

APPROPRIATE ASSESSMENT (AA) SCREENING DETERMINATION

for

Ground Investigation (GI) works for the BusConnects Cork

Dunkettle STC (Sustainable Transport Corridor)

1. Introduction

The NTA commissioned Jacobs to prepare an AA Screening Report for the GI works required for the BusConnects Cork shortened Dunkettle STC. The NTA previously carried out a Screening for Appropriate Assessment of the proposed GI works required to inform the design proposals for 10 of the 11 STC's making up the Cork City North STC Scheme, the Cork City South East STC Scheme, and the Cork City South West STC Scheme and has determined that those proposed GI works are not likely to have a significant effect on any European Sites, in view of the sites' conservation objectives.

At the time of undertaking that Screening for Appropriate Assessment, as mentioned in that AA Screening Report, it was anticipated that the proposed GI works for the Dunkettle STC would be delivered at a later time and be subject to a separate AA screening process, as those works as envisaged at that time were more significant in scope and included certain ground investigations within the maritime area, requiring an application to the Maritime Area Regulatory Authority for a Maritime Usage Licence.

Following further design development resulting in a shortened Dunkettle STC, the proposals for the GI works have been refined and an application for a Maritime Usage Licence is not required as there are now no proposed GI works within the Maritime Area. While the proposed GI works required for the shortened Dunkettle STC are now limited to the scope and extents shown in the GI Proposals Plan Appendix C of the AA Screening Report, out of an abundance of caution and to ensure that consistent consideration is undertaken of the proposed GI works across all 11 STC's which have now been combined into the three standalone STC Schemes, this AA Screening Report has been prepared to consider and assess whether, on the basis of objective scientific information, the proposed GI works required in respect of the shortened Dunkettle STC, individually or in-combination with other plans or projects, are likely to have a significant effect on any European site(s) in view of the sites' conservation objectives.

The proposed GI works include boreholes utilising cable percussion, rotary coring, sonic resonance drilling, window sampling, alongside trial pit works using hand and mechanical pitting, geophysical surveying, and minor site clearance and de-vegetation where required to facilitate the GI works.

The AA screening report was prepared to determine if the GI works to be carried out for the corridor would have any potential for Likely Significant Effects (LSEs) on European sites within the zone of influence (Zol), as defined by the source-pathway-receptor model (OPR, 2021).

An AA screening exercise was prepared which examined the potential effects of the proposed GI works on European sites and their Qualifying Interests (QIs) (Annex I habitats and Annex II species) designations. The conclusion of the determination and the rationale for 'screening out' European sites within the Zol, and of potential relevance to the AA, are provided below.

2. Description of the Proposed Development

BusConnects Cork is the National Transport Authority's (NTA) programme to improve bus services in Cork. It is a key part of the Government's policies to improve public transport and address climate change and is included within the National Development Plan (2021-2030), the Cork Metropolitan Area Transport Strategy 2040 (NTA, 2020), the Climate Action Plan 2024 (DoECC, 2023) and the National Planning Framework 2040 (GoI, 2024).

Its aim is to deliver an enhanced bus system that is better for Cork city, its people and the environment. BusConnects Cork is designed to provide a better, more reliable and more efficient bus service for everyone in addition to providing safe cycling and enhanced pedestrian facilities along key routes.

One of the key elements of BusConnects Cork is investment in Sustainable Transport Corridors (STC's) that will have continuous bus priority – generally, a continuous bus lane in each direction, but other arrangements may be used in constricted locations.

To inform the design and assessment of the proposals for the BusConnects Cork STC's, ground investigation (GI) works are required. The locations of the proposed GI works are on main commuter routes into Cork City centre with high pedestrian, cyclist and vehicular flows, which are also along the proposed preferred routes for the BusConnects Cork STC's. The majority of the proposed GI works are located on areas of hardstanding typically roads, pavements, and carparks, with other land surfaces including amenity grassland and occasional areas of broadleaved woodland or scrub.

The focus of this determination is in relation to the proposed GI works required to inform the design proposals for the Dunkettle STC, which forms part of the Cork City North STC Scheme. The proposed GI works are located in Cork city centre, in the North Docklands, immediately to the north of the River Lee. They run parallel with (and to the north of) Horgan's Quay, within predominantly Irish Rail land which is bounded by Lower Glanmire Road to the north.

3. Legislative Context

AA is an assessment of the potential for adverse or negative effects of a plan or project, in combination with other plans or projects, on the conservation objectives of a European site.

AA Screening is the process for deciding whether a particular plan or project (or an amendment to a plan or project), would give rise to any LSEs on any European site, alone or in combination with any other plans, programmes, projects, etc. and would thus warrant Stage 2 AA.

Regulations

Habitats and species of European importance are provided legal protection under Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (referred to as 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 (referred to as the Birds Directive). The Habitats Directive protects habitats and species of community interest through the establishment and conservation of an EU-wide network of sites known as the Natura 2000 network (referred to as European sites, as the term Natura 2000 network was replaced by 'European site' under S.I. No. 473 of 2011 – European Union (Environmental Impact Assessment and Habitats) Regulations 2011). European sites comprise Special Areas of Conservation (SACs) and Special Protection Areas (SPAs).

