

APPROPRIATE ASSESSMENT SCREENING

In Accordance With The Requirements Of

Article 6(3) & (4)

Of the EU Habitats Directive (92/43/EEC)

For the

Proposed Variation (No. 1) to the Dublin City Development Plan 2022 - 2028

**Proposed Variation of the Dublin City Development Plan 2022-2028: Site at Basin View,
Dublin 8**

Section 1.0 –Terms of Reference

1.1 Introduction

This is an Appropriate Assessment Screening of the proposed variation (No. 1) of the Dublin City Development Plan 2022-2028 to:

Reorder the land use zoning of the subject lands at Basin View, Dublin 8 from Z1 (Sustainable Residential Neighbourhoods) and Z9 (Amenity/Open Space Lands/Green Network) to Z9 (Amenity/Open Space Lands/Green Network) and Z1 (Sustainable Residential Neighbourhoods).

See Section 1.2 below for further detail on the subject site of this proposed variation.

Circular Letter SEA 1/08 & NPWS 1/08 issued by the then Department of Environment, Heritage and Local Government (now under the remit of the Department Housing, Local Government and Heritage [DHLGH]) requires that, as a result of European Court of Justice Case 418/04 EC Commission v Ireland, any draft land use plan (or amendments or variations) proposed under the Planning & Development Act 2000 (as amended) must be screened for any potential impact on areas designated as Natura 2000 sites. The results of the screening should be recorded and made available to the public.

It should be noted that both a Strategic Environmental Assessment (SEA) Screening Report and a Strategic Flood Risk Assessment (SRFA) report have been prepared, as part of the documentation accompanying this proposed variation no. 1.

The proposed variation has been assessed to ascertain if it is required to be subject to an 'Appropriate Assessment' (AA) under the EU Habitats Directive. Based on the 'Methodological guidance on the provision of Article 6(3) and (4) of the Habitats Directive 92/43/EEC, a 'Screening Matrix' and a 'Finding of No Significant Effects Matrix' have been completed.

The principal trigger for undertaking an 'Appropriate Assessment' would be if the proposed variation was likely to have significant effects on a Natura 2000 site. For the purposes of Article 6 assessments, Natura 2000 sites are those identified as Sites of Community Importance under the Habitats Directive (called Special Areas of Conservation [SAC]) or classified as Special Protection Areas [SPA] under the Birds Directive (79/409/EEC).

There are no Natura 2000 sites directly linked to the proposed variation site at Basin View, Dublin 8. The subject site is not located on or located adjacent to such a site. The nearest Natura 2000 site, (*Special Protection Area [SPA]: South Dublin Bay and River Tolka Estuary SPA, site code 004024*) is 4.4 km to the north east of the subject site, within Dublin Bay. See Figure A (close-up view) and Figure 1 city wide context) below. No water course runs through the subject site.

As noted in the Strategic Flood Risk Assessment (SFRA) report, accompanying this proposed variation, the variation site is classified as Flood Zone C with a low probability of flooding.

