

Proposed Strategic Housing Development,
Magee Barracks, Co. Kildare
Information for Screening for Appropriate
Assessment

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Client:

Ballymount Properties Ltd

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1 Introduction and background

This document constitutes an Appropriate Assessment Screening Report. The purpose of the report is to provide the information required to assist An Bord Pleanála, the competent authority, to undertake a screening exercise for Appropriate Assessment (AA). This will determine the effects, if any, on European sites, also known as Natura 2000 Sites (Special Areas of Conservation (SAC) and Special Protection Areas (SPA), designated for nature conservation), of proposed residential development (Strategic Housing Development) at the former Magee Barracks, fronting onto Hospital Street, Kildare. The application is for Phase 1 of the overall development, which has been considered in the wider context of the overall Magee Barracks site and its surroundings.

Brady Shipman Martin was commissioned to undertake the study, which was carried out by Senior Ecologist Matthew Hague CEnv MCIEEM. Matthew is a highly experienced and qualified ecologist, with a master's degree in Ecosystem Conservation and Landscape Management. He has over 17 years of experience in ecological and environmental consultancy, across a wide range of sectors. He is a Chartered Environmentalist (CEnv) and a full member of the Chartered Institute of Ecology and Environmental Management (MCIEEM). Matthew recently completed an Advanced Diploma in Planning and Environmental Law, at King's Inns.

Additional survey work and research was undertaken by hydrogeologist and chartered engineer Niall Mitchell (BlueRock Environmental Ltd) and incorporated into Chapter 9 (Hydrogeology & Hydrology) of the Environmental Impact Assessment Report that accompanies the formal planning application.

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

The requirements for an Appropriate Assessment are set out under Article 6 of the *EU Habitats Directive* (92/34/EEC), transposed into Irish law through the *European Communities (Birds and Natural Habitats) Regulations 2011-2015* and the *Planning and Development Act, 2000* (as amended).

It is noted that an AA Screening report was submitted with the original SHD application, and the Inspector from An Bord Pleanála, in Section 10.8.7 of the Inspector's Report (Reg. Ref.: ABP-301371-18), concluded that "*no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site*".

2 Methodology

2.1 Baseline data collection and field visit

A desk-based assessment was undertaken of the site at Magee Barracks 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 the European sites. A survey to inform this Appropriate Assessment document was undertaken on 24th November 2016. Follow up visits were undertaken by ecologists on behalf of Brady Shipman Martin on 26th September 2018. A final visit was undertaken by Brady Shipman Martin on 21st May 2019.

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;

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- *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);
- *Managing Natura 2000 sites: The Provisions of Article 6 of the Habitats Directive 92/43/EEC*. Guidance issued by the European Commission (21st November 2018).

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);
 - The National Biodiversity Data Centre (NDBC) (www.biodiversityireland.ie);
 - BirdWatch Ireland (www.birdwatchireland.ie);
 - Bat Conservation Ireland (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;
- Photographs taken at the site;
- Information on local watercourses from www.catchments.ie;
- Information on water quality in the area (www.epa.ie);
- Information on soils, geology and hydrogeology in the area (www.gsi.ie);
- Information on the status of EU protected habitats in Ireland (NPWS, 2013);
- 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;
- Kildare Local Area Plan 2012 – 2018.

The report has regard to the following legislative instruments:

- Planning and Development, Act 2000, as amended;
- European Commission (EC) Habitats Directive 92/43/EEC;
- European Commission (EC) Birds Directive 2009/147/EC;
- European Communities (Birds and Natural Habitats) Regulations 2011-2015.

The report takes full account of the design of the proposed development and a detailed examination of all relevant elements of the proposal was undertaken.

Given the amount of information available, including from the developer, NPWS and other sources, it has been possible to gather adequate information on the site and the adjacent area (in particular, the European sites), in order to make an informed, sound judgement as to the potential impacts of the proposed development on the qualifying interests of the European sites.

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.

Following Screening, 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 an adverse 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. 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 risk 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 risk 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'*. As a general rule of thumb, it is often considered appropriate to include all European sites within 15km.

