur, it may not be significant.

Identification of a potential effect means that there is a possibility of ecological or environmental damage occurring, with the level and significance of the impact depending upon the nature and exposure to the potential effect and the characteristics of the receptor.

There are no set recommended distances for projects to consider European sites as being relevant for assessment. Rather, NPWS (2010) recommends that *'the distance should be evaluated on a case-by-case basis with reference to the nature, size and location of the project, and the sensitivities of the ecological receptors, and the potential for in combination effects'*. Similarly, the OPR Guidance (2021) states that *'The zone of influence of a proposed development is the geographical area over which it could affect the receiving environment in a way that could have significant effects on the Qualifying Interests of a European site. This should be established on a case-by-case basis using the Source-Pathway-Receptor framework and not by arbitrary distances (such as 15 km)'*.

In some instances where there are hydrological connections a whole river catchment or a groundwater aquifer may need to be included. Similarly where bird flight paths are involved the impact may be on an SPA at a great distance from the site. Taking this into account, as a starting point a search was carried out for all European sites within the vicinity of the Devoy Barracks site. This search was then extended in order to ensure that all European sites with

any potential links to the proposed development (i.e. those within the Zone of Influence) were accounted for in the study.

### 3.3 Study area and surrounding environment

#### 3.3.1 Site location and European sites

The proposed development site is located on John Devoy Road, Naas, Co Kildare, known locally as Devoy Barracks. The site has a total area of approximately 4.1ha.

The site (see **Figure 1**) is located to the south-west of the town, close to the town centre on a disused area of land to the west of the offices of Kildare County Council. Under the LAP, the site of the proposed development is predominantly zoned 'C – New Residential', for which the corresponding objectives is "To provide for new residential development"; with small areas on the eastern margin of the site zoned 'A – Town Centre', for which the corresponding objective is "To protect, improve and provide for the future development of the town centre". Uses permitted in principle under this objective include housing as the primary use but also recreation, education, crèche / playschool, community buildings and sheltered housing. Limited local shopping facilities are open for consideration to serve local needs only.

The location of the proposed development is also identified as one of two 'Key Development Areas' (KDA) under the LAP – the Devoy Barracks KDA and the Junction 9 (Maudlins) KDA:

*"The Devoy Barracks KDA is located to the southwest of the town centre of Naas, with vehicular access off John Devoy Road. It encompasses a circa 4-hectare area under the ownership of the Land Development Authority as well as an area of land to the west and south which belong to Kildare County Council. These lands include the Kildare Civic Defence building and the MERITS building (currently under construction)." (p. 161)*

The site is dominated by a large area of unmanaged rank grassland, of relatively low species diversity. Patches of bramble-dominated scrub are encroaching in places. The western and southern boundaries comprise a gappy semi-mature/mature hedgerow/tree line. This area is of some limited ecological value for breeding birds and as a habitat corridor. The site is open and exposed and there are no features of any potential value for roosting bats. No evidence of badgers or other protected mammal species was recorded. No evidence of invasive alien plant species listed on the Third Schedule of the Habitats Regulations was recorded on the site.

As noted in the EIA Screening Report, Ecological Appraisal and AA Screening Report for the previous application at the site, submitted in April 2021 (ABP ref. TA09.309954), there was an area of young and semi-mature regenerating woodland in the centre of the proposed development site. In July 2021, archaeological test trenching was carried out at the site for the purposes of the proposed development. It was not possible to complete test trenching in the central portion of the site, which was inaccessible due to the presence of these trees. Over the winter of 2021/22, the area of trees was cleared to facilitate test trenching, which was subsequently carried out in January 2022. Therefore, this habitat is no longer present, and has not been considered as part of the baseline environment for the purposes of this assessment.

The site is in the Liffey sub-catchment of the Liffey and Dublin Bay catchment. A stream/drainage ditch, known as the Yeomanstown Stream<sup>2</sup> (or Rathasker Stream), a first order tributary of the River Liffey, runs along the southern site boundary. There are no other watercourses on or in the immediate vicinity of the proposed development site. The Yeomanstown Stream flows into the Liffey at a point approximately 3.5km to the north west of the Devoy Barracks site.

The site also falls within the Yeomanstown 'green infrastructure corridor', as identified in the LAP. The stated purpose of these corridors is to "highlight the need for developers to be aware of the sensitivity of the particular

<sup>2</sup> <https://gis.epa.ie/EPAMaps/>



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areas and to consider the retention of natural features and their linkages to the wider area in any development proposal". The Grand Canal (Corbally Branch) is approximately 300m to the north of the proposed development site at its closest point.

Overall the site is of low local ecological value, and the proposed development site contains no features of any ecological significance. Further, the site contains no habitats or species and has no potential to contain any habitats or species that correspond to the Qualifying Interests/Special Conservation Interests of any European site.



**Figure 1:** The location of the proposed development (indicative red line – refer to planning application documentation for full details) (source: Google Maps)

There are several European sites potentially within the Zone of Influence (see **Figure 2**). These are:

- **Special Areas of Conservation (SAC)**
  - Mouds Bog SAC (site code 002331), c.7.6km to the west;
  - Red Bog, Kildare SAC (site code 000397), c.9.3km to the east;
  - Ballynafagh Lake SAC (site code 000387), c.9.7km to the north west;
  - Ballynafagh Bog SAC (site code 000391), c.10.6km to the north west;
  - Pollardstown Fen SAC (site code 000396), c.11.0km to the south west;

