

**Habitats Directive Appropriate Assessment
Screening Determination**

Youghal Courthouse and Public Realm Works, Youghal, Co. Cork



Cork County Council
Comhairle Contae Chorcaí

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1 Introduction

This document contains the Habitats Directive screening assessment and determination of Cork County Council in respect of project which involves the refurbishment of the former Courthouse building and associated former soup kitchen for use as new exhibition spaces within Youghal town along with public realm improvements on Market Square and Kent Street. The determination is based on the information provided in Appropriate Assessment Desktop Screening Report and drawings prepared in respect of the proposed scheme and the project description provided by the Architects Department.

Part XAB of the Planning and Development Act as amended, provides for the implementation of the EU Habitats Directive, and Section 177 of the Act, requires Planning Authorities to assess the impacts of land use plans and on proposed developments on sites that are designated for the protection of nature (European Sites¹) prior to the giving consent for development of such projects. This is to determine whether or not the projects could have negative consequences for the habitats, or plant and animal species for which these sites are designated. This assessment process is called a **Habitats Directive Assessment** (HDA). The requirements emanate from Article 6(3) of the Habitats Directive which states

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.

EU and National Guidance sets out two main stages to the assessment process which are as follows:

Stage One: Screening

The process which identifies what might be likely impacts arising from a project or a plan on a Natura 2000 site, either alone or in combination with other projects or plans, and considers whether these impacts are likely to be significant. No further assessment is required if no significant impacts on Natura 2000 sites are identified to be likely to arise, during the screening stage. The findings of the screening assessment are normally contained in a **Habitats Directive Screening Report**.

Stage Two: Appropriate Assessment

Where the possibility of significant impacts has not been discounted by the screening process, a more detailed assessment is required. This is called an Appropriate Assessment, and is completed by the Competent Authority, being authority delegated to give consent for the project. It involves the compilation of a **Natura Impact Statement** by the project proponent, which is a report of scientific evidence and data relating to European sites for which significant negative impacts have not been previously screened out. This is used by the Competent

Authority to identify and classify any implications of the project for these sites in view of their conservation objectives. The Appropriate Assessment must include a determination as to whether or not the project would adversely affect the integrity of any European site or sites. The project may only be consented if adverse effects on the integrity of European sites can be ruled out during the Appropriate Assessment process. The project may not be consented on foot of an Appropriate Assessment, if it is found that it will give rise to adverse impacts on one or more European sites, or if uncertainty remains in relation to potential impacts on one or more European sites.

The directive provides for a **derogation procedure** which can allow a plan or project to proceed in spite of a finding that the plan or project could / would give rise to adverse effects on the overall integrity of one or more Natura 2000 sites. Derogation procedures can only be progressed in very limited circumstances which are set out in Article 6(4) of the Directive (see below).

Habitats Directive Article 6(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 a 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.

EU and National Guidance identifies the procedures which must be followed in circumstances where a derogation from the Habitats Directive is sought to allow a project or a plan to proceed, despite a finding that it will give rise to adverse effects on the integrity of one or more Natura 2000 sites. These procedures can only be invoked where it has been shown that there are no alternative ways to implement the plan/project which avoid adverse effects on the integrity of one or more European sites, where it has been demonstrated that there are imperative reasons of overriding public interest for which the plan/project must proceed and where measures have been developed and provided to compensate for any losses to be incurred. These further stages are described below.

Stage Three: Assessment of alternative solutions

In circumstances where the potential for a plan or project to give rise to adverse effects on the integrity of a European site or sites has not been ruled out during the appropriate assessment process, it can only be considered for authorisation where it is demonstrated that there are no alternative solutions and that there are Imperative Reasons of Overriding Public Interest (IROPI) which can allow the plan or project to proceed. Stage three of a Habitats Directive Assessment involves the assessment of alternative solutions.

Stage Four: Assessment where no alternative solutions exist and where adverse impacts remain

The fourth stage of the Habitats Directive Assessment process involves demonstrating that Imperative Reasons of Overriding Public Interest exist, and the assessment of the compensatory measures which are proposed to be implemented. In every case in which a

local authority envisages approving or proceeding with a plan or project on grounds of IROPI, the Minister for Culture, Heritage and the Gaeltacht must be consulted.

The assessment may stop at any of the above stages if significant impacts on Natura 2000 sites can be ruled out.

Regulation 250 of the Planning and Development Regulations requires the Local Authority to complete Habitats Directive Screening in respect of development it proposes to progress.

This document presents the outcomes of the screening assessment of Cork County Council in respect of the Youghal Courthouse and Public Realm Works. All European sites within or close to the proposed works site, or that might have an ecological linkage to the proposed development have been identified and screened to determine whether there is potential for this project to give rise to significant impacts on the qualifying features of these sites.

