

Proposed Redevelopment at Bishop Lucey Park,
Cork City
Appropriate Assessment Screening Report

Environmental
Assessment
**Built
Environment**

Client:

Cork City Council

Date:

13 July 2021

DOCUMENT CONTROL SHEET**6844_RPAA01_Appropriate Assessment Screening Report**Project No. **6844**Client: **Cork City Council**Project Name: **Proposed Redevelopment at Bishop Lucey Park, Cork City**Report Name: **Appropriate Assessment Screening Report**Document No. **RPAA01**Issue No. **02**Date: **13/07/2021**

This document has been issued and amended as follows:

Issue	Status	Date	Prepared	Checked
01	Draft	02 Jul 2021	MH	MH
02	Final	13 Jul 2021	MH	MH



Contents

1	Introduction	1
1.1	Introduction and background	1
1.2	Expertise and qualifications	1
1.3	Legal requirement for Appropriate Assessment	1
2	Methodology	2
2.1	Baseline data collection and field visits	2
3	Screening for Appropriate Assessment	4
3.1	Background	4
3.2	Potential zone of influence	4
3.3	Study area and surrounding environment	5
3.3.1	Site location and European sites	5
3.3.2	Other designated areas (other than European sites)	6
4	Description of the proposed development	7
5	Potential impacts from the proposed development	8
5.1	European sites and habitats with links to European sites	8
5.1.1	Potential impacts during construction	9
5.1.2	Potential impacts during operation	9
5.2	Summary of potential impacts of the proposed development	14
6	Other issues	14
7	Mitigation specific to European sites	14
8	In-combination effects	14
9	Screening conclusion	15
	Appendix I: Background	16
	Stages in the assessment	16
	Conservation Objectives of European sites	17



1 Introduction

1.1 Introduction and background

Cork City Council (CCC) is seeking permission under Part 8¹ of the Planning and Development Regulations 2001-2020 (hereafter PDR 2001) for redevelopment at Bishop Lucey Park, between South Main Street and the Grand Parade, in the medieval quarter of Cork City.

Brady Shipman Martin was appointed by CCC to assist it in undertaking a screening exercise for Appropriate Assessment (AA). The purpose of the screening exercise is to assess, in view of best scientific knowledge, if the proposed redevelopment at Bishop Lucey Park (hereafter the Proposed Project), individually or in combination with other plans or projects is likely to have a significant effect on European sites taking into account their conservation objectives.

This document constitutes the Appropriate Assessment Screening Report ("AA screening Report") prepared for this purpose.

A comprehensive desk study review and a site visit were undertaken and the potential impacts on European sites, both as a result of the Proposed Project and in-combination with other plans and projects, are appraised in this report.

1.2 Expertise and qualifications

The report was written by Senior Ecologist Matthew Hague BSc MSc Adv. Dip. Plan. & Env. Law CEnv MCIEEM. Matthew is a highly experienced and qualified ecologist, with a master's degree in Ecosystem Conservation and Landscape Management. He has over 18 years of experience in ecological and environmental consultancy, across a wide range of sectors. He has prepared numerous reports for AA Screening as well as Natura Impact Statements, for projects of all scales, from small residential developments to nationally important infrastructure projects.

Matthew is a Chartered Environmentalist (CEnv) and a full member of the Chartered Institute of Ecology and Environmental Management (MCIEEM). Matthew has also completed an Advanced Diploma in Planning and Environmental Law, at King's Inns and is a member of the Irish Environmental Law Association (IELA).

1.3 Legal requirement for Appropriate Assessment

European sites make up a network of sites designated for nature conservation under Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (the "Habitats Directive") and 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"). The requirements for Appropriate Assessment are set out under *Article 6 of the Habitats Directive*, transposed into Irish law by the *European Union (Birds and Natural Habitats) Regulations 2011-2015*² (the "Birds and Natural Habitats Regulations") and the *Planning and Development Act, 2000 - 2021* (the "Planning Acts").

European sites are also known as Natura 2000 Sites (Special Areas of Conservation (SAC) and Special Protection Areas (SPA)). As defined in section 177R of the Planning Acts "European site" means:

- (a) a candidate site of Community importance,
- (b) a site of Community importance,

¹ Provisions with respect to specified development by, or on behalf of, or in partnership with local authorities

² SI No. 477 of 2011

Proposed Redevelopment at Bishop Lucey Park, Cork City

Appropriate Assessment Screening Report

- (ba) a candidate special area of conservation,
- (c) a special area of conservation,
- (d) a candidate special protection area and
- (e) a special protection area.

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

(3) Any plan or project not directly connected with or necessary to the management of the site but likely to have 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.

The first test is to establish whether, in relation to a particular plan or project, appropriate assessment is required. Sections 177U of the Planning Acts and Regulation 42 of the Birds and Natural Habitats Regulations require that the AA screening test must be applied to the proposed development, as follows:

- To assess, in view of best scientific knowledge, if the development, individually or in combination with another plan or project is likely to have a significant effect on the European site;

An appropriate assessment is required if it cannot be excluded, on the basis of objective information, that the development, individually or in combination with other plans or projects, will have a significant effect on a European site.

This AA Screening Report has been prepared in accordance with the requirements of the Birds Directive, the Habitats Directive, the Planning Acts and the Birds and Natural Habitats Regulations.

2 Methodology

2.1 Baseline data collection and field visits

A desk-based assessment was undertaken in June 2021 of the proposed development site at Bishop Lucey Park and the wider area. A field survey was also undertaken, by Brady Shipman Martin Ecologist Lorraine Guerin on 23 June 2021.

