

APPROPRIATE ASSESSMENT SCREENING REPORT

FOR
PROPOSED VARIATION No. 1
TO THE
LOUTH COUNTY DEVELOPMENT PLAN 2015-2021

IN ACCORDANCE WITH THE REQUIREMENTS OF
ARTICLE 6(3) OF THE EU HABITATS DIRECTIVE

for: Louth County Council

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JANUARY 2019

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1 Introduction

1.1 Background

This report is intended to inform Louth County Council's Appropriate Assessment (AA) Screening of Proposed Variation No. 1 to the Louth County Development Plan 2015-2021, in accordance with the requirements of Article 6(3) of Council Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora (as amended) (hereafter referred to as the "Habitats Directive").

The overall aim of the Habitats Directive is to maintain or restore the "favourable conservation status" of habitats and species of European Community Interest. These habitats and species are listed in the Habitats¹ and Birds² Directives with Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) designated to afford protection to the most vulnerable of them. These two designations are collectively known as European Sites.

European and national legislation places a collective obligation on Ireland and its citizens to maintain habitats and species in European Sites at favourable conservation condition. The Government and its agencies are responsible for the implementation and enforcement of regulations (in particular Part XAB of the Planning and Development (Amendment) Act 2010 and the European Communities (Birds and Natural Habitats) Regulations, 2011 (as amended) to ensure the ecological integrity of these sites. AA is an assessment of whether a plan or project, alone and in combination with other plans or projects, could have significant effects on a European Site in view of the Site's conservation objectives.

This report is part of the ongoing AA screening process that is being undertaken alongside the preparation of the Proposed Variation. It will be considered, alongside other documentation prepared as part of this process, when the planning authority finalises the AA at adoption of the Proposed Variation.

1.2 Legislative Context

AA is an assessment of the potential for adverse or negative effects of a plan or project, in combination with other plans or projects, on the conservation objectives of a European Site. These sites comprise SACs and SPAs and provide for the protection and long-term survival of Europe's most valuable and threatened species and habitats.

The Habitats Directive provides legal protection for habitats and species of European importance. Articles 3 to 9 provide the legislative means to protect habitats and species of Community interest through the establishment and conservation of an EU-wide network of sites known as Natura 2000. In Ireland, these are SACs, designated under the Habitats Directive, and SPAs, designated under the Birds Directive, hereafter referred to as European Sites.

Articles 6(3) and 6(4) of the Habitats Directive set out the decision-making tests for plans and projects likely to affect European Sites. Article 6(3) establishes the requirement for AA:

"Any plan or project not directly connected with or necessary to the management of the [Natura 2000] site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subjected 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

¹ Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora

² Council Directive 2009/147/EC on the conservation of wild birds

integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public.

If, in spite of a negative assessment of the implications for the [Natura 2000] 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 a social or economic nature, Member States 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."

These requirements are implemented in the Republic of Ireland by the European Communities (Birds and Natural Habitats) Regulations 2011 (as amended). These regulations consolidate the European Communities (Natural Habitats) Regulations 1997 to 2005 and the European Communities (Birds and Natural Habitats) (Control of Recreational Activities) Regulations 2010, as well as addressing transposition failures identified in judgements of the Court of Justice of the European Union (CJEU).

If, in spite of a negative assessment of the implications for the site and in the absence of alternative solutions, a plan or project may nevertheless be carried out for "Imperative Reasons of Overriding Public Interest" (IROPI), including those of a 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.

1.3 Guidance

This Screening Report has been prepared in accordance with the following guidance:

- *Appropriate Assessment of Plans and Projects in Ireland. Guidance for Planning Authorities, Department of the Environment, Heritage and Local Government, 2010;*
- *Assessment of plans and projects significantly affecting Natura 2000 sites: Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC, European Commission Environment DG, 2002;*
- *Managing Natura 2000 sites: The Provisions of Article 6 of the Habitats Directive 92/43/EEC: European Commission, 2000;*
- *Assessment of Plans and Projects Significantly Affecting Natura 2000 Sites: Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC, Office for Official Publications of the European Communities, Luxembourg (EC, 2001);*
- *Guidance document on Article 6(4) of the 'Habitats Directive' 92/43/EEC – Clarification of the concepts of: alternative solutions, imperative reasons of overriding public interest, compensatory measures, overall coherence, opinion of the commission, Office for Official Publications of the European Communities, Luxembourg (EC, 2007); and*
- *Flora (Protection) Order, 1999 (as amended).*

The AA is based on best scientific knowledge and has utilised ecological and hydrological expertise. In addition, a detailed online review of published scientific literature and 'grey' literature was conducted. This included a detailed review of the National Parks and Wildlife website including mapping and available reports for relevant sites and in particular sensitive qualifying interests/special conservation

interests described and their conservation objectives. Data from the EPA (www.epa.ie) and available reports were also reviewed.