2 Proposed Development

The proposed development relates to the refurbishment of the existing Youghal Courthouse and associated building which was previously in use as a soup kitchen and public realm improvement works at Kent Street and Market Square.

Refurbishment of Youghal Courthouse and The Soup Kitchen

The former District Courthouse building and Soup Kitchen are located on Market Square Youghal and the two buildings are separated by Barry's Lane. The Courthouse is bounded by Kent Street northeast on its main façade and Quay Lane on southeastern gable. Both buildings have been vacant for a number of years and have fallen into disrepair. Proposals include for the re-purposing of these buildings as new exhibition spaces for Youghal.

The principal elements of the redevelopment include the refurbishment of both building through the removal of some internal walls, regrading of floor levels, provision of a new stairs and lift, reconfiguration of internal layouts and upgrading of the existing building fabric. A new single story extension link between the soup kitchen and courthouse and entrance canopy is proposed in place of the existing courtyard area. It is noted that new fire exits to the building will also be required.

The building is currently connected to the existing water main and the existing main sewer. It is intended all existing main utility services will be utilised in this proposed development.

Public Realm Works

The proposed public realm enhancements include the following elements:

- locally raising the traffic table along a section of Kent Street and reducing the width of the existing carriageway.
- provision of 2no. new pedestrian crossing points at either end of the new raised table.

- provision of approx. 80no. (short-term) bicycle racks / bike bollards.
- removal/relocation of 7no. car parking spaces directly outside the courthouse and 2no. spaces across Kent St., numbering 9no. in total.
- provision of a level access plinth around the Courthouse building so as to allow universally access to the development. The plinth starts at the new entrance link building to the north-eastern façade and access ramp near the south-east corner.
- provision of a number of in ground trees and associated fixed seating in Market Square.
- Materials used will be in keeping with the existing built fabric and will be of high quality.

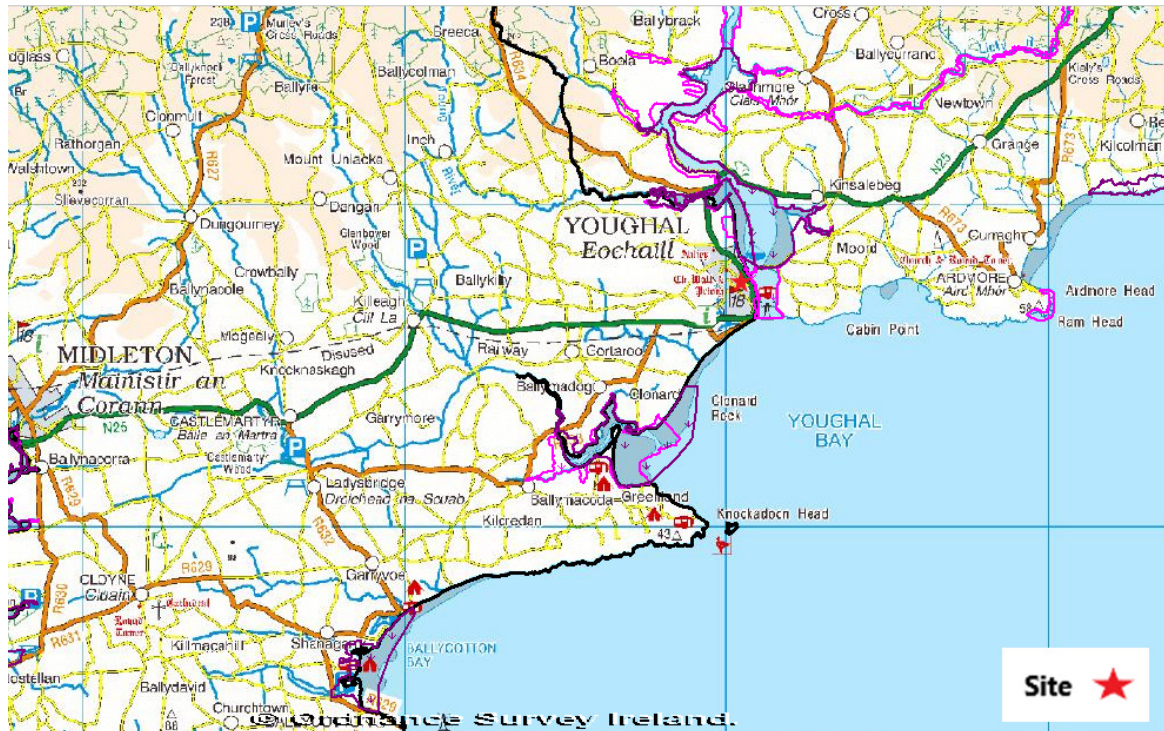
3 Development Site Details

The location of the site and development works are outlined in Figure 1 below.