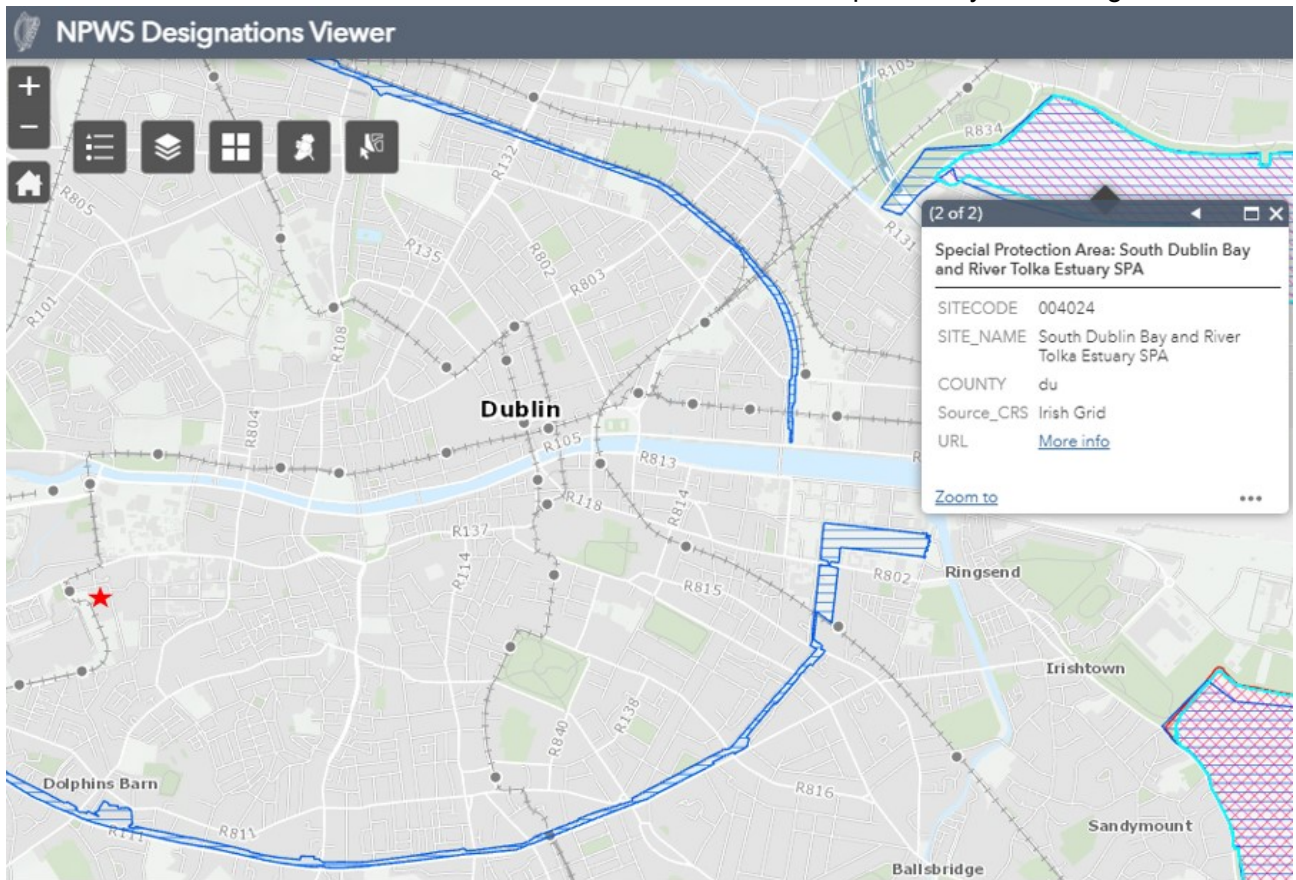


Figure A – screen shot demonstrating relationship of variation site, identified with a red star, to nearest Natura site, SPA (004024). Source: NPWS Designation Viewer.

The site is located south west of the proposed Natural Heritage Area (pNHA), an Irish Designation, attaching to North Dublin Bay (000206). See Figure B below.

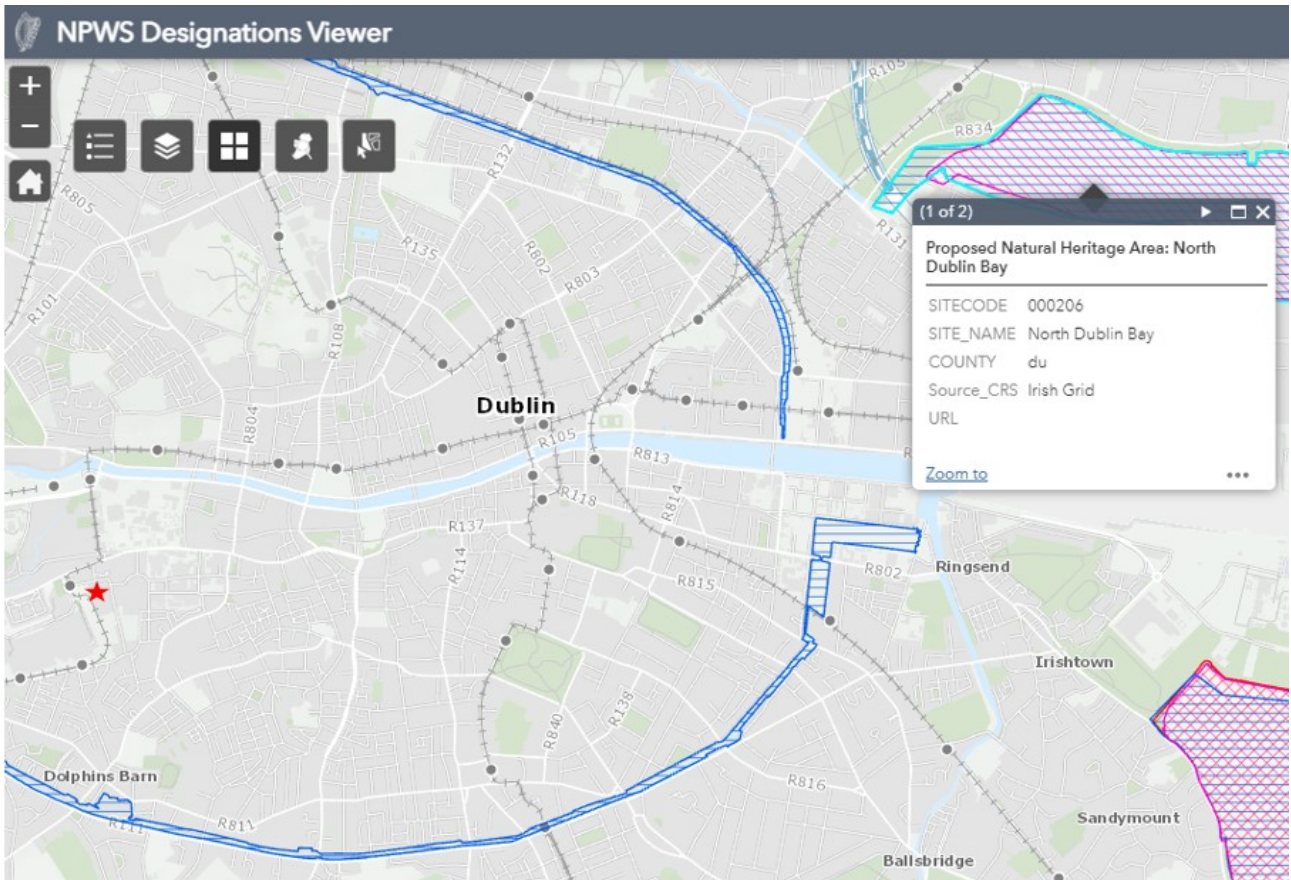


Figure B – screen shot demonstrating relationship of variation site, identified with a red star, to proposed NHA site (000206). Source: NPWS Designation Viewer.

