OPR Practice Note PN01

Appropriate Assessment Screening for Development Management

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Oifig an Rialaitheora Pleanála
Office of the Planning Regulator

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Appendices

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*here in referred to as the '2000 Act'.

1.0 Introduction

The Purpose of this Practice Note

This practice note provides information and guidance on **screening** for appropriate assessment during the planning application process. A subsequent practice note will address the appropriate assessment of an application.

This practice note does not duplicate or replace any existing guidance or advice. Instead, it focuses on how a planning authority should **screen** an application for planning permission for appropriate assessment. This includes providing useful templates, and addressing issues that commonly arise both in terms of carrying out screening and its implications for other aspects of the planning system.

It should be noted that knowledge, understanding and application of all aspects of appropriate assessment are subject to emerging case law in the national and European courts. While the most relevant case law is reflected in this practice note, this is not exhaustive, and the reader should consider any subsequent case law or legislation.

Overview of Appropriate Assessment

Appropriate assessment comes from the **Habitats Directive (92/43/EEC)**, which seeks to safeguard the long-term survival of Europe's most valuable and threatened species and habitats. The geographical areas of particular importance to these species and habitats have been selected as Special Areas of Conservation (SAC) and Special Protection Areas (SPA) which are collectively referred to (in Ireland) as **European sites**. Together, these sites comprise the pan-European Natura 2000 network of protected areas.

One of the measures which protects these areas is the requirement that every project must undergo an assessment of its implications for any European site before consent for the project is given. Consent for the project can only be given after determining that it will not adversely affect the integrity of the site(s) concerned in view of the conservation objectives of that site.[1]

In order to determine if an appropriate assessment is required, a screening process must be carried out for all applications for planning permission.

The Habitats Directive (92/43/EEC) and the associated **Birds Directive (2009/147/EC)** are transposed into Irish legislation by Part XAB of the 2000 Act and the Birds and Natural Habitats Regulations 2011.[2] The legislative provisions for appropriate assessment screening for planning applications are set out in Section 177U of the 2000 Act.

The **European Union (Planning) (Habitats, Birds and Environmental Impact) (No.2) Regulations 2021 (No. 457 of 2021)** amends the planning regulations to introduce AA screening procedures (and EIA) in respect of all extension of duration applications for sub-threshold development, including further extension applications, and sets out additional publication requirements of screening determinations made, to facilitate transparency in this process.

[1] The Habitats Directive (and Irish legislation) does provide for very limited circumstances where, 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 proceed for imperative reasons of overriding public interest (Article 6(4)). This is referred to as IROPI and remains rare in Ireland although it is more common in other member states.

[2] S.I. No 477/2011 – European Communities (Birds and Natural Habitats) Regulations.

Overview of Screening and Appropriate Assessment

Screening:

Is the project likely to have a significant effect, either individually or in-combination with other plans or projects, on European site(s) in view of the site's conservation objectives?

No → Decisions and reasons recorded - No further action required

Yes/Uncertain

Appropriate Assessment:

Will the project adversely affect the integrity of a European site(s) either individually or in-combination with other plans and projects in view of the site's conservation objectives?

No → Planning Permission can be granted

Yes/Uncertain

Planning Permission cannot be granted (unless proceeding to consideration of alternatives or IROPI)

Acronyms

AA	Appropriate Assessment
ABP	An Bord Pleanála
cSAC	Candidate Special Area of Conservation
cSPA	Candidate Special Protection Area
CJEU	Court of Justice of the European Union
DHLGH	Department of Housing, Local Government and Heritage
EIA	Environmental Impact Assessment
EPA	Environmental Protection Agency
EU	European Union
IRPOI	Imperative Reasons of Overriding Public Interest
NIS	Natura Impact Statement
NPWS	National Parks and Wildlife Service
OPW	Office of Public Works
QI	Qualifying Interest: relates to the habitats and/or (non-bird) species for which an SAC or SPA is selected.
SAC	Special Area of Conservation: a site designated under the Habitats Directive 92/43/EEC
SCI	Special Conservation Interest(s): relates to birds species for which an SPA is selected.
SHD	Strategic Housing Development
SID	Strategic Infrastructure Development
SPA	Special Protection Area: a site designated under the Birds Directive 79/409/EEC.
S-P-R	Source-Pathway-Receptor
ZoI	Zone of Influence

2.0 Key Concepts

Best Scientific Knowledge/Information in the Field

The screening determination must be based on scientific information relevant to the likely effects on the conservation objectives of the relevant European sites. The information should be up-to-date and based on the best available techniques and methods to estimate the presence and extent of effects. This is because if there is any scientific uncertainty as to the absence of significant effects, the project must be screened in for appropriate assessment.

In the vast majority of cases the information provided by the applicant (including the project description) and publicly available information in relation to the European sites in question[3] and information published by the NPWS, the EPA and others in relation to such sites,[4] should provide a sufficient level of objective scientific information to allow the planning authority to make an informed decision on screening.

Compensatory Measures

Compensatory measures are not relevant and **cannot** be considered at screening (or in appropriate assessment). This terminology should not be used in this context.

Competent Authorities

Competent authorities are those entitled to authorise or give consent to a project. In the planning system, this means planning authorities and An Bord Pleanála. There are, however, several other competent authorities in respect of other consent regimes e.g. EPA (environmental licencing), Minister for Agriculture, Food and the Marine (forestry, aquaculture and foreshore management), and various state bodies that have authority to undertake development under Part 9 of the Planning and Development Regulations (e.g. An Garda Síochána, defence forces, the courts service).

Conservation Objectives

Conservation objectives are prepared for all European sites and are available on the NPWS **website** and from the EPA's **AA tool**. An example of the conservation objectives for a SAC is available **here**.

In all cases, the conservation objectives will list the habitats and species for which the site is selected (the Qualifying Interests/SCIs). Site-specific conservation objectives, which aim to define favourable conservation conditions for the individual habitats or species, are available for many European sites. For the remaining sites, generic conservation objectives will be available until the site-specific objectives have been prepared.

Important additional/background information is available from the conservation objective supporting documents on the NPWS website, including the Natura 2000 standard data form, the site synopsis and the management plan for the site (if there is one).

[3] See https://www.npws.ie/protected-sites.

[4] For example, NPWS publishes information on the status of all Annex I habitats and Annex II species in Ireland required by Article 17 of the Habitats Directive and Article 12 of the Birds Directive, available at https://www.npws.ie/publications/article-17-reports and https://www.npws.ie/status-and-trends-ireland%E2%80%99s-bird-species-%E2%80%93-article-12-reporting. In addition EPA's platform https://gis.epa.ie/EPAMaps/Water, brings together valuable information including information in relation to water quality.

Direct and Indirect Effects

The effects of a project may include direct or indirect effects on a European Site. Indirect effects can occur where further development is associated with a proposed development and it is this secondary element that is a risk factor to a site. For example:

- enabling works such as site clearance can lead to soil erosion with impacts on watercourses and downstream impacts to a European site, *or*
- ground investigations or haulage routes involving heavy machinery may have to traverse a European site to access the development site.

Indirect effects may also arise due to pathways or connections to a European site. For example, a proposed development may have no direct effect on a site due to distance, however a hydrological connection may result in indirect effects on that site due to changes in water flows or construction related emissions. Similarly there may be indirect impacts to European sites via impacts to non-Qualifying Interest habitats within a site or such habitats outside a site, or via impacts to species for which a site has been designated beyond the site where this might affect the conservation objectives of the site. This is particularly relevant in relation to SPAs where areas outside the European site are often important for bird species.[5]

European Sites

European sites comprise Special Areas of Conservation (SAC) and Special Protection Areas (SPA). The process for selecting areas as European sites, including mapping site boundaries, has many stages and involves notifying landowners and an appeals process. The National Parks and Wildlife Service (NPWS)[6] oversees this process. The sites are formally designated by the relevant minister under a statutory instrument. Candidate sites (i.e. cSAC or cSPA) have the same level of protection as fully designated sites under Irish Law.[7]

Impact v Effect

In the context of appropriate assessment there is a clear difference between the *'impact'* which is the source (see Source-Pathway-Receptor model, page 12) and the *'effect'* which is how it relates to the conservation objectives. For example:

Impact: ground clearance and release of silt laden water into adjacent receiving watercourse.

Effect: possibility to undermine the conservation objective to restore the favourable conservation of those Annex II species including Atlantic Salmon and Freshwater Pearl Mussel, which require very low levels of sedimentation at their breeding gravels.

