

Appropriate Assessment Determination for the Wexford County Development Plan 2022 – 2028

Background and Legislative Context

The Birds and Habitats Directives - Council Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (the Birds Directive) and Council Directive 92 /43 /EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (the Habitats Directive) – require Ireland to establish protected sites as part of a European wide network of sites (the Natura 2000 network which are known in Ireland as European sites) for habitats and species that are of international importance for conservation. In Ireland, European sites include Special Areas of Conservation (SACs) and Special Protection Areas (SPAs). SACs are selected for habitats listed on Annex I of the Habitats Directive (including priority Annex I habitat types which are in danger of disappearance) and species listed on Annex II. SPAs are selected for bird species (listed on Annex I of the Birds Directive), regularly-occurring populations of migratory bird species (such as ducks, geese and waders), and areas of international importance for migratory birds. The specified habitats and species for which each SAC and SPA is selected, correspond to the qualifying interests (in the case of SACs) or special conservation interest species (in the case of SPAs) for the sites, for which conservation objectives are prepared.

Article 6(3) of the Habitats Directive states that:

'Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. In the 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.'

This provision is transposed into Irish law by Part XAB of the Planning and Development Acts 2000 as amended. Section 177U(4) of the said Acts provides for screening for Appropriate Assessment as follows:

'The competent authority shall determine that an appropriate assessment of a draft Land use plan [...] is required if it cannot be excluded, on the basis of objective information, that the draft Land use plan [...], individually or in combination with other plans or projects, will have a significant effect on a European site.'

Section 177U(5) provides as follows:

'The competent authority shall determine that an appropriate assessment of a draft Land use plan [...], is not required if it can be excluded, on the basis of objective information, that the draft Land use plan [...], individually or in combination with other plans or projects, will have a significant effect on a European site.'

Section 177T(1) and (2) provide that a NIR is *'a statement for the purposes of Article 6 of the Habitats Directive, of the implications of a Land use plan, on its own or in combination with other plans or projects, for one or more than one European site, in view of the conservation objectives of the site or sites'* and specifies that it *'shall include a report of a scientific examination of evidence and data, carried out by competent persons to identify and classify any implications for one or more than one European site in view of the conservation objectives of the site or sites'*.

The Appropriate Assessment Determination

In accordance with the requirements of Section 177U(1) of the Planning and Development Act 2000 (as amended), screening for Appropriate Assessment of the Wexford County Development Plan was carried out which determined that an Appropriate Assessment (AA) is required.

This AA Determination has been informed by the content of a Natura Impact Report (NIR) that is included with the plan documentation (refer to Appendix A) as required under Section 177T of the Planning and Development Act 2000 (as amended).

The NIR presents an assessment of the potential for the Wexford County Development Plan 2022 - 2028 to impact on European sites and, furthermore, assesses whether the plan would adversely affect the integrity of any European site(s).

The NIR has been prepared in accordance with the provisions of Part XAB of the Planning and Development Act, 2000 (as amended) and in accordance with the requirements of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (the Habitats Directive).

It considers the implications of the Wexford County Development Plan 2022 - 2028, on its own and in combination with other plans or projects, for European sites¹ in view of the conservation objectives of those sites. It includes a scientific examination of evidence and data to identify and assess the implications of the Wexford County Development Plan 2022 - 2028 for any European sites in view of the conservation objectives of those sites. It considers whether the Wexford County Development Plan 2022 - 2028, by itself and in combination with other plans or projects, would adversely affect the integrity of any European sites. In reaching a conclusion in this regard consideration is given to mitigation measures to avoid or reduce any potential negative impacts.

Identification of European Sites within the Zone of Influence

The NIR has concluded that the possibility of significant effects on the following European sites could not be ruled out:

- Ballyteige Burrow SAC [000696]
- Bannow Bay SAC [000697]
- Blackstairs Mountains SAC [000770]
- Blackwater Bank SAC [002953]
- Cahore Polders and Dunes SAC [000700]
- Carnsore Point SAC [002269]
- Hook Head SAC [000764]
- Kilmuckridge-Tinnaberna Sandhills SAC [001741]
- Kilpatrick Sandhills SAC [001742]
- Lady's Island Lake SAC [000704]
- Long Bank SAC [002161]
- Raven Point Nature Reserve SAC [000710]
- Ballyteigue Burrow SPA [004020]
- Bannow Bay SPA [004033]
- Cahore Marshes SPA [004143]
- Keeragh Islands SPA [004118]
- Lady's Island Lake SPA [004009]
- Saltee Islands SPA [004002]
- Tacumshin Lake SPA [004092]
- The Raven SPA [004019]
- Wexford Harbour and Slobbs SPA [004076]
- River Nore SPA [004233]
- Tramore Back Strand SPA [004027]

¹ The Natura 2000 network of sites are defined under the Habitats Directive (Article 3) as a European ecological network of special areas of conservation, composed of sites hosting the natural habitat types listed in Annex I and species listed in Annex II, and special protection areas classified pursuant to the Birds Directive (2009/147/EC). The aim of the network is to aid the long-term survival of Europe's most valuable and threatened species and habitats. In Ireland, these sites are designed as *European sites* – as defined under the Planning and Development Acts and/or Birds and Habitats Regulations as (a) a candidate site of Community importance, (b) a site of Community importance, (c) a candidate special area of conservation, (d) a special area of conservation, (e) a candidate special protection area, or (f) a special protection area. They are commonly referred to in Ireland as candidate Special Areas of Conservation (cSACs) and Special Protection Areas (SPAs).

