

Appendix 6-1 RELEVANT LEGISLATION AND POLICY

6.1.1 HABITATS AND BIRDS DIRECTIVE

The Habitats Directive ensures the conservation of a wide range of rare, threatened or endemic animal and plant species. Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora was adopted in 1992 and aims to promote the maintenance of biodiversity, taking account of economic, social, cultural and regional requirements. It forms the cornerstone of Europe's nature conservation policy with the Birds Directive and establishes the EU wide Natura 2000 ecological network of protected areas, safeguarded against potentially damaging developments.

The Natura 2000 network of protected areas is known as Special Areas of Conservation (SAC) and Special Protection Areas (SPA). In general terms, they are considered to be of exceptional importance in terms of rare, endangered or vulnerable habitats and species within the European Community. The requirements of the Habitats Directive have been transposed into Irish law through the European Communities (Birds and Natural Habitats) Regulations 2011 [S.I. No. 477/2011]. This legislation affords protection to both Special Protection Areas and Special Areas of Conservation.

Special Areas of Conservation (SAC) are designated under the Conservation of Natural Habitats and of Wild Fauna and Flora Directive 92/43/EEC (Habitats Directive) which is transposed into Irish law by the EC (Birds and Natural Habitats) Regulations 2011 (S.I. 477 of 2011). Special Protection Areas (SPA) are classified under the Birds Directive (2009/147/EC on the Conservation of Wild Birds). Article 6(3) of the Habitats Directive requires an 'appropriate assessment' to be undertaken for any plan or project that is likely to have a significant effect on the conservation objectives of a Natura 2000 site. An 'appropriate assessment' is an evaluation of the potential impacts of a plan or project on the integrity of a Natura 2000 site, and the incorporation, where necessary, of measures to mitigate or avoid negative effects.

6.1.2 NATIONAL LEGISLATION

Flora and fauna in Ireland are protected at a national level by the Wildlife Acts 1976 to 2021 and the Floral (Protection) Order 2022. Natural Heritage Areas (NHA) are areas that are considered to be important for the habitats present or for the species of plants and animals supported by those habitats. Under the Wildlife Amendment Act 2000, NHAs are legally protected from damage from the date they were formally proposed for designation.

In addition, a list of proposed NHAs (pNHAs) was published in 1995 but to date these have not had their status confirmed. Prior to statutory designation, pNHAs are subject to limited protection under various agri-environment and forestry schemes and under local authority planning strategies such as County Development Plans.



6.1.3 RELEVANT POLICY

6.1.3.1 LEITRIM COUNTY COUNCIL DEVELOPMENT PLAN 2023-2029

The general policies and objectives relevant to ornithology are extracted from Volume 1, Chapter 11 of the Leitrim County Development Plan 2023-2029 and outlined below.

6.1.3.1.1 POLICIES

County Development Plan Policy NH 1: Natura 2000 Sites

To protect and conserve Special Areas of Conservation and Special Protection Areas.

County Development Plan Policy NH 2: Appropriate Assessment

To implement Article 6(3) and where necessary Article 6(4) of the Habitats Directive, to ensure that Appropriate Assessment is carried out in relation to works, plans and projects with the potential to impact European sites (SACs and SPAs), whether directly or indirectly or in combination with any other plan(s) or project(s). All assessments must be in compliance with the European Communities (Birds and Natural Habitats) Regulations 2011, as amended, and the Planning and Development Act 2000, as amended as relevant.

County Development Plan Policy NH 3: NHAs

To protect designated Natural Heritage Area (NHA) sites, including proposed Natural Heritage Area sites (pNHA) and seek to develop linkages between designated sites and other non-designated sites of ecological importance, where feasible and as resources permit.

County Development Plan Policy NH 4: Consultation

To consult with relevant prescribed bodies, such as the National Parks and Wildlife Service (DoHLGH), and take account of any licensing requirements when undertaking, approving and authorising development which is likely to affect plant, animal or bird species or habitats protected by law.

County Development Plan Policy NH 5: Significant Negative Impacts

To ensure that development does not have a significant negative impact on plant, animal or bird species or habitats protected by law, subject to satisfactory mitigation measures.