The appraisal focussed on habitats and species that are listed as Qualifying Interests (QI) (in the case of SACs) and Special Conservation Interests (SCI) (in the case of SPAs) in the designations for European sites. Assessments of habitat suitability for species with links to European sites were undertaken, in order to appraise the potential for *ex-situ* effects on European sites.

This report takes the following guidance documents into account:

- *Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities* (Department of Environment, Heritage and Local Government, 2010 revision);
- *Appropriate Assessment under Article 6 of the Habitats Directive: Guidance for Planning Authorities*. Circular NPWS 1/10 & PSSP 2/10;
- *Assessment of Plans and Projects Significantly Affecting European sites: Methodological Guidance on the Provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC* (European Commission Environment Directorate-General, 2001);

Proposed Redevelopment at Bishop Lucey Park, Cork City

Appropriate Assessment Screening Report

- *Managing Natura 2000 sites: The Provisions of Article 6 of the Habitats Directive 92/43/EEC.* Guidance issued by the European Commission (21st November 2018);
- *Practice Note PN01 Appropriate Assessment Screening for Development Management Office of the Planning Regulator,* March 2021.

Information was collated from the organisations and websites listed below:

- Data on European sites and rare and protected plant and animal species contained in the following databases:
 - The National Parks and Wildlife Service (NPWS) of the Department of Culture, Heritage and the Gaeltacht (www.NPWS.ie);
 - The National Biodiversity Data Centre (NDBC) (www.biodiversityireland.ie);
 - BirdWatch Ireland (www.birdwatchireland.ie);
 - Bat Conservation Ireland (www.batconservationireland.org).
- Information on land-use zoning from the online mapping of the Department of the Environment, Community and Local Government (<http://www.myplan.ie/en/index.html>);
- Recent and historical OSi mapping and aerial photography, including www.geohive.ie;
- Photographs taken at the site in 2021;
- Information on local watercourses and on water quality in the area (www.epa.ie);
- Information on soils, geology and hydrogeology in the area (www.gsi.ie);
- Information on the Status of EU Protected Habitats and Species in Ireland (Article 17 report) (NPWS, August 2019);
- Third National Biodiversity Plan 2017 – 2021 (Department of Culture, Heritage and the Gaeltacht, 2017);
- Cork City Development Plan 2015-2021, including the accompanying Appropriate Assessment Screening Report.

The report has regard to the following legislative instruments:

- Planning Acts;
- European Commission (EC) Habitats Directive 92/43/EEC;
- European Commission (EC) Birds Directive 2009/147/EC;
- Birds and Natural Habitats Regulations.

This report takes full account of the design of the proposed development and a detailed examination of all relevant elements of the proposal as it currently stands was undertaken.

Given the amount of information available, including from the developer, NPWS and other sources, it has been possible to gather adequate information on the site and the adjacent area (in particular, the European sites), in order to make an informed, sound judgement as to the potential impacts of the proposed development on the qualifying interests of the European sites).

3 Screening for Appropriate Assessment

3.1 Background

The first part of the Appropriate Assessment process is the Screening phase. Screening identifies the likely effects of the proposed development on European sites that could arise, either alone or in combination with other plans or projects and considers whether these impacts are likely to have a significant effect on the European site in view of the site's conservation objectives.

In accordance with sections 177U and 177V of the Planning Acts, the AA screening test must be applied to the proposed development, as follows:

- To assess, in view of best scientific knowledge, if the development, individually or in combination with another plan or project is likely to have a significant effect on the European site;
- An appropriate assessment is required if it cannot be excluded, on the basis of objective information, that the development, individually or in combination with other plans or projects, will have a significant effect on a European site.

The test is a 'possibility' of effects rather than a 'certainty' of effects. The test of significance is whether a plan or project could undermine the site's conservation objectives. Furthermore, screening must be undertaken without the inclusion of mitigation and it is in this context that this AA Screening Report is prepared.

Following Screening therefore, if there is a possibility of there being a significant effect on a European site, this will generate the need for an appropriate assessment for the purposes of Article 6(3) of the Habitats Directive. This means that if the conclusions at the end of the screening exercise are that significant effects on any European sites, as a result of the proposed development, either alone or in combination with other plans and projects, are likely, uncertain or unknown, then an Appropriate Assessment must be carried out. This is in accordance with established precedent and case law.

3.2 Potential zone of influence

For the risk of a significant effect to occur there must be a 'source', such as a construction site; a 'receptor', such as a designated site for nature conservation; and a pathway between the source and the receptor, such as a watercourse that links the construction site to the designated site. A construction site or completed development may also create a barrier to movement, for example by preventing the migration of fauna along a river corridor, or by obstructing the migration of birds.

Although there may be a risk of an impact it may not necessarily occur, and if it does occur, it may not be significant.

Identification of a potential effect means that there is a possibility of ecological or environmental damage occurring, with the level and significance of the impact depending upon the nature and exposure to the potential effect and the characteristics of the receptor.

There are no set recommended distances for projects to consider European sites as being relevant for assessment. Rather, NPWS (2010) recommends that '*the distance should be evaluated on a case-by-case basis with reference to the nature, size and location of the project, and the sensitivities of the ecological receptors, and the potential for in combination effects*'. It is often considered appropriate to include all European sites within 15km.