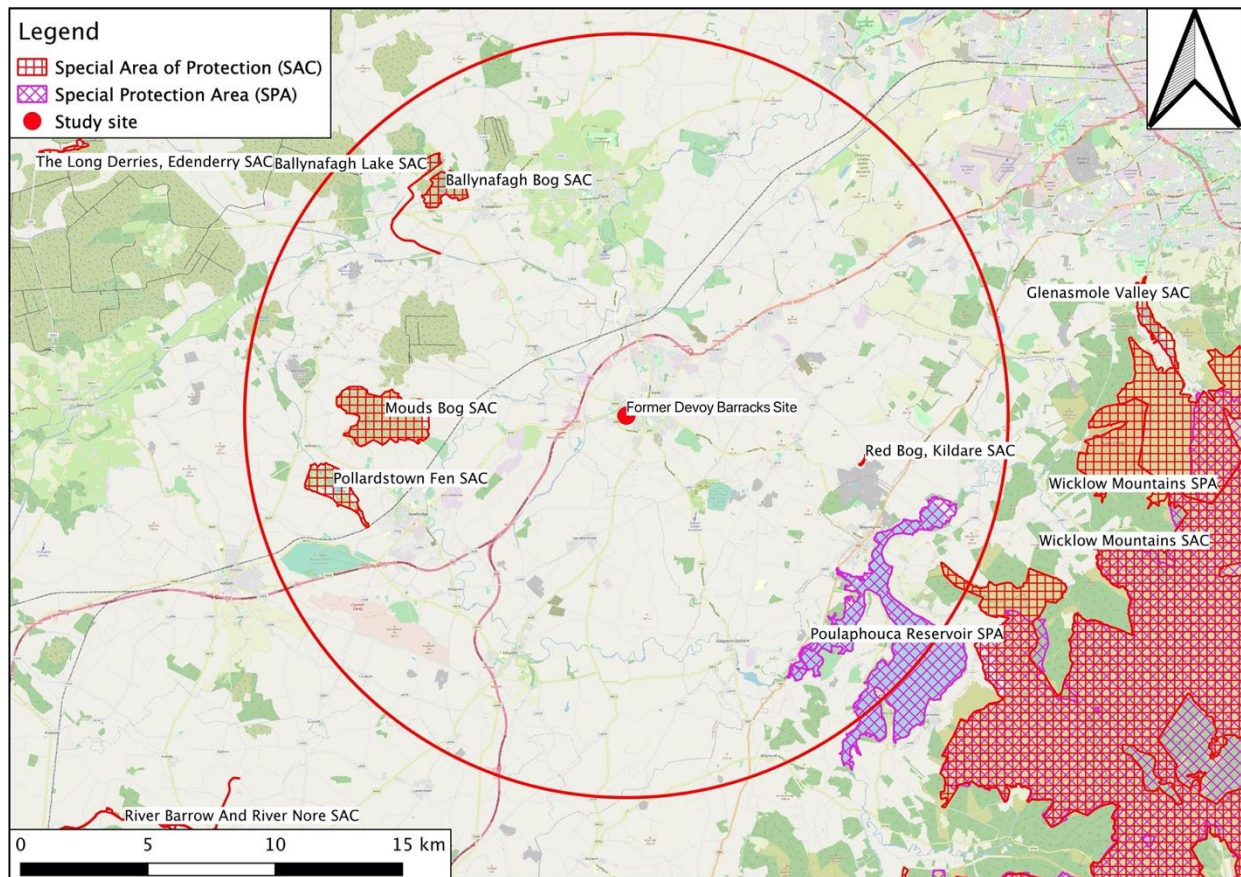
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- Wicklow Mountains SAC (site code 002122), c.13.6km to the east;
- **Special Protection Areas (SPA)**
  - Poulaphouca Reservoir SPA (site code 004063), c.10.2km to the south east;
  - Wicklow Mountains SPA (site code 004040), c.16.3km to the south east;

Due to the location of the proposed development site in Naas, within the catchment of the River Liffey, this report also appraises the potential for significant effects on the European sites associated with Dublin Bay, as follows:

- South Dublin Bay SAC (site code 000210), c.33.4km to the north east;
- North Dublin Bay SAC (site code 000206), c.36.7km to the north east;
- Rockabill to Dalkey Island SAC (site code 003000), c.39.2km to the north east;
- South Dublin Bay and River Tolka Estuary SPA (site code 004024), c.33.4km to the north east;
- North Bull Island SPA (site code 004006), c.36.7km to the north east.



**Figure 2:** Study site at Devoy Barracks showing European sites. A radius of 15km from the proposed development site is shown, for scale (Source: npws.ie)

### 3.3.2 Other designated areas (other than European sites)

The nearest site designated for nature conservation that is not also designated as a European site is the Grand Canal proposed Natural Heritage Area (pNHA site code 002104), which is within 300m of the northern boundary of the proposed development site. In addition a small pNHA (the Liffey at Osberstown, pNHA site code 001395) is situated approximately 2.3km to the north west. Killeel Wood pNHA (site code 001394) is almost 10km to the east.



These sites are included in this report in order to appraise their potential to act support the European sites, for example by acting as stepping stones or feeding areas for species moving between the European sites.

## 4 Description of the proposed development

The development will consist of the construction of a residential development comprising of 219 no. residential units consisting of 42 houses and 177 apartments and duplexes ( a total of 64no. 1 beds, 105 no. 2 beds and 50 no. 3 beds) ranging from 2 to 5 storeys in height including a crèche of 411 sq.m and outdoor play area.

The scheme is accessed through the existing vehicular and pedestrian access at the Roundabout on the John Devoy Road and a new pedestrian connection is provided to the east of the site adjacent to the recently completed MERITS Building. The development will provide 314 no. car parking spaces and 482 no. bicycle spaces.

## 5 Links to European sites, including cumulative effects

### 5.1 European sites and habitats with links to European sites

The proposed development site is not under any wildlife or conservation designation. Furthermore, no rare, threatened or legally protected plant species, as listed in the *Irish Red Data Book 1 – Vascular Plants* (Curtis & McGough, 1988), the Flora (Protection) Order, 2015 (SI No. 365 of 2015) or the Habitats Directive, are known to occur within the site and none were recorded during any of the surveys undertaken.

No features of any ecological significance in the context of European sites are present on the proposed development site. Overall the site has no key ecological receptors as defined by the ecological resource valuations presented in the National Roads Authority/Transport Infrastructure Ireland *Guidelines for Assessment of Ecological Impacts of National Road Schemes* (NRA/TII, 2009 (Rev. 2)). No features of any other ecological significance are present on the proposed development site. There are no features potentially suitable for use by roosting bats for example, and no evidence of any protected species such as badger, was recorded during the survey carried out, and the habitats present are not suitable for such species. Similarly no rare or protected plants were recorded during the survey.

No evidence of any habitats or species with links to European sites was recorded during either the field surveys or desk studies undertaken between 31 January 2020 and March 2022 and no 'reservoir' type habitats (habitats which have the potential to support Qualifying Interest/Special Conservation Interest species in any European site) are present.

#### 5.1.1 Potential impacts during construction

At any development site, site clearance and construction activities pose a potential risk to water, as surface/ground water arising at a site may contain contaminants. The main contaminants arising from such activities may include suspended solids, hydrocarbons and concrete/cement products. If not properly managed, such pollutants could pose a temporary risk to surface water quality in the local surface water network during construction.