In-Combination Effects

Some projects are unlikely to have significant effects on their own. However, the effects in-combination with other plans or projects could be significant. The in-combination assessment should concentrate on projects/plans that could in fact act in-combination with the current project to affect site conservation objectives. For example, in a site where FreshWater Pearl Mussel is a Qualifying Interest, a key question is what other plans/projects may involve discharges to the relevant river. This allows the assessment of in-combination impacts to be focused on the relevant impacts.

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[5] Holohan v ABP (Kilkenny Road case) CJEU C-461/17.
[6] The NPWS is currently part of the Department of Housing, Local Government and Heritage.
[7] Candidate sites are those that have been submitted to the European Commission, but not yet formally adopted under Ministerial Statutory Instrument (S.I.). Legal protection, and therefore, the requirement for AA, arises from the date that the Minister gives notice of his/her intention to designate the site.

In the case of projects, in-combination impacts of both plans and projects must be considered (i.e. not solely other projects). It should also be noted that plans/projects extend beyond those covered by the 2000 Act.

In-combination effects must examine plans or projects that are:[8]

- Projects completed,
- Projects approved but not started or uncompleted,
- Projects proposed, i.e. for which an application for approval or consent has been made, including refusals subject to appeal and not yet determined,
- Proposals in adopted plans, *and*
- Proposals in finalised draft plans formally published or submitted for consultation or adoption.

Plans and projects that are not yet proposed do not generally have to be taken into account in the assessment of in-combination effects,[9] even if they are part of an overarching masterplan.[10] The exception is where the project is considered to be functionally interdependent with the development before the competent authority. An example of this is a grid connection for a proposed wind farm.[11]

The consideration of in-combination effects is not restricted to similar types of plans or projects covering the same sector of activity (e.g. a series of housing projects). All types of plans or projects that could, in-combination with the project under consideration, have a significant effect, should be taken into account.

Integrity of a European Site

The evaluation of a proposed development on the integrity of a European site is a matter that is considered under the **appropriate assessment**. This terminology should **not** be referred to in screening as it applies the incorrect legal test.[12]

Likely to have a Significant Effect

The triggers for appropriate assessment are based on a *'likelihood'* (read as *'possibility'*) of a potential significant effect occurring and not on certainty. This test is based on the precautionary principle.

Mitigation Measures

Measures intended to avoid or reduce impacts to European sites are commonly referred to as '*mitigation measures*'. Any measure or feature of the development that is wholly or partially included in order to avoid or reduce impacts to European sites **cannot** be considered for the purposes of screening out the need for appropriate assessment.[13]

[8] Managing Natura 2000 sites – The provisions of Article 6 of the 'Habitats' Directive 92/43/EEC (updated 2018). https://ec.europa.eu/environment/nature/natura2000/management/docs/art6/Provisions_Art_6_nov_2018_en.pdf.
[9] Ratheniska v An Bord Pleanála [2015] IEHC 18.
[10] Fitzpatrick and Daly v An Bord Pleanála [2019] IESC 23 (the 'Apple Case').
[11] O'Grianna v An Bord Pleanála (No.1) [2014] IEHC 632 and O'Grianna v An Bord Pleanála No. 2 [2017] IEHC 7.
[12] Uí Mhuirnín v. MHPLG [2019] IEHC 824.
[13] People Over Wind and Peter Sweetman v Coillte Teoranta CJEU C-323/17.

Natura 2000 Network

All sites across Europe designated under the Habitats and Birds Directives form the Natura 2000 network to which the requirements for appropriate assessment under Article 6(3) of the Habitats Directive apply.

Precautionary Principle

The precautionary principle means that where the most reliable information available leaves obvious doubt as to the **absence** of significant effects, the project cannot be screened out and an appropriate assessment must be carried out.[14]

Qualifying Interests/Special Conservation Interest(s)

The specific named habitats and/or (non-bird) species for which an SAC or SPA are selected are called the *'Qualifying Interests'* (QI), of the site. The specific named bird species for which a SPA is selected is called the *'Special Conservation Interests'* (SCIs). However, in practice, the common terminology of Qualifying Interests applies also to SCI (and is used in this document for simplicity).

Significant Effect

Significant effects relate to the conservation objectives for the European site. If a project is likely to undermine any of the site's conservation objectives, it must be considered likely to have a significant effect on that site. This will depend on factors such as the type, extent, duration, intensity, timing, probability, and in-combination effects of the potential impact, as well as the vulnerability of the habitats and species concerned.

In this context, what may be significant in relation to one project may not be in relation to another, underlining the importance of a case by case assessment.

Source-Pathway-Receptor

Consideration of likely significant effects should be based on the S-P-R risk assessment principle. If there is no ecological pathway or functional link between the proposed development and the European site, there is no potential for impact and the project can be screened out. Ecological pathways can be physical, for example, water or air in the case or airborne pollutants (e.g. ammonia from intensive agricultural installations). Functional pathways occur, for example, where the application site is used as foraging for a Qualifying Interest of a SAC or SPA. Section 3.0 includes further details on this concept.

Transboundary Effects

Transboundary effects relate to the likelihood of significant effects on a site which is part of the Natura 2000 network but lies outside our national boundaries. Since 1 January 2021 nature conservation areas in the UK (including Northern Ireland) are no longer part of the Natura 2000 network.

Zone of Influence

The zone of influence of a proposed development is the geographical area over which it could affect the receiving environment in a way that could have significant effects on the Qualifying Interests of a European site. This should be established on a case-by-case basis using the Source-Pathway-Receptor framework and not by arbitrary distances (such as 15 km).

[14] Waddenzee C-127/02.

3.0 Screening for Appropriate Assessment

Screening for appropriate assessment is intended to be an initial examination which must be carried out by the planning authority or An Bord Pleanála as the competent authority. If significant effects cannot be excluded based on objective information, without extensive investigation or the application of mitigation, a project should be considered to have a likely significant effect and appropriate assessment should be carried out. This is a relatively light trigger and must be based on the precautionary principle.

Cases where no Appropriate Assessment issues arise

In some situations, it will be absolutely clear that a proposed development could not have any conceivable effect on a European site. For example, where the nature, scale, timing, duration and location of a development is entirely unconnected to a European site.

These instances will generally be very small developments, for example, signage or house extensions in serviced urban areas and small developments in urban areas/rural areas with no connections to ecological receptors linked to European sites. Nonetheless, this consideration still involves the planner providing a reasoned determination in the planner's report to show that the matter has been considered.

The project should only be considered to have no appropriate assessment issues if it is obvious that the entire project, through all of its stages, could not possibly have any effect on any European site, and that no measures intended to avoid or reduce potentially harmful effects on a European site are included.

Screening Process

Steps and matters to be considered:

1. **Describe** the proposed development and local site characteristics.

2. **Identify** the relevant European sites and compile information on Qualifying Interests and conservation objectives.
   (a) Identify all European sites that might be affected using the Source-Pathway-Receptor model.
   (b) Identify the Qualifying Interests of the site concerned and the conservation objectives.
   (c) Determine which of those Qualifying Interests/conservation objectives could be affected by the proposed development.

3. **Assess** the likely significant direct and indirect effects on the conservation objectives of the site(s) in relation to:
   (a) the project alone, *and*
   (b) In-combination with other plans and projects.

4. **Screening determination:** In the absence of mitigation measures, determine if the project alone or in-combination with other plans and projects could undermine the conservation objectives of the site(s) and give rise to likely significant effects.

Step 1: Description of proposed development and site characteristics

The first step in carrying out a screening exercise is to consider the nature and extent of the proposed development and the characteristics of the immediate environment. This will focus the screening exercise on the characteristics relevant to the individual case, and is particularly important in terms of identifying potential pathways between the application site and any SAC or SPA.

A brief description of the proposed development, the application site and its immediate environs will be sufficient for most cases.

Step 2: Identification of relevant European sites

Local authority planners can develop a sound understanding of potentially relevant European sites through familiarity with the sites most relevant (ecologically) to their geographical area, the major pathways associated with those sites (river catchment areas etc.), the characteristics and vulnerabilities of the Qualifying Interests/SCIs and the conservation objectives for the sites. All of these factors are important for the application of the Source-Pathway-Receptor (S-P-R) model discussed in Step 3 below.

Applications within or immediately adjacent to a European site

All proposed development located either partially or wholly within or immediately adjacent to a SAC or SPA should be easily identifiable from examining GIS mapping. These European sites should be automatically selected for consideration in the screening exercise.

