

1 INTRODUCTION

This Natura Impact Report provides information in support of an Appropriate Assessment (AA) of the Dún Laoghaire Rathdown County Development Plan 2016 - 2022 in line with the requirements of Article 6(3) of the EU Habitats Directive (92/43/EC). This European legislation has been transposed in Ireland through the Planning and Development Act 2000 (as amended) and the Birds and Natural Habitats Regulations 2011 to 2015.

1.1 LEGISLATIVE CONTEXT

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. These are Special Areas of Conservation (SACs) designated under the Habitats Directive and Special Protection Areas (SPAs) designated under the Conservation of Wild Birds Directive (79/409/ECC) as codified by Directive 2009/147/EC.

Articles 6(3) and 6(4) of the Habitats Directive set out the decision-making tests for plans and projects likely to affect Natura 2000 sites (Annex 1.1). Article 6(3) establishes the requirement for Appropriate Assessment (AA) as follows:

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.

Article 6(4) states:

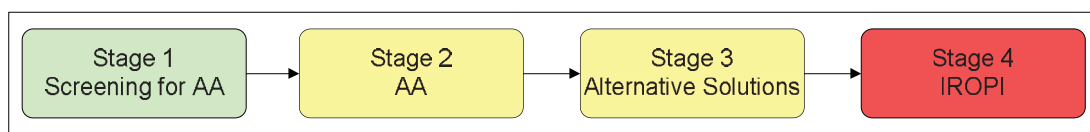
If, in spite of a negative assessment of the implications for the [Natura 2000] site and in the absence of alternative solutions, a plan or project must nevertheless be carried out for imperative reasons of overriding public interest, including those of a social or economic nature, Member States shall 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.

These articles together with the national regulations mean that where the implementation of the Plan has potential to have an effect on a European Site, the relevant authority (in this case Dún Laoghaire-Rathdown County Council) must ensure that an AA is carried out in view of that site’s conservation objectives. The Plan can only be approved by Dún Laoghaire-Rathdown County Council if it has been ascertained that it will not adversely affect the integrity of the European Site(s) concerned, or in the case of a negative assessment and where there are no alternative solutions, the plan can only be approved for imperative reasons of overriding public interest (IROPI).

1.2 STAGES OF APPROPRIATE ASSESSMENT

The AA process progresses through four stages. If at any stage in the process it is determined that there will be no significant effect on the integrity of a European Site in view of the sites conservation objectives, the process is effectively completed. The four stages are as follows:-

- Stage 1 – Screening of the proposed plan or project for AA;
- Stage 2 – An appropriate assessment of the proposed plan or project;
- Stage 3 – Assessment of alternative solutions; and
- Stage 4 – Imperative reasons of overriding public interest (IROPI)/ Derogation.



Source (NPWS, 2010)¹

Stages 1 and 2 relate to Article 6(3) of the Habitats Directive; and Stages 3 and 4 to Article 6(4).

Stage 1: Screening

The purpose of screening is to assess firstly if the plan or project is directly connected with or necessary to the management of European Site(s); and *in view of best scientific knowledge and in view of the conservation objectives of the site, if the plan individually or in combination with other plans or projects is likely to have a significant effect on the site*. If screening determines that there is potential for significant effects or there is uncertainty regarding the significance of effects then it will be recommended that the plan is brought forward to full AA. Screening has been undertaken by Dún Laoghaire Rathdown County Council on various drafts of the Dún Laoghaire-Rathdown County Development Plan during the review process which commenced in March 2014. . The most recent proposed amendments to the draft Dún Laoghaire Rathdown County Development Plan have been screened and potential for adverse effects on a European Site have been identified. Therefore the Plan has been brought forward to Stage 2 Appropriate Assessment.

Stage 2: Appropriate Assessment

The aim of stage 2 of the AA process is to identify any adverse impacts that the plan or project might have on the integrity of relevant European Sites. As part of the assessment, a key consideration is 'in combination' effects with other plans or projects. Where adverse impacts are identified, mitigation measures can be proposed that would avoid, reduce or remedy any such negative impacts and the plan or project should then be amended accordingly, thereby avoiding the need to progress to Stage 3.