However, in some instances where there are hydrological connections a whole river catchment or a groundwater aquifer may need to be included. Similarly where bird flight paths are involved the impact may be on an SPA more than 15 km away. Taking this into account, as a starting point a search was carried out for all European sites

Proposed Redevelopment at Bishop Lucey Park, Cork City

Appropriate Assessment Screening Report

within 15km of the site at Bishop Lucey Park. This search was then extended in order to ensure that all European sites with any potential links/pathways to the proposed development were accounted for in the study.

3.3 Study area and surrounding environment

3.3.1 Site location and European sites

The site (see **Figure 1**) is located between South Main Street and the Grand Parade in the medieval quarter of Cork city. The eastern side faces the Grand Parade, while the southern side faces the rear of the 2, 3 and 4-storey buildings that face onto Tuckey Street and South Main Street. A 19th century dormer 3-storey building is located at the junction of Tuckey Street and South Main Street to the east, with the remains of the adjacent building, its ground floor front elevation sited within the boundary plot, fronting onto South Main Street. The western boundary has a combined low wall and railing fronting South Main Street. The northern edge has Christ Church Lane as its boundary and faces the former Christchurch Church (now the Triskel Arts Centre) and Christchurch graveyard. Towards the West of the Site is the exposed remains of the medieval city wall.

There are no watercourses on the site³ other than a fountain installed in the 1980s. The nearest water feature is the River Lee itself – the South Channel of the Lee is approximately 125m to the south.



Figure 1: Location of the proposed development site (refer to accompanying documentation for full details)

There are 2 European sites (1 SAC and 1 SPA) located within a 15km radius of the proposed development site (see **Figure 2**). These are:

- **Special Areas of Conservation (SAC)**
 - Great Island Channel SAC (site code 001058), c.9.1km to the east;

³ <https://gis.epa.ie/EPAMaps/>

Proposed Redevelopment at Bishop Lucey Park, Cork City

Appropriate Assessment Screening Report

- **Special Protection Areas (SPA)**

- Cork Harbour SPA (site code 004030), c.3.1km to the south east;

Beyond the 15km zone, there are a number of additional European sites:

- Blackwater River (Cork/Waterford) SAC (site codes 002170), c.15.6km to the north;
 - Sovereign Islands SPA (site code 004124), c.24.4km to the south west.