There are no significant watercourses on the site. However a potential surface water pathway, via the Yeomanstown Stream and the Grand Canal to the north, exists between the proposed development site and the European site associated with Dublin Bay, via the River Liffey. It is noted that Dublin Bay is over 33km (straight line distance) from the site in Naas, nevertheless there is a potential pathway for contaminated water via these watercourses.

There are no European sites with groundwater-dependent qualifying interests (such as Pollardstown Fen, c.11km to the west) within the zone of influence of the proposed development – there is no groundwater pathway to Pollardstown Fen and there is no possibility of significant effects on this or any other European site via spillages to ground.

Despite the presence of these theoretical and indirect pathways, the risk of contamination of any watercourses or groundwater is extremely low, and even in the event of a pollution incident significant enough to impact upon

surface or ground water quality locally, it is reasonable to assume that **this would not be perceptible in any European sites**, for the following reasons:

- Other than the European sites of Dublin Bay, there are no other European sites remotely linked to the proposed development site via the surface water pathway;
- There is no surface water pathway between the proposed development site and the Grand Canal (Corbally Branch);
- The only surface water pathway between the proposed development site and the River Liffey is via the minor ditch on the southern boundary, the Yeomanstown Stream. Given the nature of the proposed development and the very significant distances to the European sites of Dublin Bay (in excess of 33km), any pollution entering the River Liffey would be entirely undetectable by the time the water reaches Dublin Bay;
- The fact that a significant level of dilution and mixing of surface and sea water would occur in any event. Upon reaching the Bay any pollutants would be even further diluted and dissipated by the receiving waters;
- In addition, the construction of the proposed development will take place over a comparatively short period and there is no possibility of long-term impacts arising as a result of the construction elements of the proposed development;
- There is no conceivable pathway between the proposed development site at Devoy Barracks and any other European sites, such as the bog SACs within 10km, or Pollardstown Fen SAC, c.11km to the south west. This SAC is groundwater dependent, however there is no groundwater pathway between Pollardstown Fen and the proposed development and there is not the remotest possibility of any potentially significant effects on this SAC as a result of any development at Devoy Barracks. This is due to distance and the intervening topography. The M7 motorway further separates the two sites. The construction of the motorway involved significant dewatering and further separates the groundwater catchment of Pollardstown Fen (which is fed by the Curragh Aquifer) from areas to the east such as the proposed development site at Devoy Barracks. A reading of the schematic catchment map of the Curragh aquifer prepared by Dr. Les Brown (Misstear et al., 2008)<sup>3</sup>, confirms that there is no groundwater pathway to Pollardstown Fen.

There is no possibility of any other potential direct, indirect or secondary impacts on any European site during the construction phase. For example there will be no land-take from any European site and there will be no resource requirements such as water abstraction. Similarly there will be no emissions to air from construction vehicles that could remotely impact any European site. Dust, noise and vibration arising during construction will similarly be entirely remote from any European site.

There will be no loss, fragmentation, disruption, disturbance or other change to any element of any European site as a result of the construction of the proposed development, and no interference with the key relationships that define the structure or function of any European site.

Construction-related impacts as a result of the proposed development, on European sites or otherwise, can therefore be excluded.

### 5.1.2 Potential impacts during operation

Operational **Surface water** management for the proposed development has been designed by Cronin & Sutton Consulting Engineers to comply with the '*Greater Dublin Strategic Drainage Study (GDSDS) Regional Drainage Policies Technical Document – Volume 2, New Developments, 2005*' and the '*Greater Dublin Regional Code of Practice for Drainage Works, V6.0 2005*'.

In accordance with Kildare County Council requirements, storm water will be managed in two phases. The first is to restrict storm water runoff from the proposed development to greenfield runoff rates. The second aspect to be included in new applications is to incorporate sustainable urban drainage systems (SuDs) proposals into the scheme.

<sup>3</sup> <https://www.epa.ie/publications/research/water/water-framework--directive-recharge-and-groundwater-vulnerability.php>

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The SuDs concept requires that storm water quality is improved before disposal and, where applicable, storm water is discharged into the ground on site. These systems are recommended under the 2009 guidelines published by the OPW, *'The Planning System and Flood Risk Management'*.

The surface water runoff from this catchment will be restricted to greenfield runoff rates. As required under the GSDS a climate change allowance of 20% will be applied surface water drainage design.

Operational impacts as a result of the proposed development related to surface water management, on European sites or otherwise, can therefore be excluded.

A **Site Specific Flood Risk Assessment** (SSFRA) for the proposed development has been prepared by Cronin & Sutton Consulting Engineers and is included as part of the pre-application submission. The SSFRA undertaken determined that the site is within Flood Zone C as defined by the OPW Guidelines (*The Planning System and Flood Risk Management: Guidelines for Planning Authorities*, November 2009). Therefore, the development of housing on the subject site is appropriate for the site's flood zone category and a justification test as outlined in the Guidelines is not required.

Operational impacts as a result of the proposed development related to flooding, on European sites or otherwise, can therefore be excluded.

According to the Engineering Services Report prepared by Cronin & Sutton Consulting Engineers the proposed development will require a new, separate, drainage network to collect and convey the **foul effluent** generated by the proposed development. The drainage network for the proposed development has been designed in accordance with:

- The Regional Code of Practice Drainage Works (V.6, 2005);
- The Greater Dublin Strategic Drainage Study, 2005;
- Irish Water Code of Practice for Wastewater Infrastructure (Rev. 2, 2020).

The proposed development shall generate wastewater in the order of 97.7m<sup>3</sup>/day, which equates to:

- 1.13 l/sec Average flow;
- 6.78 l/sec Peak Flow.

All foul effluent generated from the proposed development shall be collected in separate foul pipes and flow under gravity to the existing 225mm diameter foul sewer at John Devoy Road, via an existing connection.

As required by Irish Water, who since 2014 are in control of foul drainage services, a pre-connection enquiry, PCE, is required to be submitted for all SHD applications to ensure that current existing infrastructure is available.

Following a pre-connection enquiry submitted by the project engineers based on foul flows for a proposed 250 residential units in August 2021, Irish Water issued a Confirmation of Feasibility letter stating that that a new connection to the existing network is feasible without upgrade. The Confirmation of Feasibility letter is contained in Appendix E of the Engineering Services Report prepared by Cronin & Sutton Consulting Engineers.

