

CUNNANE STRATTON REYNOLDS

Appropriate Assessment Screening Report


**Prepared by
Cunnane Stratton Reynolds**

**For a Part 8 planning application for
Kingscourt Town Centre Regeneration Scheme**

**At
Kingscourt, County Cavan.**

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Disclaimer: The advice in this report has been informed by a search of the available online planning history and development plan zoning objectives for the site in question, and excludes consideration of other existing or potential, perceived or actual issues including but not exclusively relating to wayleaves, other rights of way, ownership, availability or otherwise of access, flood risk, infrastructural constraints, and of other advices produced in relation to the site by other parties. Our advice has been prepared without consultation with any other party including the local authority in whose jurisdiction the site is located. We reserve the right to amend the advice contained in the report based upon the availability of further information as and when it may become available. The site boundary indicated in Figures are indicative only.

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1 INTRODUCTION

This AA Screening Assessment was undertaken by Cunnane Stratton Reynolds Ltd on behalf of Cavan County Council in respect of a Part 8 planning application as per Section 177U of the Planning and Development Act 2000 (as amended). The location of the application site is shown in Figure 1 below.

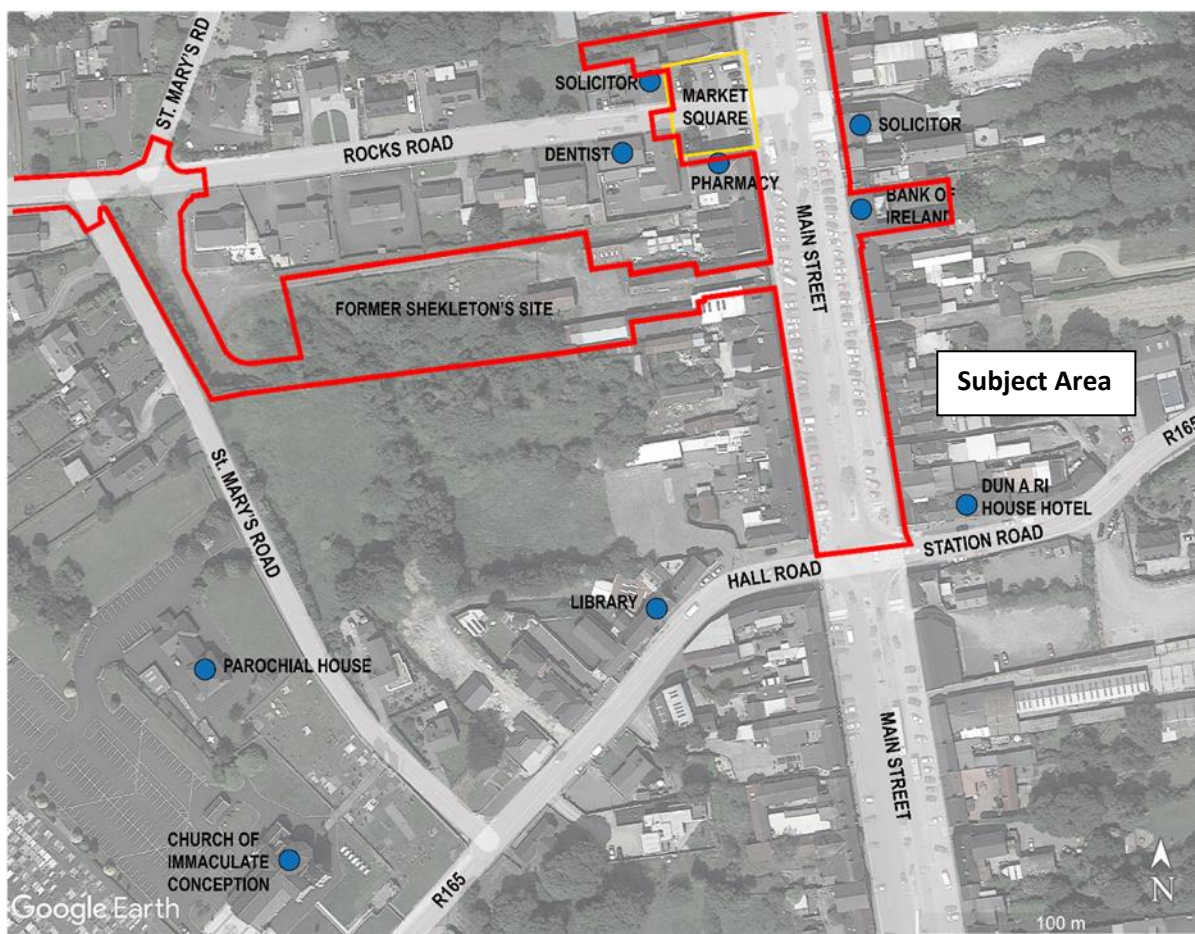


Figure 1: Location of the proposed development.

1.1 Legislative Context for Appropriate Assessment

The Council Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora, the “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’.

The Habitats Directive has been transposed into Irish law by Part XAB of the Planning and Development Act (as amended) and the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. 477/2011) as amended. In the context of the proposed development, the governing legislation is the Birds and Habitats Regulations. This Screening has been prepared on behalf of Cavan County Council as the Competent Authority responsible for undertaking the Screening for AA for this proposed development. Article 6(3) of the Habitats Directive set out the decision-making tests for plans and projects likely to adversely affect the integrity of European sites (Annex 1.1). Article 6(3) establishes the requirement for AA:

“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.”

Natura 2000 sites are defined under the Habitats Directive (Article 3) as a coherent European ecological network of special areas of conservation, composed of sites hosting the natural habitat types listed in Annex I and habitats of the species listed in Annex II, shall enable the natural habitat types and the species' habitats concerned to be maintained or, where appropriate, restored at a favourable conservation status in their natural range. In Ireland, these sites are designated as European sites and include Special Protection Areas (SPAs), established under the EU Birds Directive (79/409/EEC, as codified by 2009/147/EC) for birds and Special Areas of Conservation (SACs), established under the Habitats Directive 92/43/EEC for habitats and species.