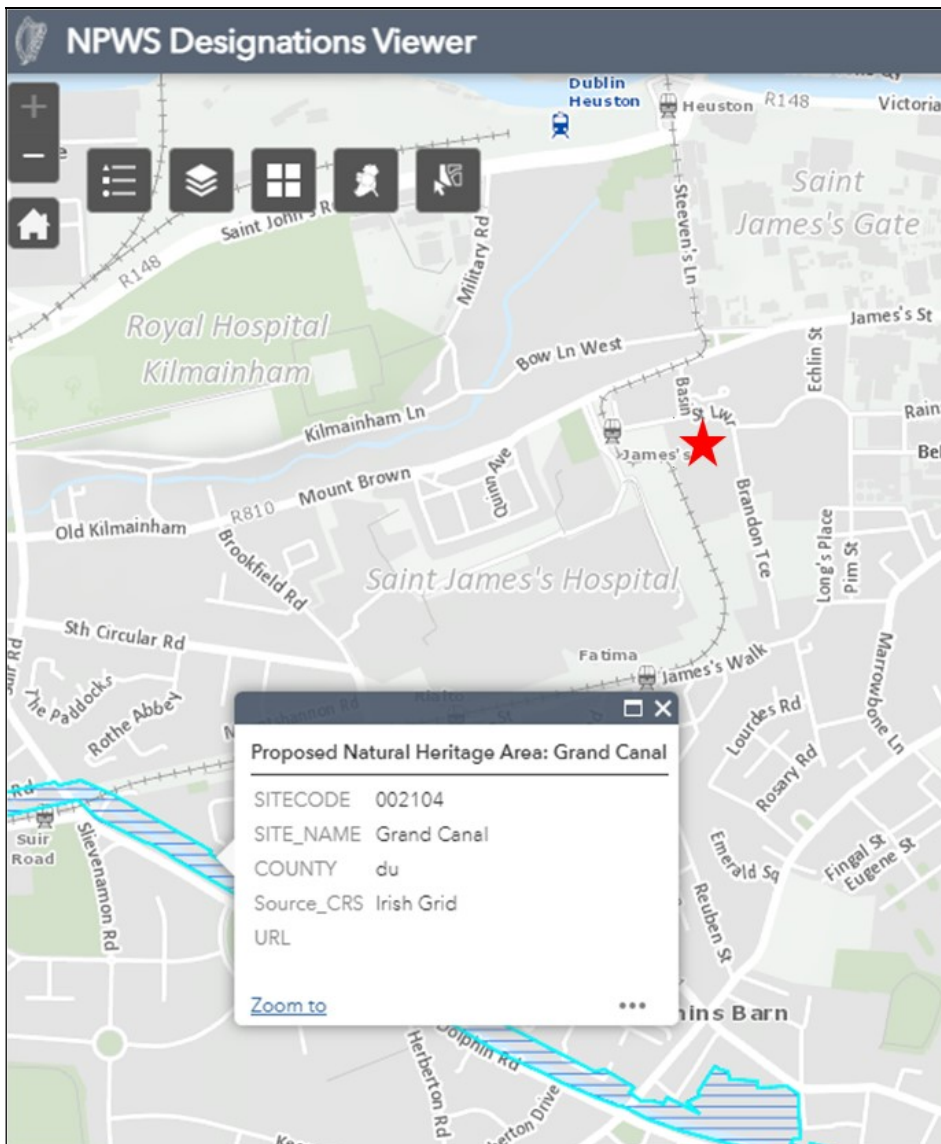


Figure C – screen shot demonstrating relationship of variation site, identified with a red star, to proposed NHA site (002104). Source: NPWS Designation Viewer.

The site is located east of the proposed Natural Heritage Area (pNHA), an Irish Designation, attaching to the Grand Canal (002104). See Figure C above.

The Natura 2000 sites within the wider vicinity of the variation area and within the Dublin region are listed as follows:

1. Baldoyle Bay SPA (IE004016)
2. Baldoyle Bay SAC (IE000199)
3. Ballyman Glen SAC (000713)

4. Dalkey Islands SPA (IE004172)
5. Glenasmole Valley SAC (001209)
6. Howth Head SAC (IE000202)
7. Howth Head Coast SPA (IE004113)
8. Irelands Eye SAC (IE002193)
9. Irelands Eye SPA (IE004117)
10. Knocksink Wood SAC (000725)
11. Malahide Estuary SAC (IE000205)
12. Malahide Estuary SPA (IE004025)
13. North Dublin Bay SAC (IE000206)
14. North Bull Island SPA (IE004006)
15. Rockabill to Dalkey Islands SAC (IE003000)
16. Rogerstown Estuary SPA (IE004015)
17. Rogerstown Estuary SAC (IE000208)
18. South Dublin Bay & River Tolka Estuary SPA (IE004024)
19. South Dublin Bay SAC (IE000210)
20. Wicklow Mountains SAC (002122)
21. Wicklow Mountains SPA (004040)

Figure 1 below illustrates designated sites in the wider vicinity of the subject site. The distance from the subject site to the closest Natura site is 4.4km.