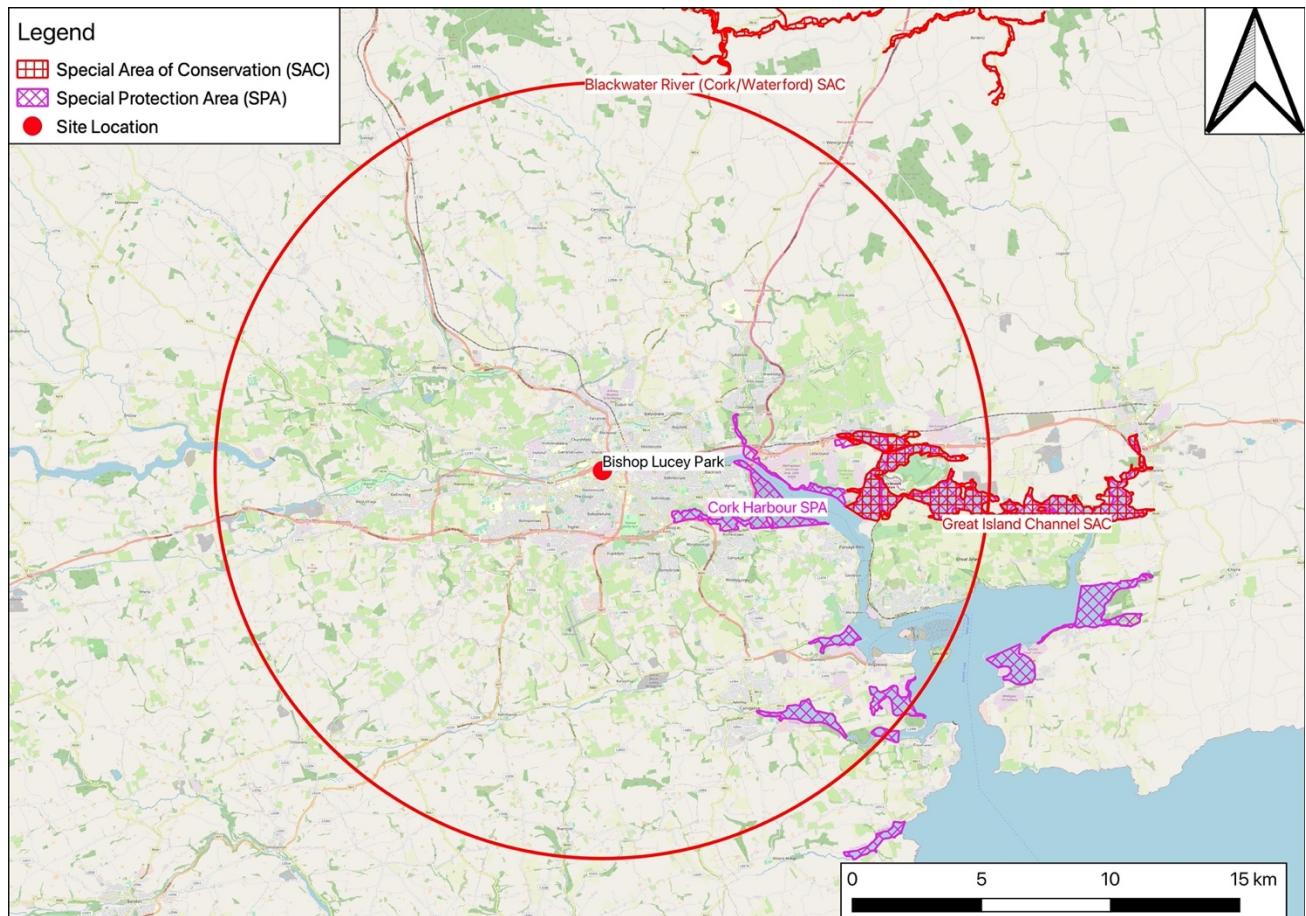


Figure 2: Proposed development site showing European sites

3.3.2 Other designated areas (other than European sites)

The nearest site designated for nature conservation is Cork Lough proposed Natural Heritage Area (pNHA site code 001081). At its closest point the pNHA is c.1km from the proposed development site, to the south west.

Lee Valley pNHA (site code 000094) is c.3km to the west and Douglas River Estuary pNHA (site code 001046) is c.3.2km to the south east. This pNHA is also part of Cork Harbour SPA.

Proposed Natural Heritage Areas are included in this report in order to address their potential to act as supporting sites for the European sites.

4 Description of the proposed development

The proposed improvement works will include the following:

- A 'plinth' to the centre of the site, raised slightly above the prevailing levels to allow the retention of the existing trees which define the centre of the site. The plinth will have a concrete perimeter/edge, and will be surfaced in a mixture of granite paving, setts and compacted gravel. The plinth will have ramps, steps and handrails to facilitate edge protection and access;
- Three new concrete structures are proposed: 1. Pavilion to the east, 2. Modest shelter to the north-west, 3. Tower to the south-west on South Main Street. The pavilion and shelter will both have a sedum/wildflower roof;
- Excavation around the Medieval Wall, to further expose its north to south run through the eastern edge of the park, and to provide terraced seating between the Medieval wall and existing arches;
- Potential conservation/repair works to the Medieval Wall;
- The addition of new low level planting throughout the park, selected for pollinator friendly, aesthetic and functional requirements;
- A light touch, vegetation management and planting strategy to the Christchurch graveyard, without disturbing any archaeology;
- A new bridge allowing level access from Grand Parade to the new plinth;
- A new water feature adjacent to the Medieval wall and terraced seating;
- The retention and renovation of the existing sculpture and water feature to the centre of the park;
- The inclusion of two drinking fountains;
- The removal of some existing walls to the perimeter of the park, with some walls retained and just the railings removed;
- The retention and renovation of the Boxer's wall to the centre of the site;
- The inclusion of a new SUDs drainage strategy;
- The inclusion of a new lighting strategy;
- The addition of benches and other objects related to play;
- The removal of 7 trees, and the addition of 7 semi-mature trees.

Proposed Redevelopment at Bishop Lucey Park, Cork City

Appropriate Assessment Screening Report



Figure 3: Proposed layout plan (refer to accompanying documentation for full details)

5 Potential impacts from the proposed development

5.1 European sites and habitats with links to European sites

The proposed development site is not under any wildlife or conservation designation. Furthermore, no rare, threatened or legally protected plant species, as listed in the *Irish Red Data Book 1 – Vascular Plants* (Curtis & McGough, 1988), the *Flora Protection Order*, 2015 or the *EU Habitats Directive*, are known to occur within the site. None were recorded during the field survey and given the habitats present (amenity grass, parkland trees, ornamental planting and hardstanding) there is no likelihood of such species ever being present.

No features of any ecological significance are present on the proposed development site. Bat surveys undertaken in the preparation of this Part 8 application confirmed that there are no bats roosting in the park itself or in the adjacent Triskel Arts Centre. Very small numbers of bats were recorded in the area, however, there will be no significant impacts on habitats of any importance for commuting/foraging bat species as a result of the proposed development. Similarly no roosting bats will be affected by the proposed development. In addition no evidence of any protected species such as badger, common frog or smooth newt, or rare or protected plants, was recorded during the survey carried out, and the habitats present are entirely unsuitable for such species.

Overall the site has no key ecological receptors as defined by the ecological resource valuations presented in the National Roads Authority/Transport Infrastructure Ireland *Guidelines for Assessment of Ecological Impacts of National Road Schemes*⁴.

⁴ (NRA, 2009 (Rev. 2) <https://www.tii.ie/technical-services/environment/planning/Guidelines-for-Assessment-of-Ecological-Impacts-of-National-Road-Schemes.pdf>

Proposed Redevelopment at Bishop Lucey Park, Cork City

Appropriate Assessment Screening Report

5.1.1 Potential impacts during construction

The proposed development is small in scale and comprises relatively minor works in an existing urban park. The potential for any significant impacts on any local biodiversity receptors is negligible.

Regardless, all site clearance and construction activities pose a potential risk to water as **surface/ground** water arising at a site may contain contaminants. The main contaminants arising from construction activities may include suspended solids, hydrocarbons and concrete/cement products. If not properly managed, such pollutants could pose a temporary risk to surface water quality in the local surface water network during construction.

There is therefore a potential surface water pathway, via the local surface water drainage network between the proposed development site at Bishop Lucey Park and both Cork Harbour SPA and Great Island Channel SAC. There is also a potential groundwater pathway between the proposed development site and the European sites should indirect discharges (i.e. spillages to ground) occur, or should any contamination on the site enter the ground water.