Identification of other European sites

The identification of European sites within a 15km zone has become common practice in screening projects for AA. However this approach is not based on the S-P-R model and should not be used for projects. Few projects have a zone of influence this large, but some more complex projects may require a greater zone of investigation.

Instead the zone of influence of a project should be considered using the Source-Pathway-Receptor model. This should avoid lengthy descriptions of European sites, regardless of whether they are relevant to the proposed development, and a lack of focus on the relevant European sites and issues of importance.

Digital mapping systems such as the **NPWS map** viewer or the planning authority's own GIS system can be used at this initial stage to identify any potential European sites that require further consideration. The **EPA AA mapping tool** is particularly useful as it allows more detailed filtering such as European sites downstream of the application site.

Step 3: Assessment of likely significant effects using the Source-Pathway-Receptor model

A European site will only be at risk from likely significant effects where the Source-Pathway-Receptor link exists between the proposed development and the European site.

In this context, the role of the pathway is critical to the screening process. If there is no pathway, then the proposed development can be screened out with confidence. Similarly, if the Qualifying Interests of the European site are not vulnerable (either directly or indirectly) to any impact resulting from the proposed development, then a likely significant effect can also be ruled out through the screening process.

Source-Pathway-Receptor Model

Source

Identify the characteristics of the proposed development such as the nature, size and location and the type of impacts.

Examples

Direct impacts:

- Direct emissions (water, air, noise or light).
- Loss of habitat (including breeding or foraging habitat).

Indirect Impacts:

- Loss of breeding or foraging habitat outside the European site.
- Impact on a non-QI habitat or species within the European site that is ecologically linked to the conservation objectives/QI.
- Barriers to movement e.g. aquatic species, otter, bats, bird species.
- Collision risk.
- Loss of breeding or foraging for a prey species.

Pathway

Identify the existence and characteristics of the pathways that could link European sites and their Qualifying Interests to the proposed development.

Examples

Direct pathways:

- Proximity (i.e. location within the European site).
- Water bodies (rivers/streams, marine, lakes, groundwater).
- Air (for both air emissions and noise impacts).

Indirect pathways:

- Disruption to migratory paths, e.g. bird species, aquatic species, bats.
- '*Sightlines*' where noisy or intrusive activities may result in disturbance to shy species.

Receptor

Establish the location, nature and sensitivities of the qualifying species and habitats, the ecological conditions underpinning their survival and the conservation objectives specified to maintain or restore favourable conservation status.

Examples

- Freshwater Pearl Mussel extreme sensitivity to siltation in water.
- Lesser Horseshoe Bat sensitivity to noise and light.
- Turlough sensitivity to changes in groundwater levels.

The *'Likely Significant Effect'* test

The key test in screening is to establish whether any likelihood of significant effects on European sites can be ruled out. Once the relevant European sites have been identified, this test must then be applied.

Likely means a risk or possibility of effects occurring that **cannot** be ruled out based on objective information.

Significant effects are those that would undermine the conservation objectives of the European sites, either alone or in-combination with other plans and projects. The significance of ecological impacts depends on:

- **the ecological characteristics of the species or habitat, including their structure, function, conservation status and sensitivity to change,** *and/or*
- **the character, magnitude, duration, consequences and probability of the impacts occurring.**

It stands to reason that the higher the sensitivity of the species or habitat to impacts likely to arise from the proposed development, and the higher the magnitude of the impact, the more significant the impact for the purposes of screening.

Ultimately, determining the '*significance*' relies on assessment of the scientific information. If however, the consideration of significance is becoming too complex (i.e. with multiple factors involved) then this should be an indication that uncertainty exists and that appropriate assessment is required.

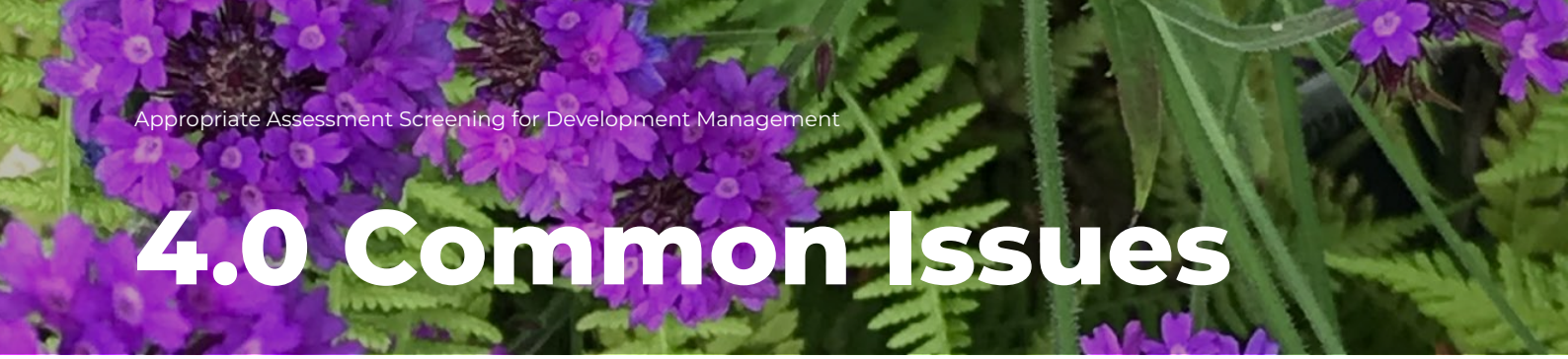
Critically, any conclusion of the lack of likely significant effects must be made without consideration of '*mitigation measures*'.

Step 4: Screening determination and possible outcomes

The screening process must conclude with a clear statement of the conclusion reached, and the basis upon which it was reached.

Screening can result in the following conclusions or outcomes:

- **a) No likelihood of significant effects:** Appropriate assessment is not required and the planning application can proceed as normal. Documentation of the screening process including conclusions reached and the basis on which decisions were made must be kept on the planning file.
- **b) Significant effects cannot be excluded:** Appropriate assessment is required before permission can be granted. A Natura Impact Statement (NIS) will be required in order for the project to proceed.



4.0 Common Issues

When should screening for appropriate assessment be carried out?

Screening should be carried out for all proposals which fall within the definition of a *'project'* under the EIA Directive, i.e. *"the execution of construction* ***works*** *or of other* ***installations*** *or* ***schemes****, other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources."* This will include the vast majority of applications for planning permission.

This requirement applies regardless of the location of the application inside or outside a protected site.

For the avoidance of doubt, **screening is required** for:[15]

- Planning applications for outline and full planning permission,
- Planning applications for permission to amend previously permitted development,
- Planning applications to amend a condition,
- Extension of duration applications made under the provisions of Section 42 and 42 (1B)[16] of the 2000 Act,
- Section 5 Declarations under the 2000 Act,
- Development proposed to be carried out by the local planning authority under Part 8 of the 2000 Act or under any other legislative provisions (see Section 6), *and*
- Direct applications to An Bord Pleanála for example Strategic Infrastructure Development (SID).

Is screening necessary if a NIS is submitted?

Screening must be carried out even if a NIS has been submitted. This enables the competent authority to ensure that all European sites potentially affected by a proposed development are brought forward for appropriate assessment, where the possibility of significant effects cannot be ruled out. In the absence of this exercise an appropriate assessment carried out by the competent authority on the basis of a NIS submitted by the applicant may be flawed.

There may be instances where the competent authority concludes that likely significant effects can be screened out even though a NIS is submitted, in which case appropriate assessment is not necessary. However in these instances, the determination should be based on the highest level of evidence and justification must be clearly stated in the AA screening determination.

[15] Although Article 6(3) of the Directive states that development directly connected with, or necessary for, the conservation management of a habitat site is excluded from the requirement for appropriate assessment, this is not reflected in Section 177U of the 2000 Act. This issue is unlikely to arise in the consideration of planning applications.

[16] Section 42(1B) of the Planning and Development Act 2000 allows for applications for a further extension of a planning permission by an additional period of up to 2 years or until 31 December 2023 whichever first occurs, subject to the planning authority being satisfied with a number of matters set out in section 42(1B). The provision applies to extant permissions due to expire and permissions which expired between 8 January 2021 and 8 September 2021.

What is the status of a screening report submitted by the applicant?

While the inclusion of a screening report by an applicant has become increasingly common in recent times, unlike the NIS, it has no legislative status and is not a statutory requirement in order to carry out screening.

The competent authority for carrying out screening is the planning authority or An Bord Pleanála and it must be undertaken and documented irrespective of whether the applicant submits a screening report. It is acceptable and appropriate for the competent authority to have regard to any supplementary report included with the application, however the competent authority is not bound to reach the same conclusion.