Foul sewers from the site will discharge to the public sewer system downstream and ultimately to Osberstown (Upper Liffey Valley Regional Sewerage Scheme) Wastewater Treatment Plant (WwTP) for treatment and disposal. The Osberstown plant discharges treated water to the River Liffey, under EPA licence no. D0002-01. The WwTP is currently operating within its design capacity<sup>4</sup> and the wastewater generated by the proposed development will, at 97.7m<sup>3</sup>/day, result in an insignificant increase in loadings in the context of the available treatment capacity at the WwTP – the WwTP has an as-constructed peak hydraulic capacity of 85,500m<sup>3</sup>. There will be no impacts on water quality in Dublin Bay as a result of the proposed development.

Operational impacts as a result of the proposed development related to foul water management, on European sites or otherwise, can therefore be excluded.

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<sup>4</sup> [https://www.water.ie/uuid/6c88798a-72aa-46be-a720-a4b65a152411/D0002-01\\_2020\\_AER.pdf](https://www.water.ie/uuid/6c88798a-72aa-46be-a720-a4b65a152411/D0002-01_2020_AER.pdf)

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**Table 1** lists all European Sites within 15km and outlines their reasons for designation\*

European Site	Reasons for designation (information correct as of 11 March 2022) (*denotes a priority habitat)	Source – Pathway – Receptor link
Mouds Bog SAC (site code 002331), c.7.6km to the west	<p>7110 Active raised bogs* (7120 Degraded raised bogs still capable of natural regeneration) (7150 Depressions on peat substrates of the Rhynchosporion)</p> <p>According to this SAC's site Conservation Objectives document (Version 1, dated 20 November 2015), for each of the listed QIs, the Conservation Objective is to restore the favourable conservation condition of the Annex I habitat(s) for which the SAC has been selected.</p>	There is no hydrological link or any other pathway between the proposed development site at the former Devoy Barracks site and this SAC. It is almost 7km distant and is completely unconnected. Furthermore there will be no loss of habitat or species, fragmentation or disturbance to the qualifying interests of this SAC as a result of the proposed development.
Red Bog, Kildare SAC (site code 000397), c.9.3km to the east	<p>7140 Transition mires and quaking bogs</p> <p>According to this SAC's site Conservation Objectives document (Version 1, dated 17 July 2019), for each of the listed QIs, the Conservation Objective is to maintain the favourable conservation condition of the Annex I habitat for which the SAC has been selected.</p>	There is no hydrological link or any other pathway between the proposed development site at the former Devoy Barracks site and this SAC. It is over 9km distant and is completely unconnected. Furthermore there will be no loss of habitat or species, fragmentation or disturbance to the qualifying interests of this SAC as a result of the proposed development.
Ballynafagh Lake SAC (site code 000387), c.9.7km to the north west	<p>7230 Alkaline fens</p> <p>According to this SAC's site Conservation Objectives document (Version 1, dated 10 December 2021), for each of the listed QIs, the Conservation Objective is to maintain or restore the favourable conservation condition of the Annex I habitat and Annex II species for which the SAC has been selected.</p>	There is no hydrological link or any other pathway between the proposed development site at the former Devoy Barracks site and this SAC. It is almost 10km distant and is completely unconnected. Furthermore there will be no loss of habitat or species, fragmentation or disturbance to the qualifying interests of this SAC as a result of the proposed development.
Ballynafagh Bog SAC (site code 000391), c.10.6km to the north west	<p>7110 Active raised bogs* (7120 Degraded raised bogs still capable of natural regeneration) (7150 Depressions on peat substrates of the Rhynchosporion)</p> <p>According to this SAC's site Conservation Objectives document (Version 1, dated 10 November 2015), for each of the listed QIs, the Conservation Objective is to restore the favourable conservation condition of the Annex I habitat(s) for which the SAC has been selected.</p>	There is no hydrological link or any other pathway between the proposed development site at the former Devoy Barracks site and this SAC. It is almost 11km distant and is completely unconnected. Furthermore there will be no loss of habitat or species, fragmentation or disturbance to the qualifying interests of this SAC as a result of the proposed development.



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European Site	Reasons for designation (information correct as of 11 March 2022) (*denotes a priority habitat)	Source – Pathway – Receptor link
Pollardstown Fen SAC (site code 000396), c.11.0km to the south west	<p>7210 Calcareous fens with <i>Cladium mariscus</i> and species of the <i>Caricion davallianae</i>*</p> <p>7220 Petrifying springs with tufa formation (<i>Cratoneurion</i>)*</p> <p>7230 Alkaline fens</p> <p>1014 Narrow-mouthed Whorl Snail (<i>Vertigo angustior</i>)</p> <p>1013 Geyer's Whorl Snail (<i>Vertigo geyeri</i>)</p> <p>1016 Desmoulin's Whorl Snail (<i>Vertigo moulinsiana</i>)</p> <p>According to this SAC's site Conservation Objectives document (Version 1, dated 14 January 2022), for each of the listed QIs, the Conservation Objective is to maintain or restore the favourable conservation condition of the Annex I habitat and Annex II species for which the SAC has been selected.</p>	There is no hydrological link or any other pathway between the proposed development site at the former Devoy Barracks site and this SAC. It is approximately 11km distant and is completely unconnected. Furthermore there will be no loss of habitat or species, fragmentation or disturbance to the qualifying interests of this SAC as a result of the proposed development.
Wicklow Mountains SAC (site code 002122), c.13.6km to the east	<p>3110 Oligotrophic waters containing very few minerals of sandy plains (<i>Littorelletalia uniflorae</i>)</p> <p>3160 Natural dystrophic lakes and ponds</p> <p>4010 Northern Atlantic wet heaths with <i>Erica tetralix</i></p> <p>4030 European dry heaths</p> <p>4060 Alpine and Boreal heaths</p> <p>6130 Calaminarian grasslands of the <i>Violetalia calaminariae</i></p> <p>6230 Species-rich <i>Nardus</i> grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe)*</p> <p>7130 Blanket bogs (* if active bog)</p> <p>8110 Siliceous scree of the montane to snow levels (<i>Androsacetalia alpinae</i> and <i>Galeopsietalia ladani</i>)</p> <p>8210 Calcareous rocky slopes with chasmophytic vegetation</p> <p>8220 Siliceous rocky slopes with chasmophytic vegetation</p> <p>91A0 Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles</p> <p>1355 Otter (<i>Lutra lutra</i>)</p> <p>According to this SAC's site Conservation Objectives document (Version 1, dated 31 July 2017), for each of the listed QIs, the Conservation Objective is to maintain or restore the favourable</p>	There is no hydrological link or any other pathway between the proposed development site at the former Devoy Barracks site and this SAC. It is almost 14km distant and is completely unconnected. Furthermore there will be no loss of habitat or species, fragmentation or disturbance to the qualifying interests of this SAC as a result of the proposed development.