County Development Plan Policy WE POL 3: Wind Energy

To ensure that the assessment of wind energy development proposals will have regard to the following: the impact of the proposed development on protected bird and mammal species.

6.1.3.1.2 OBJECTIVES

County Development Plan Objective NH 1: Natura 2000 Sites

To ensure that no project or programme giving rise to significant negative, direct, indirect, secondary or cumulative impacts on the integrity of any Natura 2000 site(s), having regard to their qualifying interests and conservation objectives, arising from their size, scale, area or land take, proximity, resource requirements, emissions (disposal to land, water or air), transportation requirements,



duration of construction, operation, decommissioning or from any other effects shall be permitted on the basis of this Plan (either alone or in combination with other plans or projects)¹

County Development Plan Objective NH 3: SPAs

To protect and conserve those sites designated as Special Protection Areas during the lifetime of this Plan. There is currently one SPA in Co. Leitrim which is contained in Table 11.2 of this Plan.

County Development Plan Objective NH 4: NHAs

To protect and conserve Natural Heritage Areas (NHAs) and proposed Natural Heritage Areas (pNHAs) that become designated and notified to the Local Authority during the lifetime of this Plan. The list of current NHAs and proposed NHAs are contained in Table 11.3 and 11.4 of this Plan.

County Development Plan Objective NH 7: Management of Landscape Features

To encourage appropriate management of landscape features, particularly through the development management process and using planning agreements with landowners and developers, where appropriate.

6.1.3.2 SLIGO COUNTY COUNCIL DEVELOPMENT PLAN 2024-2030

6.1.3.2.1 POLICIES

County Development Plan Policy P-BD-1

Protect, conserve, enhance and sustainably manage the natural heritage, biodiversity, geological heritage, landscape and environment of County Sligo.

County Development Plan Policy P-BD-2

Protect and, where possible, enhance the plant and animal species and their habitats that have been identified under EU Habitats Directive (92/43/EEC), the EU Birds Directive (2009/147/EC), European Communities (Birds and Natural Habitats) Regulations 2011 (SI 477/2011) as amended, Flora (Protection) Order 2015, the Wildlife Act 1976 (as amended), and the Wildlife (Amendment) Act 2000 as amended, including all statutory instruments made under each act.

County Development Plan Policy P-BD-3

Ensure that the ecological impact of all development proposals on habitats and species are appropriately assessed by suitably qualified professionals, in accordance with best practice guidelines, taking full account of the precautionary principle where uncertainty exists.

County Development Plan Policy P-BD-4

Minimise negative impacts of proposed developments on existing habitats (whether designated or not) by including mitigation and/or compensation measures as appropriate. This shall comprise the retention and enhancement of all possible existing habitats, vegetation and breeding sites in the early design stages of the development. [PA-84]

County Development Plan Policy P-BD-5

¹ Except as provided for in Article 6(4) of the Habitats Directive which states that there must be: a) no alternative solution available, b) imperative reasons of overriding public interest for the project to proceed; and c) Adequate compensatory measures in place.



Raise public awareness of the natural heritage and biodiversity of the County and encourage increased public participation in biodiversity conservation by supporting community-led initiatives.

County Development Plan Policy P-BD-7

Require development proposals on sites of 0.5 ha and over to retain existing high-quality ecological features and demonstrate a site-specific biodiversity net gain (BNG), indicating how the approach to development will leave the natural environment in a measurably better state than it was beforehand. The same approach will be encouraged, although not required, on sites under 0.5 ha. The biodiversity net gain (BNG) shall consist of the enhancement and restoration of existing habitats or the creation of new areas for wildlife, where the biodiversity value of the site is low or non-existent (e.g. certain brownfield sites). [PA-80]

County Development Plan Policy P-DSNC-1

Protect and maintain the conservation status of all natural heritage sites designated or proposed for designation in accordance with European and national legislation and agreements. These include Special Areas of Conservation (SAC), Special Protection Areas (SPA), Natural Heritage Areas (NHA), proposed Natural Heritage Areas (pNHA), Ramsar Sites, Statutory Nature Reserves, as identified by the Minister for Culture, Heritage and the Gaeltacht, and any other sites that may be proposed for designation during the lifetime of this Plan. In addition, the Council will identify, maintain and develop non-designated areas of high nature conservation value which serve as linkages or 'stepping stones' between protected sites in accordance with Article 10 of the Habitats Directive.