The competent authority, Cavan County Council, is obliged to consider, in view of best scientific knowledge, whether the proposed works are likely to have a significant effect either individually or in combination with other plans and projects. If screening determines that there is likely to be significant effects on a European site, then AA must be carried out for the proposed discovery point project, including the compilation of a Natura Impact Statement (NIS) to inform the decision making.

1.2 Statement of Competence

This AA Screening was undertaken by Eamonn Prenter MIPI MRTPI, chartered town planner, with over 30-year post qualification experience, of which approximately 20 years have been spent on producing and managing AA Screening processes for projects and plans as described in *EC (2021) Assessment of plans and projects in relation to Natura 2000 sites – Methodological Guidance on Article 6(3) and (4) of the Habitats directive 92/43/EEC.* Such screening has been undertaken for a range of statutory and non-statutory development plans and over a range of projects including mixed use, residential, commercial leisure and recreation. His qualifications include Dip. Town Planning and MSc in Town Planning.

2 METHODOLOGY

2.1 Stages of Appropriate Assessment

The Department of the Environment, Heritage and Local Government guidelines (DELHG, 2009, rev. 2010) outlines the European Commission's methodological guidance (EC, 2002) promoting a four-stage process to complete the AA and outlines the issues and tests at each stage. An important aspect of the process is that the outcome at each successive stage determines whether a further stage in the process is required.

The four stages are summarised diagrammatically in Figure 2 below. Stages 1-2 deal with the main requirements for assessment under Article 6(3), and Regulation 42 of the Birds and Habitats Regulations. Stage 3 may be part of the Article 6(3) Assessment or may be a necessary precursor to Stage 4. Stage 4 is the main derogation step of Article 6(4).

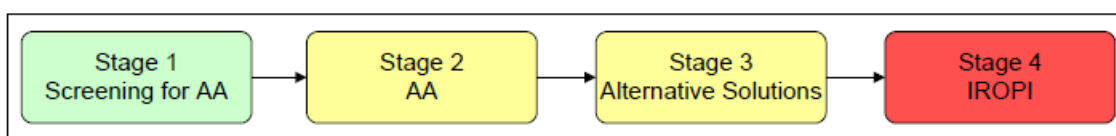


Figure 2: Four stages of Appropriate Assessment

Stage 1 - Screening is the process that addresses and records the reasoning and conclusions in relation to the first two tests of Article 6(3):

- i. whether a plan or project (in this instance the proposed project) is directly connected to or necessary for the management of the European sites, and
- ii. whether a plan or project, alone or in combination with other plans and projects, is likely to have significant effects on the European sites in view of their conservation objectives.

