

SCREENING STATEMENT

IN SUPPORT OF THE
APPROPRIATE ASSESSMENT

FOR
VARIATION NO. 1(B)

TO THE
CARLOW COUNTY DEVELOPMENT PLAN 2015-2021

for: Carlow County Council
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1 Introduction

1.1 Background

CAAS has been appointed by Carlow County Council to prepare this Screening Statement in support of the Appropriate Assessment (AA) of Variation No. 1 (b) to the Carlow County Development Plan 2015 – 2021 in accordance with the requirements of Article 6(3) of the EU Habitats Directive¹.

An AA is a requirement of Article 6 of the Council Directive 92/43/EEC of 21 May 1992 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 Habitats and Birds Directives (Council Directive 2009/147/EC on the conservation of wild birds) 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 the 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 (S.I. 477) (often referred to as the Habitats Regulations) 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.

Emerging socio-economic factors have resulted in amendments and Variation to public policies and developmental requirements within the county. Carlow County Development Plan 2015-2021 has already been subject to an AA and Strategic Environmental Assessment which were both accepted. The mitigation measures proposed within the documents were deemed sufficient to ensure the implementation of the Plan would not result in any likely significant effects to European Sites. The Variation is considered alone and in-combination with Carlow County Development Plan, due to the existing County Development Plan assessments.

1.2 Legislative Context

The AA process 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 consist of SACs and SPAs and provide for the protection and long-term survival of Europe's most valuable and threatened species and habitats.

The Council Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora, better known as "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 candidate SACs (cSACs) designated under the Habitats Directive and SPAs designated under the Conservation of Wild Birds Directive (79/409/ECC), 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:

¹ Directive 92/43/EEC

"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 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. 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", including those of a social or economic nature, the Member State shall take all compensatory measures necessary to ensure that the overall coherence of European suite 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.

This report details a Screening Statement to inform the AA process which is finalised by the statutory authority.

1.3 Guidance

This Screening Statement 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).*
- *Flora (Protection) Order, 1999 (As amended 2015)*

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. The EPA Envision Map-viewer (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;
- 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 (SAC/ SPA).

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.

2 Description and background of the Variation

2.1 Carlow County Development Plan 2015-2021

The Carlow County Development Plan sets out Carlow County Council's policies and objectives for the proper planning and sustainable development of the County from 2015 to 2021². The Planning and Development Act 2000, as amended, requires a planning authority to prepare a Development Plan for its functional area every six years. In accordance with this obligation, the review of the County Development Plan 2009 - 2015 commenced in 2013. The Plan builds on the strategies, policies and objectives of the previous County Development Plan 2009-2015.

This County Development Plan has been prepared in accordance with the requirements of section 10(2) of the Planning and Development Act 2000, as amended. The Plan addresses a wide range of interrelated economic, social and environmental issues set within an overall framework of achieving sustainable development, social inclusion and adapting to climate change.

The Plan consists of written statements and maps which include policies, strategies and actions for the county at large. The Development Plan also has regard to the proposed provisions of the Planning and Development (Amendment) Act, 2010 with regard to the Core Strategy (Chapter 2 of the Plan). It must be noted that each chapter is not a stand-alone chapter, but should be read in conjunction with all other chapters and policies. In assessing any development in the county, the overall context will be informed by all relevant policies, including the settlement strategy, housing, community, economic, heritage, and infrastructure considerations, underpinned by the Development Strategy for the County which sets out the Objectives and Strategic Goals for the county. All policies converge on sustainable development - "Development that meets the needs of the present without compromising the ability of future generations to meet their own needs".

The entirety of the Plan was considered by this assessment including its various appendices and strategies.

2.1.1 The Aims of the Plan

The County Development Plan aims to provide the following:

- A sustainable spatial development strategy to guide the location of development;
- Clear guidance on the future use of land and the pattern of development over the next six years;
- A framework for the future investment in physical and social infrastructure;
- A framework for developing the county's economy;
- Management and control by indicating standards to be achieved in new developments;
- Ways to conserve and enhance the urban and rural environment and to protect the diversity of the natural and cultural landscape;
- Guidance for public and private investors in relation to land use and development; and
- A framework for developing tourism in the county.

2.1.2 Previous Assessments

A detailed Stage 2 AA Natura Impact Report in support of the AA of Carlow County Development Plan (CDP) 2015-2021³ was compiled along with a detailed Strategic Environmental Assessment and Strategic Flood Risk Assessment. These assessment processes were conducted through an iterative process to ensure their findings were incorporated into the policies and objective of the CDP itself. This process resulted in a robust set of mitigation and monitoring measures to ensure there were no likely significant adverse effects to any European Site arising from the implementation of the CDP.