County Development Plan Policy P-DSNC-2

Promote the maintenance and, as appropriate, achievement of 'favourable conservation status' of habitats and species in association with the National Parks and Wildlife Service (NPWS).

County Development Plan Policy P-DSNC-3

Carry out an appropriate level of assessment for all development plans, land-use plans and projects that the Council authorizes or proposes to undertake or adopt, to determine the potential for these plans or projects to impact on designated sites, proposed designated sites or associated ecological corridors and linkages in accordance with the Habitats Directive. All appropriate assessments shall be in compliance with the provisions of Part XAB of the Planning and Development Act 2000 (as amended).

County Development Plan Policy P-DSNC-4

Ensure that all development proposals are subject to the process of Screening for Appropriate Assessment and subsequent stages of Appropriate Assessment, as relevant, carried out to the satisfaction of the Planning Authority, in consultation with National Parks and Wildlife Service, as appropriate.

County Development Plan Policy P-PS-1

Ensure that development does not have a significant negative impact incapable of satisfactory mitigation on plant, animal or bird species protected by law.

County Development Plan Policy P-PS-2

Consult with the National Parks and Wildlife Service (DHLGH) and take account of any licensing requirements when undertaking, approving, and authorising development which is likely to affect plant, animal or bird species protected by law.



County Development Plan Policy P-PS-3

Provide guidance to developers and others in relation to species protected by law and their protection and management in the context of development.

County Development Plan Policy P-PS-4

Ensure, where appropriate, the protection and conservation of areas, sites, species and ecological networks of biodiversity value outside designated sites, and require an appropriate level of ecological assessment by suitably qualified professionals to accompany any development proposals likely to impact on such areas or species.

County Development Plan Policy NCODS-1

Minimise the impact of new development on habitats of natural value that are key features of the County's ecological network. Developments likely to have a negative effect on recognised sites of local nature conservation importance will be required to demonstrate the impacts on the ecological value of the site and will not be approved unless it can be clearly demonstrated that there are reasons for the development that outweigh the need to safeguard the nature conservation value of the site.

County Development Plan Policy NCODS-2

Ensure that development proposals, where relevant, improve the ecological coherence of the Natura 2000 network and encourage the retention and management of landscape features that are of major importance for wild fauna and flora as per Article 10 of the Habitats Directive.

County Development Plan Policy NCODS-3

Ensure that proposals for development protect and enhance biodiversity, wherever possible, by minimising negative impacts on existing habitats and by including mitigation and/or compensation measures, as appropriate, which ensure that biodiversity is enhanced.

County Development Plan Policy NCODS-4

Applications for development that is likely to have significant impact on natural habitats or species shall be accompanied by an ecological impact assessment (EclA), to ensure that such proposed development will not affect the integrity and conservation value of important biodiversity sites. [PA-86.

County Development Plan Policy NCODS-5

Ensure that no ecological networks, or parts thereof which provide significant connectivity between areas of local biodiversity, are lost without remediation as a result of implementation of this Plan.

6.1.3.2.2 OBJECTIVES

County Development Plan Objective O-BD-1

Implement, in partnership with the Department of Housing, Local Government and Heritage, relevant stakeholders and the community, the objectives and actions of both the County Sligo Biodiversity Action Plan and the National Biodiversity Action Plan as it relates to the remit and functions of Sligo County Council.

County Development Plan Objective O-DSNC-1



Identify any areas of high nature conservation value which are of major importance for wild fauna and flora in accordance with Article 10 of the Habitats Directive, and which have not been previously identified.

County Development Plan Objective O-DSNC-1

Undertake appropriate surveys and collect data to provide an evidence-base to assist the Council in meeting its obligations under Article 6 of the Habitats Directives (92/43/EEC) as transposed into Irish Law, subject to available resources.

County Development Plan Objective O-PS-1

Undertake surveys, as appropriate, to establish the location of protected flora and fauna in the Plan area through the County Heritage Plan and the County Biodiversity Action Plan.

