

# LIMERICK DEVELOPMENT PLAN 2022-2028

## Volume 4

Appropriate Assessment Conclusion Statement and  
Determination

Adopted June 2022



## Contents

1.0 Introduction and Background .....	3
1.1 Introduction .....	3
1.2 Legislative Requirements in relation to AA.....	3
1.3 AA Conclusion Statement .....	4
2.0 How the findings of the AA were factored into the Plan.....	4
3.0 Reasons for choosing the Plan as adopted, in light of other reasonable alternatives considered as part of the AA process .....	6
4.0 Determination.....	8

## 1.0 Introduction and Background

### 1.1 Introduction

This is the Appropriate Assessment (AA) Conclusion Statement for the Limerick Development Plan 2022 – 2028 (the Plan). The obligation to undertake AA derives from Article 6(3) and 6(4) of the Habitats Directive 92/43/EEC as transposed into Irish legislation by, inter alia, the Planning and Development Act 2000 (as amended). AA is a focused and detailed impact assessment of the implications of a strategic action (such as a plan or programme) or project, alone and in combination with other strategic actions and projects, on the integrity of any European Site in view of its conservation objectives. This AA Conclusion Statement should be read in conjunction with the Plan and associated documents, including the Natura Impact Statement (NIS), Appropriate Assessment screenings and Chief Executive’s Reports, produced during the Plan preparation process. These will give a clear indication of how issues associated with Natura 2000 sites were dealt with as the Plan evolved.

### 1.2 Legislative Requirements in relation to AA

In carrying out the AA for the Plan, the Planning and Development Act 2000 (as amended), requires that Limerick City and County Council considers the issues presented in the first column on Table 1.1 below. The second column shows how these issues have been dealt with.

**Table 1: Issues addressed by the AA process for the LDP**

Issues	AA Process Response
Natura Impact Statement (NIS)	An NIS has been prepared and updated throughout the Plan process. Amendments to the Plan have also been subject to AA screenings throughout the Plan preparation process.
Additional information received during the Plan preparation process	This has been incorporated through changes to the Development Plan and in the NIS as the Plan progressed.
If appropriate, any additional information sought by the authority and furnished by the applicant in relation to a Natura Impact Report (NIR)	This relates more to Development Management, where such information is received in individual applications, than the Plan preparation process, but information received in this manner was used in the AA process for the Plan, as it provided up to date information on specific sites.

Any information or advice obtained by the public authorities.	This was received during the pre-draft consultation process and in the two public consultation processes during preparation of the Plan (Draft Plan and Material Alteration stages). See also note above.
Any other relevant information	Proposed Material Alterations were screened for the need to undertake Stage 2 AA.

### 1.3 AA Conclusion Statement

AA guidance (Department of Environment, Heritage and Local Government, February 2010, Section 4.14.1, p.57) states that it “is recommended that Planning Authorities include a clear and discrete AA Conclusion Statement as a distinct section in the written statement of the Plan separate to the SEA statement.”

This guidance recommends that the following issues are addressed by the AA Conclusion Statement:

- Summary of how the findings of the AA were factored into the Plan (see Section 2);
- Reasons for choosing the Plan as adopted, in light of other reasonable alternatives considered as part of the AA process (see Section 3);
- A declaration that the Plan as adopted will not have an adverse effect on the integrity of European Sites (provided at Section 4); and
- The Natura Impact Statement (NIS), is accompanied by this AA Conclusion Statement, which is the last stage of the process (see Section 4).

### 2.0 How the findings of the AA were factored into the Plan

The AA and SEA team worked with the Plan preparation team to integrate requirements for environmental protection and management into the Plan. The Plan was prepared in an iterative manner, whereby the Plan and AA documents have informed subsequent versions of the other, see Table 1 above. Table 2 outlines the process as it evolved throughout the Plan preparation process.