Definitions of conservation status, integrity and significance used in this assessment are defined in accordance with 'Managing Natura 2000 sites: The provisions of Article 6 of the 'Habitats' Directive 92/43/EEC' (EC, 2000).

- The conservation status of a natural habitat is defined as the sum of the influences acting on a natural habitat and its typical species that may affect its long-term natural distribution, structure and functions as well as the long-term survival of its typical species;
- The conservation status of a species is defined as the sum of the influences acting on the species concerned that may affect the long-term distribution and abundance of its population;
- The integrity of a European Site is defined as the coherence of the site's ecological structure and function, across its whole area, or the habitats, complex of habitats and/or populations of species for which the site is or will be classified; and
- Significant effect should be determined in relation to the specific features and environmental conditions of the protected site concerned by the plan or project, taking particular account of the site's conservation objectives.

1.4 Approach

There are four main stages in the AA process; the requirements for each depending on likely impacts to European Sites (SACs and SPAs).

Stage One: Screening

The process which identifies the likely impacts upon a European Site of a project or plan, either alone or in combination with other projects or plans and considers whether these impacts are likely to be significant.

Stage Two: Appropriate Assessment

The 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 structure and function and its conservation objectives. Additionally, where there are adverse impacts, an assessment of the potential mitigation of those impacts. If adequate mitigation is proposed to ensure no significant adverse impacts on European Sites, then the process may end at this stage. However, if the likelihood of significant impacts remains, then the process must proceed to Stage 3.

Stage Three: Assessment of Alternative Solutions

The process which examines alternative ways of achieving the objectives of the project or plan that avoids adverse impacts on the integrity of the European Site.

Stage Four: Assessment where no alternative solutions exist and where adverse impacts remain

An assessment of compensatory measures where, in the light of an assessment of imperative reasons of overriding public interest (IROPI), it is deemed that the project or plan should proceed.

The Habitats Directive promotes a hierarchy of avoidance, mitigation and compensatory measures. First, the plan should aim to avoid any impacts on European Sites by identifying possible impacts early in the plan-making process and writing the plan in order to avoid such impacts. Second, mitigation measures should be applied, if necessary, during the AA process to the point where no adverse impacts on the site(s) remain. If the plan is still likely to result in impacts on European Sites, and no further practicable mitigation is possible, then it must be rejected. If no alternative solutions are identified and the plan is required for imperative reasons of overriding public interest (IROPI test) under Article 6(4) of the Habitats Directive, then compensation measures are required for any remaining adverse effect.

Ecological impact assessment of potential effects on European Sites is conducted following a standard **source-pathway-receptor model**, where, in order for an effect to be established all three elements of this mechanism must be in place. The absence or removal of one of the elements of the mechanism is sufficient to conclude that a potential effect is not of any relevance or significance.

- Source(s) – e.g. pollutant run-off from proposed works;
- Pathway(s) – e.g. groundwater connecting to nearby qualifying wetland habitats and
- Receptor(s) – qualifying aquatic habitats and species of European Sites.

In the interest of this report, receptors are the ecological features that are known to be utilised by the qualifying interests or special conservation interests of a European Site. A source is any identifiable element of the Proposed Variation that is known to have interactions with ecological processes. The pathways are any connections or links between the source and the receptor. This report determines if direct, indirect and cumulative adverse effects (however minor) will arise from the Proposed Variation.

2 Description of and background to the Proposed Variation

2.1 Louth County Development Plan

The Louth County Development Plan 2015-2021 is the over-arching strategic framework document for the proper planning and sustainable development, in spatial, economic, social and environmental terms of the entire functional area of County Louth. This Plan sets out the long-term vision for the development of the County up to 2021, while protecting and enhancing its environment through employing the principles of sustainable development in the policies and objectives set out therein.