However, 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 more than 15 km away. Taking these factors into account, as a starting point a search was carried out for all European sites within 15km of the site at Magee Barracks. This search was then extended in order to ensure that all European sites with any potential links to the proposed development were accounted for in the study.

3.3 Study area and surrounding environment

3.3.1 Site location and European sites

Magee Barracks comprises a large area of land, totalling 20.78ha in area, to the east of Kildare Town centre. It is located between Hospital Street and Melitta Road and is surrounded by residential development. The existing residential estates of Ruanbeg and Rowanville lie to the east, Melitta Park and Melitta Road are to the north and Campion Crescent is to the west. Two recently completed schools also adjoin the western boundary. To the south and set back from Hospital street are commercial premises.

The overall Magee Barracks site is open in character and is divided into two separate areas. It gently slopes to the north and east while the southern portion is quite flat.

The southern half of the site, 11.32ha in area, which forms Phase 1 of the proposed development and which is the subject of the current application, is dominated by hard surfaces and abandoned military buildings.

3.3.2 Other designated conservation areas (other than European sites)

The nearest site designated for nature conservation is the Curragh (Kildare) (000392) a proposed Natural Heritage Areas (pNHA), approximately 1.3km to the east at its closest point. This site is selected for designation for its extensive open plain area of lowland acid grassland, with dry and wet heath in places. No impacts are expected to arise at this or any other non-European designated site. Pollardstown Fen pNHA, the only other non-European designated site within 5km, is approximately contiguous with Pollardstown Fen SAC and, as such, is not considered further in this report.

4 Description of the proposed development

Ballymount Properties Limited, intend to apply to An Bord Pleanála for permission for a strategic housing development at the Former Magee Barracks Site, Hospital Street (R445), Kildare Town, Co. Kildare. The site is bound to the south by Hospital Street (R445), and to the east, west and north by existing residential areas.

The development will consist of the demolition of 16 no. existing buildings (including a range of former Barracks buildings, the Officers' Mess building and Water Tower structure) with a GFA of 16,115 sq.m, and the construction of a development comprising of 375 no. residential units, a neighbourhood centre comprising of 3 no. single-storey retail units with a GFA of 130 sq.m, 105 sq.m and 100 sq.m respectively, a café (including gallery / exhibition area at mezzanine level) with a GFA of 300 sq.m, a two-storey childcare facility with a GFA of 680 sq.m and associated play area, all internal roads, car parking, pedestrian and cycle paths, public open space, and all associated site and infrastructural works on an application site of c. 11.32 ha.

The 375 no. residential units proposed consist of the following:

- 76 no. 3 bed semi-detached units;
- 42 no. 3 bed terrace units;
- 60 no. 4 bed semi-detached units;
- 7 no. 4 bed detached units;
- 16 no. 1 bed apartment units within the duplex blocks;
- 34 no. 2 bed duplex apartment units within the duplex blocks;
- 18 no. 3 bed duplex apartment units within the duplex blocks;
- 30 no. 1 bed apartment units within the apartment blocks; and
- 92 no. 2 bed apartment units within the apartment blocks.

The houses are 2 to 3 storeys in height, the duplex blocks are 2 to 3 storeys in height and the apartment blocks are 4 to 5 storeys in height over basement / undercroft car park. The associated site and infrastructural works include foul and surface / storm water drainage, attenuation tanks, 639 no. car parking spaces comprising, 560 no. spaces for the residential units, 51 no. visitor spaces and 28 no. spaces to serve the proposed creche, retail, café and childcare units, public open space measuring c. 1.80 hectares, bin and bike stores, 3 no. electricity substations, landscaping, boundary walls, railings and fences.

A new signalised road junction is proposed onto Hospital Street providing access to the proposed development and also to the adjacent lands where a supermarket and cancer treatment clinic are proposed. Road works are also proposed to Hospital Street (R445), including pedestrian crossings, upgrades to footpaths, signage, road markings and traffic signalling.

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* or the *EU Habitats Directive*, are known to occur within the site. None were recorded during the site surveys.