**Table 2: Stages of the Plan preparation and the SEA and AA process**

Stages	SEA and AA process	Comments
Stage 1 - Pre-Draft Development Plan preparation work August 2020 – June 2021	Preparation of Environmental Report and Natura Impact Statement (NIS) in tandem with Plan preparation	Submissions received in Pre-Draft consultation between August/ October 2020 helped inform the process

Stage 2 - Draft Development Plan June 2021 - February 2022	Updating of Environmental Report and NIS following public display and receipt of submissions	Public display between June/ September 2021
Stage 3 - Amendments to Draft Plan March 2022 - June 2022	Preparation of SEA statement and Appropriate Assessment concluding statement for NIS	Public display between March/ April 2022
Adoption of the Plan - June 2022	AA Determination in advance of the decision to adopt the Plan	Plan adopted at Special Council Meeting 17 June 2022

The findings of the AA were integrated into the Plan through both policies in the Plan and mitigation measures in the NIS. These measures ensure that there will be no significant effects to the ecological integrity of any European site from implementation of the Plan. The Plan preparation process undertaken, combined with input from the SEA and AA processes, facilitated policy content and zoning that avoids inappropriate development being permitted in areas of high ecological sensitivity, such as those within the Natura 2000 network. In the Draft Plan, only one amendment has encroached upon a Natura 2000 site in County Limerick, this being a slight boundary extension in the settlement of Carrigkerry, which extended into the Stacks to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle Special Protection Area (004161) designated for the hen harrier. The Natura Impact Statement dated 12<sup>th</sup> March 2022 found that there would be no significant effects, in that the area was already subject to human disturbance, being close to the settlement and previously developed areas in the village. As such this would be sub optimal habitat for the hen harrier.

In the preparation of the Draft Plan, zoning extensions and infrastructure such as a bridge across the Shannon downstream of the Limerick docks were not included, due in large part to their possible effects on Natura 2000 sites.

Other amendments to the Plan are anticipated to have beneficial ecological effects, not least being a commitment to use the planning enforcement process to try and restore ecological functions of designated sites.

One of the important areas of the Plan which is central to mitigation, are measures in Chapter 11 in which Construction and Environment Management Plans are stressed, which would have a role to play in controlling pollution, which would have effects on local ecology and often on nearby Natura 2000 sites. Section 8.2.24 of the Natura Impact Statement outlines a series of standard mitigation measures which when implanted will also help reduce the chances of possible effects on the Natura 2000 network and ecological sites.

The continued emphasis on brownfield site development and urban development in the Plan, following on from the associated emphasis in both the National Planning Framework

and the Regional Spatial and Economic Strategy for the Southern Region, is of course a mitigation measure in its own right.

Where other issues related to the NIS arose, such as the proposed zoning of lands subject to flood risk, within the Limerick Metropolitan area, the NIS of the proposed Material Alterations concluded that effects would be localised. The effects were deemed to be local and limited, as there are similar habitats along the river and the wildfowl are within short flying distances of other agricultural grasslands in the hinterland of Limerick City. None of the sites are part of the Natura 2000 network and while foraging habitats outside the SPA might be lost, there are alternative habitats nearby. For instance, snipe use the lands at Mungret Park, numbers of wildfowl species the wetlands at Coonagh, while Lapwing and other waders use the River Groody Green wedge. Other green spaces within the city are also used by wildfowl, such as those beside the Park Canal and Westfields. There are also agricultural lands surrounding the city, which can fulfil the need for feeding and roosting areas for wildfowl, when they move from the main river channel. These provide alternative foraging habitats thereby reducing the effects of zoning the lands mentioned above.

Another important element of the Plan that takes into account the requirement of the Natura 2000 network, is the movement of the wind energy designations away from the estuary with its Special Protection Area (SPA) and Special Area of Conservation (SAC) designations. The movement of potential wind turbines landwards from the Estuary reduces the risk of collision by bird populations for which the River Shannon and Fergus Estuaries SPA (002165) have been designated, while also reducing the possibility of interfering with the fringe habitats of the Lower River Shannon Special Area of Conservation site (002165).