When should an application be referred by the competent authority to the Department of Housing, Local Government and Heritage?

Most screening exercises can, and are likely to be undertaken without reports or consultation with the DHLGH/NPWS. Those that should be referred by the competent authority include:

- Development proposals located within or immediately adjacent to a European site.
- Applications accompanied by a NIS (i.e. where appropriate assessment is required).
- In accordance with Article 28(1)(n) of the Planning and Development Regulations where it appears to the planning authority that the development might have significant effects in relation to nature conservation. This may be by virtue of the nature, scale or location of the proposal.

How should mitigation measures be treated?

The understanding of this issue largely comes from European case law. Following the *'People Over Wind'* and other judgements, it is clear that in cases where measures are wholly or partially included in order to avoid or reduce impacts to European sites, then they cannot be considered at screening.

The rationale for this is that taking such measures into account at screening would undermine the Directive's intention that projects which might affect European sites are carefully assessed and any *'mitigation'* measures considered as part of this process (i.e. through appropriate assessment).[17]

When considering whether certain measures or features of a proposed development such as *'best practice construction methods'* constitute mitigation measures, the key consideration is what the measures are **objectively intended to achieve**.[18] If they are wholly or partially included in order to avoid or reduce impacts to European sites, then they cannot be considered at screening.

If the purpose of the measure is not to avoid or reduce adverse effects on European sites, then their inclusion in the project does not invalidate the screening, so long as it is clear that the planning authority has not considered such measures in reaching a conclusion of no significant effect.[19]

A statement which makes clear that no account was taken of mitigation measures in concluding that the project can be screened out for appropriate assessment should be included in the screening determination (See Appendix B for examples).

[17] People over Wind and Peter Sweetman v Coillte Teoranta - C323/17.
[18] As above.
[19] Eoin Kelly v. An Bord Pleanála (Aldi Stores) [2019] IEHC 84; Heather Hill Management v. An Bord Pleanála and Burkeway Homes [2019] IEHC 186 and 450.

How should third party submissions be taken into account?

Although there is no specific requirement for public consultation at screening in national legislation,[20] it is good practice to consider submissions or objections on planning applications that raise concerns regarding the need for appropriate assessment.

The weight attributed to these submissions will depend on the factual and scientific basis for the claims made. For example, submissions which argue that likely significant effects of a proposed development would occur or cannot be excluded at screening, must be supported by credible evidence that there is a real, rather than a hypothetical, risk which should be considered.

If there is doubt, further information may be requested from the applicant in order to undertake screening.

Does the requirement for EIA trigger a need for appropriate assessment?

The requirement for either an EIA screening determination, or the preparation of an EIA Report (EIAR) and carrying out of EIA does not mean that a proposed development must be screened *'in'* for appropriate assessment or that a NIS is necessary.

The EIA process relates to general environmental impacts with a much wider scope than the AA process. It is possible that a proposed development could be determined to have likely significant effects on the environment resulting from impacts which are unrelated to the conservation objectives of a European site.

If, however, part of the reason for screening in the project for EIA relates to potential impacts on the conservation objectives of a European site, then it should be screened in for AA.

What happens if further information is submitted?

The AA screening is only relevant for the information before the competent authority at a particular point in time. This means that if further information is submitted after the screening has been undertaken, it must be reviewed in light of those details or changes before the decision is made.

[20] Public participation under the Aarhus Convention provides the right to participate in the authorisation procedure (C-243/15 paragraph 49).

5.0 Recording and Documenting the Screening Process

The planning authority must always record and document the screening process. The level of detail required may differ, however, depending on the complexity of the case.

While there is no legislative requirements or guidelines in relation to how the process should be recorded (with exception to additional publication requirements of screening determinations made in respect of all extension of duration applications),[21] this practice note makes a number of recommendations in light of best practice, principally:

- **AA Screening Determination:** It is highly recommended that a screening determination statement is prepared either as a standalone document or incorporated into the planner's report. (This can also be referred to as the *'AA Screening Determination'*.) This should clearly set out the basis upon which the screening determination has been made.
- **Approval by the Decision-Maker:** The official with relevant delegated powers (e.g. senior planner or director of services) should acknowledge the screening determination. For example, by way of countersigning the planning recommendation and/or screening form.
- **Template Form:** Use of a screening template form to support the screening process.
- **Publication/Notification:** It is recommended that systems are in place to ensure that the requirements for public notices under the planning regulations are fulfilled in respect of extensions of duration applications for sub-threshold development.

Template Form

A sample template form is provided at Appendix A and case studies using the form are at Appendix B.

The use of a template form may not be necessary for minor cases where it is clear that no likelihood of significant effects arise (Case Study A). In these cases a screening determination statement may be sufficient provided the reasoning upon which the conclusion is based is clearly set out.

Screening Determination Statement

Appendix B provides case study examples of the screening determination.

The screening determination statement should include four key elements, to varying degrees of detail depending on the characteristics of the project/proposal and the site location:

[21] European Union (Planning) (Habitats, Birds and Environmental Impact) (No.2) Regulations 2021 amends the planning regulations to introduce AA (and EIA) screening procedures in respect of all extension of duration applications for sub-threshold development, including further extension applications, and sets out additional publication requirements for screening determinations made, to facilitate transparency in this process.

(1) Describe: Provide a description of the project/proposal and local site characteristics,

(2) Identify: Identify the relevant European sites,

(3) Assess: Assessment of likely effects – direct, indirect and in-combination, *and*

(4) Conclude: Provide a clear statement on the outcome of the screening process and a summary of the reasons for reaching the conclusion (without reliance on mitigation measures).

Approval by the Decision-Maker

If the chief executive or delegated decision maker (e.g. director of services or senior planner) disagrees with the screening conclusion in the planning report that likely significant effects cannot be excluded, they must carry out their own screening and the conclusion must be based on objective scientific information. A simple statement of determination without reasons is not sufficient.

Similarly, if the planning officer disagrees with the screening conclusion in an internal technical report prepared by another officer, then the planning officer must in their own screening, give reasons for accepting one scientific position over another. The conclusion reached must be based on objective scientific information. Again, a simple statement of determination without reasons is not sufficient.

6.0 Implications for Development Management

This section provides an overview of some of the main day-to-day functions of a local authority and outlines some advice on the requirements regarding appropriate assessment.

Section 247 Pre-Application Consultation

AA screening does not apply to Section 247 pre-application consultation as this consultation does not represent a decision to allow a project within the meaning of the Directives. However, the 2000 Act does indicate that in any consultations, a planning authority must advise of the procedures involved in considering a planning application and the matter should be discussed to inform the applicant generally of appropriate assessment considerations.

Any advice at pre-application stage should be mindful of the precautionary approach and may highlight the need for additional ecological surveys or technical data to be submitted with the formal application. This would avoid the need for unnecessary further information requests at a later stage.

Validation and Referrals of Planning Applications

While all planning applications require screening only some applications should be referred by the competent authority to the DHLGH.

Development proposals on sites within or adjacent to a Natura 2000 site should, however, be referred with the Department's relevant cover sheet/form. As per Article 28 of the Planning and Development Regulations 2001, these applications should also be referred by the competent authority to An Taisce and the Heritage Council. This also applies to further information relevant to the screening process which the planning authority subsequently requests.

Planning Applications

These key points should be noted when processing standard planning applications made under Section 34 of the 2000 Act:

- An application for outline planning permission may **not** be made for a development that requires a NIS, i.e. which cannot be screened out (Article 236),
- Retention permission may **not** be sought for a development that requires a NIS or Appropriate Assessment (Section 34(12)). In such cases, the applicant may seek leave to apply for substitute consent from An Bord Pleanála (Section 177C),
- Where an application is accompanied by a NIS, this **must** be stated in the public notices (Article 239),
- Where a planning authority requests a NIS to be submitted, revised public notices are mandatory (Article 240),
- On receipt of significant further information, the timeframe for submissions/observations is five weeks (Article 240),
- Within eight weeks of receipt of a NIS, the planning authority may seek further information in relation to the NIS, irrespective of whether it had already sought further information under Article 33, *and*
- Following a request for further information on an application that is accompanied by a NIS, a decision shall be made within eight weeks of receipt of the further information or in the case of significant further information within eight weeks of the date of the public notice (in lieu of the four-week timeframe associated with standard applications). Section 34(8)(c) of the 2000 Act.