No features of ecological significance are present on or in the vicinity of the proposed development site (Magee Barracks Phase 1). None of the trees or buildings that are present within the site boundary, that are to be removed, contain any confirmed features with the potential to be used by roosting bats. The site is of no more than Local Importance (Lower Value), in accordance with the ecological resource valuations presented in the National Roads Authority Guidelines for Assessment of Ecological Impacts of National Road Schemes (NRA, 2009 (Rev. 2)).

No evidence of any habitats or species with links to European sites was recorded during either the field surveys or desk study undertaken and no 'reservoir' type habitats are present. There will be no loss of any habitat or species listed as a Qualifying Interest or Special Conservation Interest of any designated site as a consequence of the works. There is, therefore, no potential for the cumulative effects of habitat loss or fragmentation to occur. There will be no significant effects on the European sites as a result of:

- Impacts to habitat structure;
- Mortality to species (such as roadkill);
- Noise pollution;
- Air pollution.

There is no surface water connection to any European site, including Pollardstown Fen SAC, Mouds Bog SAC or the River Barrow and River Nore SAC. The nearest watercourse, the Tully stream, is located 2.5 km to the south of the site. It flows in a southwesterly direction and ultimately into the River Barrow. It is not however connected in any way to the proposed development site.

A flood risk assessment was undertaken for the site by Garland Engineers. The assessment concluded that based on all information reviewed relating to flood risk, the site is located within a Flood Zone C (low risk) for all sources of flood risk (i.e. fluvial flood risk, pluvial/storm water flood risk and groundwater flood risk).

Pollardstown Fen SAC, as a significant, groundwater-dependant feature, is potentially sensitive to any changes in groundwater levels and water quality, including those caused by development at a distance. About 40 springs provide a continuous supply of water to the Fen, rising chiefly at its margins, along distinct seepage areas of mineral ground above the Fen level. The continual inflow of calcium-rich water from the south of the Fen, primarily from the Curragh, and from the limestone ground to the north, creates waterlogged conditions which lead to peat formation. There are layers of calcareous marl in this peat, reflecting inundation by calcium-rich water.

A potential impact 'pathway' is therefore via ground water and in order to address this potential issue BlueRock Environmental Ltd (BREL) was requested to undertake a hydrogeological study of the proposed development. This study has been incorporated into Chapter 9 of the EIAR that accompanies the planning application.

The hydrogeological assessment considered the potential impact of the proposed development on the hydrogeological environment, taking into consideration the hydrogeological regime across the entire Masterplan area as well as the general environs with particular emphasis on Pollardstown Fen.

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A detailed desk study review of the site, its environs and previous hydrogeological assessment of the Kildare and Curragh region was undertaken. Significant hydrogeological investigations and monitoring have been undertaken as part of the current application and in the past in this area (for example prior to and post completion of the Kildare Bypass Motorway).

The hydrogeological assessment confirms the regional groundwater flow direction immediately south of Pollardstown Fen to be generally in a northeasterly direction towards the Fen. However a groundwater divide was confirmed and mapped to the northeast of Kildare town (see **Figure 2**). South of this divide, groundwater is interpreted to flow in a southwesterly direction across Kildare town. The proposed development at Magee Barracks is located southwest of this divide and therefore groundwater is interpreted to flow locally in a southwesterly direction across the site and not towards Pollardstown Fen.