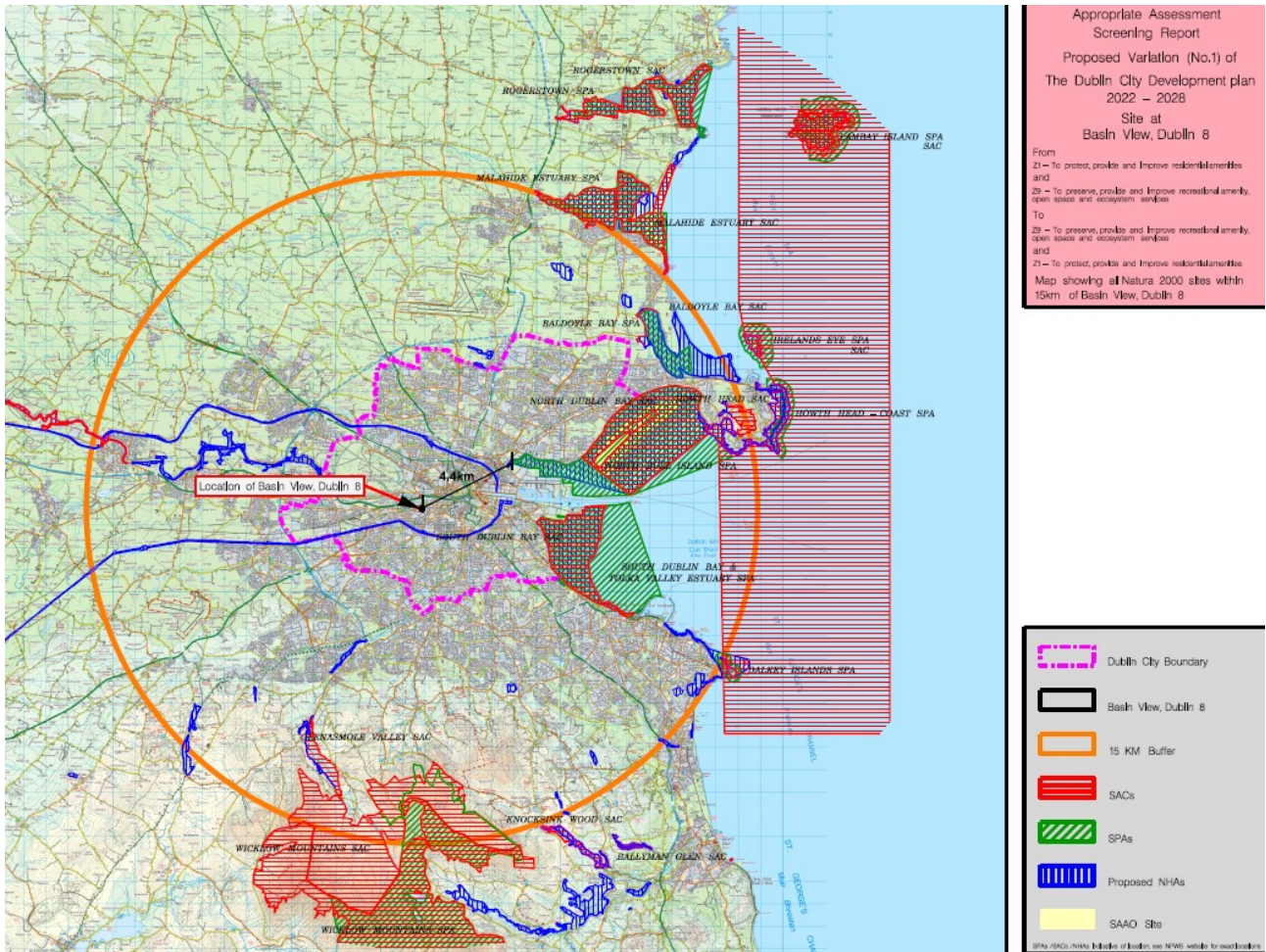


Figure 1 designated sites in the wider vicinity of the subject site at Basin View, Dublin 8

1.2 Proposal

It is proposed to vary the Dublin City Development Plan 2022-2028 to reorder the land use zoning of the subject lands at Basin View, Dublin 8;

From:

Zoning Objective Z1 - To protect, provide and improve residential amenities

and

Zoning Objective Z9 - To preserve, provide and improve recreational amenity, open space and ecosystem services