Sustainable development can be described as a pattern of resource use that aims to meet human needs while respecting the environment so that these needs can be met not only in the present, but in the indefinite future. Sustainable development is founded on the pillars of economic development, social development and environmental protection. Further details on Louth County Councils' commitment to sustainable development is evident throughout the Plan.

The vision provided by the County Development Plan for County Louth is of a place:

- Where people want to live, work, visit and invest now and in the future;
- That is well planned, well managed, safe and inclusive; and
- Where there exists equality of opportunity for all.

2.2 Proposed Variation

There are six Development Zones designated in rural areas within County Louth. The Strategic Objectives for these Development Zones are outlined on Table 3.2 in the current County Development Plan that is produced below.

Table 1 Strategic Objectives for Development Zones 1-6 (Table 3.2 from current Plan)

Zone	Strategic Objective
1	To preserve and protect the natural unspoilt physical landscapes.
2	To protect the scenic quality of the landscape and facilitate development required to sustain the existing rural community.
3	To protect the recreational and amenity value of the coast.
4	To provide for a greenbelt area around the urban centres of Dundalk, Drogheda and Ardee.
5	To protect and provide for the development of agriculture and sustainable rural communities and to facilitate certain resource based and location specific developments of significant regional or national importance. Critical infrastructure projects of local, regional or national importance will also be considered within this zone.
6	To preserve and protect the heritage and cultural landscape of the UNESCO World Heritage Site of Brú na Bóinne, the Tentative World Heritage Site of Monasterboice and the Site of the Battle of the Boyne.

Detailed policies are provided for each of the Development Zones.

Proposed Variation No. 1 is to change part of one of the two policies (Policy RD 39) listed under Development Zone No. 5 in the current Plan. This change is shown below.

Current Plan text that remains the same is shown in normal font, like this. Current Plan text that is proposed to be deleted is shown in red strikethrough, ~~like this~~. Text that is proposed to be added is shown in green bold, **like this**.

Policy RD 39

To consider developments falling within the following categories; limited one-off housing*, agricultural developments, extensions to existing authorised uses and farms, appropriate farm diversification projects; developments to be used for leisure, recreation and tourism; holiday accommodation including cottages and lodges where these are part of an existing or proposed integrated tourism complex; hotels/ guest houses / B & B's (only where the proposal involves the re-use or diversification of an existing building); extensions to existing authorised commercial and industrial developments; renewable energy schemes, public utility infrastructure, certain resource based and location specific developments of significant regional or national importance, critical infrastructure projects, nursing homes/analogous services, ** and Economic Business Zone at Carrickcannon*** (for small scale commercial development **including off line Motorway Services area, truck stop, service, repair and parking area and associated ancillary infrastructure to include motel/hotel, ancillary retail shop and dining facility, light industrial, storage and logistics facilities, retail warehousing (bulky goods only) and motor sales. To ensure co-ordinated and integrated development, this area will be subject to the preparation of a Masterplan for the written agreement of the Planning Authority.**~~linked to leisure, recreation and tourism, agricultural diversification and extensions to authorised developments~~).

* Refer to Section 2.19.1 for Qualifying Criteria

** In the location identified by red dot on Map 3.1 'Development Zones'

*** In the location identified by light blue dot on Map 3.1 'Development Zones'

2.3 Relationship with other Relevant Plans and Programmes

The Proposed Variation sits within a hierarchy of strategic actions such as plans and programmes. The Proposed Variation must comply with relevant higher-level strategic actions and may, in turn, guide lower level strategic actions.

2.3.1 Ireland 2040 - Our Plan, the National Planning Framework

The National Planning Framework is the Government's high-level strategic plan for shaping the future growth and development of to the year 2040. It is a framework to guide public and private investment, to create and promote opportunities for people, and to protect and enhance the environment - from villages to cities, and everything around and in between.

The National Planning Framework and accompanying National Development Plan share ten National Strategic Outcomes as follows:

1. Compact Growth;
2. Enhanced Regional Accessibility;
3. Strengthened Rural Economies and Communities;
4. Sustainable Mobility;
5. A Strong Economy, supported by Enterprise, Innovation and Skills;
6. High-Quality International Connectivity;
7. Enhanced Amenity and Heritage;

8. Transition to a Low-Carbon and Climate-Resilient Society;
9. Sustainable Management of Water and other Environmental Resources; and
10. Access to Quality Childcare, Education and Health Services.