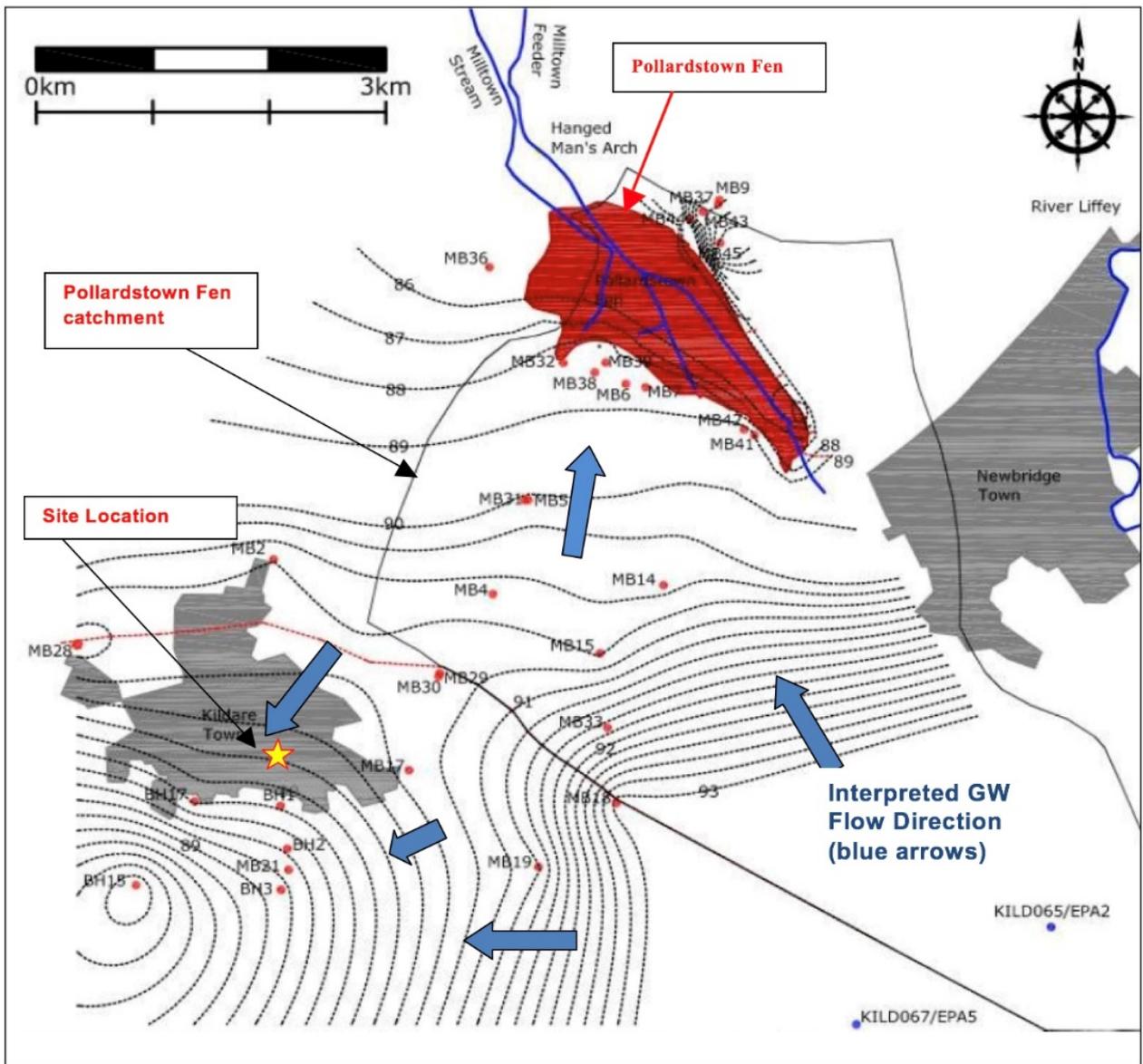


Figure 2: Interpreted groundwater contours (Curragh Aquifer) and Pollardstown Fen catchment (figure taken from the hydrogeological assessment report/EIAR chapter 9)

The detailed assessment and evaluation of the hydrogeological regime at the site and its regional environs was based on the identification of potential sources, pathways and receptors across the site. If all three elements (source, pathway and receptor) are present, there is a linkage and there is a potential impact to the receptor(s).

In terms of groundwater, hydrology and ecology, there are no SACs or groundwater dependent terrestrial ecosystems (GWDTE) receptors, including Pollardstown Fen, downgradient or in close proximity to the site. Therefore without an environmental receptor being present, the risk is considered to be low. As detailed previously, the site is not located within the groundwater catchment of Pollardstown fen and therefore does not pose a risk to this highly sensitive groundwater dependent terrestrial ecosystem.

Regardless of distance, it is considered that no other sites have any connection (pathway) with the proposed development at Magee Barracks, due to their locations, topography and the features (qualifying interests) for which they are designated, as well as the scale of the development proposed.

5.2 Potential impacts during construction

All **construction/demolition activities** pose a potential risk to watercourses as surface water arising at a site may contain contaminants. The main contaminants arising from construction and demolition 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 local watercourses during the demolition and construction phases.