### **3.0 Reasons for choosing the Plan as adopted, in light of other reasonable alternatives considered as part of the AA process**

#### **Alternative Strategy Option 1: Plan as proposed:**

The fact that the content of the Plan was informed by the Strategic Flood Risk Assessment was one of the reasons for choosing the Plan. However, as noted above, several sites subject to flood risk were included by the elected members in the adopted Plan. While these were not within the Natura 2000 site network and were at a distance from it (see above). This has been a key element in informing the content of the NIS, in that flood prone areas are often closer to the main River Channel. In this case, it is the Shannon, which is a Special Protection Area and the Lower River Shannon Special Area of Conservation. This led to the recommendation for less intensive open space zoning or equivalent close to the river. Mitigation measures have also been suggested for some other sites such as in Castletroy, which is particularly important as the River Mulkear forms the eastern boundary of the zoned area. This is part of the Lower River Shannon SAC site and has Sea Lamprey spawning redds present along this stretch of river.

The Plan also calls for the increased usage of nature based solutions to flood management and sustainable drainage and subject to adequate ecological assessment and design, this could prove to be an effective way of both retaining existing habitats and perhaps adding to the habitat stock of the Plan area. The fact that the Plan, as presented, contains these measures is another reason for its selection.

The other alternatives considered but not pursued were as follows:

**Alternative Strategy Option 2 - Continue with the existing City and County Development Plans without the review:**

This option was mooted by some of the Elected Members early in the Plan preparation process. Legally this would not be possible as the Plans have been extended previously, are extremely outdated and the Planning and Development Act 2000 (as amended) requires that the existing Plans be reviewed to align with National and Regional Planning Policy. Both the National Planning framework and the Regional Spatial and Economic Strategy for the Southern Region have been prepared since the existing plans were adopted. Lacking this policy support, the current Plans would not be considered an acceptable alternative.

**Alternative Strategy Option 3 - Reliance on the Limerick Economic and Spatial Plan 2030 to help develop the City area:**

The outcome of earlier plans such as the Limerick Economic and Spatial Plan 2030 indicated the potential of actions in selected parts of the City and Environs. While this has clearly articulated aims, it was considered that its focus on urban areas would not sufficiently contribute to the development of areas in the wider countryside. As the Local Authority takes in the areas of both City and County, individual project led initiatives would not be sufficient to ensure adequate direction of resources to areas outside of the specific locations where they operate. For this reason and the fact that these are not statutory land use plans, this alternative was not selected.

**Alternative Strategy Option 4 - Reliance on non-planning led initiatives, such as housing or transport led initiatives to secure the development of the Local Authority area:**

While the initiatives of other departments of the Council, such as the Transport Section are welcomed, this would address only part of the issue of infrastructure and service provision in the area. It would also mean that any efforts to address such provision would be on a piecemeal non-statutory basis and would not be plan led. To ensure balanced provision of services with appropriate policy support, it was considered best to proceed with the review. This ensures that the Plan will be consistent with the contents of the RSES, the NPF and National Development Plan, which is essential for seeking investment from central government. Compliance and support of national policy objectives is a prerequisite for the allocation of resources.



The Limerick Development Plan offers statutory guidance on planning and development issues within the entire administrative area of Limerick City and County Council, while the other initiatives concern themselves with the details of developing specific infrastructure or housing projects, throughout the City and County. It is also the case that any NIS or SEA prepared for individual projects, while detailed and comprehensive, do not have the scope of those prepared for the functional area of Limerick City and County Council as a whole. For these reasons alternative 4 was not selected.