2.3.2 Regional Spatial Economic Strategy

Regional Spatial and Economic Strategies (to be finalised in 2019) will provide long-term regional level strategic planning and economic frameworks in support of the implementation of the National Planning Framework. Each one of the three Regional Assemblies are preparing their own Strategy, with the Eastern and Midland Regional Assembly, of which Louth County Council is part, responsible for the preparation of a Regional Spatial and Economic Strategy for the Eastern and Midland Region.

2.3.3 Louth County Development Plan 2015-2021

The overall purpose of the Plan is to set out a shared vision of how the sustainable and coordinated growth and development of the towns in the county can be shaped in a planned manner which will also act as a catalyst for the economic, physical, cultural and environmental development of the County.

2.3.4 Environmental Protection Objectives

The Proposed Variation is subject to a number of high-level environmental protection policies and objectives with which it must comply. Examples of Environmental Protection Objectives include the aims of the EU Habitats Directive which is to contribute towards ensuring biodiversity through the conservation of natural habitats and of wild fauna and flora in the European territory of Member States and the purpose of the Water Framework Directive which is to establish a framework for the protection of inland surface waters, transitional waters, coastal waters and groundwater which, among other things, prevents deterioration in the status of all water bodies and protects, enhances and restores all waters with the aim of achieving good status.

3 Screening for Appropriate Assessment

3.1 Introduction to Screening

3.1.1 Background to Screening

This stage of the process identifies any likely significant effects to European Sites from a project or plan, either alone or in combination with other projects or plans. The screening phase was progressed in the following stages. A series of questions are asked during the Screening Stage of the AA process in order to determine:

- Whether a plan or project can be excluded from AA requirements because it is directly connected with or necessary to the management of a European Site; and
- Whether the project will have a potentially significant effect on a European Site, either alone or in combination with other projects or plans, in view of the site's conservation objectives or if residual uncertainty exists regarding potential impacts.

An important element of the AA process is the identification of the "conservation objectives", "Qualifying Interests" (QIs) and/ or "Special Conservation Interests" (SCIs) of European Sites requiring assessment. QIs are the habitat features and species listed in Annexes I and II of the Habitats Directive for which each European Site has been designated and afforded protection. SCIs are wetland habitats and bird species listed within Annexes I and II of the Birds Directive. It is also vital that the threats to the ecological / environmental conditions that are required to support QIs and SCIs are considered as part of the assessment.

Site-Specific Conservation Objectives (SSCOs) have been designed to define favourable conservation status for a particular habitat or species at that site. According to the European Commission interpretation document 'Managing Natura 2000 sites: The provisions of Article 6 of the Habitats Directive 92/43/EEC', paragraph 4.6(3) states:

"The integrity of a site involves its ecological functions. The decision as to whether it is adversely affected should focus on and be limited to the site's conservation objectives."

Favourable conservation status of a habitat is achieved when:

- Its natural range, and 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; and
- The conservation status of its typical species is favourable.

The favourable conservation status of a species is achieved 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; and
- There is, and will probably continue to be, a sufficiently large habitat to maintain its populations on a long-term basis.

The screening stage of the AA takes account of the elements detailed above with regard to the details and characteristics of the project or plan to determine if potential for effects to the integrity of the European Site are likely. The characteristics of the Plan, to which the Proposed Variation relates, were constructed through an iterative process, as a result the European Sites which are screened below may differ from those of high-level plans, due to refinements in the methods/project details available.

3.1.2 Desktop Studies

The ecological desktop study completed for this AA Screening comprised the following elements:

- Consideration of the original Louth County Development Plan 2015-2021 and associated reports (including the AA Natura Impact Report);
- Identification of European Sites within 15km with identification of potential pathways links for specific sites (if relevant) greater than 15km from the Plan area;
- Review of the NPWS site synopsis and conservation objectives for European Sites with identification of potential pathways from the Plan area; and
- A series of ecological desktop studies were undertaken in December 2018. This included but is not limited to the collation of information on protected species including Bats, Otters, Bird species (including Annex I species), Annex II habitat types, protected and Red Data Book Flora species, invertebrates and amphibians. The results of these studies are included as part of the AA where they were deemed relevant to the European Sites and their QIs/SCIs.