Planning Conditions

Applications cannot be screened out from the need for appropriate assessment by attaching planning conditions. For example, attaching conditions requiring post-decision ecological survey work or controlling the timing of works where they relate to a conservation objective of a European site cannot be used as a basis for screening out the need for appropriate assessment.

Section 42 Extension of Duration

A planning authority shall not extend the appropriate period under this section in relation to a permission if an AA would be required in relation to the proposed extension.[22]

Section 5 Declarations

Under Section 4(4) of the 2000 Act, any development that cannot be screened out (i.e. where a NIS must be prepared and appropriate assessment carried out) **cannot** be exempt from the requirement for planning permission.

This includes any development that would otherwise be exempt under either Section 4 of the 2000 Act, or Article 6/Schedule 2 *('works')* and Article 10 *('change of use')* of the Planning and Development Regulations 2001. Article 9(1)(viiB) of the Regulations also provides a restriction on exemption (under Article 6) where development would require an appropriate assessment.

When evaluating a request for a Section 5 declaration, a planning authority must undertake a screening, where appropriate. If the screening concludes that appropriate assessment is necessary, the development will require planning permission.

[22] Section 42(8) of the Planning and Development Act, 2000, as amended.

Local authority own development

The *'Part 8'* process **cannot** be used for development that requires appropriate assessment (Section 179(6)(e) of the 2000 Act).

Screening for appropriate assessment must be carried out where it is proposed to use Part 8. Where appropriate assessment is required, a NIS must be prepared and an application for approval must be made to An Bord Pleanála under Section 177AE of the 2000 Act. In making an application to An Bord Pleanála the local authority should include the initial screening assessment and determination, together with the resultant NIS.

It is advised that a report by the chief executive to the elected members recommending whether or not a development should proceed (prepared under Section 179(3)(a)(i) of the 2000 Act) should be accompanied by a screening determination statement.

General advice in relation to other local authority functions

The focus of this practice note has been on screening planning applications for appropriate assessment under Part XAB of the 2000 Act. There are, however other functions which are not expressly provided for under this legislation but which are undertaken by planning departments in local authorities.

In such cases, the wider provisions of the European Communities (Birds and Natural Habitats) Regulations 2011 **[S.I. No. 477/2011]**, as amended, will still be relevant. In particular, Regulation 42(1) requires that any public authority (including a local authority) must carry out a screening for appropriate assessment of a plan or project, for which an application for consent is received or which a public authority wishes to undertake or adopt.

As such, although screening **may not** be required under the 2000 Act, it may still be required under the European Communities (Birds and Natural Habitats) Regulations 2011, as amended, and careful consideration should be given to those regulations in carrying out all relevant functions.

Appendix A

Template Screening Form

STEP 1. Description of the project/proposal and local site characteristics:	
(a) File Reference No:	
(b) Brief description of the project or plan:	
(c) Brief description of site characteristics:	
(d) Relevant prescribed bodies consulted: e.g. DHLGH (NPWS), EPA, OPW	
(e) Response to consultation:	

STEP 2. Identification of relevant Natura 2000 sites using Source-Pathway-Receptor model and compilation of information on Qualifying Interests and conservation objectives.				
European Site (code)	List of Qualifying Interest/Special Conservation Interest[1]	Distance from proposed development[2] (km)	Connections (Source-Pathway-Receptor)	Considered further in screening Y/N

[1] Short paraphrasing and/or cross reference to NPWS is acceptable – it is not necessary to reproduce the full text on the QI/SCI.

[2] If the site or part thereof is within the European site or adjacent to the European site, state here.

STEP 3. Assessment of Likely Significant Effects

(a) Identify all potential direct and indirect impacts that may have an effect on the conservation objectives of a European site, taking into account the size and scale of the project under the following headings:

Impacts:	Possible Significance of Impacts: (duration/magnitude etc.)
Construction phase e.g. ● Vegetation clearance ● Demolition ● Surface water runoff from soil excavation/infill/ landscaping (including borrow pits) ● Dust, noise, vibration ● Lighting disturbance ● Impact on groundwater/dewatering ● Storage of excavated/construction materials ● Access to site ● Pests	
Operational phase e.g. ● Direct emission to air and water ● Surface water runoff containing contaminant or sediment ● Lighting disturbance ● Noise/vibration ● Changes to water/groundwater due to drainage or abstraction ● Presence of people, vehicles and activities ● Physical presence of structures (e.g. collision risks) ● Potential for accidents or incidents	
In-combination/Other	

(b) Describe any likely changes to the European site:	
Examples of the type of changes to give consideration to include: ● Reduction or fragmentation of habitat area ● Disturbance to QI species ● Habitat or species fragmentation ● Reduction or fragmentation in species density ● Changes in key indicators of conservation status value (water or air quality etc.) ● Changes to areas of sensitivity or threats to QI ● Interference with the key relationships that define the structure or ecological function of the site	

(c) Are *'mitigation'* measures necessary to reach a conclusion that likely significant effects can be ruled out at screening?

☐ **Yes** ☐ **No**

Step 4. Screening Determination Statement

The assessment of significance of effects:

Describe how the proposed development (alone or in-combination) is/is **not likely** to have **significant** effects on European site(s) in view of its conservation objectives.

Conclusion:

	Tick as Appropriate:	Recommendation:
(i) It is clear that there is **no likelihood** of significant effects on a European site.	☐	The proposal can be screened out: Appropriate assessment not required.
(ii) It is **uncertain** whether the proposal will have a significant effect on a European site.	☐	☐ Request further information to complete screening ☐ Request NIS ☐ Refuse planning permission
(iii) **Significant effects** are likely.	☐	☐ Request NIS ☐ Refuse planning permission
Signature and Date of Recommending Officer:		
Signature and Date of the Decision Maker:		

Appendix B

Case Studies

Case Study 1.

Applications for permission where from (i) the nature and scale of the development, *and/or* (ii) the clear absence of a pathway to any European site, that it is clear that no likelihood of significant effects arise.

Examples:

- changes to the external appearance of buildings (such as shop fronts).
- change of house design/appearance.
- minor urban developments in serviced urban areas.

Sample Template:

The subject site is located ***[insert general description of location of site relative to Natura 2000 sites].***

The proposed development comprises ***[insert the specifics of the case including the nature and scale of the development].***

Having regard to:

- ***insert specifics of the nature, scale and location and identify any pathways].***

It is considered that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on the Natura 2000 network and appropriate assessment is not therefore required.

Sample Case Study 1.

Sample Template Completed:

The subject site is located 1.7km from Baldoyle Bay SAC and SPA.

The proposed development is located within an established residential area and comprises a domestic extension (50m^2), together with landscaping works and associated site development works. The property is connected to the mains drainage system and surface water is attenuated on-site.

Having regard to:

- the small scale and domestic nature of the development,
- the location of the development in a serviced urban area so that any construction surface water runoff will be managed via the existing drainage system,
- the consequent absence of a pathway to the European site,

it is considered that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on the Natura 2000 network and appropriate assessment is not therefore required.

Case Study 2.

Where cases are less straightforward, a more detailed screening is required to determine whether likely significant effects on a European site can be ruled out at this stage.

This is likely to be the most common scenario.

Sample Case Study 2.

STEP 1. Description of the project/proposal and local site characteristics:	
(a) File Reference No:	
(b) Brief description of the project or plan:	97 no. residential units and associated site works.
(c) Brief description of site characteristics:	The application site (6.3 ha in area) is located on the eastern side of the village which is just south of the N7 dual carriageway. The site comprises greenfield agricultural land and slopes downward generally from east to west. To the SW of the site is a small stream, which connects to the Kill river at a distance of 300m to the SE. The River Kill is part of the River Liffey catchment, which outfalls to Dublin Bay. Land immediately adjacent is currently under construction for housing and there are a number of extant permissions for housing within the village boundary. The subject site is not located within or immediately adjacent to any Natura/European site.
(d) Relevant prescribed bodies consulted: e.g. DHLGH (NPWS), IFI, EPA, OPW	DHLGH, An Taisce, Heritage Council, Inland Fisheries Ireland, TII, NTA and IW.
(e) Response to consultation:	Inland Fisheries Ireland (site is within the catchment of Kill River and the River Liffey).