If the effects are deemed to be significant, potentially significant, or uncertain, or if the screening process becomes overly complicated, then the process must proceed to Stage 2 (AA). This report fulfils the information necessary to enable the competent authority to screen the proposal for the requirement to prepare an AA.

This report forms Stage 1 of the AA process as follows:

- Description of the proposed works;
- Characteristics of the proximal European sites; and
- Assessment of significance of the proposed works on the European sites in question.

The methodology followed in relation to this assessment has had regard to the following guidance and legislation:

- European Union Habitats Directive on the Conservation of Natural Habitats and of Wild Fauna and Flora 92/43/EEC;
- Appropriate Assessment of Plans and Projects in Ireland Guidance for Planning Authorities (DOEHLG 2009, rev 2010);
- The Planning and Development Act (as amended);
- Managing Natura 2000 Sites: the provisions of Article 6 of the 'Habitats' Directive 92/43/EEC, Office for Official Publications of the European Communities, Luxembourg (EC, 2018);
- European Commission Notice Brussels C (2021) 6913 final 'Assessment of plans and projects in relation to Natura 2000 sites - Methodological guidance on Article 6(3) and (4) of the Habitats Directive 92/43/EEC' (EC, 2021);
- Interpretation Manual of European Union Habitats. Version EUR 28. European Commission 2013;
- The European Union (Environmental Impact Assessment and Habitats) Regulations 2011; and
- The European Communities (Birds and Natural Habitats) Regulations, S.I. No. 477 of 2011 (as amended).

2.2 Information consulted for this report

The Screening assessment had regard to the following sources of data and information:

- Information on the location, nature and design of the proposed project;
- Department of Housing, Planning, and Local Government – online land use mapping www.myplan.ie/en/index.html;
- Department of Housing, Planning, and Local Government- EIA Portal <https://www.housing.gov.ie/planning/environmental-assessment/environmental-impact-assessmenteia/eia-portal>
- Environmental Protection Agency (EPA) – Water Quality www.epa.ie, <http://gis.epa.ie/Envision>;
- Geological Survey of Ireland – Geology, soils and Hydrogeology www.gsi.ie;
- Water Framework Directive website – www.catchments.ie;
- Inland Fisheries Ireland website and www.wfdfish.ie;

- National Parks and Wildlife Service – online European site network information, including site conservation objectives www.npws.ie;
- National Parks and Wildlife Service – Information on the status of EU protected habitats in Ireland (NPWS 2019);
- National Biodiversity Data Centre – www.biodiversityireland.ie;
- Ordnance Survey of Ireland – Mapping and Aerial photography www.osi.ie.

2.3 Screening Protocol

The following must be undertaken when conducting AA Screening:

- Ascertain whether the plan or project is necessary for the management of the European site;
- Description of the plan or project;
- Definition of the likely zone of influence for the proposed development;
- Identification of the European sites that are situated (in their entirety or partially or downstream) within the zone of influence of the proposed works;
- Identification of the most up-to-date Qualifying Interests (QI) and Scientific Information (SCIs) for each European site within the zone of influence;
- Identification of the environmental conditions that maintain the QIs/SCIs at the desired target of Favourable Conservation Status;
- Identification of the threats/impacts – actual or potential that could negatively impact the environmental conditions of the QIs/SCIs within the European sites;
- Highlighting the activities of the proposed works that could give rise to significant negative impacts; and
- Identification of other plans or projects, for which in-combination impacts would likely have significant effects.

2.3.1 Screening Determination

In accordance with Regulation 42(7) of the Birds and Natural Habitats Regulations 2011 (S.I. No. 477/2011) as amended, the competent authority, shall:

“determine that an Appropriate Assessment of a plan or project is not required where the plan or project is not directly connected with or necessary to the management of the site as a European site and if it can be excluded on the basis of objective scientific information following screening under this Regulation, that the plan or project, individually or in combination with other plans or projects, will have a significant effect on a European site”.