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European Site	Reasons for designation (information correct as of 11 March 2022) (*denotes a priority habitat)	Source – Pathway – Receptor link
	conservation condition of the Annex I habitat(s) for which the SAC has been selected.	
South Dublin Bay SAC (site code 000210), c.33.4km to the north east	<p>1140 Mudflats and sandflats not covered by seawater at low tide</p> <p>The following habitats are listed as Qualifying Interests on the NPWS website, but are not included in the Conservation Objectives document:</p> <p>(1210 Annual vegetation of drift lines 1310 Salicornia and other annuals colonising mud and sand 2110 Embryonic shifting dunes)</p> <p>According to this SAC's site Conservation Objectives document (Version 1, dated 22<sup>nd</sup> August 2013), for the listed QI, the Conservation Objective is to maintain the favourable conservation condition of the Annex I habitat for which the SAC has been selected.</p>	<p>No significant effects on water quality, and therefore on the site's QIs, are predicted. Surface/ground water arising during the site clearance, construction and operation of the proposed development at the former Devoy Barracks site could contain pollutants (foul water, silt, hydrocarbons and other chemicals). Such contaminated water could potentially discharge to the ground or the local surface water drainage network and from there, eventually, via the River Liffey, to the sea.</p> <p>There will be no significant effects on the conservation objectives of the European site should this occur, given the nature, size and location of the proposed development, as described in Section 5.1. Even in the event of a pollution incident (such as a fuel or cement spill) significant enough to impact upon surface/ground water quality locally, this would not be perceptible in South Dublin Bay SAC.</p> <p>This is due to the significant separation between the proposed development site and the European site – the proposed development site is over 33km (straight line distance) from the SAC and any pollution arising during development would be so diluted as to be undetectable by the time the water enters the sea. In addition, significant dilution and mixing of surface and sea water would occur. Upon reaching the sea any pollutants would be even further diluted and dissipated by the receiving waters, which are classified as unpolluted according to the EPA database of coastal water quality. Furthermore, the construction of the proposed development will take place over a comparatively short period and there is no possibility of long-term impacts arising as a result of the construction elements of the proposed development.</p> <p>There will be no loss of habitat or species, fragmentation or disturbance to the qualifying interests of this site as a result of the proposed development.</p> <p>In addition, no operational impacts on this European site will occur as a result of the proposed development.</p>
North Dublin Bay SAC (site code 000206), c.36.7km to the north east	<p>1140 Mudflats and sandflats not covered by seawater at low tide</p> <p>1210 Annual vegetation of drift lines</p> <p>1310 Salicornia and other annuals colonising mud and sand</p> <p>1330 Atlantic salt meadows (Glauco-Puccinellietalia maritima)</p> <p>1410 Mediterranean salt meadows (Juncetalia maritimi)</p> <p>2110 Embryonic shifting dunes</p>	<p>No significant effects on water quality, and therefore on the site's QIs, are predicted. Surface/ground water arising during the site clearance, construction and operation of the proposed development at the former Devoy Barracks site could contain pollutants (foul water, silt, hydrocarbons and other chemicals). Such contaminated water could potentially discharge to the ground or the local surface water drainage network and from there, eventually, via the River Liffey, to the sea.</p> <p>There will be no significant effects on the conservation objectives of the European site should this occur, given the nature, size and location of the proposed development, as described in Section 5.1.</p>





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European Site	Reasons for designation (information correct as of 11 March 2022) (*denotes a priority habitat)	Source – Pathway – Receptor link
	<p>2120 Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes)</p> <p>2130 Fixed coastal dunes with herbaceous vegetation (grey dunes)*</p> <p>2190 Humid dune slacks</p> <p>1395 Petalwort (<i>Petalophyllum ralfsii</i>)</p> <p>According to this SAC's site Conservation Objectives document (Version 1, dated 06 November 2013), for each of the listed QIs, the Conservation Objective is 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.</p>	<p>Even in the event of a pollution incident (such as a fuel or cement spill) significant enough to impact upon surface/ground water quality locally, this would not be perceptible in North Dublin Bay SAC.</p> <p>This is due to the significant separation between the proposed development site and the European site – the proposed development site is almost 37km (straight line distance) from the SAC and any pollution arising during development would be so diluted as to be undetectable by the time the water enters the sea. In addition, significant dilution and mixing of surface and sea water would occur. Upon reaching the sea any pollutants would be even further diluted and dissipated by the receiving waters, which are classified as unpolluted according to the EPA database of coastal water quality. Furthermore, the construction of the proposed development will take place over a comparatively short period and there is no possibility of long-term impacts arising as a result of the construction elements of the proposed development.</p> <p>There will be no loss of habitat or species, fragmentation or disturbance to the qualifying interests of this site as a result of the proposed development.</p> <p>In addition, no operational impacts on this European site will occur as a result of the proposed development.</p>
Rockabill to Dalkey Island SAC (site code 003000), c.39.2km to the north east	<p>1170 Reefs</p> <p>1351 Harbour Porpoise (<i>Phocoena phocoena</i>)</p> <p>According to this SAC's site Conservation Objectives document (Version 1, dated 07 May 2013), for each of the listed QIs, the Conservation Objective is to maintain the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p>	<p>No significant effects on water quality, and therefore on the site's QIs, are predicted. Surface/ground water arising during the site clearance, construction and operation of the proposed development at the former Devoy Barracks site could contain pollutants (foul water, silt, hydrocarbons and other chemicals). Such contaminated water could potentially discharge to the ground or the local surface water drainage network and from there, eventually, via the River Liffey, to the sea.</p> <p>There will be no significant effects on the conservation objectives of the European site should this occur, given the nature, size and location of the proposed development, as described in Section 5.1. Even in the event of a pollution incident (such as a fuel or cement spill) significant enough to impact upon surface/ground water quality locally, this would not be perceptible in Rockabill to Dalkey Island SAC.</p> <p>This is due to the significant separation between the proposed development site and the European site – the proposed development site is over 39km (straight line distance) from the SAC and any pollution arising during development would be so diluted as to be undetectable by the time the water enters the sea. In addition, significant dilution and mixing of surface and sea water would occur. Upon reaching the sea any pollutants would be even further diluted and dissipated by the receiving waters, which are classified as unpolluted according to the EPA database of coastal water quality. Furthermore, the construction of the proposed development will take place over a comparatively</p>