Despite the presence of potential pathways to Cork Harbour SPA and Great Island Channel SAC, the risk of contamination of surface water or groundwater is extremely low if not negligible, and even in the event of a pollution incident significant enough to impact upon surface water quality at the proposed development site itself **this would not be perceptible in any European sites (the European sites of Cork Harbour)**, for the following reasons:

- The nearest designated site, Cork Harbour SPA, is c.3.1km from the proposed development site (straight-line distance to the south east) at its closest point at Douglas River Estuary. It is c.5.1km downstream via the River Lee to Blackrock Castle. There is no perceptible risk to this SPA, or to Great Island Channel SAC (c.9.1km to the east), or to any other European site as there is no realistic source pathway linkage from the proposed development through natural surface water features or public sewers which could result in any change to the current water regime (water quality or quantity) in Cork Harbour;
- The estuarine habitats in Cork Harbour are robust and a significant level of dilution and mixing of surface and sea water would occur in any event. Upon reaching the harbour any pollutants would be even further diluted and dissipated by the receiving waters;
- The construction/installation of the proposed development will take place over a short period and there is no possibility of long-term impacts arising as a result of the construction elements of the proposed development, given the nature and scale of the proposed development and its location in an already-developed city centre park at a remove from the European sites.

There is no possibility of any other potential direct, indirect or secondary impacts on any European site during the construction phase. For example there will be no land-take from any European site and there will be no resource requirements such as water abstraction. Similarly there will be no emissions to air from construction vehicles that could remotely impact any European site. Any potential dust, noise and vibration arising during construction will similarly be entirely remote from any European site.

Demolition and construction-related impacts as a result of the proposed development, on European sites or otherwise, can therefore be excluded.

There will be no loss, fragmentation, disruption, disturbance or other change to any element of any European site as a result of the construction of the proposed development, and no interference with the key relationships that define the structure or function of any European site.

5.1.2 Potential impacts during operation

As noted in Section 4 the proposed development is minor in scale. There will be no new emissions to air or water from the proposed redevelopment. Stormwater run off will tie into the existing stormwater management system

Proposed Redevelopment at Bishop Lucey Park, Cork City

Appropriate Assessment Screening Report

on site and there are no proposed elements being added to the park that require foul water drainage services within the park.

A detailed flood risk assessment, included in the Engineering report prepared by Horgan Lynch Consulting Engineers, confirmed that as the proposed development comprises appropriate development and the Justification Test⁵ is not required.

Significant effects as a result of the operation of the proposed development, on European sites or otherwise, can therefore be excluded.

Full details of the potential impacts of the proposed development on European sites are presented in **Table 1**.

⁵ <https://www.opr.ie/wp-content/uploads/2019/08/2009-Planning-System-Flood-Risk-Mgmt-1.pdf>

Proposed Redevelopment at Bishop Lucey Park, Cork City

Appropriate Assessment Screening Report

Table 1 lists relevant European sites and outlines their Qualifying Interests/Special Conservation Interests and Conservation Objectives

European Site	Reasons for designation (information correct as of 13 July 2021) (*denotes a priority habitat)	Source – Pathway – Receptor link
Great Island Channel SAC (site code 001058), c.9.1km to the east	<ul style="list-style-type: none"> Mudflats and sandflats not covered by seawater at low tide [1140] Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330] <p>According to the site specific Conservation Objectives for the SAC (dated 6 June 2014), for the two listed QIs, the Conservation Objective is to maintain (in the case of mud and sandflat habitat) or restore (in the case of the Atlantic salt meadow habitat) the favourable condition, as defined by the range of attributes and targets set out. As appraised in this report, the proposed development will have no impact on these Conservation Objectives.</p> <p>According to the SAC's Natura 2000 information this site comprises the north-eastern part of Cork Harbour. It includes all of the Great Island Channel, the intertidal areas between Fota Island and Little Island, and also the estuary of the Dungourney and Owennacurra Rivers as far as Midleton. The North Channel is on average 1 km wide but extends for about 9 km from east to west. The area is well sheltered and the intertidal sediments are predominantly fine muds. In addition to the estuarine habitats, the site includes some wet grassland areas which are used by roosting birds, as well as some broad-leaved woodland at Fota Island. Compared to the rest of Cork Harbour, the Great Island Channel is relatively undisturbed, with aquaculture the main activity.</p> <p>The site is of ecological importance for its examples of intertidal mud and sand flats and Atlantic salt meadows of the estuarine type. Both habitats are fairly extensive in area and of moderate to good quality. Site has high ornithological importance, supporting regularly c.50% of the wintering waterfowl of Cork Harbour. Significant proportions of the internationally important populations of <i>Limosa limosa</i> and <i>Tringa totanus</i> which winter in Cork Harbour utilise the site and it supports nationally important populations of a further 12 species, including <i>Pluvialis apricaria</i> and <i>Limosa lapponica</i>, both listed on Annex I of the EU Birds Directive.</p>	<p>No significant effects on water quality, and therefore on the site's QIs, are predicted.</p> <p>Surface/ground water arising during the site clearance, construction and operation of the proposed redevelopment of Bishop Lucey Park could contain pollutants (foul water, silt, hydrocarbons and other chemicals). Such contaminated water could potentially discharge to the ground or the local surface water drainage network and from there, eventually, to Cork Harbour via the River Lee.</p> <p>There would be no significant effects on the conservation objectives of the European site should this occur, given the nature, size and location of the proposed development, as described in Section 5.1.1 and 5.1.2. Even in the event of a pollution incident (such as a fuel or cement spill) significant enough to impact upon surface/ground water quality in the proposed development site, any pollution from the construction site would be minimal in quantity and if it entered any watercourse or Cork Harbour it would be so diluted as to be undetectable by the time the water enters the harbour and would not be perceptible in Great Island Channel SAC.</p> <p>This is due to the separation between the proposed development site and the European site. In addition, significant dilution and mixing of surface and sea water would occur. Upon reaching the harbour any pollutants would be even further diluted and dissipated by the receiving waters. Furthermore, the redevelopment works will take place over a comparatively short period and there is no possibility of long-term impacts arising as a result of the construction elements of the proposed development given the nature and scale of the proposed development at a remove from the European sites.</p> <p>There will be no loss of habitat or species, fragmentation or disturbance to the qualifying interests of this site as a result of the proposed development.</p> <p>No operational impacts on this European site will occur as a result of the proposed development.</p>

