South Dublin Street & Backlands Regeneration Project

Natura Impact Statement (NIS)

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NATURA IMPACT STATEMENT

South Dublin Street and Backlands Regeneration Project

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Natura Impact Statement
F05
August 2022

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Document Status

Version	Purpose of document	Authored by	Reviewed by	Approved by	Review date
F05	AA Screening	S. O'Hara	J. McCrory	JMcCrory	24/08/22

Approval for issue

J McCrory  24/08/22

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1 INTRODUCTION

This report has been prepared by RPS on behalf of Monaghan County Council and examines whether or not the proposed regeneration scheme in Monaghan Town (hereafter 'the proposed development') is likely to give rise to an adverse impact upon the integrity of any European site, and in doing so inform Stage two appropriate assessment (AA).

This report has been prepared to accompany an application by Monaghan County Council to An Bord Pleanála, and is an examination of whether, in view of best scientific knowledge and applying the precautionary principle, the proposed development, either individually or in combination with other plans or projects, may give rise to an adverse impact upon the integrity on any European site(s). The assessment will be carried out in accordance with the legal context outlined in **Section 1.1**.

Following screening, if it cannot be excluded on the basis of objective scientific information that the proposed development may result in a significant effect on any European site then a Natura Impact Statement must be prepared.

1.1 Legislative Context

1.1.1 European Sites

The Council Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora, better known as "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 a European Union (EU)-wide network of sites known as Natura 2000 (hereafter referred to as 'European sites'). In the Republic of Ireland European sites comprise:

- Special Areas of Conservation (SACs) designated for habitats, plants and non-bird species, listed under the Habitats Directive (92/43/EEC).
- Special Protection Areas (SPAs) designated for bird species and their habitats, listed under the birds Directive (79/409/ECC as codified by Directive 2009/147/EC); and
- 'Candidate' sites including 'cSACs'. The process of designating cSACs as SACs is ongoing in Ireland. The tern SAC is used throughout this report for both SACs and cSACs, given they are subject to equal protection under the Habitats Directive.

1.1.2 Appropriate Assessment

1.1.2.1 European Context

Articles 6(3) and 6(4) of the Habitats Directive set out the decision-making tests for plans and projects likely to have a significant effect on or to adversely affect the integrity of European sites (Annex 1.1). Article 6(3) establishes the requirement for Appropriate Assessment (AA):

"*Any plan or project not directly connected with or necessary to the management of the European 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"

Article 6(4) states:

"*If, in spite of a negative assessment of the implications for the [European] 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, Member States 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.*"

1.1.2.2 National Context

In the context of the proposed development, the requirement (to screen) for AA under the Habitats Directive is transposed by the Planning and Development Acts (2010 to 2018 as amended); 'the Planning Acts', and the Planning and Development Regulations (2010 to 2018, as amended).

Under Section 177U (5) of the Planning and Development Acts 2000-2010, as amended, ('the Planning Acts'), the competent authority (in this case An Bord Pleanála) shall determine that an AA of a proposed development is required if it cannot be excluded [emphasis added], on the basis of objective information, that the proposed development, individually or in combination with other plans or projects, will have a significant effect on a European site(s).

Under Section 177V (2) the competent authority shall take into account each of the following matters in their AA determination:

a) The NIS (defined below);

b) Any supplemental information furnished in relation to an NIS;

c) If appropriate, any additional information sought by the planning authority and furnished by the applicant in relation to a NIS;

d) Any additional information furnished to the competent authority at its request in relation to a NIS;

e) Any information or advice obtained by the competent authority;

f) If appropriate, any written submissions or observations made to the competent authority in relation to the application for consent for proposed development; and

g) Any other relevant information.

Under the Planning Acts (177T), an NIS is defined as "*a statement, for the purposes of Article 6 of the Habitats Directive, of the implications of a proposed development, on its own or in combination with other plans or projects, for one or more than one European site, in view of the conservation objectives of the site or site*." The NIS must "*include a report of a scientific examination of evidence and data, carried out by competent persons to identify and classify any implications for one or more than one European site in view of the conservation objectives of the site or sites*".