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European Site	Reasons for designation (information correct as of 11 March 2022) (*denotes a priority habitat)	Source – Pathway – Receptor link
		<p>short period and there is no possibility of long-term impacts arising as a result of the construction elements of the proposed development.</p> <p>There will be no loss of habitat or species, fragmentation or disturbance to the qualifying interests of this site as a result of the proposed development.</p> <p>In addition, no operational impacts on this European site will occur as a result of the proposed development.</p>
Poulaphouca Reservoir SPA (site code 004063), c.10.2km to the south east	<p>A043 Greylag goose (<i>Anser anser</i>) A183 Lesser black-backed gull (<i>Larus fuscus</i>)</p> <p>According to this SPA's site Generic Conservation Objectives document (Version 9, dated 26 January 2022), for each of the listed SCIs, the Conservation Objectives are to maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.</p>	There is no hydrological link or any other pathway between the proposed development site at the former Devoy Barracks site and this SPA. It is over 10km distant and is completely unconnected. Furthermore there will be no loss of species, fragmentation or disturbance to the special conservation interests of this SPA as a result of the proposed development.
Wicklow Mountains SPA (site code 004040), c.16.3km to the south east	<p>A098 Merlin (<i>Falco columbarius</i>) A103 Peregrine (<i>Falco peregrinus</i>)</p> <p>According to this SPA's site Generic Conservation Objectives document (Version 9, dated 26 January 2022), for each of the listed SCIs, the Conservation Objectives are to maintain or restore the favourable conservation condition of the species for which the SPA has been selected.</p>	There is no hydrological link or any other pathway between the proposed development site at the former Devoy Barracks site and this SPA. It is over 16km distant and is completely unconnected. Furthermore there will be no loss of species, fragmentation or disturbance to the special conservation interests of this SPA as a result of the proposed development.
South Dublin Bay and River Tolka Estuary SPA (site code 004024), c.33.4km to the north east	<p>A144 Sanderling (<i>Calidris alba</i>) A157 Bar-tailed Godwit (<i>Limosa lapponica</i>) A149 Dunlin (<i>Calidris alpina</i>) A162 Redshank (<i>Tringa totanus</i>) A179 Black-headed Gull (<i>Chroicocephalus ridibundus</i>) A143 Knot (<i>Calidris canutus</i>) A192 Roseate Tern (<i>Sterna dougallii</i>) A046 Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) A141 Grey Plover (<i>Pluvialis squatarola</i>) A130 Oystercatcher (<i>Haematopus ostralegus</i>) A194 Arctic Tern (<i>Sterna paradisaea</i>)</p>	<p>No significant effects on water quality, and therefore on the site's SCIs, are predicted. Surface/ground water arising during the site clearance, construction and operation of the proposed development at the former Devoy Barracks site could contain pollutants (foul water, silt, hydrocarbons and other chemicals). Such contaminated water could potentially discharge to the ground or the local surface water drainage network and from there, eventually, via the River Liffey, to the sea.</p> <p>There would be no significant effects on the conservation objectives of the European site should this occur, given the nature, size and location of the proposed development, as described in Section 5.1. Even in the event of a pollution incident (such as a fuel or cement spill) significant enough to impact upon surface/ground water quality locally, this would not be perceptible in South Dublin Bay and River Tolka Estuary SPA.</p>

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European Site	Reasons for designation (information correct as of 11 March 2022) (*denotes a priority habitat)	Source – Pathway – Receptor link
	<p>A193 Common Tern (<i>Sterna hirundo</i>)  A137 Ringed Plover (<i>Charadrius hiaticula</i>)  Wetlands</p> <p>According to this SPA's site Conservation Objectives document (Version 1, dated 9 March 2015), for each of the listed SCIs, the Conservation Objective is to maintain the favourable conservation condition of the species and wetland habitat for which the SPA has been selected.</p>	<p>This is due to the significant separation between the proposed development site and the European site – the proposed development site is over 33km (straight line distance) from the SPA and any pollution arising during development would be so diluted as to be undetectable by the time the water enters the sea. In addition, significant dilution and mixing of surface and sea water would occur. Upon reaching the sea any pollutants would be even further diluted and dissipated by the receiving waters, which are classified as unpolluted according to the EPA database of coastal water quality. Furthermore, the construction of the proposed development will take place over a comparatively short period and there is no possibility of long-term impacts arising as a result of the construction elements of the proposed development.</p> <p>There will be no loss of wetland habitat or species, fragmentation or disturbance to the qualifying interests of this site as a result of the proposed development.</p> <p>In addition, no operational impacts on this European site will occur as a result of the proposed development.</p>
North Bull Island SPA (site code 004006), c.36.7km to the north east	<p>A160 Curlew (<i>Numenius arquata</i>)  A149 Dunlin (<i>Calidris alpina</i>)  A157 Bar-tailed Godwit (<i>Limosa lapponica</i>)  A162 Redshank (<i>Tringa totanus</i>)  A179 Black-headed Gull (<i>Chroicocephalus ridibundus</i>)  A144 Sanderling (<i>Calidris alba</i>)  A156 Black-tailed Godwit (<i>Limosa limosa</i>)  A143 Knot (<i>Calidris canutus</i>)  A169 Turnstone (<i>Arenaria interpres</i>)  A054 Pintail (<i>Anas acuta</i>)  A046 Light-bellied Brent Goose (<i>Branta bernicla hrota</i>)  A048 Shelduck (<i>Tadorna tadorna</i>)  A052 Teal (<i>Anas crecca</i>)  A141 Grey Plover (<i>Pluvialis squatarola</i>)  A056 Shoveler (<i>Anas clypeata</i>)  A130 Oystercatcher (<i>Haematopus ostralegus</i>)  A140 Golden Plover (<i>Pluvialis apricaria</i>)  Wetlands</p> <p>According to this SPA's site Conservation Objectives document (Version 1, dated 9 March 2015), for each of the listed SCIs, the Conservation Objective is to maintain the favourable</p>	<p>No significant effects on water quality, and therefore on the site's SCIs, are predicted. Surface/ground water arising during the site clearance, construction and operation of the proposed development at the former Devoy Barracks site could contain pollutants (foul water, silt, hydrocarbons and other chemicals). Such contaminated water could potentially discharge to the ground or the local surface water drainage network and from there, eventually, via the River Liffey, to the sea.</p> <p>There will be no significant effects on the conservation objectives of the European site should this occur, given the nature, size and location of the proposed development, as described in Section 5.1. Even in the event of a pollution incident (such as a fuel or cement spill) significant enough to impact upon surface/ground water quality locally, this would not be perceptible in North Bull Island SPA.</p> <p>This is due to the significant separation between the proposed development site and the European site – the proposed development site is almost 37km (straight line distance) from the SPA and any pollution arising during development would be so diluted as to be undetectable by the time the water enters the sea. In addition, significant dilution and mixing of surface and sea water would occur. Upon reaching the sea any pollutants would be even further diluted and dissipated by the receiving waters, which are classified as unpolluted according to the EPA database of coastal water quality. Furthermore, the construction of the proposed development will take place over a comparatively short period and there is no possibility of long-term impacts arising as a result of the construction elements of the proposed development.</p> <p>There will be no loss of wetland habitat or species, fragmentation or disturbance to the qualifying interests of this site as a result of the proposed development.</p>