Given the nature, scale and duration of the construction phase for the proposed Phase 1 development, the risk of contamination of watercourses is extremely low and even in the event of a pollution incident significant enough to impact upon surface water quality locally, **it is reasonable to assume that this would not be perceptible in any European sites**. This is due to the separation between the proposed development site and the European sites (the nearest being Pollardstown Fen, 4.3km distant), with no surface or groundwater water pathway between the Magee Barracks site and this SAC.

Similarly, the nearest stream, the Tully Stream, approximately 2.5km south of the site, is not considered to be in any way at risk from the proposed development as there is no pathway between the site and the stream.

5.3 Potential impacts during operation

The proposed site is not located within the groundwater catchment of Pollardstown Fen, with regional groundwater determined to be flowing on a southwesterly direction. Therefore the risk posed to this very sensitive habitat, for example from contamination or from reduced infiltration is considered to be imperceptible.

Full details of the surface water and foul drainage proposals are contained in the project Water Services Design Report and Chapter 9 of the EIAR that will accompany the planning application. These were prepared by Garland Consulting and BlueRock Environmental Ltd.

The surface water collection and infiltration system for the entire site has been designed in accordance with the Greater Dublin Strategic Drainage Study (GSDSDS), the CIRIA SUDS Manual 2015 and Recommendations for Site Development Works for Housing Areas published by the Department of the Environment and Local Government.

Garland Engineers have proposed a drainage system for the Phase 1 development which comprises a combination of storm water discharge to mains network and infiltration to ground. There will be no net reduction of effective recharge to the underlying aquifer.

No operational impacts related to surface or ground water management, on European sites or otherwise, are envisaged as a result of the proposed development.

There are a number of existing sewers traversing the site which will be diverted into the **proposed foul drainage system** for the Phase 1 site. It is proposed to provide two new gravity sewer systems – a northern and a southern system – on the Phase 1 site. The southern system will discharge to the existing foul sewer on Hospital Street and the northern system will discharge to the existing 600 diameter foul sewer at the eastern boundary in adjacent Ruanbeg Housing Estate. No foul water discharge to ground is proposed.

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There will be no operational phase impacts related to foul water management, on European sites or otherwise, as a result of the proposed development

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Table 1 lists relevant European sites, outlines their reasons for designation and discusses potential source-pathway-receptor links and impacts or risks to these sites from the proposed development.

European Site	Reasons for designation (information correct as of 17 th December 2019) (*denotes a priority habitat)	Source – Pathway – Receptor link
<p>Pollardstown Fen (000396)</p> <p>4.3km to the north east</p>	<p>7210 Calcareous fens with <i>Cladium mariscus</i> and species of the Caricion davallianae*</p> <p>7220 Petrifying springs with tufa formation (Cratoneurion)*</p> <p>7230 Alkaline fens</p> <p>1013 Geyer's Whorl Snail <i>Vertigo geyeri</i></p> <p>1014 Narrow-mouthed Whorl Snail <i>Vertigo angustior</i></p> <p>1016 Desmoulin's Whorl Snail <i>Vertigo moulinsiana</i></p> <p>According this SAC's site Generic Conservation Objectives document (dated 15 August 2016), for each of the listed QIs, the Conservation Objective is to maintain or restore the favourable condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p> <p>The SAC comprises a large spring-fed fen situated in a shallow basin composed of up to 6m of marl/peat overlying clay. The fen contains the feeder channel of the Grand Canal and has survived several attempts at drainage and reclamation. Supports extensive areas of <i>Cladium</i> fen, <i>Schoenus</i> fen, reed and sedge swamp, <i>Molinia</i> grassland and species-rich seepage areas. Restoration of the central fen area, following partial reclamation in 1979, has caused re-flooding and allowed the re-establishment and expansion of aquatic and reedswamp vegetation and their associated fauna.</p> <p>Pollardstown Fen is the largest spring-fed fen in Ireland, largely intact and responding well to restoration measures. It supports one of the largest stands of <i>Cladium</i> fen and is one of the most studied examples of its kind in Ireland. It contains a significant number of rare and threatened species. A number of internationally important invertebrates have been recorded and rare sub-aquatic invertebrates are particularly well represented. Pollardstown is the only known site in Ireland (or Europe) to support all three Annex II <i>Vertigo</i> species (<i>V. geyeri</i>, <i>V. angustior</i>, <i>V. moulinsiana</i>) and thus provides unique opportunity to study their different habitat and hydrological requirements. Re-flooding of reclaimed areas has increased the ornithological value of the site.</p>	<p>No</p> <p>The detailed assessment of the hydrogeological regime at the site and its regional environs concluded that the site is not located within the groundwater catchment of Pollardstown fen and the interpreted groundwater flow in the area is in the opposite direction. The proposed development therefore does not pose a risk to this highly sensitive groundwater dependent terrestrial ecosystem.</p> <p>Further, there are no surface water pathways between the SAC and the proposed development site.</p> <p>There are therefore no potential links between the proposed development site and Pollardstown Fen SAC. No impacts are predicted, either on surface water quality or via any other pathway (such as air quality, habitat loss and/or fragmentation, impacts to habitat structure, disturbance to species of conservation concern, mortality to species or noise pollution).</p> <p>The SAC is at a sufficient distance from the proposed development site to ensure that, given the scale of the development and the construction methodology proposed, which will not impact in any way upon the sub-surface geology, there will be no impacts on any of its Qualifying Interests as a result of any potential changes to the local hydrogeological regime.</p>