Proposed Redevelopment at Bishop Lucey Park, Cork City

Appropriate Assessment Screening Report

European Site	Reasons for designation (information correct as of 13 July 2021) (*denotes a priority habitat)	Source – Pathway – Receptor link
Cork Harbour SPA (site 004030), c.3.1km to the south east	<ul style="list-style-type: none"> • Little Grebe (<i>Tachybaptus ruficollis</i>) [A004] • Great Crested Grebe (<i>Podiceps cristatus</i>) [A005] • Cormorant (<i>Phalacrocorax carbo</i>) [A017] • Grey Heron (<i>Ardea cinerea</i>) [A028] • Shelduck (<i>Tadorna tadorna</i>) [A048] • Wigeon (<i>Anas penelope</i>) [A050] • Teal (<i>Anas crecca</i>) [A052] • Pintail (<i>Anas acuta</i>) [A054] • Shoveler (<i>Anas clypeata</i>) [A056] • Red-breasted Merganser (<i>Mergus serrator</i>) [A069] • Oystercatcher (<i>Haematopus ostralegus</i>) [A130] • Golden Plover (<i>Pluvialis apricaria</i>) [A140] • Grey Plover (<i>Pluvialis squatarola</i>) [A141] • Lapwing (<i>Vanellus vanellus</i>) [A142] • Dunlin (<i>Calidris alpina alpina</i>) [A149] • Black-tailed Godwit (<i>Limosa limosa</i>) [A156] • Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] • Curlew (<i>Numenius arquata</i>) [A160] • Redshank (<i>Tringa tetanus</i>) [A162] • Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] • Common Gull (<i>Larus canus</i>) [A182] • Lesser Black-backed Gull (<i>Larus fuscus</i>) [A183] • Common Tern (<i>Sterna hirundo</i>) [A193] • Wetlands [A999] <p>According to the Site specific Conservation Objectives for the SPA (dated 16 December 2014), for each of the listed SCIs, the Conservation Objective is to maintain the favourable condition, as defined by the range of attributes and targets set out. As appraised in this report, the proposed development will have no impact on this Conservation Objective.</p> <p>According to the SPA's Natura 2000 information Cork Harbour is a large, sheltered bay system, with several river estuaries - principally those of the Rivers Lee, Douglas, Owenboy and Owenacurra. The site comprises the main intertidal areas of Cork Harbour, including all of the North Channel, the Douglas Estuary, inner Lough Mahon, Monkstown Creek, Lough Beg, the Owenboy Estuary, Whitegate Bay and the Rostellan inlet. Owing to the sheltered conditions, the intertidal flats are often muddy in character. Salt marshes are scattered through the site and these provide high tide roosts for the birds. Otherwise, birds roost on stony shorelines and in some areas fields adjacent to the shore. Some shallow bay water is</p>	<p>No significant effects on water quality, and therefore on the site's SCIs, are predicted.</p> <p>Surface/ground water arising during the site clearance, construction and operation of the proposed redevelopment of Bishop Lucey Park could contain pollutants (foul water, silt, hydrocarbons and other chemicals). Such contaminated water could potentially discharge to the ground or the local surface water drainage network and from there, eventually, to Cork Harbour via the River Lee.</p> <p>There would be no significant effects on the conservation objectives of the European site should this occur, given the nature, size and location of the proposed development, as described in Section 5.1.1 and 5.1.2. Even in the event of a pollution incident (such as a fuel or cement spill) significant enough to impact upon surface/ground water quality in the proposed development site, any pollution from the construction site would be minimal in quantity and if it entered any watercourse including the River Lee it would be so diluted as to be undetectable by the time the water enters the harbour and would not be perceptible in Cork Harbour SPA.</p> <p>This is due to the separation between the proposed development site and the European site. In addition, significant dilution and mixing of surface and sea water would occur. Upon reaching the harbour any pollutants would be even further diluted and dissipated by the receiving waters. Furthermore, the redevelopment works will take place over a comparatively short period and there is no possibility of long-term impacts arising as a result of the construction elements of the proposed development given the nature and scale of the proposed development at a remove from the European sites.</p> <p>There will be no loss of habitat or species, fragmentation or disturbance to the special conservation interests of this site as a result of the proposed development.</p> <p>No operational impacts on this European site will occur as a result of the proposed development.</p>