² <http://www.carlow.ie/wp-content/uploads/2015/08/carlow-county-dev-plan-2015-2021.pdf>

³ <http://www.carlow.ie/wp-content/uploads/2015/08/carlow-county-development-plan-appendix-2-NIR-AA.pdf>

2.2 Variation No. 1 (b)

The commencement of the Urban Regeneration and Housing Act 2015 on the 1st September 2015 introduced a number of new statutory provisions aimed to encourage developers and landowners to develop land zoned for residential use and / or urban land identified by local authorities in need of regeneration.

The primary mechanisms to achieve the above is the:

- Introduction of a vacant site levy
- Revision to Part V Social and Affordable Housing and Development Contribution requirements.

This Variation no. 1(b) focuses on changes to Part V and incorporates those provisions into the Carlow County Development Plan 2015-2022 and the Housing Strategy contained within this plan.

2.3 Relationship with other Relevant Plans and Programmes

The Variation No. 1 (b) must comply with Carlow CDP² and relevant higher level strategic actions and may, in turn, guide lower level strategic actions. The Variation No. 1 (b) are subject to a number of high level environmental protection policies and objectives with which it must comply, including those which have been identified as Strategic Environmental Objectives in Section five of Carlow County Development Plan 2015-2021 (detailed above). Other higher level plans include:

2.3.1 The National Spatial Strategy

The National Spatial Strategy sets out the strategic planning framework for the future development of Ireland. The NSS focuses on the physical consolidation of the metropolitan area, which includes the entire functional area of DCC. This necessitates the sustainable development of all vacant, derelict and underused lands including areas of underutilised physical and social infrastructure. The NSS is due to be replaced by the National Planning Framework, however this document is not yet published; therefore, the NSS is still relevant.

2.3.2 Regional Planning Guidelines

The Regional Planning Guidelines provide a strategic planning framework for the South-East Region with the objective of implementing the National Spatial Strategy at regional level and achieving balanced regional development. Regional Planning Guidelines for the South-East Region were first adopted in 2004 and revised Regional Planning Guidelines covering the period 2010 to 2022 were made by the Regional Authority on 26th July 2010. The RPGs incorporate high level policies which inform and advise local authorities in the preparation and review of their respective Development Plans, thus providing clear integration of planning and development policy from national to regional to local level.

2.3.3 Environmental Protection Objectives

The Variation No. 1 (b) 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.
- 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' and/ or 'Special Conservation Interests' of European Sites requiring assessment. Qualifying Interests (QI's) are the habitat features and species listed in Annex I & II of the EU Habitats Directive (92/43/EEC) for which each European Site has been designated and afforded protection. The 'Special Conservation Interests' (SCI's) are wetland habitats and bird species listed within Annex I & II of the Birds Directive. It is also vital that the threats to the ecological / environmental conditions that are required to support QI's and SCI's are considered as part of the assessment.

Site specific conservation objectives 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 draft plan 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.

3.2 Assessment Criteria

Sites are screened out based on one or a combination of the following criteria:

- where it can be shown that there are no hydrological links between the Variation No. 1 (b), and the European Site being screened;
- where the site is located at a distance from Variation No. 1 (b) CDP area such that effects are not foreseen;
- where known threats or vulnerabilities at a site cannot be linked to potential effects that may arise from the Variation No. 1 (b).

The following parameters are described when characterising impacts (following CIEEM (2016), EPA (2002) and NRA (2009)):

Direct and Indirect Impacts - An impact can be caused either as a direct or as an indirect consequence of a proposed development.

Magnitude - Magnitude measures the size of an impact, which is described as high, medium, low, very low or negligible.

Extent - The area over which the impact occurs – this should be predicted in a quantified manner.

Duration - The time for which the effect is expected to last prior to recovery or replacement of the resource or feature.

- Temporary: Up to 1 Year;
- Short Term: The effects would take 1-7 years to be mitigated;
- Medium Term: The effects would take 7-15 years to be mitigated;
- Long Term: The effects would take 15-60 years to be mitigated;
- Permanent: The effects would take 60+ years to be mitigated.

Likelihood – The probability of the effect occurring taking into account all available information.

- Certain/Near Certain: >95% chance of occurring as predicted;
- Probable: 50-95% chance as occurring as predicted;
- Unlikely: 5-50% chance as occurring as predicted;
- Extremely Unlikely: <5% chance as occurring as predicted.