1.1.2.3 Role of the Competent Authority

An Bord Pleanála, in its role as the competent authority, is obliged to examine the likely significant effects individually or in combination, of the proposed development on European sites in light of their specific qualifying interests (QIs; i.e. non-bird species or habitats, special conservation interests (SCIs; i.e. bird species and associated wetland habitats) and conservation objectives (COs). Where Screening for AA determines that there is likely to be significant effects on any European site, then full AA must be carried out for the proposed development, including the completion of a Natura Impact Statement (NIS) to inform the determination. The competent authority will carry out the AA and complete a determination.

1.1.2.4 Public Access to Environmental Information

The European Communities (Access to Information on the Environment) Regulations 2007 to 2014 (AEI Regulations) transpose Directive 2003/4/EC on public access to environmental information, which was adopted to give effect to the 'Access to Information' pillar of the Aarthus Convention (S.I. No. 615/2014).

The AEI Regulations give the public the right to access environmental information. The Regulations also oblige public authorities to be proactive in disseminating environmental information to the public and to make reasonable efforts to maintain environmental information and have it in a form that is accessible and can be reproduced.

1.2 Stages of Appropriate Assessment

Stage 1: Screening / Test of Significance

This process identifies whether the proposed development is directly connected to or necessary for the management of a European site(s) and identifies whether the development is likely to have significant impacts upon a European site(s) either alone or in combination with other projects or plans.

The output from this stage is a determination for each European site(s) of not significant, significant, potentially significant or uncertain effects. The latter three determinations will cause that site to be brought forward to Stage 2.

Stage 2: Appropriate Assessment

This stage considers the impact of the proposed development on the integrity of a European site(s), either alone or in combination with other projects or plans, with respect to: (i) the site's conservation objectives; and (ii) the site's structure, function and its overall integrity. Additionally, where there are adverse impacts, an assessment of the potential mitigation of those impacts is undertaken.

The output from this stage is a Natura Impact Statement (NIS). This document must include sufficient information for the competent authority to carry out the appropriate assessment. If the assessment is negative; i.e. adverse effects on the integrity of a site cannot be excluded, then the process must consider alternatives (Stage 3) or proceed to Stage 4.

Stage 3: Assessment of Alternatives

This process examines alternative ways of achieving the objectives of the project that avoid adverse impacts on the integrity of the European site. This assessment may be carried out concurrently with Stage 2 in order to find the most appropriate solution. If no alternatives exist or all alternatives would result in negative impacts to the integrity of the European sites then the process either moves to Stage 4 or the project is abandoned.

Stage 4: Assessment where Adverse Impacts Remain

This stage includes the identification of compensatory measures where, in the context of Imperative Reasons of Overriding Public Interest (IROPI), it is deemed that the project or plan should proceed.

2 METHODOLOGY

2.1 Guidance on Appropriate Assessment

Appropriate Assessment Guidelines for Planning Authorities have been published by the Department of the Environment Heritage and Local Government (DEHLG, 2010a). In addition to the advice available from the Department, the European Commission has published a number of documents which provide significant guidance on the requirements of Appropriate Assessment, most notably including, '*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'* (EC, 2001), which sets out the principles of how to approach decision making during the process.

These principal national and European guidelines have been followed in the preparation of this document. The following list identifies these and other pertinent guidance documents:

- Communication from the Commission on the Precautionary Principle, Office for Official Publications of the European Communities, Luxembourg (EC, 2000a);
- 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, 2018c);
- Guidance document on Article 6(4) of the 'Habitats Directive' 92/43/EEC – Clarification of the concepts of: alternative solutions, imperative reasons of overriding public interest, compensatory measures, overall coherence, opinion of the commission (EC, 2007);
- Appropriate Assessment of Plans and Projects in Ireland. Guidance for Planning Authorities. Department of Environment, Heritage and Local Government, Dublin (DEHLG, 2010a);
- Department of Environment, Heritage and Local Government Circular NPW 1/10 and PSSP 2/10 on Appropriate Assessment under Article 6 of the Habitats Directive – Guidance for Planning Authorities (DEHLG, 2010b);
- Nature and biodiversity cases: Ruling of the European Court of Justice (EC, 2006);
- Article 6 of the Habitats Directive: Rulings of the European Court of Justice (EC, 2014) and
- Interpretation Manual of European Union Habitats. Version EUR 28. European Commission (EC, 2013).
- Terminology interpretation for The Conservation (Natural Habitats, etc.) (Amendment) (Northern Ireland) (EU Exit) Regulations 2019 (DAERA 2020)
- Assessment of plans and projects significantly affecting Natura 2000 sites: Methodological guidance on the provisions of Articles 6(3) and (4) of the Habitats Directive 92/43/EEC. Office for Official Publications of the European Communities, Brussels (EC, 2021);