The Habitats Directive has been transposed into Irish law by the Planning and Development Act 2000 (as amended) and the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I.

477/2011). Articles 6(3) and 6(4) of the Habitats Directive set out the decision-making tests for plans and projects likely to affect European sites.

Further, Regulation 42(1) of the European Communities (Birds and Natural Habitats) Regulations 2011 (as amended) provides that “...*screening for Appropriate Assessment of a plan or project for which an application for consent is received, or which a public authority wishes to undertake or adopt, and which is not directly connected with or necessary to the management of the site as a European Site, shall be carried out by the public authority to assess, in view of best scientific knowledge and in view of the conservation objectives of the site, if that plan or project, individually or in combination with other plans or projects is likely to have a significant effect on the European site.*”

Case Law

In addition to the above legislation, a number of cases have been brought to the national and European courts in relation to the AA process. Therefore, relevant case law, European Court of Justice rulings and EC publications were also considered in the preparation of the Screening for AA.

Relevant case law includes rulings from the European Court of Justice (ECJ) e.g. the Waddenzee Judgement (ECJ case C-127/02), the Sweetman case (ECJ case C-258/ 11) and The People Over Wind Judgement (ECJ case C-323/17).

4. AA Screening Report

The NTA’s BusConnects Regional Cities Team commissioned Jacobs to prepare an AA Screening Report for the GI works required for BusConnects Cork Dunkettle STC. The NTA identified Sarah-Jane Burns from within the NTA’s Strategic Planning Section to consider the agreed contents of the AA Screening Report.

The NTA agrees with the content of the AA screening report as reported by Jacobs for the reasons set out below.

Screening Exercise

A screening exercise was undertaken through an ecological desktop study which examined the potential effects of the proposed GI works on European sites and their QI (Annex I habitats and Annex II species) designations. The results and rationale for ‘screening in or screening out’ European sites within the Zone of Influence (Zoi), and of potential relevance to the AA, were detailed in Table 6.1 of the Screening Report.

The study comprised the following elements:

- Identification of European sites within the Zoi;
- Review of the conservation objectives and qualifying interests of the European sites as provide by NPWS;
- Identification of potential pathways to effect;
- Assessment of LSE alone; and
- Assessment of LSE from the proposed GI works.

5. Reason for Determination

Alone assessment

An examination of European Sites and their QI features within the ZOI of the proposed GI works were presented in Table 5.1 of the AA Screening Report. Potential pathways were identified between the proposed GI works and European sites as outlined in Table 6.1 of the report. From this assessment, it can be concluded that all LSEs can be excluded on the basis of objective information and so Stage 2 AA is not required. No European Sites were identified for further examination.

In-combination assessment

As all LSEs have been excluded on the basis that there is no pathway to effect and therefore no effect at all. The in-combination assessment therefore does not need to consider other plans and projects as, if there is no effect at all from the proposed GI works, then the proposed GI works cannot contribute to combined effects with other plans and projects.

The proposed GI works are not connected with, or necessary to, the management of any European site(s) as was seen from the outcome of the screening exercise.

The AA Screening Report presents the objective scientific information required to inform a robust and complete examination of the potential impacts of the proposed GI works on European sites.

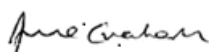
The conclusion of the Screening for AA is that, in the absence of mitigation measures, there are no LSEs either alone or in-combination to undermine the conservation objectives of any European sites, and therefore Stage 2 AA of the proposed GI works is not required.

The NTA, as the competent authority, have determined that an AA Screening is required but a Stage 2 - Natura Impact Statement is not required because the GI works have been screened out due to their lack of potential to cause LSEs within the European sites either alone or in-combination with other plans or projects.

On the basis of objective information and applying the precautionary principle, for the reasons set out in the NTA reviewed AA Screening Report, which contains a fair and reasonable assessment of the likelihood of significant effects of the proposed GI works on European sites, it is concluded that the proposed works either individually or in combination with other plans or projects, and without relying on any mitigation measures, will not have a significant effect on any European Sites, in view of the sites' conservation objectives, and that there is no reasonable scientific doubt in relation to this conclusion.

6. Signature Block

Individual signing the determination:



Anne Graham

Role:

CEO

Determination date:

2nd Dec 2024

6a. Sufficient expertise and experience:

This AA Determination has been prepared by Sarah-Jane Burns of the NTA's Strategy Planning Section in her role as Environmental Framework Manager.

She has worked with the NTA for over 12 years and has managed, reviewed, and assessed various transportation strategies, plans and projects environmental assessments (e.g. SEA, AA & EIA).

She has a degree and masters in Environmental Science and a higher diploma in Geographical Information Systems and Remote Sensing. She sits on the NPWS AA Forum and the EPA's SEA Forum both of which are national in nature.

It is believed that this demonstrates that she has sufficient expertise and experience to examine an AA Screening Report and to make an AA Screening Determination.

6b. Appropriate functional separation:

Arrangements have been put in place by the NTA to ensure appropriate functional separation and the avoidance of any conflict of interest arising. As the Strategic Planning Section has made the AA Screening Determination it ensures an appropriate functional separation from the BusConnects Regional Cities Teams role of promoting the BusConnects Cork project.