The Chartered Institute of Ecology and Environmental Management (CIEEM) guidelines for ecological impact assessment (CIEEM 2016) define an ecologically significant impact as an impact (negative or positive) on the integrity of a defined site or ecosystem and/or the conservation status of habitats or species within a given geographic area. The integrity of a site is the coherence of its ecological structure and function, across its whole area, which enables it to sustain the habitat, complex of habitats and/or the levels of populations of the species for which it was classified (CIEEM, 2016).

The Habitats Directive requires the focus of the assessment at this stage to be on the integrity of the site as indicated by its Conservation Objectives. It is an aim of NPWS to draw up conservation management plans for all areas designated for nature conservation. These plans will, among other things, set clear objectives for the conservation of the features of interest within a site.

Site-specific conservation objectives (SSCOs) have been prepared for a number of European Sites. These detailed SSCO aim to define favourable conservation condition for the qualifying habitats and species at that site by setting targets for appropriate attributes which define the character habitat. The maintenance of the favourable condition for these habitats and species at the site level will contribute to the overall maintenance of favourable conservation status of those habitats and species at a national level.

Favourable conservation status of a species can be described as being achieved when: 'population data on the species concerned indicate that it is maintaining itself, and the natural range of the species is neither being reduced or 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.'

Favourable conservation status of a **habitat** can be described as being achieved when: *'its natural range, and area it covers within that range, is stable or increasing, and the ecological factors that 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'.*

Generic Conservation Objectives for cSACs have been provided as follows:

- *To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.*

One generic Conservation Objective has been provided for SPAs as follows:

- *To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.*

The European Commission Environment DG document "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" outlines the types of effects that may affect European sites. These include effects from the following activities:

- Land take
- Resource Requirements (Drinking Water Abstraction Etc.)
- Emissions (Disposal to Land, Water or Air)
- Excavation Requirements
- Transportation Requirements
- Duration of Construction, Operation, Decommissioning

In addition, the guidance document outlines the following likely changes that may occur at a designated site, which may result in effects on the integrity and function of that site:

- Reduction of Habitat Area
- Disturbance to Key Species
- Habitat or Species Fragmentation
- Reduction in Species Density
- Changes in Key Indicators of Conservation Value (Water Quality Etc.)
- Climate Change

3.2.1 Source-Pathway-Receptor Model

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.
- Receptor(s) – qualifying aquatic habitats and species of European Sites.

In the interest of this report, receptors are the ecological features which 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 Variation No. 1 (b) provision which 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 development.

3.2.2 Zone of Influence

Following the source-pathway-receptor process a Zone of Influence (ZOI) will be determined based on the characteristics of the development (detailed in Section 2.2) and the foreseen distribution of likely effects through any pathways identified. Once the ZOI is established, all European Sites within it will be assessed with specific reference to the sensitive receptors of each site and pathways for effect that relate to the ecological integrity of the site.

3.3 Elements of the Variation No. 1 (b) with Potential to Give Rise to Effects

The provisions of the Variation relate to the imposition of a Vacant Site Levy and revision to Part V Social and Affordable Housing and Development Contribution requirements. All material alterations are identified as strategic in nature relating to processes, procedures and concepts within the Housing Strategy of the CDP; there are no provisions for physical development beyond that which is already contained within the existing Carlow CDP which has been subject to a Stage 2 AA process resulting in robust mitigation measures being stitched into the Plan itself. Therefore, there are no sources for adverse effects to any ecological process and no further assessment is required.

3.4 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 combinations with the plan or project, have the potential to adversely impact upon European Sites. There are no sources for effects identified within the Variation No. 1 (b); therefore, there are no in-combination effects beyond those contained within the existing CDP and associated Stage 2 AA Natura Impact Report.

4 Conclusions

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

Variation No. 1 (b) must comply with the policies, objectives and mitigation measures contained in the existing Carlow County Development Plan 2015-2021. The Carlow County Development Plan was subject to its own AA and SEA process which determined there are no likely significant effects to the integrity of any European Site foreseen as a result of the implementation of the Plan.

The AA screening process considered potential effects which may arise during implementation of Variation No. 1 (b). Through an assessment of the sources for effects and an evaluation of Variation No. 1 (b) it was determined that the existing County Development Plan accounts for development within County Carlow. The existing mitigations within this Plan are seen to be robust. It has been evaluated that Variation No. 1 (b) has no source for effects on ecological processes.

It is concluded that Variation No. 1 (b) to the Carlow County Development Plan 2015-2021 will not give rise to any adverse effects on designated European sites⁴, alone or in combination with other plans or projects. Consequently, a Stage 2 AA Natura Impact Report is not required for Variation No. 1 (b).

A one page AA Screening determination accompanies this report.

⁴ 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.