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European Site	Reasons for designation (information correct as of 11 March 2022) (*denotes a priority habitat)	Source – Pathway – Receptor link
	conservation condition of the species and wetland habitat for which the SPA has been selected.	In addition, no operational impacts on this European site will occur as a result of the proposed development.

\* This table lists all European sites that are potentially within the Zone of Influence of the proposed development – including the sites of Dublin Bay, which are potentially linked to the site by the water pathways. No sites further afield are remotely linked to the proposed development site, by virtue of distance, lack of a pathway and the reasons for their designation.



## 5.2 Summary of potential impacts of the proposed development

There will be no loss of any habitat or species listed as a QI or SCI of any designated site as a consequence of the proposed development at the Former Devoy Barracks site. There is, therefore, no potential for the effects of habitat loss or fragmentation to occur.

There will also be no significant effects on any European sites as a result of:

- Land-take;
- Resource requirements such as water abstraction;
- Impacts to habitat structure;
- Mortality to species (such as roadkill);
- Noise pollution/vibration impacts;
- Light pollution;
- Air pollution.

## 6 Other issues

No invasive plant species (*i.e.* those species listed on Schedule 3 of the *Birds and Habitats Regulations, 2011-2015*, such as Japanese knotweed or giant hogweed) were identified on site.

Additionally, for the reasons outlined in this report for the European sites, no impacts on any other designated sites including proposed Natural Heritage Areas, are likely.

## 7 Mitigation specific to European sites

This screening assessment is consistent with the judgment of the European Court in Case C-323/17, *People Over Wind & Sweetman v Coillte* (Judgment of the Court (Seventh Chamber) of 12 April 2018) and the recent case-law of the High Court, including *Heather Hill Management Company CLG v An Bord Pleanála* [2019] IEHC 450 and *Sweetman v An Bord Pleanála* [2020] IEHC 39. It is also consistent with the judgment in *Eco Advocacy CLG v An Bord Pleanála* [2021] IEHC 265. In that case, Humphreys J identified a core legal principle, being that regard should not be had to mitigation measures at AA screening stage. Humphreys J decided in that case that clarification was required from the CJEU on the matter (as it related to the consideration of SUDs and whether these represented mitigation measures) and the decision of the CJEU is currently awaited. Regardless of the outcome of that case however, in relation to European sites, there will be no impacts as a result of the proposed development. Therefore no mitigation is necessary or proposed for the protection of European sites or which was intended to avoid or reduce impacts on any European sites.

As noted in Section 5.1.2, an operational Surface water management for the proposed development has been designed to comply with the '*Greater Dublin Strategic Drainage Study (GSDSDS) Regional Drainage Policies Technical Document – Volume 2, New Developments, 2005*' and it is proposed to use a sustainable urban drainage system (SuDS) approach to storm water management throughout the overall site. However, even if no SuDS measures were to be incorporated into the design and surface water arising at the site were to be diverted in its entirety to the existing sewer system there would be no impacts on European sites.

## 8 In-combination Effects

It is a requirement of Section 177U of the Planning Acts that when considering whether a plan or project will have a significant effect on a European site the assessment must take into account in-combination effects with other plans and projects. The assessment should consider plans and projects that are completed, approved but uncompleted, or proposed (but not yet approved).<sup>5</sup> If there are identified effects arising from the plan or project even if they are perceived as minor and not likely to have a significant effect on the integrity of a European site alone, then these effects must be considered 'in-combination' with the effects arising from other plans and projects.

A review of developments currently in planning or under construction within the zone of influence was made and confirmed that no developments are currently proposed that would, in combination with the development under appraisal in this report, give rise to significant effects. The following developments planned, permitted or proposed were taken into account in reach this conclusion:

- Elsmore Phase 2 / Jigginstown SHD: Planning permission was granted in February 2020 for a SHD (ABP ref. TA09.305701) of 314 no. residential units, situated to the south-east of the site;
- Devoy Quarter SHD: Planning permission was granted in September 2020 for a SHD (ABP ref. TA09.307258) of 152 no. residential units, situated to the east of the site;
- Elsmore Phase 1: Permitted residential development (KCC reg. ref. 09/500050, 11/500086, 15/955; ABP refs. 240261, 17853, 171469) of 308 no. residential units, situated to the south-west of the site (under construction / constructed);
- The Arches / Castlefarm: Permitted residential development (KCC reg. ref. 16/1145; 17/886; 19/85) of 183 no. residential units, situated to the west of the site (under construction);
- Newbridge Road: Planning permission granted in September 2020 for a SHD (ABP ref. TA09.307258) of 152 no. residential units, situated to the east of the site; and
- Planned infrastructural projects under the scope of the NTA's *Greater Dublin Area Cycle Network Plan* (2013) and the *Naas Local Area Plan 2021 – 2027*.

It is noted that no impacts are expected on any European sites as a result of the proposed development, which, except where identified in the Material Contravention Statement, is in full compliance with all of the relevant Local Area Plan and Development Plan Objectives.

In addition, a number of other plans were considered when assessing in-combination effects, but it was determined that there would be no in-combination effects with these:

- National Planning Framework;
- Regional Spatial and Economic Strategy;
- Greater Dublin Strategic Drainage Study;
- Greater Dublin Transport Strategy;
- Climate Action and Mitigation Plan;
- National Biodiversity Plan; and,
- River Basin Management Plan.