6 Other issues

A site specific, long-term management plan to permanently eradicate giant hogweed and Japanese knotweed plants from the site and prevent them from spreading to other sites has been developed by a specialist contractor on behalf of the applicant. There will be no transfer of invasive plant material during the construction phase that could potentially lead to these species becoming further established in the area. The construction methodology will ensure that no invasive species are introduced, either deliberately or inadvertently, to the site.

No other potential environmental impacts (such as cultural heritage or landscape and visual receptors) are considered relevant to this report.

7 Mitigation specific to European sites

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.

8 In-combination effects

It is a requirement of the *Birds and Natural Habitats Regulations, 2011-2015* that when considering whether a plan or project will adversely affect the integrity of a European site the assessment must take into account in-combination effects with other current or reasonably foreseeable plans and projects.

- If it can be clearly demonstrated that the plan or project will not result in any effects at all that are relevant to the integrity of a European site then the plan or project should proceed without considering the in-combination test, further;
- 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.

In addition to the planned Strategic Housing Development it is also proposed to develop a separate cancer treatment clinic and a grocery store facility (Lidl), to be constructed by others, on the site. These developments are also subject to separate Appropriate Assessment Screening. At the time of writing (June 2019) these two developments had been granted permission by Kildare County Council. The cancer treatment clinic is currently under appeal to An Bord Pleanála.

Taking these other proposed developments at Magee Barracks into account, it is concluded in this report that the proposed residential development project under appraisal will not have any significant effects on any European sites. As such it can be concluded that the development either on its own or in-combination with other developments will have no impact on the European sites.

9 Screening conclusion

This report concludes on the best scientific evidence, including the hydrogeological assessment, that it can be clearly demonstrated that no elements of the project will result in any likely significant impact on any relevant European site, either on their own or in-combination with other plans or projects, in light of their conservation objectives.

As such no mitigation measures are required for the protection of these 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 (92/43/EEC) in light of their conservation objectives.

Appendix I: Background

The European¹ 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 European is protected. It shall inform the Commission of the compensatory measures adopted.”

The requirements of the Habitats Directive are transposed into Irish law by means of the *European Communities (Birds and Natural Habitats) Regulations 2011* (hereafter referred to as the *Birds and Habitats Regulations*)² (subsequently amended) 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)³ 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

¹ 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”

² SI No. 477 of 2011

³ 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*

case law to the effect that 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 Commission⁴ 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:

⁴ Managing European sites: the provisions of Article 6 of the Habitats Directive 92/43/EEC. (European Commission 2000)

Proposed Strategic Housing Development, Magee Barracks, Co. Kildare

Information for Screening for Appropriate Assessment

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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