Figure 1: Site Location showing location of proposed works



Figure 2: Site Location Relative to Cork Harbour SPA



4 EU Sites, Habitats & Species

There are five Natura 2000 sites within the general perimeter of Youghal Bay which have been considered as part of this assessment which are listed below and are identified in Figure 2 above.

1. **Blackwater River (Cork/Waterford) Special Area of Conservation (Site Code: 2170) – 40m to the east**
2. Ballymacoda (Clonpriest and Pillmore) SAC (Site Code: 0077) – 5.2km to the south
3. Ardmore Head SAC (Site Code: 002123) – 8.6km to the east
4. **Blackwater Estuary Special Protection Area (Site Code: 4028) – 400m to the north-east**
5. Ballymacoda Bay SPA (Site Code: 4023) - 3.7km to the south-west

A source-pathway-receptor link has been identified between the source (the proposed development site) and the two Natura 2000 sites identified in bold above, namely Blackwater River (Cork/Waterford) SAC and the Blackwater Estuary SPA. The source-pathway-receptor between the development and these sites are impacts on water quality and disturbance to species. Therefore, these Natura 2000 sites are considered further as part of this assessment.

Given the limited scale of the proposed development, lack of suitable habitat for species, the lack of a hydrological connection and the distances from the development to the remaining Natura 2000 sites, no potential for significant effects from the development on these other designated sites listed have been identified.

Blackwater River (Cork/Waterford) Special Area of Conservation (Site Code: 2170)

The Blackwater River SAC is designated for 18 qualifying interest habitats and species. These include:

Qualifying Interests

- Estuaries [1130]
- Mudflats and sandflats not covered by seawater at low tide [1140]
- Perennial vegetation of stony banks [1220]
- Salicornia and other annuals colonising mud and sand [1310]
- Atlantic salt meadows (*Glaucopuccinellietalia maritima*) [1330]
- Mediterranean salt meadows (*Juncetalia maritimi*) [1410]
- Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitriche-Batrachion* vegetation [3260]
- Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles [91A0]
- Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*) [91E0]
- *Margaritifera margaritifera* (Freshwater Pearl Mussel) [1029]
- *Austropotamobius pallipes* (White-clawed Crayfish) [1092]
- *Petromyzon marinus* (Sea Lamprey) [1095]
- *Lampetra planeri* (Brook Lamprey) [1096]
- *Lampetra fluviatilis* (River Lamprey) [1099]
- *Alosa fallax fallax* (Twaite Shad) [1103]
- *Salmo salar* (Salmon) [1106]
- *Lutra lutra* (Otter) [1355]
- *Trichomanes speciosum* (Killarney Fern) [1421]

Conservation Objectives, targets, attributes and distribution of qualifying interests of this site are available [here](#).

The Blackwater Estuary SPA

The Blackwater Estuary SPA is designated for the following special conservation interest species, with the conservation objectives to maintain the favourable conservation condition of each: Wigeon (*Anas penelope*), Golden Plover (*Pluvialis apricaria*), Lapwing (*Vanellus vanellus*), Dunlin (*Calidris alpina*), Black-tailed Godwit (*Limosa limosa*), Bar-tailed Godwit (*Limosa lapponica*), Curlew (*Numenius arquata*), Redshank (*Tringa totanus*) and wetland habitats.

Conservation Objectives, targets, attributes and distribution of qualifying interests of this site are available [here](#).

5 Screening Assessment

This section of the report examines whether the proposed project has the potential to negatively impact on the conservation status of the above listed qualifying interests of Blackwater River (Cork/Waterford) Special Area of Conservation and Blackwater Estuary SPA.

As set out in the NPWS and EU guidance, the favourable conservation status of a habitat is achieved when:

- its natural range, and area it covers within that range, are stable or increasing, and
- 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, and
- 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 potential for the proposed project to give rise to negative effects on the qualifying interest species for which this site is designated has been assessed and is set out below. Consideration has been given to the conservation objectives which have been set for the qualifying interest habitats and species, and the targets which have been set to achieve these. Taking account of same, particular focus has been given to activities which could:

- give rise to direct effects on special conservation interest supporting habitat (e.g. direct interventions within the SAC / SPA);
- give rise to indirect effects on special conservation interest supporting habitat (e.g. run-off of contaminated surface water at construction and operational stage in wetland habitat);
- cause significant disturbance to special conservation interests of the SPA;

An assessment of significance of potential effects in relation to points outlined above has been carried out. This assessment is based on potential for significant effects on the Blackwater River SAC and the Blackwater Estuary SPA having regard to the conservation objectives, targets and indicators associated with these sites. Risk of the proposed project giving rise to significant negative effects on these designated sites is ruled out for the following reasons:

Habitat Loss

Habitats recorded within the proposed development boundary do not correspond to habitats listed on Annex I of the Habitats Directive. There are no habitats on site with foraging potential for SCI birds. Development will not result in any significant deterioration in habitat quality or loss of habitat within any Natura 2000 sites.