Further, under Regulation 42(8) (a):

“Where, in relation to a plan or project for which an application for consent has been received, a public authority makes a determination that an Appropriate Assessment is required, the public authority shall give notice of the determination, including reasons for the determination of the public authority, to the following—

the applicant,

if appropriate, any person who made submissions or observations in relation to the application to the public authority, or

if appropriate, any party to an appeal or referral.

And;

(b) Where a public authority has determined that an Appropriate Assessment is required in respect of a proposed development it may direct in the notice issued under subparagraph (a) that a Natura Impact Statement is required.”

2.3.2 Zone of Influence

EC (2021) *Assessment of plans and projects in relation to Natura 2000 sites - Methodological guidance on Article 6(3) and (4) of the Habitats Directive 92/43/EEC* requires identification of the European sites that may be affected and this should be done by taking into consideration all aspects of the plan or project that could have potential effects on any European sites located within the zone of influence of the plan or project. This must take into account all of the designating features (species, habitat types) that are significantly present on the sites and their conservation objectives.

Assessment should identify in particular the following:

- Any European sites geographically overlapping with any of the actions or aspects of the plan or project in any of its phases, or adjacent to them;
- Any European sites within the likely zone of influence of the plan or project. Natura 2000 sites located in the surroundings of the plan or project (or at some distance) that could still be indirectly affected by aspects of the project, including as regards the use of natural resources (e.g. water) and various types of waste, discharge or emissions of substances or energy;
- European sites in the surroundings of the plan or project (or at some distance) which host fauna that can move to the project area and then suffer mortality or other impacts (e.g. loss of feeding areas, reduction of home range);
- European sites whose connectivity or ecological continuity can be affected by the plan or project.
- The range of European sites to be assessed, i.e. the zone in which impacts from the plan or project may arise, will depend on the nature of the plan or project and the distance at which effects may occur.

2.3.3 Likely Significant Effects

The threshold for a likely significant effect is treated in the screening exercise as being above a *de minimis* level. The opinion of the Advocate General in CJEU case C-258/11 has indicated that:

“the requirement that the effect in question be ‘significant’ exists in order to lay down a de minimis threshold. Plans or projects that have no appreciable effect on a European site are thereby excluded. If all plans or projects capable of having any effect whatsoever on the site were to be caught by Article 6(3), activities on or near the site would risk being impossible by reason of legislative overkill.”

In the context of this report ‘relevant’ European sites are those within the potential zone of influence of the construction and / or operation of the proposed development, and to which likely significant effect pathways were identified through the source-pathway-receptor model.

3 PROJECT DESCRIPTION

The proposal consists of:

- Refurbishment, adaptation and extension of the former National Irish Bank building on Market Square as a new library and part-demolition of existing outbuilding;
- Refurbishment works to Protected Structure (RPS: CV35015), formerly Bank of Ireland building on Main Street and adaptation as a new “remote working hub”, with demolition of rear extension and replacement with new extension for universal accessibility;
- Reconfiguration of the former Shekleton’s site (RPS: CV35012), including: the partial demolition of the overhanging room above entrance gate, demolition of outbuildings located to the rear of the main building and demolition of former salon building to the north of Shekleton’s to accommodate new access road from Main Street to proposed off-street car parking area;
- Reconfiguration of road layout, car parking, and public realm enhancements to Main Street between Market Square and Kells Road Roundabout;
- New segregated cycleway along Main Street;
- Reconfiguration of road layout, car parking and public realm enhancements to Market Square;
- Proposed off-street car parking off Main Street and rear of Shekleton’s to accommodate 126 no. car parking spaces; including 9 no. accessible car parking, 2 no. EV spaces and 1 no. occasional loading bay;
- Proposed new access road from Rocks Road to the proposed off-street car parking area incorporating repairs to existing boundary walls within the curtilage of Protected Structure (RPS: CV35012);
- Junction improvements and traffic calming measures on Rocks Road and St. Mary’s Road to facilitate new access to off-street parking area;
- Public realm enhancements including new tree planting, greening, paving, street furniture, sustainable urban drainage systems (SUDs), street lighting, undergrounding of overhead cables, and associated works and services to Main Street, Market Square, Rocks Road and proposed off-street car parking area.