Stage 3: Assessment of Alternative Solutions

If it is not possible during the Stage 2 assessment to reduce impacts to acceptable, non-significant levels by avoidance and/or mitigation, Stage 3 of the process must be undertaken, which is to objectively assess whether alternative solutions exist by which the objectives of the plan or project

¹ Appropriate Assessment of Plan and Projects in Ireland – Guidance for Planning Authorities (NPWS, 2010)

can be achieved. Explicitly, this means alternative solutions that do not have negative impacts on the integrity of the European Site. The process must return to Stage 2 as alternatives will require assessment in order to proceed. Demonstrating that all reasonable alternatives have been considered and assessed, and that the least damaging option has been selected, it is necessary to progress to Stage 4. It should also be noted that EU guidance on this stage of the process states that, 'other assessment criteria, such as economic criteria, cannot be seen as overruling ecological criteria' (EC, 2002). In other words, if alternative solutions exist that do not have negative impacts on European Sites; they should be adopted regardless of economic considerations.

Stage 4: Imperative Reasons of Overriding Public Interest (IROPI)/Derogation

This stage of the AA process is undertaken when it has been determined that negative impacts on the integrity of a European Site will result from a plan or project, but that no alternatives exist. At this stage of the AA process, it is the characteristics of the plan or project itself that will determine whether or not the competent authority can allow it to progress. This is the determination of 'overriding public interest'.

It is important to note that in the case of European Site that include in their qualifying features 'priority' habitats or species, as defined in Annex I and II of the Directive, the demonstration of 'overriding public interest' is not sufficient, and it must be demonstrated that the plan or project is necessary for 'human health or safety considerations'. Where plans or projects meet these criteria, they can be allowed, provided adequate compensatory measures are proposed. Stage 4 of the process defines and describes these compensation measures.

1.3 GUIDANCE

This document has been prepared with regard to the following guidance:-

National

- Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities. Department of Environment, Heritage and Local Government (2009, revised 2010);
- Department of the Environment, Heritage and Local Government (DEHLG) Circular Letter SEA 1/08 & NPWS 1/08;
- Department of the Environment, Heritage and Local Government (DEHLG) Circular Letter PD 2/07 & NPWS 1/07.

European

- Managing Natura 2000 Sites: The Provisions of Article 6 of the 'Habitats' Directive 92/43/EEC, referred to as MN2000, 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, referred to as the "EC Article 6 Guidance Document (EC2000);
- 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 (2007).

Other

- Appropriate Assessment of Plans. Scott Wilson, Levett-Therivel Sustainability Consultants, Treweek Environmental Consultants and Land Use Consultants (2006).

The protection of natural heritage and biodiversity, including European Sites that form part of the Natura 2000 network, is also supported by interlinking EU Environmental Directives and applicable national legislation, policies, plans and guidelines, including the following (note: not an exhaustive list):-

- **EU Directives:** Birds Directive (2009/147/EC); Environmental Liability Directive (2004/35/EC)205; Environmental Impact Assessment Directive (85/337/EEC, as amended); Water Framework Directive (2000/60/EC); Floods Directive (2007/60/EC) and Strategic Environmental Assessment Directive (2001/42/EC).
- **National Legislation:** Wildlife Act 1976; Wildlife (Amendment) Act 2000; European Communities (Environmental Impact Assessment) Regulations 1989 (SI No349 of 1989 as amended); European Union (Water Policy) Regulations 2003 as amended; Planning and Development Act 2000 and Regulations 2001 as amended; European Communities (Birds and Natural Habitats) Regulations 2011 (SI No. 477 of 2011); European Communities (Environmental Liability) Regulations 2008 and the Flora Protection Order 2015.
- **National Policy Guidelines:** Landscape and Landscape Assessment Guidelines 2000; National Landscape Strategy 2015; Environmental Impact Assessment Sub-Threshold Development Guidelines 2003.
- **Catchment and Water Resource Management Plans:** RBMP 2010-2015 (under review); CFRAMS (in prep); Water Services Strategic Plan 2015.
- **Biodiversity Plans and Guidelines:** Actions for Biodiversity 2011-2016: Ireland's National Biodiversity Plan.

1.4 REPORT LAYOUT

In complying with the obligations under Article 6(3) and with reference to the guidance documents mentioned above, this report has been broadly structured as follows:

1. Part 1 – Summary of Screening for Appropriate Assessment

- A Screening Report of the draft County Development Plan and proposed amendments has been prepared under separate cover. However, for context, a summary of the screening process undertaken on the draft Dún Laoghaire-Rathdown County Development Plan 2016-2021 between Q3 2014-Q3 2015 is presented for information.

2. Part 2 –Appropriate Assessment

- Description of the European sites considered further in the AA;
- Description of potential significant impacts on the conservation feature of these sites likely to occur from the Plan;
- Mitigation measures; and
- Conclusions.