3.2 Identification of Relevant European Sites

The definition of a Zone of Influence for the Proposed Variation is not relevant as there are no sources of effects being introduced – see below.

3.2.1 Elements of the Proposed Variation with Potential to Give Rise to Effects

The Louth County Development Plan 2015-2021 provides for development within County Louth. There are six Development Zones designated in rural areas within County Louth and the Proposed Variation would not change the extent of lands included within any of these Development Zones.

The Proposed Variation would provide further detail on the type of development that could be considered under the "Economic Business Zone at Carrickcannon". This zone is already provided for by the County Plan under Development Zone No. 5 and associated Policy RD 39. The County Plan already provides for "*small scale commercial development*" at this zone. The Proposed Variation:

- Removes the reference to "small scale commercial development" being linked to "leisure, recreation and tourism, agricultural diversification and extensions to authorised developments";
- Adds a number of examples of small scale commercial developments, including "off line Motorway Services area, truck stop, service, repair and parking area";
- Adds reference to "associated ancillary infrastructure"; and
- Adds a commitment that "this area will be subject to the preparation of a Masterplan for the written agreement of the Planning Authority".

These changes do not introduce any additional sources for effects to ecological processes. As there are no additional sources for effects that were not already considered by the Stage 2 AA for the County Development Plan 2015-2021, no further assessment is required following the source-pathway-receptor model detailed under Section 1.4.

3.2.2 Is the Plan Necessary to the Management of European Sites?

Under the Habitats Directive, Plans that are directly connected with or necessary to the management of a European Site do not require AA. For this exception to apply, management is required to be interpreted narrowly as nature conservation management in the sense of Article 6(1) of the Habitats Directive. This refers to specific measures to address the ecological requirements of annexed habitats and species (and their habitats) present on a site(s). The relationship should be shown to be direct and not a by-product of the plan, even if this might result in positive or beneficial effects for a site(s).

The primary purpose of the Proposed Variation is not the nature conservation management of the sites, but to provide additional clarification to the Economic and Business Zoning objective at Carrickcannon.

Therefore, the Proposed Variation is not considered by the Habitats Directive to be directly connected with or necessary to the management of European designated sites.

3.3 Other Plans and Programs

Article 6(3) of the Habitats Directive requires an assessment of a plan or project to consider other plans or programmes that might, in combination with the plan or project, have the potential to adversely impact upon European Sites. As there are no additional sources for effects identified as a result of the Proposed Variation, no further consideration under this heading beyond that already provided by the Stage 2 AA for the existing Louth County Development Plan 2015-2021 is required.

4 Conclusion

Stage 1 AA Screening of Proposed Variation No. 1 to the Louth County Development Plan 2015-2021 has been carried out. It has been demonstrated that implementation of the Proposed Variation is not foreseen to have any significant effects on any European Site.

The Proposed Variation does not relate to areas designated as European Sites. The AA screening process considered potential effects which may arise during the construction and operational phases as a result of the implementation of the Proposed Variation. It has been demonstrated that there are no likely significant adverse effects on the qualifying interests, special conservation interest or the conservation objectives of any designated European Site.

Any development considered under the Proposed Variation, if adopted as part of the Louth County Development Plan 2015-2021, must comply with the existing policies and objectives which are contained in the existing Plan. The Plan was subject to a Stage 2 AA (including preparation of a Natura Impact Report) that resulted in the integration of robust measures to ensure the protection of the ecological integrity of European Sites. The characteristics of the Proposed Variation do not introduce any additional sources for effects that were not already considered, therefore they are not foreseen to give rise to any significant effects on any designated European sites, alone, or in combination with other plans or projects.

It is concluded that Proposed Variation No. 1 to the Louth County Development Plan 2015-2021 will not to give rise to any significant adverse effects on designated European sites³, alone or in combination with other plans or projects. This evaluation is made in view of the conservation objectives of the habitats or species for which these sites have been designated. Consequently, a Stage 2 AA is not required for the Proposed Variation.

An AA determination will be made by the Council at adoption of the Variation that takes into account:

- The findings of this report;
- Relevant submissions made during the public display process; and
- Any changes to the Proposed Variation made after public display and associated AA findings.

³ Except as provided for in Section 6(4) of the Habitats Directive, viz. There must be:

- a) no alternative solution available,
- b) imperative reasons of overriding public interest for the plan to proceed; and
- c) Adequate compensatory measures in place.