3.1 Existing Environment

The main street of Kingscourt is a particularly wide street enclosed by terraces of civic buildings, shops and houses. The street and town square appear to underperform to service pedestrians, cyclists, motorists, businesses, residents and visitors with a safe and comfortable environment, for all to use at ease creating added value for the town and visitor. Large commercial vehicles using the main street are common, servicing local business’ but creating an uncomfortable environment with functional and hard spaces and an absence of greenery, ornament, delight and safe places to linger. There are no watercourses or active drainage ditches within the footprint of the proposed site.

3.2 Description of European Sites

This stage of the screening for AA process describes European sites within the likely zone of influence of the works. The methodology for establishing the likely zone of influence is described in Section 2.3.2.

Connectivity between the proposed works and European sites has been reviewed. Connectivity is identified via the potential source-pathway-receptor model which identifies the potential impact pathways such as land, air, hydrological, hydrogeological pathways etc. which may support direct or indirect connectivity of the proposed works to European sites and/or their qualifying features.

In view of the characteristics of the proposed project (see Section 3) and the source, pathway and receptors of potential impacts, a 15km radius has been considered in this instance. This is considered an appropriate zone of influence to screen all likely significant effects that might impact upon the European sites in question in this instance. The establishment of the likely zone of influence is in line with EC (2021) *Assessment of plans and projects in relation to Natura 2000 sites - Methodological guidance on Article 6(3) and (4) of the Habitats Directive 92/43/EEC*.

There are 3 European sites located within 15km of the proposed development, 1 NHA, 1 SAC and 1 pNHA (Proposed Natural Heritage Area). None have any pathways direct or indirect to/from the application site. These features and qualifying interests of these designated sites are summarised below:

Ballyhoe Lough is a fairly acid, peaty lough which is divided into two by a strip of land covered by willow (*Salix* sp.), Common Reed (*Phragmites communis*) and Alder (*Alnus glutinosa*). Around the edge is a fringe of Common Reed (*Phragmites communis*), Clubrush (*Scirpus lacustris*) and White Water-lily (*Nymphaea alba*). The site includes a peninsula which contains wet grassland habitats and islands, covered with trees and shrubs, which are believed to be crannogs. The Lough is of local importance mainly because it is acid and peaty, in contrast to most Loughs in County Meath. (Source: NPWS).

Killyconny Bog is a raised bog situated approximately halfway between Virginia and Kells on the Cavan/Meath border and some 8km from each. It is underlain by Lower Palaeozoic shales and consists of two small basins which have coalesced over a low drumlin ridge. There are few raised bogs in the north-east region and Killyconny Bog seems to be one of the best developed. Though some marginal drainage and cutting has taken place, the central part of the bog is relatively intact (Source: NPWS).

Breakey Loughs is a Natural Heritage Area (NHA) located south-west of Kingscourt. It comprises two small lakes separated by freshwater marsh, wet woodland, cutover bog and wet grassland. The marginal grassland is used for grazing cattle. The freshwater lakes and adjacent woodland provides suitable cover for nesting birds. Its natural character and lack of disturbance make it attractive pNHA to waterfowl. Although no rare plants are recorded here, there is an excellent variety of species for such a small area and the site is of local importance as a refuge for species which are representative of these habitats. Current management appears to be appropriate, and the site has not been modified by any serious damaging factors (Source: NPWS).

4 SCREENING ASSESSMENT CRITERIA

4.1 Management of European Sites

AA Screening is not required where the proposed development is connected with, or necessary to, the management of any Designated Site. In this case the proposed development is not connected, directly or indirectly, with or necessary to the management of any Designated Site and in particular Ballyhoe Lough Natural Heritage Area (site code 001594) or Killyconny Bog Special Area of Conservation (site code 000006) located some 5.5km away.

4.2 Likely Direct, Indirect or Secondary Impacts of the Project on the European Sites

The location of the Designated Sites are shown below in Figures 3, 4 and 5, the distance of each to the application site, and the lack of any direct or indirect pathways to either should be noted. From what is a relatively modest development principally of refurbishment, reuse of existing buildings and surface development in the form of a car park, a new road and the distribution and greening of the town centre including town square.