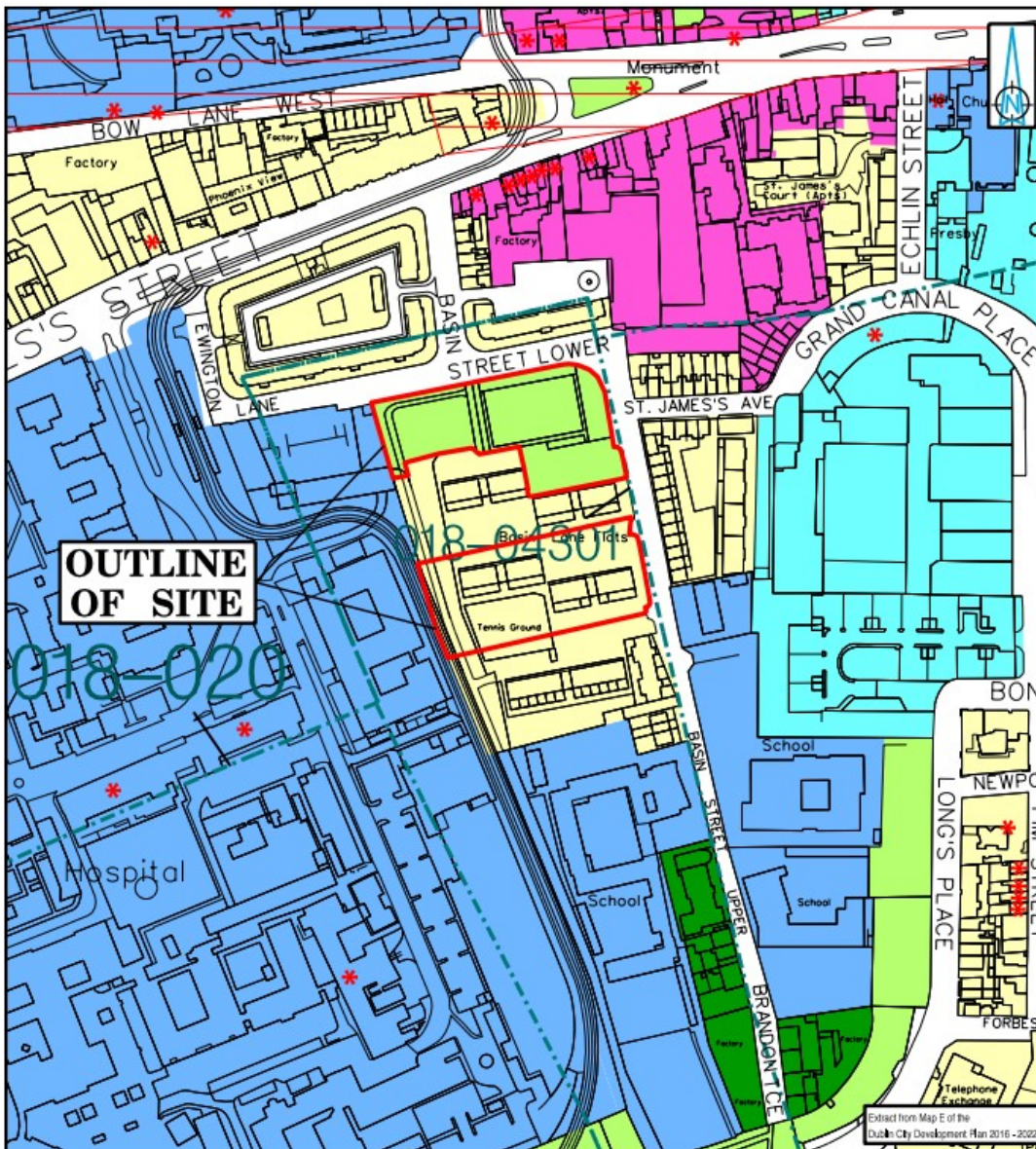
To:


Zoning Objective Z9 - To preserve, provide and improve recreational amenity, open space and ecosystem services

and

Zoning Objective Z1 - To protect, provide and improve residential amenities

The proposed draft variation areas are delineated on the attached map.




 Comhairle Cathrach
 Bhaile Átha Cliath
 Dublin City Council

PROPOSED VARIATION (No.1) OF THE DUBLIN CITY DEVELOPMENT PLAN 2022 - 2028

Site at Basin View, Dublin 8

AREA HIGHLIGHTED REZONED FROM
 Z1: To protect, provide and improve residential amenities
 and
 Z9: To preserve, provide and improve recreational amenity and open space and ecosystem services
 TO
 Z9: To preserve, provide and improve recreational amenity and open space and ecosystem services
 and
 Z1: To protect, provide and improve residential amenities

Figure 2: Location of Proposed Variation (No. 1) to the Dublin City Development Plan 2022-2028 located at Basin View, Dublin 8

Section 2.0 – Screening Matrix

Brief Description of Project or Plan

The proposed variation of the Dublin City Development Plan 2022-2028 is to reorder the land use zoning of the subject lands at Basin View, Dublin 8 from Z1 (Sustainable Residential Neighbourhoods) and Z9 (Amenity/Open Space Lands/Green Network) to Z9 (Amenity/Open Space Lands/Green Network) and Z1 (Sustainable Residential Neighbourhoods) on foot of a request from the Housing Department of the Council.

The Basin Street Flats site was selected for inclusion in the Social Housing Public Private Partnership (PPP) Programme, which is a partnership between the Department of Housing, Local Government and Heritage (DoHLGH), local authorities, the National Development Finance Agency and a specially formed Project Company to deliver new social housing units. The DoHLGH have approved in principle the site at Basin View, which is the first site to be regenerated under this programme and where 100-170 units are to be constructed.

The area encompassing the two variation sites will be the subject of a significant scale regeneration project, providing high quality new housing and a new public park. The purpose of the variation is to allow a new design and footprint for the housing, and a re-positioning of Oisín Kelly Park so that it serves better the residents of the regenerated housing and the wider public within the community. This re-positioning will also allow for a less disruptive approach to the regeneration of the site, by facilitating construction in a phased manner. The size of both plots are almost identical; and this proposed change will not result in the loss of any Z9 lands to this area. It will however, ensure that the open space provided in this street block is significantly upgraded and will provide a high quality amenity space for the community.

Allowing the reordering the zoning on this site will facilitate the successful delivery of the overall development, comprising of a new mixed tenure housing development; improved permeability east to west and north to south; a new Oisín Kelly Park in line with the Dublin City Council Parks Strategy 2019 and overall enrichments to the public realm.