## 9 Screening Conclusion

In view of best scientific knowledge this report concludes that the proposed development, individually or in combination with another plan or project, will not have a significant effect on any European sites. This conclusion

<sup>5</sup> *Assessment of Plans and Projects Significantly Affecting European sites: Methodological Guidance on the Provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC (European Commission Environment Directorate-General, 2001)*

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was reached without considering or taking into account mitigation measures or measures intended to avoid or reduce any impact on European sites.

It is considered that this report provides sufficient relevant information to allow the Competent Authority (An Bord Pleanála) to carry out an AA Screening, and reach a determination that the proposed development will not have any likely significant effects on European sites under Article 6 of the Habitats Directive in light of their conservation objectives.

## Appendix I: Background

The European<sup>6</sup> network is a Europe-wide network of ecologically important sites (SPAs and cSACs – also known as ‘European Sites’ or ‘Natura 2000 sites’) that have been designated for protection under either the EU Birds Directive (Council Directive 79/409/EEC on the Conservation of Wild Birds) or the EU Habitats Directive (Council Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Flora and Fauna).

The main aim of the Habitats Directive is “to contribute towards ensuring biodiversity through the conservation of natural habitats of wild fauna and flora in the European territory of the Member States to which the treaty applies”. Any actions taken must be designed to “maintain or restore, at a favourable conservation status, natural habitats and species of wild fauna and flora of Community interest”. Under Article 6 of the Habitats Directive, an assessment is required where a plan or project may give rise to significant effects upon a European site.

In addition, it is a matter of law that candidate SACs (cSACs) and Sites of Community Importance (SCI) are considered in this process;

Article 6 (paragraphs (3) and (4)) of the Habitats Directive states that:

(3) Any plan or project not directly connected with or necessary to the management of the site but likely to have 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. In the light of the conclusions of the assessment of the implications for the site and subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public.

(4) If, in spite of a negative assessment of the implications for the site and in the absence of alternative solutions, a plan or project must nevertheless be carried out for imperative reasons of overriding public interest, including those of social or economic nature, the Member State shall take all compensatory measures necessary to ensure that the overall coherence of Natura 2000 is protected. It shall inform the Commission of the compensatory measures adopted.

Where the site concerned hosts a priority natural habitat type and/or a priority species, the only considerations which may be raised are those relating to human health or public safety, to beneficial consequences of primary importance for the environment or, further to an opinion from the Commission, to other imperative reasons of overriding public interest.

The requirements of the Habitats Directive are transposed into Irish law by means of the *European Union (Birds and Natural Habitats) Regulations 2011-2015* (hereafter referred to as the *Birds and Habitats Regulations*)<sup>7</sup> and by the *Planning and Development Act 2000*, as amended.

In Ireland, the statutory agency responsible for the designated areas is NPWS.

## Stages in the assessment

European Commission guidance (2001)<sup>8</sup> sets out the principles on how to undertake decision making in applying the Habitats Directive. The requirements of the Habitats Directive comprise four distinct stages:

**Stage 1: Screening** is the process which initially identifies the likely significant effects upon a European site of a project or plan, either alone or in combination with other projects or plans, and considers whether these impacts may be significant. It is important to note that the burden of evidence is to show, on the basis of objective information, that there will be no significant effect; if the effect may be significant, or is not known, that would trigger the need for an Appropriate Assessment. There is European Court of Justice case law to the effect that

<sup>6</sup> The EU Habitats Directive, Article 3.1, states “A Coherent European ecological network of Special Areas of Conservation and Special Protection Areas pursuant to Directive 79/409/EEC shall be set up under the title European”

<sup>7</sup> SI No. 477 of 2011 and subsequent amendments

<sup>8</sup> European Commission (2001) *Assessment of Plans and Projects Significantly Affecting European Sites: Methodological Guidance on the Provisions of Article 6 (3) and (4) of the Habitats Directive 92/43/EEC*



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unless the likelihood of a significant effect can be ruled out on the basis of objective information, then an Appropriate Assessment must be made.

**Stage 2: Appropriate Assessment** is the detailed consideration of the impact on the integrity of the European site of the project or plan, either alone or in combination with other projects or plans, with respect to the site's conservation objectives and its structure and function. This is to determine with scientific certainty whether or not there will be adverse effects on the integrity of the site in light of its conservation objectives. This stage also includes the development of mitigation measures to avoid or reduce any possible impacts.

**Stage 3: Assessment of alternative solutions** is the process which examines alternative ways of achieving the objectives of the project or plan that would avoid impacts on the integrity of the European site, should avoidance or mitigation measures be unable to cancel out adverse effects.

**Stage 4: Assessment where no alternative solutions exist and where adverse impacts remain.** At Stage 4 an assessment is made with regard to whether or not the development is necessary for imperative reasons of overriding public interest (IROPI) and, if so, of the compensatory measures needed to maintain the overall coherence of the European network.

## Conservation Objectives of European sites

The conservation objectives for a European Site are intended to represent the aims of the Habitats and Birds Directives in relation to that site. To this end, habitats and species of European Community importance should be maintained or restored to 'favourable conservation status' (FCS), as defined in Article 1 of the Habitats Directive below:

The conservation status of a natural habitat will be taken as 'favourable' when:

- Its natural range and the area it covers within that range are stable or increasing;
- The specific structure and functions which are necessary for its long term maintenance exist and are likely to continue to exist for the foreseeable future;
- Conservation status of typical species is favourable as defined in Article 1(i).

The conservation status of a species will be taken as favourable when:

- Population dynamics data on the species concerned indicate that it is maintaining itself on a long-term basis as a viable component of its natural habitats;
- The natural range of the species is neither being reduced nor is likely to be reduced for the foreseeable future;
- There is, and will probably continue to be, a sufficiently large habitat to maintain its populations on a long-term basis.

Guidance from the European Commission<sup>9</sup> indicates that the Habitats Directive intends FCS to be applied at the level of an individual site, as well as to habitats and species across their European range. Therefore, in order to properly express the aims of the Habitats Directive for an individual site, the conservation objectives for a site are essentially to maintain (or restore) the habitats and species of the site at (or to) FCS.

The European Commission guidance recommends that screening should fulfil the following steps:

1. Determine whether the plan (or policy) is directly connected with or necessary for the management of European sites;
2. Describe the plan and describe and characterise any other plans or projects which, in combination, have the potential for having significant effects on European sites;
3. Identify the potential effects on European sites;
4. Assess the likely significance of any effects on European sites.

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<sup>9</sup> Managing European sites: the provisions of Article 6 of the Habitats Directive 92/43/EEC. (European Commission 2000)

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