6.1.3.3 DONEGAL COUNTY COUNCIL DEVELOPMENT PLAN 2024-2030

6.1.3.3.1 POLICIES

County Development Plan Policy BIO-P-1

To require all developments to comply with the requirements of the EU Habitats Directive and EU Bird Directive, including ensuring that development proposals:

- Do not negatively affect the integrity of any European/Natura 2000 site (i.e. Special Areas of Conservation and Special Protection Areas) including effects on ex-situ but functionally linked habitats, and species (e.g. Pearl Mussel) save where a plan must be carried out for imperative reasons of overriding public interest (IROPI).
- Provide for the protection of animal and plant species listed in Annex IV of the EU Habitats Directive and the Flora Protection Order.
- Protect and enhance features of the landscape (such as rivers, riverbanks, field boundaries, ponds and small woods) which are of major importance for wild fauna and flora and the ecological coherence of the Natura 2000 network.

County Development Plan Policy BIO-P-2

Ensure that all developments seek to conserve/protect the qualifying interests of Ramsar Sites, Nature Reserves, Natural Heritage Areas (NHA), proposed Natural Heritage Areas (pNHA), the Cró na mBroanáin Red Grouse Sanctuary and any species protected under the Wildlife Act save to the extent necessary to provide for strategic infrastructure projects including but not restricted to the TEN-T Priority Route Improvement Project, Donegal, the Bridgend to County border project scheme, the Buncrana Inner Relief Road and Greenways, subject to such projects being in accordance with all relevant statutory and regulatory provisions. Otherwise, where no statutory or regulatory provisions apply this policy will be implemented by the Council in so far as same can be practicably and reasonably achieved within the context of such projects.

County Development Plan Policy BIO-P-3

a. Protect features of local biodiversity value (e.g. hedgerows/field boundaries, trees, woodlands, wetlands, water bodies, riverbanks and peatlands) which make a significant contribution to the biodiversity, biodiversity/ecosystem services, ecological connectivity, and associated visual amenity and/or rural character of the



area.

b. Require that developments otherwise maximise the retention of and suitably integrate such features and provide new ecological corridors where appropriate. In this regard proposals for the removal of existing roadside hedgerows/field boundaries for new developments in rural areas will only be permitted in so far as is necessary to safeguard public safety and any remaining portion of those features identified above not so required shall be retained.

c. Require that development proposals provide biodiversity enhancement measures (e.g. native tree and hedgerow planting, and nature-based water management solutions).

d. Require that large-scale developments result in no net biodiversity loss and include a site-specific comprehensive Biodiversity Management Plan (BMP), as part of any planning proposal.

This policy will be implemented by the Council in so far as same can be practicably and reasonably achieved within the context of Strategic Infrastructure Projects including, but not restricted to, the TEN-T Priority Route Improvement Project, Donegal, the Bridgend to County border project scheme, the Buncrana Inner relief Road and Greenways.

County Development Plan Policy WE-P-3

To ensure that the assessment of wind energy development proposals will have regard to the following:

g. the impact of the proposed development on protected bird and mammal species;

County Development Plan Policy WE-P-8

To ensure that the assessment of Wind Energy Development Proposals have regard to the following Specific Biodiversity Related Requirement:

a. Loss of functionally linked habitat: Developers of wind energy proposals on greenfield sites shall undertake a preconstruction appraisal of habitats. Should habitats suitable for supporting Special Conservation Interest bird species be present, developers will be required to undertake pre-construction bird surveys to confirm whether the site supports a significant proportion of bird populations (typically taken to be 1% of the population of a SPA, at time of designation).

To ensure that the assessment of Wind Energy Development Proposals have regard to the following Specific Biodiversity Related Requirement:

a. Loss of functionally linked habitat: Developers of wind energy proposals on greenfield sites shall undertake a preconstruction appraisal of habitats. Should habitats suitable for supporting Special Conservation Interest bird species be present, developers will be required to undertake pre-construction bird surveys to confirm whether the site supports a significant proportion of bird populations (typically taken to be 1% of the population of a SPA, at time of designation).