The lands are located within the St. James Harbour Character Area of SDRA 15 Liberties and Newmarket Square, an area which has considerable regeneration potential with both private and public land holdings of considerable scale. Connectivity and green infrastructure initiatives are identified in the SDRA, including improved public open space at Oisín Kelly Park and new east-west permeability interventions between the St. James' Hospital grounds and Basin View, which are required in order to improve the amenity for existing and future residents and to better integrate the area with its adjoining institutions and neighbourhoods.

It is therefore considered appropriate to seek to reorder the land use zoning of the subject lands at Basin View, Dublin 8 to Z1 (Sustainable Residential Neighbourhoods) and Z9 (Amenity/Open Space Lands/Green Network) for the following reasons:

- Oisín Kelly Public Park is currently underutilised by the general public with anti-social behaviour along the access streets Basin Street Lower and Basin View;
- Improved permeability along the public park to facilitate desirable connections with the surrounding area and provide clear, safe public streets;
- The area of park will open up a north-south connection alongside the Luas line and Basin Street Lower to cater for pedestrians;

- Improved permeability also opens up an east-west connection that allows St. James's hospital usage of the public park and connection through the new Basin View development to Grand Canal Harbour and Bond Street;
- Clearly defines the flow and separation of the spaces between public; semi-public and private areas.
- Provides housing within enclosed urban blocks, making defensible amenity courtyard spaces thus enabling passive supervision of public open spaces and prevention of anti-social behaviour.
- Use of the redevelopment as an opportunity to improve public realm and surrounding streets to better integrate the scheme with its neighbourhood and support the Council's wider regeneration strategies.
- The reordering of the zoning will provide a simpler phasing strategy, lower overall development costs and provides a feasible scheme that will regenerate this area of the city.
- Extension of amenity/recreational spaces in association with the linear park along St James Hospital.
- Existing area of Z9 land zoning (0.422 ha) is equal to the proposed Z9 land zoning (0.422 ha).

Brief description of the Natura 2000 sites

The site of the proposed variation does not lie within or adjacent to any Natura 2000 site.

The site therefore does not directly affect any Natura 2000 sites. The closest Natura 2000 site (*South Dublin Bay & River Tolka Estuary SPA (IE004024)*) is located approximately 4.4km to the north east of the subject site and is located within Dublin Bay. It is one of a number of Natura 2000 sites that include a wide variety of inter-tidal, marine and coastal zoned habitats supporting a range of species including Annex 1 bird species in the Dublin Bay area. See Figure 1 above.

Assessment Criteria

There is no Natura 2000 site located within or adjacent to the proposed variation area. There are no likely cumulative, direct or indirect impacts on any Natura 2000 sites as a result of the proposed variation.

For an impact to occur there must be a risk enabled by having a 'source' (e.g. construction works at a proposed development site), a 'receptor' (e.g. a Natura 2000 site), and a pathway between the source and the receptor (i.e. a watercourse which connects the proposed variation area to the Natura 2000 site).

An Appropriate Assessment was carried out at all stages of the Development Plan 2022-2028 in order to ensure that its policies and objectives do not result in significant adverse impacts on the integrity of any of the identified Natura 2000 sites.

Any future proposed planning application that may seek permission on these lands will be

accompanied with an Appropriate Assessment Screening at project stage to comply with the requirements of the Habitats Directive, the conclusion of which will inform the direction of the planning application, all of which is set out in the Development Plan 2022 – 2028. Section 1.5.2, Appropriate Assessment (AA) of Chapter 1 Strategic Context and Vision states:

The following will apply to all development proposals:

To ensure that planning permission will only be granted for a development proposal that, either individually or in combination with existing and/or proposed plans or projects, will not have a significant effect on a European site(s), or where such a development proposal is likely or might have such a significant effect (either alone or in combination), the planning authority will, as required by law, carry out an appropriate assessment as per requirements of Article 6(3) of the Habitats Directive 92/43/EEC of the 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, as transposed into Irish legislation. Only after having ascertained that the development proposal will not adversely affect the integrity of any European site, will the planning authority agree to the development and impose appropriate mitigation measures in the form of planning conditions. A development proposal which could adversely affect the integrity of a European site may only be permitted in exceptional circumstances, as provided for in Article 6(4) of the Habitats Directive as transposed into Irish legislation.

Development proposals will also be subject to screening for the requirement for environmental impact assessment, and to environmental impact assessment if required, in accordance with the provisions of Directive 2011/52/EU on the assessment of the effects of certain public and private projects on the environment as amended by Directive 2014/52/EU (the EIA Directive) as transposed into national legislation.

(Page 24, Chapter 2, Volume 1, DP 2022 – 2028)

Describe any likely direct, indirect or secondary impacts of the project (either alone or in combination with other plans or projects) on the Natura 2000 site by virtue of:

Size and scale;

The site lands are restricted to a limited area of 0.422ha each. This change in zoning objectives will neither increase nor decrease the overall area of zoned lands within Dublin City Council. The nature of the zoning changes, from Z1 to Z9 and Z9 to Z1, are not deemed significant. The proposed zoning objective changes provide for a development in principle approach to any future use of the lands.

The size and scale of the lands are therefore not predicted to have any likely significant impact on the conservation function of any Natura 2000 site in respect to size or scale.

Land-take:

Not applicable.

Distance from Natura 2000 site or key features of the site:

The site of the proposed variation is approximately 4.4km from the nearest Natura 2000 site, the *Special Protection Area [SPA]: South Dublin Bay and River Tolka Estuary SPA, site code 004024.*

The proposed variation is not predicted to have any likely significant impact on the key features or the conservation function of any Natura 2000 sites.