- River Barrow And River Nore SAC [002162]
- Saltee Islands SAC [000707]
- Screen Hills SAC [000708]
- Slaney River Valley SAC [000781]
- Tacumshin Lake SAC [000709]
- Lower River Suir SAC [002137]
- Tramore Dunes and Backstrand SAC [000671]
- Buckronev-Brittis Dunes And Fen SAC [000729]

The assessment set out in the NIR demonstrates that the scope of the Appropriate Assessment may be limited to the European sites listed above, as the possibility of significant effects on any other European sites could/can be ruled out.

Mitigation Measures

At all appropriate stages of preparing the Wexford County Development Plan 2022 - 2028, the various policies, objectives and various amendments made throughout the plan development process have been reviewed and evaluated with respect to the requirements of Article 6(3) of the Habitats Directive before being incorporated into the Wexford County Development Plan 2022 - 2028 to ensure that the individual elements of the Wexford County Development Plan 2022 - 2028 will not give rise to adverse effects on the integrity of any European sites.

Protective measures have been incorporated into the Wexford County Development Plan 2022 - 2028 to avoid or reduce the potential impacts on the qualifying interest and special conservation interests of all European sites to ensure that their conservation objectives are not undermined and, therefore, adverse effects on the integrity of any European sites are avoided. These protective measures are included in the form of objectives to ensure the protection of European sites. In particular the following two key strategic objectives (Objective EM02 and EM04) have been included.

Objective EM02 (Appropriate Assessment of development proposals)

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

Objective EM04 (Appropriate Assessment of plans)

To ensure that plans, including land use plans, will only be adopted, if they either individually or in combination with existing and/or proposed plans or projects, will not have a significant effect on a European Site, or where such a plan is likely or might have such a significant effect (either alone or in combination), Wexford County Council will, as required by law, carry out an appropriate assessment as per requirements of Article 6(3) of the Habitats Directive 92/43/EEC of the 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, as transposed into Irish legislation. Only

after having ascertained that the plan will not adversely affect the integrity of any European site, will Wexford County Council adopt the plan, incorporating any necessary mitigation measures. A plan which could adversely affect the integrity of a European site may only be adopted in exceptional circumstances, as provided for in Article 6(4) of the Habitats Directive as transposed into Irish legislation.

In addition, a number of specific objectives in the chapters and volumes of the plan have as their focus the protection of the environment, biodiversity, water quality and European sites. Some of these key protective objectives also provide mitigation in relation to elements of the plan which have potential to give rise to impacts on European sites.

Proposed Amendments Made Throughout the Plan Development Process

Following periods of public display and consideration of submissions received, various amendments made throughout the plan development process were examined and analysed for their potential to have significant effects on European sites. The vast majority of proposed amendments to the draft plan posed no risk to European sites, as they were either neutral (i.e. had no relevance or relationship to European sites) or were positive and protective in nature. However, some were deemed to have potential for significant effects on European sites and as required mitigation measures were incorporated throughout the plan to avoid or reduce potential impacts on the qualifying interest and special conservation interests of European sites to ensure that their conservation objectives would not be undermined and, therefore, adverse effects on the integrity of European sites would be avoided.

Conclusion and AA Determination

The NIR has examined and analysed, in light of the best scientific knowledge, with respect to those European sites within the zone of influence of the Wexford County Development Plan 2022 - 2028, the potential impact sources and pathways, how these could impact on the European sites' qualifying interests/special conservation interest species, and whether the predicted impacts would adversely affect the integrity of those European sites.

It has been objectively concluded in the NIR, following an examination, analysis and evaluation of the relevant information, including in particular the nature of the predicted impacts associated with the Wexford County Development Plan 2022 - 2028, that the Wexford County Development Plan 2022 - 2028 will not adversely affect (either directly or indirectly) the integrity of any European site, either alone or in combination with other plans or projects.

Wexford County Council has examined, analysed and evaluated the content of the Wexford County Development Plan 2022 - 2028, including the information and assessment presented in the NIR, and are in agreement with the conclusion of the NIR.

Thus, it has been objectively concluded by Wexford County Council that, in light of best scientific knowledge, including in particular the nature of the predicted impacts that may arise from the Wexford County Development Plan 2022 - 2028 and considering the implementation of the mitigation measures proposed, the Wexford County Development Plan 2022 - 2028 will not adversely affect (either directly or indirectly) the integrity of any European sites, either alone or in combination with other plans or projects.

Signed:



Chief Executive

13th June 2022.

Date