

Cora Cunningham

From: Bord
Sent: Monday 5 February 2018 17:01
To: SHU Admin
Subject: FW: Submission Re: SHD Case No. 300559. For: 536 no. dwellings (104 no. houses, 432 no. apartments)
Attachments: 20180205-ABP-SHD .pdf

From: Doireann NiCheallaigh [mailto:doireann.nicheallaigh@antaisce.org]
Sent: Monday 5 February 2018 16:21
To: Bord <bord@pleanala.ie>
Subject: Submission Re: SHD Case No. 300559. For: 536 no. dwellings (104 no. houses, 432 no. apartments)

Dear Sir/Madam,

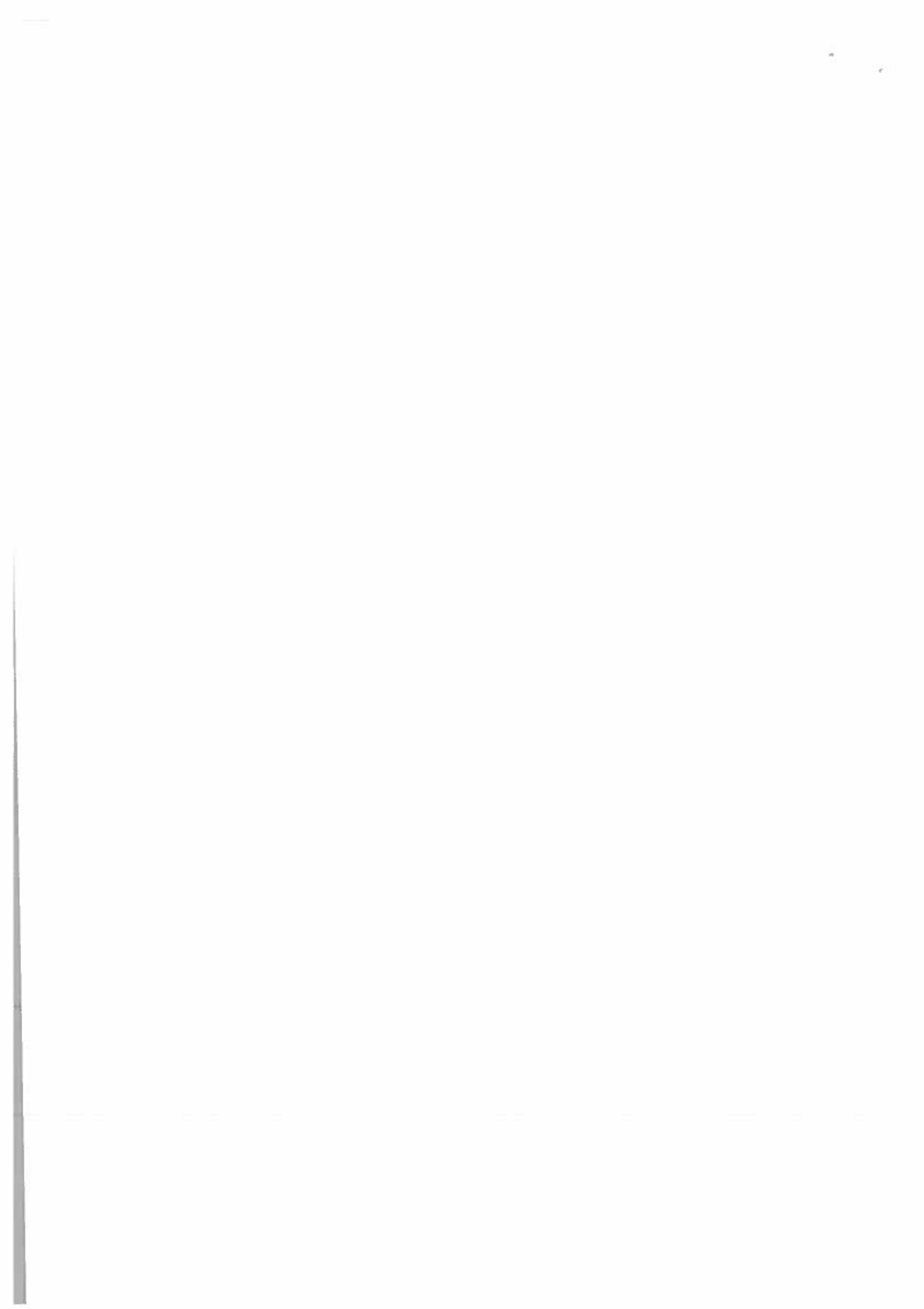
Please find attached a submission from An Taisce in relation to SHD Case No. 300559. For: 536 no. dwellings (104 no. houses, 432 no. apartments).