Proposed Redevelopment at Bishop Lucey Park, Cork City

Appropriate Assessment Screening Report

European Site	Reasons for designation (information correct as of 13 July 2021) (*denotes a priority habitat)	Source – Pathway – Receptor link
	<p>included in the site. Cork Harbour is adjacent to a major urban centre and a major industrial centre.</p> <p>Cork Harbour is an internationally important wetland site, regularly supporting in excess of 20,000 wintering waterfowl, for which it is amongst the top five sites in the country. It supports an internationally important population of <i>Tringa totanus</i>. A further 15 species have populations of national importance, with particularly notable numbers of <i>Tadorna tadorna</i> (9.6% of national total), <i>Anas clypeata</i> (4.5% of total), <i>Anas acuta</i> (4.2% of total) and <i>Phalacrocorax carbo</i> (4.1% of total) occurring. It has regionally important populations of <i>Pluvialis apricaria</i> and <i>Limosa lapponica</i>. Passage waders are regular, including <i>Philomachus pugnax</i> and <i>Tringa erythropus</i>. It is an important site for gulls in winter and autumn, especially <i>Larus canus</i> and <i>Larus fuscus</i>. The site provides both feeding and roosting areas for the waterfowl species. The quality of most of the estuarine habitats is good. The wintering birds have been well-monitored since the 1970s. The site has a breeding colony of <i>Sterna hirundo</i> which is of national importance. The colony is monitored annually and the chicks ringed.</p>	

*This table considers the two European sites associated with Cork Harbour. As noted in this report, no other sites are remotely linked to the proposed development site, by virtue of distance, lack of a pathway and the reasons for their designation.

5.2 Summary of potential impacts of the proposed development

There will be no loss of any habitat or species listed as a QI or SCI of any designated site as a consequence of the proposed development. There is, therefore, no potential for the effects of habitat loss or fragmentation to occur.

There will also be no significant effects on any European sites as a result of:

- Land-take;
- Resource requirements such as water abstraction;
- Impacts to habitat structure;
- Mortality to species (such as roadkill);
- Noise pollution/vibration impacts;
- Light pollution;
- Air pollution.

6 Other issues

No invasive plant species (*i.e.* those species listed on Schedule 3 of the *Birds and Habitats Regulations, 2011-2015*, such as Japanese knotweed or giant hogweed) were identified on site.

Additionally, for the reasons outlined in this report for the European sites, no impacts on any other designated sites including proposed Natural Heritage Areas, will occur.

7 Mitigation specific to European sites

In relation to European sites, there will be no impacts as a result of the proposed development. Therefore no mitigation is necessary or proposed for the protection of European sites or which was intended to avoid or reduce impacts on any European sites. Accordingly, this screening assessment is consistent with the judgment of the European Court in Case C-323/17, *People Over Wind & Sweetman v Coillte* (Judgment of the Court (Seventh Chamber) of 12 April 2018) and the recent case-law of the High Court, including *Heather Hill Management Company CLG v An Bord Pleanála* [2019] IEHC 450 and *Sweetman v An Bord Pleanála* [2020] IEHC 39.

8 In-combination effects

It is a requirement of Section 177U of the Planning Acts that when considering whether a plan or project will have a significant effect on a European site the assessment must take into account in-combination effects with other plans and projects. The assessment should consider plans and projects that are completed, approved but uncompleted, or proposed (but not yet approved)⁶. If there are identified effects arising from the plan or project even if they are perceived as minor and not likely to have a significant effect on the integrity of a European site alone, then these effects must be considered 'in-combination' with the effects arising from other plans and projects.

Cork City Council proposes to undertake public realm improvements to the streets and existing bridges to the west of the project area as part of the Beamish & Crawford Quarter Infrastructure project. That proposed development seeks approval for the removal of the existing pavement, public lighting, trees and street furniture and the upgrading and installing new pavement, public lighting, trees and street furniture. As with the proposed redevelopment of Bishop Lucey Park, the Beamish & Crawford Quarter Infrastructure Project is being brought

⁶ *Assessment of Plans and Projects Significantly Affecting European sites: Methodological Guidance on the Provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC* (European Commission Environment Directorate-General, 2001)

Proposed Redevelopment at Bishop Lucey Park, Cork City

Appropriate Assessment Screening Report

forward as a Part 8 project by Cork County Council. However, despite their relative proximity the two projects are entirely separate and unrelated. Neither project relies on the other to proceed. The proposed Beamish & Crawford project has been/was/will be subject to screening for Appropriate Assessment and the screening process concluded that the proposed Beamish & Crawford Quarter Infrastructure, either alone or in-combination with other plans and/or projects, does not have the potential to significantly affect any European Site, in light of their conservation objectives. Therefore, a Stage 2 Appropriate Assessment is not required.

No other developments are proposed within the immediate vicinity of the site that would, in combination with the development under appraisal in this report, give rise to significant effects. Furthermore, the policies and objectives set out in the Cork City Development Plan are intended to protect the environment while encouraging development in appropriate areas.

There will be no impact on the flow of water through the area, nor any increase in potential flood impacts. The proposed redevelopment of Bishop Lucey Park complies with all of the relevant Plan objectives.

A number of other plans were considered when assessing in-combination effects, but it was determined that there would be no in-combination effects with these:

- National Planning Framework;
- Regional Spatial and Economic Strategy;
- Climate Action and Mitigation Plan;
- National Biodiversity Plan; and,
- River Basin Management Plan.

9 Screening conclusion

In view of best scientific knowledge this report concludes that the proposed redevelopment of Bishop Lucey Park, individually or in combination with another plan or project, will not have a significant effect on any European sites. This assessment was reached without considering or taking into account mitigation measures or measures intended to avoid or reduce any impact on European sites.