Figure 3: Proposed Natural Heritage Area: Ballyhoe Lough (5.5km) 001594



Figure 4: pNHA'S within 15km of Kingscourt: Breakey Loughs (6.3km) 001558

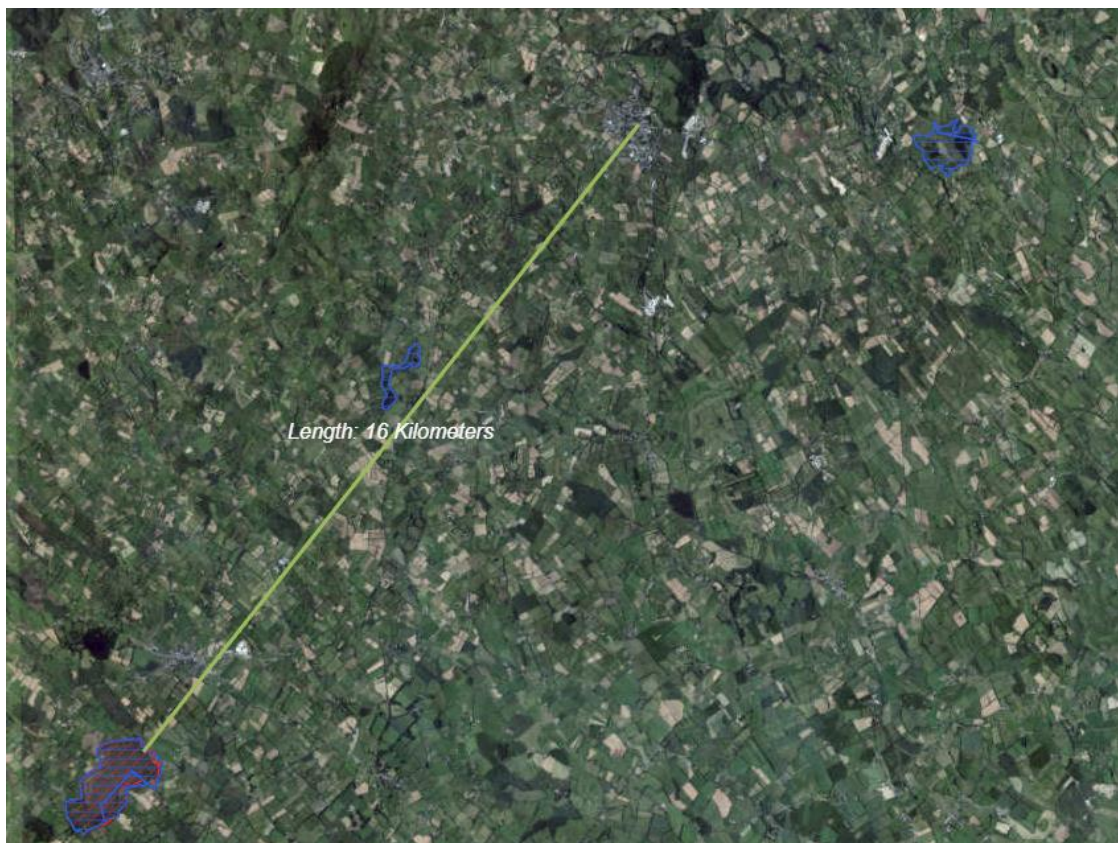


Figure 5: Closest SAC to Kingscourt: Killyconny Bog (16km) 000006

No potential significant adverse effects on European sites have been identified during either the construction or the operational phase.

Further necessary Appropriate Assessment has been carried out as follows:

1. *Is the proposed development directly connected to or necessary for the conservation management of the SPA and/or cSAC? (If yes, no further assessment required. If no, screening required.)*
No
2. *Is the proposed development located within or partly within the SPA?*
No.
3. *Is the proposed development located within 100m of the SPA?*
No
4. *Does the proposed project involve the development, extension or upgrade of a cycleway or walkway within 200m of the SPA?*
No.
5. *Does the proposed development involve development in the intertidal or coastal zone within the potential impact zone of the SPA?*
No
6. *Could the proposed project increase the level of recreational or other use of marine or intertidal areas within the potential impact zone of the SPA?*
No.
7. *Does the proposed development involve the excavation of previously undeveloped land within an area that has been identified to be at risk of flooding within the potential impact zone of the SPA?*
No.
8. *Does the proposed development involve the removal of significant amounts of topsoil within 100m of the SPA?*
No.
9. *Does the existing wastewater treatment system have the capacity to treat any additional loading?*
Yes.
10. *Would the proposed development result in direct surface water or other discharge to water bodies in or feeding into the SPA or cSAC? Would it result in additional storm flows into a combined sewer and subsequently into a combined sewer overflow (CSO), resulting in*

increased frequency, quantity and/or duration of overflow from the CSO to watercourses feeding into the European sites?

No.

11. *Would the proposed development involve dredging or could it result in the mobilisation of marine sediments in the Harbour area?*

No.

12. *Could the proposed development give rise to increased risk of oil or chemical spillage or leaks within the marine environment or watercourse within the potential impact zone for the SPA or cSAC?*

No.

13. *Are there relevant plans or projects which, in combination with the proposed development, are likely to give rise to any cumulative effects?*

No.

In summary the proposed development is modest in nature and scale and given the state and nature of the subject site, the distance and lack of pathways to Designated Sites there is no considered to be no impact upon any Designated Site.

4.2.1 Cumulative Impacts with Other Plans and Projects in the Area

As part of the screening for an AA, in addition to the proposed works, other relevant projects and plans in the region must also be considered at this stage and assessed in the context of potential for in-combination effects. There are no plans or projects that could be considered to interact with the proposed development. It is therefore concluded that there will be no negative in-combination effects between the proposed development and any plans or project in the area.

4.3 Screening Assessment

Following the assessment above Table 4-1 below identifies the potential direct, indirect and secondary impacts of the proposed development on European Sites within the c15 km radius.

Table 4-1: Potential Significant Effects on European Sites from the Proposed Development

Site Name and Code	Direct Impacts	Indirect/ Secondary Impacts	Resource Requirements	Emissions (Disposal to land, Water or Air)	Excavation Requirements
<i>Ballyhoe Lough NHA 001594</i>	No impact on QI	No impact on QI	No impact on QI	No impact on QI	No impact on QI
<i>Breakey Loughs pNHA 001558</i>	No impact on QI	No impact on QI	No impact on QI	No impact on QI	No impact on QI
<i>Killyconny Bog SAC 000006</i>	No impact on QI	No impact on QI	No impact on QI	No impact on QI	No impact on QI

In accordance with the Habitats Directive, an Appropriate Assessment (AA) Screening has been carried out on the project, in relation to any potential impacts upon the Ballyhoe Lough Natural Heritage Area [site code 001594], the Killyconny Bog Special Area of Conservation [site code 000006] and the Breakey Loughs Proposed Natural Heritage Area [site code 001558]. The findings of this AA screening

notes that no significant effects on any Natura 2000 sites is likely, and it was not necessary to undertake any further stage of the Appropriate Assessment process.

4.4 Likely Changes to the European Site(s)

A review of the National Biodiversity Data Centre indicates that there are no protected species within or close to the applicant site and therefore no impact on any qualifying interests or of the Natura 2000 sites.

4.4.1 Elements of the Project where the Impacts are Likely to be Significant

No elements of the proposed development are likely to cause significant effects to the Designated Sites.

Please note that the proposed development has been screened to determine whether an **Environmental Impact Assessment (EIA)** is required and it has been concluded that there will be no real likelihood of significant effects on the environment arising from the proposed development and that an EIA is not required.

5 CONCLUSION

This AA screening report has been prepared to assess whether the proposed development, individually or in-combination with other plans or projects, and in view of best scientific knowledge, is likely to have a significant effect on any European site(s).

The screening exercise was completed in compliance with the relevant European Commission guidance, national guidance and case law. The potential impacts of the proposed development have been considered in the context of the European sites potentially affected, their qualifying interests or special conservation interests, and their conservation objectives.

Through an assessment of the source-pathway-receptor model, which considered the zone of influence of effects from the proposed development and the potential in-combination effects with other plans or projects, the following findings were reported:

The proposed Development, 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 deemed not to be required.