Yours faithfully,

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Doireann Ni Cheallaigh

Planning Officer
An Taisce - The National Trust for Ireland

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An Taisce - The National Trust for Ireland | www.antaisce.org
The Tailors' Hall, Back Lane, Dublin 8, Ireland
Company Reg. No. 12469 | Charity Ref. No. CHY4741 | Charity Regulator No. 20006358
An Taisce is a membership-based charity
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An Bord Pleanála
64 Marlborough Street
Dublin 1

Sent by email to:
bord@pleanala.ie

05.02.18

Case No: 300559
App: Crekav Trading GP Ltd
For: 536 no. dwellings (104 no. houses, 432 no. apartments)
Site: Lands to the east of St Paul's College, Raheny, Dublin 5

Dear Sir/Madam,

An Taisce wishes to make a submission of the above SHD application.

There is potential for the proposed development to effect the integrity of North Bull Island SPA, South Dublin Bay and River Tolka SPA, Baldoyle SPA, Malahide Estuary SPA and Rogerstown SPA as a result of the loss of inland feeding habitat utilised by light-bellied brent geese.

The importance of St. Paul's for light-bellied Brent geese is outlined in Section 7.3 of the NIS submitted as part of the subject proposal.

During the 2016-2017 wintering bird season, lightbellied Brent geese were recorded feeding on the playing fields in St. Paul's during 19 of the 21 site visits (i.e. 91% of the time). While during the 2015-2016 season, light-bellied Brent geese were recorded at St.Paul's during 17 of the 23 site visits (i.e. 74% of the time).

St. Paul's is considered to be one of the most important ex-situ inland feeding sites located within the existing network of known sites for the last five seasons.

Based on marked bird sightings, it is clear that the inland feeding site of St. Paul's has a relationship with the aforementioned SPAs, particularly the North Bull Island SPA and the South Dublin Bay and River Tolka Estuary SPA.

- At St. Paul's, approximately 96% of the ringed birds recorded were also sighted within North Bull Island SPA.
- Approximately 34.5% of the ringed birds recorded at St. Paul's were also sighted within South Dublin Bay and River Tolka Estuary SPA.
- Approximately 7.3% of the ringed birds recorded at St. Paul's were also sighted within Balydoyle SPA.
- Approximately 3.6% of the ringed birds recorded at St. Paul's were also sighted within Malahide Estuary SPA.
- Approximately 5.3% of the ringed birds recorded at St. Paul's were also sighted within Rogerstown Estuary SPA.

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Company Limited by Guarantee | Company 12469 | Charity CHY 4741 | Charity Regulator No. 20006358
EU Transparency Register No. 89747144047-77

Directors: Karl Dowling (Secretary), Philip Kearney, Christopher Massi, Muiris O'Ceidigh, Patricia Oliver, Judy Osborne (British), John Pierce (Chair), Garrett Poynton, Charles Stanley-Smith (British), John Sweeney.

The likely significant risk arises from the loss of inland feeding habitat which is currently being utilised by the light-bellied Brent geese, as an ex-situ site connected to each of these SPAs.

The target for the conservation objectives' attribute of "distribution" for all five European sites is: "*no significant decrease in the range, timing and intensity of use of areas by [light-bellied Brent geese] other than that occurring from natural patterns of variation*" (An Taisce emphasis added). The distribution of light-bellied Brent geese encompasses all foraging sites, both within intertidal and terrestrial habitats, and the roosting sites. The proposed development would certainly result in the loss of one of the most important ex-situ feeding sites located within the network and would be contrary to the achievement of the aforementioned target and therefore has the potential to affect the achievement of the conservation objectives "*to maintain the favourable conservation condition*".