Resource requirements (water abstraction etc):

Not applicable.

Emission (disposal to land, water or air):

Not applicable.

No predicted likely direct impact on the conservation function of any Natura 2000 site is predicted as a result of the implementation of the proposed variation. The most likely potential indirect or secondary impact on a Natura 2000 site is by way of effluent discharge from the Ringsend waste water treatment plant which serves the entire Dublin region to Dublin Bay. Any future planning permission will be subject to conditions to ensure disposal to land, water and air has no impact on any Natura 2000 site.

In addition, there is a commitment under the Dublin City Development Plan 2022–2028 to *‘To support and facilitate Irish Water in the provision of high quality drinking water, water conservation and drainage infrastructure, and to promote the ongoing upgrade and expansion of water supply and wastewater services to meet the future needs of the City and the Region’*. (Objective SI1, page 270 of Chapter 9 Strategic Environmental Infrastructure and Flood Risk, Volume 1, CDP 2022 - 2028).

More broadly, the Council has a role to play in co-ordinating and tracking the implementation of current, Draft and future 3rd cycle RBMP measures at regional and local level, and in making sure they are fully considered throughout the physical planning process to ensure alignment between the development plan, WFD and RBMP. It is anticipated that forthcoming Section 28 Guidance on WFD Assessment and Sustainable Urban Drainage will assist planning authorities in addressing these water quality considerations as part of the planning and development decision-making process.

In the interim, regard will be had to the government’s best practice guidance document, Nature-based Solutions to the Management of Rainwater and Surface Water Runoff in Urban Areas (December 2021). (Section 9.5.2 Urban Watercourses and Water Quality, page 270 of Chapter 9 Strategic Environmental Infrastructure and Flood Risk, Volume 1, CDP 2022 - 2028). See Appendix 12: *Technical Summary of Dublin City Council Sustainable Drainage Design & Evaluation Guide (2021)* of the CDP 2022 – 2028.

Note: The 3rd cycle of River Basin Management Plan (RBMP) for the period of 2022-2027 is currently being prepared by Department of Housing, Local Government and Heritage (DHLGH) in line with the EU Water Framework Directive (WFD) (2000/60/EC).

Excavation requirements:

Not applicable.

Transportation requirements:

Not applicable.

Duration of construction, operation, decommissioning, etc:

Not applicable.

Other:

None.

Describe any likely changes to the site arising as a result of:

Reduction of habitat area:

Not applicable.

Disturbance to key species:

Not applicable.

Habitat or species fragmentation:

Not applicable.

Reduction in species density:

Not applicable.

Changes in key indicators of conservation value:

Not applicable.

Climate change:

Not applicable.

Describe any likely impacts on the Natura 2000 site as a whole in terms of:

Interference with the key relationships that define the structure of the site:

No predicted likely impact on the structure of any Natura 2000 sites.

Interference with key relationships that define the function of the site:

No predicted likely impact on the conservation function of any Natura 2000 sites.

Provide indicators of significance as a result of the identification of effects set out above in terms of:

Loss:

Not applicable.

Fragmentation:

Not applicable.

Disruption:

Not applicable.

Disturbance:

Not applicable.

Change to key elements of the site (e.g. water quality etc):

Not applicable.

Describe from the above those elements of the project or plan, or combination of elements, where the above impacts are likely to be significant or where the scale or magnitude of impacts are not known.

No predicted likely significant impacts on the conservation function of any Natura 2000 sites.

Section 3.0 – Findings of No Significant Effects Matrix

Name of Project or Plan:	<p>The proposed variation (No.1) of the Dublin City Development Plan 2022 – 2028 proposes to reorder the land use zoning of the subject lands at Basin View, Dublin 8 from Z1 (Sustainable Residential Neighbourhoods) and Z9 (Amenity/Open Space Lands/Green Network) to Z9 (Amenity/Open Space Lands/Green Network) and Z1 (Sustainable Residential Neighbourhoods).</p>
Name and location of Natura 2000 sites:	<p>Natura 2000 sites in the wider vicinity of the proposed variation area are provided in Section 1.1 Introduction above.</p>
Description of the Project or Plan	<p>As provided in Section 2.0, Screening Matrix above.</p>
Is the Project or Plan directly connected with or necessary to the management of the site (provide details)?	<p>No.</p>

<p>Are there other projects or plans that together with the project or plan being assessed could affect the site (provide details)?</p>	<p>The proposed variation provides for sustainable development in accordance with the Dublin City Development Plan 2022-2028 and the principles of proper planning and sustainable development.</p> <p>It is not predicted that the proposed variation will have any likely significant impact on the conservation function of any Natura 2000 site.</p>
------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p>The Assessment of Significance of Effects</p>	
---------------------------------------------------------	--

<p>Describe how the project or plan (alone or in combination) is likely to affect the Natura 2000 sites:</p>	<p>No predicted likely significant impacts on the conservation function of any Natura 2000 sites arises from the proposed variation under the variation process (the 'Plan').</p>
---------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p>Explain why these effects are not considered significant:</p>	<p>The proposed variation provides for sustainable development in accordance with the Dublin City Development Plan 2022-2028 and the principles of proper planning and sustainable development.</p> <p>An Appropriate Assessment was carried out at all stages of the Development Plan 2022-2028 in order to ensure that its policies and objectives do not result in significant adverse impacts on the integrity of any of the identified Natura 2000 sites.</p> <p>Taking into consideration the established residential nature of the lands, that allowing the reordering the zoning on this site will facilitate the successful delivery of a new mixed tenure housing development, improved permeability east to west and north to south, a new Oisín Kelly Park in line with the Dublin City Council Parks Strategy 2019 and overall enrichments to the public realm, it is considered that the proposed rezoning will facilitate appropriate uses for this land.</p> <p>In considering the above, the change to two zoning objectives (Z1 and Z9) that generally characterise the</p>
-------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