Impacts from noise and disturbance

Although construction will increase noise and activity levels temporarily, it will not be significant in the context of existing noise levels (busy road, commercial quays and boat and ship traffic) in terms of disturbance to SCI of SPA and SCI of the Blackwater River SAC (Otter). Having regard to Otter's nocturnal and transient nature and adaptability to short term disturbance, any disturbance to Otter is not considered to be significant. No valuable habitat for SCI species was recorded within or adjacent to the proposed development site in any event. Having regard to existing urban environment, no impact on SCI is predicted to occur.

Impacts on water quality during

Although the buildings and works area is located partly within Flood Zones A and B, the works proposed will primarily take place internally within the building with limited potential for escapement externally. Works proposed within the public realm will comprise of minor resurfacing and regrading works. Given the limited scale of the works, there is limited potential for silt or hydrocarbon spillages associated with the project works. Any potential for silt and hydrocarbons to run off into the harbour area is considered unlikely to cause significant impacts on the conservation objectives of the Blackwater River SAC or Blackwater Estuary SAC having regard to the separation between the works area and the robust nature of estuarine habitats including mudflat and sandflat type habitats of the Blackwater River (Cork/Waterford) and wetland habitats associated within the Blackwater Estuary SPA and also having regard to available dilution rates associated with this tidal estuarine area. The proposed works are minor in nature and scale with no increase in operational surface water runoff predicted to occur. Therefore, potential for significant effects associated with water quality impacts on qualifying interests of the referenced Natura 2000 sites during construction or operational stage of the development is ruled out.

7 Screening Determination

The primary issues of ecological concern to designated European sites as a result of the proposal are activities have the potential to give rise to significant negative impacts on the qualifying interests associated with these sites e.g. disturbance / displacement of qualifying species, impact to water quality by introducing and toxic pollutants such as hydrocarbons, or increasing turbidity, silt or nutrients into aquatic or estuarine systems.

In accordance with Part 5 of the Birds and Natural Habitats Regulations it is determined that a Stage 2 Appropriate Assessment is not required because it can be excluded on the basis of the latest and best objective scientific information following screening, that this project, individually and/or in combination with other plans and projects, will not have a significant effect on the Blackwater River (Cork/Waterford) SAC and/or the Blackwater Estuary SPA in view of their conservation objectives and there will be no adverse effects on the integrity of the named European sites. It is therefore concluded that the proposed project does not pose a risk of significant effects on the integrity of any Natura 2000 site for the following reasons:

- There is no spatial overlap between the proposed development site and any Natura 2000 site;
- No direct loss, alteration or fragmentation of habitats will occur within any Natura 2000 site;
- The risk of surface water emissions associated with the proposed development is considered low. Given the small scale of the proposed development, the robust nature of estuarine qualifying habitats, and the lack of valuable habitat for aquatic QI species in the vicinity of the site, no impact on the conservation objective of the Blackwater River (Cork/Waterford) SAC

and Blackwater Estuary SPA or any other Natura 2000 site is predicted to occur during the construction or operational phase.

- No potential for in-combination effects have been identified.

It is therefore determined that Appropriate Assessment is not required.

8 References

NPWS Site Data

Information relating to individual Natura 2000 sites including Article 17 Conservation Assessment Reports for Habitats and Species In Ireland (2019), individual site synopses, Natura 2000 data forms, and information relating to the qualifying features and conservation objectives of individual sites was sourced from the NPWS database (www.NPWS.ie).

Guidance used in the preparation of this report included the following:

European Communities, Managing Natura 2000 sites. The provisions of Article 6 of the Habitats Directive 92/43/EEC. European Communities, 2000.

European Communities, 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 Communities, 2001.

Environment, Heritage and Local Government. Appropriate Assessment of Plans and Projects in Ireland. Guidance for Planning Authorities. 2009.

Other References:

Lewis, L., Burke, B., Fitzgerald, N., Tierney, D. & Kelly, S. (2019) Irish Wetland Bird Survey: Waterbird Status and Distribution 2009/10-2015/16.