It is considered that this report provides sufficient relevant information to allow the Competent Authority (Cork City Council) to carry out an AA Screening, and reach a determination that the proposed development will not have any likely significant effects on European sites under Article 6 of the Habitats Directive in light of their conservation objectives.

Appendix I: Background

The European⁷ network is a Europe-wide network of ecologically important sites (SPAs and cSACs – also known as ‘European Sites’ or ‘Natura 2000 sites’) that have been designated for protection under either the EU Birds Directive (Council Directive 79/409/EEC on the Conservation of Wild Birds) or the EU Habitats Directive (Council Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Flora and Fauna).

The main aim of the Habitats Directive is “*to contribute towards ensuring biodiversity through the conservation of natural habitats of wild fauna and flora in the European territory of the Member States to which the treaty applies*”. Any actions taken must be designed to “*maintain or restore, at a favourable conservation status, natural habitats and species of wild fauna and flora of Community interest*”. Under Article 6 of the Habitats Directive, an assessment is required where a plan or project may give rise to significant effects upon a European site.

In addition, it is a matter of law that candidate SACs (cSACs) and Sites of Community Importance (SCI) are considered in this process;

Article 6 (paragraphs (3) and (4)) of the Habitats Directive states that:

(3) Any plan or project not directly connected with or necessary to the management of the site but likely to have 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.

(4) If, 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 be carried out for imperative reasons of overriding public interest, including those of social or economic nature, the Member State shall take all compensatory measures necessary to ensure that the overall coherence of Natura 2000 is protected. It shall inform the Commission of the compensatory measures adopted.

Where the site concerned hosts a priority natural habitat type and/or a priority species, the only considerations which may be raised are those relating to human health or public safety, to beneficial consequences of primary importance for the environment or, further to an opinion from the Commission, to other imperative reasons of overriding public interest.

The requirements of the Habitats Directive are transposed into Irish law by means of the Birds and Natural Habitats Regulations and by the Planning Acts.

In Ireland, the statutory agency responsible for the designated areas is NPWS.

Stages in the assessment

European Commission guidance (2001)⁸ sets out the principles on how to undertake decision making in applying the Habitats Directive. The requirements of the Habitats Directive comprise four distinct stages:

Stage 1: Screening is the process which initially identifies the likely significant effects upon a European site of a project or plan, either alone or in combination with other projects or plans, and considers whether these impacts may be significant. It is important to note that the burden of evidence is to show, on the basis of objective information, that there will be no significant effect; if the effect may be significant, or is not known, that would trigger the need for an Appropriate Assessment. There is European Court of Justice case law to the

⁷ The EU Habitats Directive, Article 3.1, states “A Coherent European ecological network of Special Areas of Conservation and Special Protection Areas pursuant to Directive 79/409/EEC shall be set up under the title European”

⁸ European Commission (2001) *Assessment of Plans and Projects Significantly Affecting European Sites: Methodological Guidance on the Provisions of Article 6 (3) and (4) of the Habitats Directive 92/43/EEC*

effect that unless the likelihood of a significant effect can be ruled out on the basis of objective information, then an Appropriate Assessment must be made.

Stage 2: Appropriate Assessment is the detailed 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 conservation objectives and its structure and function. This is to determine with scientific certainty whether or not there will be adverse effects on the integrity of the site in light of its conservation objectives. This stage also includes the development of mitigation measures to avoid or reduce any possible impacts.

Stage 3: Assessment of alternative solutions is the process which examines alternative ways of achieving the objectives of the project or plan that would avoid impacts on the integrity of the European site, should avoidance or mitigation measures be unable to cancel out adverse effects.

Stage 4: Assessment where no alternative solutions exist and where adverse impacts remain. At Stage 4 an assessment is made with regard to whether or not the development is necessary for imperative reasons of overriding public interest (IROPI) and, if so, of the compensatory measures needed to maintain the overall coherence of the European network.

Conservation Objectives of European sites

The conservation objectives for a European Site are intended to represent the aims of the Habitats and Birds Directives in relation to that site. To this end, habitats and species of European Community importance should be maintained or restored to 'favourable conservation status' (FCS), as defined in Article 1 of the Habitats Directive below:

The conservation status of a natural habitat will be taken as 'favourable' when:

- Its natural range and the 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;
- Conservation status of typical species is favourable as defined in Article 1(i).

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

Guidance from the European Commission⁹ indicates that the Habitats Directive intends FCS to be applied at the level of an individual site, as well as to habitats and species across their European range. Therefore, in order to properly express the aims of the Habitats Directive for an individual site, the conservation objectives for a site are essentially to maintain (or restore) the habitats and species of the site at (or to) FCS.

The European Commission guidance recommends that screening should fulfil the following steps:

1. Determine whether the plan (or policy) is directly connected with or necessary for the management of European sites;
2. Describe the plan and describe and characterise any other plans or projects which, in combination, have the potential for having significant effects on European sites;
3. Identify the potential effects on European sites;

Assess the likely significance of any effects on European sites.

⁹ Managing European sites: the provisions of Article 6 of the Habitats Directive 92/43/EEC. (European Commission 2000)

Brady Shipman Martin

DUBLIN

Canal House
Canal Road
Dublin 6
+353 1 208 1900

CORK

Penrose Wharf Business Centre
Penrose Wharf
Cork
+353 21 242 5620

LIMERICK

11 The Crescent
Limerick
+353 61 315 127

mail@bradyshipmanmartin.com
www.bradyshipmanmartin.com