STEP 2. Identification of relevant Natura 2000 sites using Source-Pathway-Receptor model and compilation of information Qualifying Interests and conservation objectives.				
European Site (code)	**List of Qualifying Interest/Special Conservation Interest[1]**	**Distance from proposed development[2] (km)**	**Connections (Source- Pathway-Receptor)**	**Considered further in screening Y/N**
North Dublin Bay SAC 000206	10 QIs **https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000206.pdf**	>25km East	Yes Weak hydrological connections exist through: (i) Surface water ultimately discharges to Kill river, a tributary of River Liffey, connecting to outfall in Dublin Bay. *and* (ii) Wastewater from the site passes through Osberstown WWTP which also discharges to the River Liffey and in turn to Dublin Bay	**Yes – see step 3.**
South Dublin Bay SAC 000210	Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Embryonic shifting dunes [2110] **https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000210.pdf**	>25km East		**Yes – see step 3.**
S. Dublin Bay & River Tolka Est. SPA 004024	QI - 14 bird species **https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004024.pdf**	>25km East		**Yes – see step 3.**
North Bull Island SPA 004006	QI – 18 bird species **https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004006.pdf**	>25km East	No North Bull Island is located within the water body of Dublin Bay. The pathway is however significantly remote.	**No**
Poulaphoca Reservoir SPA 004063	Greylag Goose (Anser anser) [A043] Lesser Black-backed Gull (Larus fuscus) [A183] **https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004063.pdf**	>25km East	No Due to distance and the lack of any relevant ex-situ factors of significance to these species.	**No**

[1] Short paraphrasing and/or cross reference to NPWS is acceptable – it is not necessary to reproduce the full text on the QI/SC.

[2] If the site or part thereof is within the European site or adjacent to the European site, state here.

STEP 3. Assessment of Likely Significant Effects

(a) Identify all potential direct and indirect impacts that may result in significant effects on the conservation objectives of a European site, taking into account the size and scale of the project under the following headings:

Impacts:	Significance of Impacts: (duration/magnitude/etc.)
Construction phase e.g. ● Vegetation clearance ● Demolition ● Surface water runoff from soil excavation/ infill/landscaping (including borrow pits) ● Dust, noise, vibration ● Lighting disturbance ● Impact on groundwater/dewatering ● Storage of excavated/construction materials ● Access to site ● Pests	During the construction phase there is potential for surface water runoff from site works to temporarily discharge to Kill River (300m to the SE), which ultimately discharges to Dublin Bay via the River Liffey at a distance of >25km to the east. However the hydrological connection to the Dublin Bay sites is indirect and weak. Intervening land use and the separation distance of >25km means that water quality in the European sites will not be negatively affected by any contaminants, such as silt from site clearance and other construction activities, if such an event were to occur due to dilution and settling out over such a distance. The construction phase will not result in significant environmental impacts that could affect European Sites within the wider catchment area.
Operational phase e.g. ● Direct emission to air and water ● Surface water runoff containing contaminant or sediment ● Lighting disturbance ● Noise/vibration ● Changes to water/groundwater due to drainage or abstraction ● Presence of people, vehicles and activities ● Physical presence of structures (e.g. collision risks) ● Potential for accidents or incidents	All foul and surface water runoff once the houses are occupied will be contained on site and discharged to urban drainage systems. The wastewater will discharge to Osberstown WWTP, which ultimately discharges, under licence to the River Liffey. The hydrological connections are indirect and weak and the separation distance is significant, such that there is no real likelihood of any significant effects on European Sites in the wider catchment area.
In-combination/Other	All extant developments are similarly served by urban drainage systems and the WWTP and have been screened out for appropriate assessment. A NIR was prepared for the LAP which included the residential zoning objective for the subject site. No likely significant effects on the water quality of any European sites were identified. No likely significant in-combination effects are identified.

(b) Describe any likely changes to the European site:	
Examples of the type of changes to give consideration to include: ● Reduction or fragmentation of habitat area ● Disturbance to QI species ● Habitat or species fragmentation ● Reduction or fragmentation in species density ● Changes in key indicators of conservation status value (water quality etc.) ● Changes to areas of sensitivity or threats to QI ● Interference with the key relationships that define the structure or ecological function of the site ● Climate change	None. The application site is not located adjacent or within a European site, therefore there is no risk of habitat loss or fragmentation or any effects on QI species directly or ex-situ. The existing environment includes a WWTP and urban drainage systems. The significant distance between the proposed development site and any European Sites, and the very weak and indirect ecological pathway is such that the proposal will not result in any likely changes to the European sites that comprise part of the Natura 2000 network in Dublin Bay.

(c) Are *'mitigation'* measures necessary to reach a conclusion that likely significant effects can be ruled out at screening?	
☐ **Yes** ☒ **No**	While best practice construction methods are referenced these are not required to avoid or reduce any effects on a European site. These measures are not relied upon to reach a conclusion of no likely significant effects on any European site.

Step 4. Screening Determination Statement:

The assessment of significance of effects:

Describe how the proposed development (alone or in-combination) is/is **not likely** to have **significant** effects on European site(s) in view of its conservation objectives.

On the basis of the information on file, which is considered adequate to undertake a screening determination and having regard to:

- the nature and scale of the proposed development on fully serviced lands,
- the intervening land uses and distance from European sites,
- the lack of direct connections with regard to the Source-Pathway-Receptor model,

it is concluded that the proposed development, individually or in-combination with other plans or projects, would not be likely to have a significant effect on the above listed European sites or any other European site, in view of the said sites' conservation objectives.

An appropriate assessment is not, therefore, required.

Conclusion:

	Tick as Appropriate:	Recommendation:
(i) It is clear that **no likelihood** of significant effects arises.	☒	The proposal can be screened out: Appropriate assessment not required.
(ii) It is **uncertain** whether the proposal, will have a significant effect on a European site.	☐	☐ Request further information to complete screening ☐ Request NIS ☐ Refuse planning permission
(iii) **Significant effects** are likely.	☐	☐ Request NIS ☐ Refuse planning permission
Signature and Date of Recommending Officer:	***Planning Officer XXX***	
Signature and Date of the Decision Maker:	***Delegated Decision Maker XXX***	

Case Study 3.

Applications for permission where, from the nature, size and location of the development it is **clear that AA will be required**. These are more likely to be located **within or close to, or upstream/in the catchment** of a Natura 2000 site and have the clear **potential to have a significant effect** on a European site.

Examples include developments, which require EIA (above or sub threshold).

Sample Case Study 3.

STEP 1. Description of the project/proposal and local site characteristics:	
(a) File Reference No:	
(b) Brief description of the project or plan:	Construction of a pig house (1,600 weaners) with slatted floor and slurry tank underneath, an extension to existing concrete yard and ancillary site works.
(c) Brief description of site characteristics:	The site is in a rural area north of Enniscorthy town. The Slaney River is located 800m to the NE. The site is within an overall agricultural complex which includes two existing pig houses and ancillary buildings (1,700 production pigs). The land is characterised as rolling agricultural land. The application site is located on a high point overlooking the valley of the River Slaney, with land generally sloping to the east/northeast. A stream runs along the eastern boundary of the overall landholding, 400m from the proposed buildings. This discharges to the Slaney river c. 380m to the NE.
(e) List of prescribed bodies consulted: e.g. DHLGH (NPWS), EPA, OPW	DHLGH
(f) Response to consultation:	None received.

STEP 2. Identification of relevant Natura 2000 sites using Source-Pathway-Receptor model and compilation of information Qualifying Interests and conservation objectives.				
European Site (code)	**List of Qualifying Interest/Special Conservation Interest[1]**	**Distance from proposed development[2] (km)**	**Connections (Source, Pathway Receptor)**	**Considered further in screening Y/N**
Slaney River Valley SAC 000781	15 Qualifying Interests Including a Priority Habitat-Alluvial forests [91E0] and species dependant on high water quality **https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000781.pdf**	0.8km	Yes. The site is located in close proximity to a stream that discharges to the River Slaney 800m to the NE of the site. Old sessile oak woods [91A0] habitats are located 2 km to the north of the site. These habitats are sensitive to increases in atmospheric concentration of ammonia.	**Yes**
Wexford Harbour and Slobs SPA (004076)	33 SCIs including wetlands and waterbirds **https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004076.pdf**	20km	Potential/Unknown. Application does not include details of land-spreading/ disposal of slurry arising from the development. Depending on these locations there may be potential pathways to wetland habitats upon which the bird species depend.	**Yes**
Screen Hills SAC (000708)	QI – Dry heaths [4030] & Oligotrophic waters [3110] **https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000708.pdf**	14.6km	No ecological connection via ground/surface water. No ecological connection via air due to separation distance.	**No**

STEP 3. Assessment of Likely Significant Effects

(a) Identify all potential impacts that may result in significant effects on the conservation objectives of a European site, taking into account the size and scale of the project under the following headings:

Impacts:	Significance of Impacts: (duration/magnitude/etc)
Construction phase e.g. ● Vegetation clearance ● Demolition ● Surface water runoff from soil excavation/ infill/landscaping (including borrow pits) ● Dust, noise, vibration ● Lighting disturbance ● Impact on groundwater/dewatering ● Storage of excavated/construction materials ● Access to site ● Pests	Potential for impacts on water quality in the River Slaney from silt laden surface water runoff resulting from vegetation clearance, and soil excavation and other construction related activities. This would be a temporary impact, but it may be of significance due to the proximity and pathway to the SAC and the sensitivity of the QI (aquatic species) to sedimentation.
Operational phase e.g. ● Direct emission to air and water ● Surface water runoff containing contaminant or sediment ● Lighting disturbance ● Noise/vibration ● Changes to water/groundwater due to drainage or abstraction ● Presence of people, vehicles and activities ● Physical presence of structures (eg collision risks) ● Potential for accidents or incidents	(a) Potential water pollution from animal effluent/ nutrient rich surface water runoff discharging to nearby watercourse, which in turn feeds into the River Slaney SAC. Groundwater is similarly likely to be connected to the River Slaney having regard to the topography. No details are provided of proposed attenuation or disposal. This impact may be significant due to the proximity/pathway to the SAC and the sensitivity of the QI to changes in water quality. (b) Water pollution from land spreading of slurry from the slatted tank. No detail is provided of the amount of effluent arising from the proposed development, the quantity of land required for disposal (land spreading) or the locations for land spreading. A general statement is made that activities will be carried out in accordance with the EU (Good Agricultural Practice for the Protection of Waters) Regulations 2017. Land spreading of nutrient rich effluent would occur at certain times of the year and impacts may be significant due to the proximity and pathway to the SAC and the sensitivity of the QI to changes in water quality. (c) Atmospheric emissions relating to airborne ammonia from pig manure. This impact may be significant as emissions occur throughout the year and given the proximity of sensitive QI (Old sessile oak woods) within the SAC.

In-combination/Other	The site is within an overall agricultural complex which includes two existing pig houses (1700 production pigs). No detail is provided on the existing provisions for management of surface water except to state that there is an attention tank on site. No detail is provided on land spreading of manure arising from the existing activities. There is a potential for in-combination effects with the existing pig houses in respect of the three impacts identified above.

(b) Describe any likely changes to the European site arising as a result of:

Examples of the type of changes to give consideration to include: ● Reduction or fragmentation of habitat area. ● Disturbance to QI species ● Habitat or species fragmentation ● Reduction or fragmentation in species density ● Changes in key indicators of conservation status value (water quality etc.) ● Changes to areas of sensitivity or threats to QI ● Interference with the key relationships that define the **structure** or ecological **function** of the site ● Climate change	**Slaney River Valley SAC:** In the event that water pollution were to occur at either construction or operational stages, this could result in silt or nutrient rich discharges directly to the local minor watercourse which discharges into the River Slaney SAC. Such an event has potential to impact significantly upon the water quality of the SAC which could, in turn, affect the conservation objectives of the site having regard to the characteristics and sensitivities of the QI to changes in water quality and levels of sedimentation. The lack of detail regarding surface water management and disposal of slurry during the operational phase results in uncertainty. Although weaners have significantly lower ammonia emission levels than production pigs, the in-combination effects with the existing pig houses (production pigs) has the potential to impact significantly on the atmospheric concentrations of ammonia which could, in turn, affect the conservation objectives of the SAC having regard to the characteristics and sensitivities of the QI to deposition. **Wexford Harbour & Slobs SPA:** Unknown changes in relation to the wetland habitats of Wexford Slobs SPA as the locations of slurry spreading have not been provided in the application documentation. Likely significant effects cannot be ruled out with certainty.

(c) Are *'mitigation'* measures necessary to reach a conclusion that likely significant effects can be ruled out at screening?

☐ **Yes** ☒ **No**

Step 4. Screening Determination Statement:

The assessment of significance of effects:

Describe how the proposed development (alone or in-combination) is/is **not likely** to have **significant** effects on European site(s) in view of its conservation objectives.

On the basis of the information on file, and having regard to:

- the effluent likely to arise due to the nature and scale of the proposed development,
- the close proximity of the site (c.800m) and direct connections to the Slaney River Valley SAC (000781),
- the absence of detail on the locations where the disposal of effluent arising from the development will occur,
- the uncertainty and potential for pathways to the Wexford Harbour and Slobs SPA (004076),
- the ammonia emissions due to the nature and scale of the proposed development and the close proximity of the site to Old sessile oak woods [91A0] within the Slaney River Valley SAC (000781),
- the potential for in-combination effects with the existing pig houses within the agricultural holding,

it is concluded that the proposed development, individually or in-combination with other plans or projects, is likely to have a significant effect on the above listed European Sites, in view of the sites' conservation objectives.

An appropriate assessment is, therefore, required to determine if adverse effects on site integrity can be excluded in view of the conservation objectives of the Slaney River Valley SAC and Wexford Harbour and Slobs SPA.

Conclusion:

	Tick as Appropriate:	Recommendation:
(i) It is clear that **no likelihood of significant effects** arises.	☐	The proposal can be screened out: Appropriate assessment not required.
(ii) It is **uncertain** whether the proposal, will have a significant effect on a European site.	☐	☐ Request further information to complete screening ☐ Request NIS ☐ Refuse planning permission
(iii) **Significant effects** are likely.	☒	☒ Request NIS ☐ Refuse planning permission
Signature and Date of Recommending Officer:	***Planning Officer XXX***	
Signature and Date of the Decision Maker:	***Delegated Decision Maker XXX***	

Appendix C

Further Reading and References

Legislation:

Habitats Directive 92/43/EEC
Birds Directive 2009/147/EC
Planning and Development Act, 2000 (as amended)
European Communities (Birds and Natural Habitats) Regulations 2011 S.I. No. 477 of 2011

Case Law:

High Court:

Uí Mhuirnín v. MHPLG [2019] IEHC 824
Sweetman v ABP [2020] IEHC 39
Kelly v. An Bord Pleanála (Aldi Stores) [2019] IEHC 84
Heather Hill Management v. An Bord Pleanála and Burkeway Homes [2019] IEHC 186 and 450

Court of Justice of the European Union (CJEU):

C-258/11 - Sweetman and Others v ABP (Galway Bypass)
C-258/11 - AG opinion, Sweetman and Others v ABP (Galway Bypass)
C-127/02 - Waddenzee
C-521/12 - T.C. Briels and Others v Minister van Infrastructuur en Milieu
C-323/17 - People Over Wind and Sweetman v. Coilte Teoranta

Guidance Documents:

Managing Natura 2000 Sites – The provisions of Article 6 of the 'Habitats' Directive 92/43/EEC (updated 2018)

Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities (2009)

The Habitats Regulations Assessment Handbook (updated regularly for subscribers) UK: DTA Publications Limited, Tyldesley D. and Chapman. C

Useful Website Links:

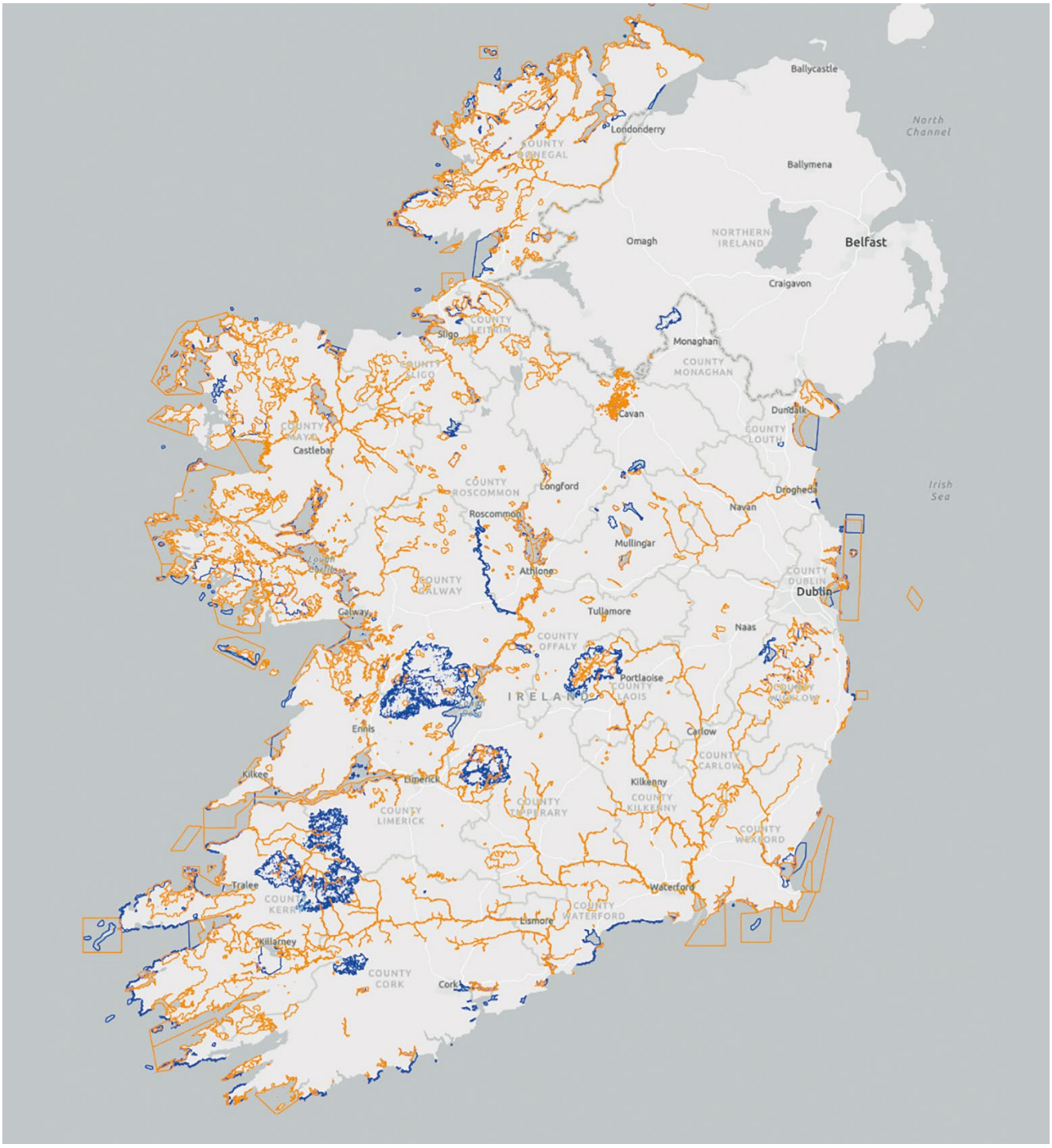
Ireland:

www.NPWS.ie
www.MyPlan.ie
https://gis.epa.ie/EPAMaps/AAGeoTool

Appendix D

European Sites in Ireland

Figure 1. Map illustrating the Natura 2000 Network in Ireland



Special Area of Conservation (SAC)

There are currently 439 Special Areas of Conservation in Ireland. SAC are selected on the basis of Annex I habitats and Annex II animal and plant species of the Habitats Directive. The specific named habitats and/or species for which the site is selected are called the **Qualifying Interests** of the site. Annex I also identifies a subset of **priority habitats** which are threatened with disappearance and merit special measures. There are no priority species in Ireland.

Annex I Habitats:

SAC are selected on the basis of the importance of the site to any of the 59 habitats listed in Annex 1 that are found in Ireland, see table below, 16 of these habitats are **priority habitats** as denoted in ***italics**** below.

Sandbanks (1110)	Dune slack (2190)	***Raised bog (active)* (7110)***
Estuaries (1130)	***Machair* (21A0)***	Degraded raised bogs (7120)
Tidal mudflats (1140)	Oligotrophic soft water lakes (3110)	***Blanket bog (active)* (7130)***
Lagoons* (1150)	Soft water lakes with base rich influences (3130)	Transition mires (7140)
Large shallow inlets and bays (1160)	Hard water lakes (3140)	Rhyncosporion depressions (7150)
Reefs (1170)	Natural eutrophic lakes (3150)	***Cladium fen (7210)****
Drift lines (1210)	Dystrophic lakes (3160)	***Petrifying springs* (7220)***
Perennial vegetation of stony banks (1220)	***Turloughs* (3180)***	Alkaline fens (7230)
Sea cliffs (1230)	Floating river vegetation (3260)	Siliceous scree (8110)
Salicornia mud (1310)	Rivers with muddy banks with Chenopodium rubric (3270)	Eutric scree (8120)
Spartina swards (1320)	Wet heath (4010)	Calcareous rocky slopes (8210)
Atlantic salt meadows(1330)	Dry heaths (4030)	Siliceous rocky slopes (8220)
Mediterranean salt meadows (1410)	Alpine and subalpine heath (4060)	***Limestone pavement* (8240)***
Halophilous scrub (1420)	Juniper scrub (5130)	Caves (8310)
Embryonic shifting dunes (2110)	Calaminarian grassland (6130)	Sea caves (8330)
Marram dunes (white dunes) (2120)	***Orchid-rich calcareous grassland* (6210)***	Old oak woodlands (91A0)
Fixed dunes (grey dunes)* (2130)	***Species-rich nardus upland grassland* (6230)***	***Bog woodland* (91D0)***
Decalcified empetrum dunes* (2140)	Molinia meadows (6410)	***Residual alluvial forests* (91E0)***
Decalcified dune heath* (2150)	Hydrophilous tall herb (6430)	***Taxus baccata woods* (91J0)***
Dunes with creeping willow (2170)	Lowland hay meadows (6510)	

Annex II Animal and Plant Species:

Ireland supports 25 of the animal and plant species listed in Annex II. They are categorised as mammals, fish, invertebrates and plants. There are no priority species in Ireland.

Mammals (6 no.)	Bottle-nose Dolphin, Common Seal, Grey Seal, Harbour Porpoise, Lesser Horse Shoe Bat, Otter
Fish (7 no.)	Atlantic Salmon, Allis Shad, Brook Lamprey, Killarney Shad, River Lamprey, Sea Lamprey, Twaite Shad
Invertebrates (7 no.)	Desmoulin's Whorl Snail, Freshwater Pearl Mussel, Geyer's Whorl Snail, Kerry Slug, Marsh Fritillary, Narrow-mouthed Whorl Snail, White-Clawed Crayfish
Plants (5 no.)	Killarney Fern, Marsh Saxifrage, Petalwort, Slender Naiad, Slender Green Feather Moss

Special Protection Areas (SPA)

There are currently 154 Special Protection Areas in Ireland. SPA are selected on the basis of the site's importance to wild bird species (including those listed in Annex 1 of the Birds Directive, as well as other regularly occurring migratory species such as ducks, geese and waders) and wetlands, especially those of international importance which attract a large number of migratory birds each year.

The specific named bird species for which the site is selected are called the *'Special Conservation Interest(s)'* (SCIs), however in practice the common terminology of Qualifying Interests applies also to SCI (and has been used in this document for simplicity).

The SPA sites in Ireland have been selected for areas that regularly support:

- 1% or more of the all-Ireland population of an Annex I species (e.g. Bewick's Swan, Cory's Shearwater, Golden Plover, Nightjar, Short-eared Owl and Wood Sandpiper).
- 20,000 waterbirds and 10,000 pairs of seabirds (e.g. Manx Shearwater and Storm Petrel).
- 1% or more of the biogeographic population of a migratory species (e.g. Light-bellied Brent Goose, Black-tailed Godwit, Whooper Swan, Greenland White-fronted Goose and Ringed Plover).

Ireland supports 37 of the bird species listed in Annex I of the Birds Directive as follows:

Bird of Prey/Raptor (7)	Golden Eagle, Hen Harrier, Merlin, Peregrine Falcon, Red-footed Falcon, Short-eared Owl, Snowy Owl
Wading Bird (8)	Bar-tailed Godwit, Corncrake, Dunlin, Golden Plover, Kentish Plover, Red-necked Phalarope, Ruff, Wood Sandpiper
Seabird (11)	Cory's Shearwater, Leach's Petrel, Storm Petrel, Little Gull, Mediterranean Gull, Arctic Tern, Black Tern, Common Tern, Little Tern, Roseate Tern, Sandwich Tern
Coraciiformes (1)	Kingfisher
Caprimulgidae (1)	Nightjar
Waterfowl (3)	Bewick's Swan, White-fronted Goose, Whooper Swan
Waterbird (4)	Black-throated Diver, Great Northern Diver, Little Egret, Red-Throated Diver
Crow (1)	Chough
Perching Bird (1)	Pied Wheatear

Revisions Table

Version	Date of Amendment	Summary (Page No.)
i	02.09.2022	Update to text (pages 2, 14, 17 and 20) to reflect numerous changes to planning legislation including those outlined in **Circular Letter EUIPR 01/2021**.

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