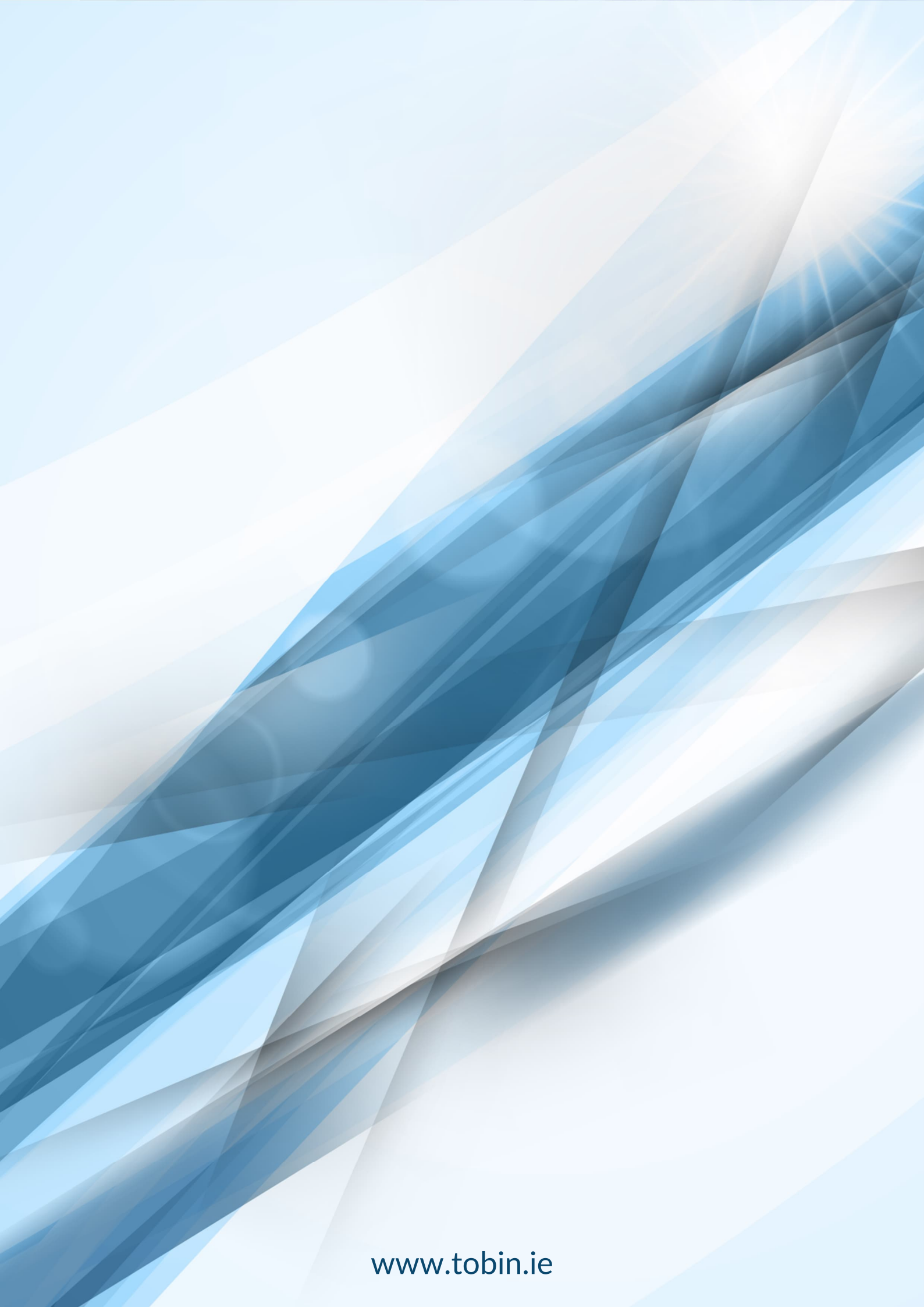
6.1.3.3.2 OBJECTIVES

County Development Plan Objective BIO-0-1

To preserve and enhance the biodiversity of the County in accordance with the relevant EU policies and national legislation.

County Development Plan Objective BIO-0-2

To have regard to the objectives of any extant National Biodiversity Action Plan and National Peatlands Strategy in all aspects of the sustainable development of the county.



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