## 4.0 Determination

An Appropriate Assessment determination pursuant to Article 6(3) of the Habitats Directive is required, determining whether or not a plan or project would adversely affect the integrity of a European site. It is also required by the Planning and Development Act 2000 (as amended). In preparing this determination, the Council is taking into account the relevant matters specified under Part XAB of the Planning and Development Act 2000 (as amended).

An Appropriate Assessment (AA) determination, dated 7 June 2022, was issued to the Elected Members of Limerick City and County Council in advance of the Council Meeting on the 17 June 2022, when the Plan was adopted. This determination concluded that the Material Alterations set out in the Chief Executive's Report dated 10 May 2022 would not give rise to any significant effects on designated European Sites.

It is determined that the risks to the safeguarding and integrity of the qualifying interests, special conservation interests and conservation objectives of all European Sites have been addressed by the inclusion of achievable mitigation measures within the Natura Impact Statement dated 12<sup>th</sup> March 2022. These prioritise the avoidance of effects in the first place and will reliably mitigate these effects where these cannot be avoided. In addition, any lower level plans and projects arising through the implementation of the Plan will themselves be subject to relevant stages of Appropriate Assessment, when further details of design and location are known. Having incorporated these mitigation commitments, it is considered that the Limerick Development Plan 2022-2028 is not foreseen to have any likely significant effects on the ecological integrity of any European Site. The text of the Determination follows below:

# **Limerick City and County Council**

## **Chief Executives Order**

### **Appropriate Assessment Determination**

**Under S.177V of the Planning and Development Act 2000 (as Amended)**

**For the Limerick Development Plan 2022-2028**

File Ref: Devplan05

Order no: CE/2022/106

#### **Subject:**

Part XAB of the Planning and Development Act 2000 (as amended) requires, inter alia, that an Appropriate Assessment shall include a determination by the competent authority under Article 6.3 of the Habitats Directive as to whether or not a land use plan would adversely affect the integrity of a European site and that an appropriate assessment be carried out before such plan is made.

#### **Order:**

Therefore, in accordance with Section 177V(1) of said Act, Limerick City and County Council as the competent authority hereby determines that the Limerick Development Plan 2022 – 2028 will not, either individually or in combination with other plans and projects, adversely affect the integrity of any European site. In carrying out Appropriate Assessment, the Council has taken into account the relevant matters specified under Section 177V(2) of said Act including:

- The Natura Impact Report documents of the Draft Plan and screening assessments carried out in the course of the Plan preparation and in particular, the conclusions contained therein.
- The Draft Limerick Development Plan.
- Written submissions and observations made regarding the Draft Limerick Development Plan and associated Natura Impact Report during the public consultation process including submissions, information and advice from statutory consultees and prescribed authorities.
- The Strategic Flood Risk Assessment Report of the Draft Limerick Development Plan.
- The Strategic Environmental Assessment Environmental Report including the assessment contained therein.

The reasons for the abovementioned determination are as follows:

• The conclusions in the Natura Impact Report and screening reports of the Limerick Development Plan including that:

• The Plan will not, either individually or in combination with other plans and projects, adversely affect the integrity of any European site having regard to the mitigation measures outlined in the NIR and mentioned in the Limerick Development Plan.

• Any potential impact on European sites shall be mitigated by a detailed avoidance and mitigation strategy including:

- Avoidance, potential impacts will be avoided by locating and designing the development in a manner which avoids adverse effects to the qualifying interests of the European sites.
- Mitigation at the project level, including those listed in the Natura Impact Report of 12<sup>th</sup> March 2022. Potential impacts will be mitigated during the detailed design of projects. This will include measures to avoid significant adverse effects on European sites. The projects will also have to demonstrate compliance with other relevant national and European legislation, plans, and the Policies and Objectives of the Limerick Development Plan. Potential impacts will also be mitigated through detailed surveys, construction management plans and techniques, pollution control measures, monitoring and post construction reinstatement.

Signed: Sean Coughlan

V.M

Sean Coughlan  
Deputy Chief Executive

Dated this 23 day of 6 2022