The target for the conservation objectives' attribute of "population trend" for all five European sites is: "*Long term population trend stable or increasing*". The loss of St. Paul's as a feeding site has the potential to result in a reduction in their numbers within the SPA and therefore adversely affect the achievement of the conservation objective "*to maintain the favourable conservation condition*".

In concluding that "*there would be no impact on the population trend of this SCI at any of the five relevant European sites*" the NIS relied on the following considerations:

1. "*Light-bellied brent geese currently utilise a large network of known sites located across the Dublin area...Based on all data available, the number of sites where brent geese have been recorded for the last 5 consecutive seasons varies...suggesting that the current network of 132 known sites may not be fully utilised by the geese at present. There may be unused capacity within this network to absorb the loss of St. Paul's and to support the increasing populations of the five relevant European sites. This should also ensure that there will be no significant decrease in the range or timing of use of sites utilised by light-bellied brent geese.*"
2. "*Based on results of the all-day surveys undertaken by Scott Cawley Ltd., there appeared to be variation in the usage of some sites by light-bellied brent geese in January-March 2017 compared to the usage of the same sites in January-March 2016, as demonstrated by the different peak counts...This suggests that there may be some degree of flexibility in inland feeding site preference of light-bellied brent geese. Following the loss of St. Paul's, it is possible that the displaced geese may use other known sites to a greater intensity to that of previous years, suggesting that there will be no significant decrease in the intensity of use of sites utilised by light-bellied brent geese.*"
3. "*According to criteria from the results of statistical analyses of this assessment...an additional 29 sites (located within short distance of the current known network of sites) were considered to be potentially suitable as inland feeding habitat for light-bellied brent geese. Based on all data available, these sites appear to be not currently utilised by the geese. It is possible that light-bellied brent geese, displaced from the loss of St. Paul's, may utilise these additional sites in the future as alternative inland feeding sites, this resulting in no potential impact on the current population trend or range of sites for light-bellied brent geese.*"

Based on the above considerations, An Taisce considers that impacts on the SPA and Brent geese population have not been adequately assessed. The above considerations do not appear to be scientifically founded. An Taisce considers that the language within the above considerations includes an element of assumption:

- “..*There may be unused capacity within this network to absorb the loss of St. Paul’s..*”
- “*This suggests that there may be some degree of flexibility in inland feeding site preference of light-bellied brent geese.*”
- “*It is possible that light-bellied brent geese, displaced from the loss of St. Paul’s, may utilise these additional sites in the future as alternative inland feeding sites.*”
(An Taisce emphasis added)

ECJ ruling for C-404/09 [Commission v Spain] held that “[a]n assessment made under Article 6(3) of the Habitats Directive cannot be regarded as appropriate if it contains gaps and lacks complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubt as to the effects of the works proposed on the SPA concerned”.

Similarly, the court held in the case of the Commission v Italy that “assessment must be organised in such a manner that the competent national authorities can be certain that a plan or project will not have adverse effects on the integrity of the site concerned, given that where doubt remains as to the absence of such effect, the competent authority will have to refuse permission” (C-304/05. Para. 58].

Furthermore, Point no. 2 outlined above suggests that there may be some degree of flexibility in inland feeding site preference of light-bellied Brent geese. This assumption is based on recorded variation in the usage of some sites by light-bellied Brent geese in January-March 2017 compared to the usage of the same sites in January-March 2016. Section 7.4.1 of the NIS states “*the greatest percentage change in peak counts recoded during the January-March 2016 and January-March 2017 surveys was at Ashtown Playing Pitches... The total number of days this site was visited in a season may have influenced these results i.e it was visited twice in 2016 compared to seven times in 2017.*” Furthermore, Section 6.3 of the NIS outlined that eight visits were carried out in 2016 compared to 13 visits carried out in 2017 at St. Paul’s.

It is unclear how many times each of the sites listed in Table 3 were visited each year (2016 & 2017). An Taisce considers that Point no.2 could not be considered appropriate in determining the if geese are opportunistic as opposed to loyal to specific sites within the network given the variance in the number of site visits in each year.

Please acknowledge our submission and advise us on any decision made.

Yours faithfully,

Doireann Ni Cheallaigh

Planning Officer

An Taisce – The National Trust for Ireland