	<p>area within which the variation is located is considered marginal and when taken together with the distance to the nearest Natura site of 4.4km, no water course connecting the variation site and the nearest Natura site and with a low probability of flooding on the variation site, classified as Flood Zone C, it is concluded that:</p> <p>It is not predicted that the variation will have any significant impact on the conservation function of any Natura 2000 site.</p>
<p>List of Agencies consulted: Provide contact name and telephone or email address:</p>	<p>The Manager, Development Applications Unit, Department of Housing, Local Government and Heritage Email: sea@environ.ie</p> <p>The Manager, The Department of Culture, Heritage and the Gaeltacht Manager.DAU@chg.gov.ie</p> <p>Gerry Clerkin, Dept. Communications Energy and Natural Resources Gerry.clerkin@dcenr.gov.ie Email: CorporateSupport.Unit@dcenr.gov.ie</p> <p>Co-ordination Unit, Department of Communications, Climate Action and Environment. Email: corporatesupport.unit@dccae.gov.ie</p> <p>Damian Clarke, Assistant Principal Officer, Department of Agriculture, Food and the Marine Email: damien.clarke@agriculture.gov.ie</p> <p>Tadhg O'Mahony, Environmental Protection Agency, Regional Inspectorate, Iniscarra, County Cork. Email: t.omahony@epa.ie sea@epa.ie Telephone: 021 – 486 0818</p> <p>Forward Planning Division, Dun Laoghaire Rathdown County Council Email: planning@dlrcoco.ie</p>

	<p>planningsecretariat@dlrcoco.ie</p> <p>Forward Planning Division, South Dublin County Council Email: planning.dept@sdcc.ie planningdept@sdblincoco.ie</p> <p>Forward Planning Division, Fingal County Council Email: planning@fingalcoco.ie</p> <p>Inland Fisheries Ireland info@fisheriesireland.ie</p>
Response to Consultation	None received.

Data Collected to Carry out the Assessment	
Who carried out the Assessment?	The Planning and Property Development Department of Dublin City Council.
Sources of Data	<p>Existing data</p> <p>As part of the Appropriate Assessment screening process for the proposed variation, particular reference has been made to the following documents:</p> <ul style="list-style-type: none"> • <i>Managing Natura 2000 sites. The provisions of Article 6, of the 'Habitats' Directive 92/43/EEC.</i> • Circular letter SEA 1/08 and NPWS 1/08. (February 2008) Department of the Environment Heritage and Local Government (DoEHLG) • Department of the Environment Heritage and Local Government (DoEHLG) Circular letter NPWS 1/10 and PSSP 2/10 (March 2010) • <i>Appropriate Assessment of Plans and Projects in Ireland, Guidance for Planning Authorities.</i> Department of Environment, Heritage and Local Government (2010) DoEHLG, • <i>Natura Impact Report (NIR) of the Dublin City Development Plan 2022-2028.</i> (Volume 6) • Dublin City Council's Biodiversity Action Plan 2021 – 2025. • Existing NPWS Data. (Source: https://www.npws.ie/ Accessed 15th February 2023) • <i>Assessment of plans and projects significantly affecting Natura 2000 sites Methodological guidance on the</i>

	<p><i>provision of Article 6(3) and (4) of the Habitats Directive 92/43/EEC. (2002) European Commission.</i></p> <ul style="list-style-type: none"> • Regional Spatial & Economic Strategy for the Eastern & Midlands Region (incl. AA Screening and NIS) • The National Planning Framework (NPF) (Project Ireland 2040) (incl. AA Screening and NIS) • Dublin City Council Climate Change Action Plan 2019-2024 • Dublin City Council Climate Change Action Plan 2019-2024 – Appropriate Assessment Conclusion Statement • Dublin City Council Climate Change Action Plan 2019-2024 – Final Natura Impact Statement • Dublin City Council Climate Change Action Plan 2019-2024 – Appropriate Assessment Determination
Level of Assessment Completed	Desktop study.
Where can the full results of the assessment be accessed and viewed	This document contains the full results of the Appropriate Assessment Screening exercise and will be placed on display with the proposed variation.
Overall Conclusion	Stage 1 Appropriate Assessment Screening indicates that the proposed variation will not have any significant cumulative, direct or indirect impacts upon any of the Natura 2000 sites. Therefore it is not considered necessary to undertake any further stages of the Appropriate Assessment process.

ADDENDUM

The proposed variation was on public display from 15th June to 14th July 2023, together with the Strategic Environmental Assessment and Appropriate Assessment Screening Reports and SEA and AA Determination / Conclusion. Members of the public were invited to make submissions regarding the Proposed Variation.

Following the review of the submissions received, the Chief Executive's report did not propose amendments to the proposed variation.

In accordance with Section 13 of the Planning and Development Act 2000 (as amended), on the 4th September 2023 Dublin City Council resolved to make the variation to the Dublin City Development Plan 2022 – 2028 without modification.

As the variation was made without modification, the findings of the original AA Conclusion stand.