EC (2000a) notes that the implementation of an approach based on the precautionary principle should start with a scientific evaluation, as complete as possible, and where possible, identifying at each stage the degree of scientific uncertainty, and also that decisions taken based on the precautionary principle should be maintained so long as scientific information is incomplete or inconclusive. EC (2001) notes also that predicting the response of a receptor to a disturbance effect can be difficult and, in the absence of firm scientific information, requires a precautionary approach.

There have been significant changes to AA practice since both the EC (2001) and the DoEHLG guidance (2010), arising from practice and rulings in the European, UK and Irish courts. The following issues have been addressed in the preparation of this report:

- Cataloguing the entirety of the habitats and species for which each European site is protected;
- Examination of the implications of the proposed development for the species present on a European site, and for which the site has not been listed. This is understood to include habitats and species providing supporting or secondary services to those listed for the European site designation;
- Examination of the implications for habitat types and species to be found outside the boundaries of the site, provided that in each case those implications are liable to affect the integrity of the site;
- Identification, in light of best scientific knowledge in the field, all aspects of the development which can by itself or in combination with other plans or projects, affect the European site in light of its conservation objectives;
- Inclusion of complete, precise and definitive findings and conclusions, and the removal of gaps following an evaluation of the potential for impacts in light of the best scientific knowledge in the field;
- Inclusion of a determination that the proposed development will/will not adversely affect the integrity of any European site where on the basis of complete, precise and definitive findings and conclusions made, the competent authority decides that no reasonable scientific doubt remains as to the presence/absence of the identified potential effects;
- Making of findings explicit; and
- Distinguishing between measures to avoid or reduce the impacts of the proposed development on European sites, and measures to compensate for damaging impacts; the latter of which cannot be taken into account.

2.2 Ecological Data

2.2.1 Desk Study

A desk study was completed to assess the potential for all QIs and SCIs of European sites to occur, given their ecological requirements identified by Balmer *et al.* (2013) for SCIs and the National Parks and Wildlife Service (NPWS) for QIs.

SCI Birds and mobile QI species can travel many kilometres from their core areas, and desktop surveys assessed the potential presence of such species beyond the European sites for which they are QIs/SCIs. Desktop studies had particular regard for the following sources:

- EPA online interactive mapping tool[1];
- Tabulated lists for all European sites in Ireland of SCIs and QIs, obtained from NPWS;
- Information on ranges of mobile SCIs bird populations from Bird Atlas 2007–11 (Balmer et al., 2013), excluding birds of prey whose ranges were determined with reference to Hardey et al. (2013);

[1] Available online at https://gis.epa.ie/EPAMaps/default. Accessed February 2020.

- Mapping of European site boundaries and Conservation Objectives for relevant sites in County Monaghan and beyond, as relevant, available online from the NPWS;
- Distribution records for QI and SCI species of European sites held online by the National Biodiversity Data Centre (NBDC);
- Data including surface and ground water quality status, and river catchment boundaries available from the online database of the Environmental Protection Agency (EPA);
- Boundaries for catchments with confirmed or potential freshwater pearl mussel (FWPM) *Margaritifera margaritifera* populations in GIS format available online from the NPWS; and
- Information obtained through consultation (see **Section 2.2**);

2.2.2 Field Study

This report was informed by a habitat and protected species surveys of the proposed development site, undertaken in February and July 2020 by an RPS ecologist. The survey assessed the potential for all QIs/SCIs of European sites and third schedule[2] invasive species to occur, given their ecological requirements identified by Balmer *et al.* (2013) for birds and the NBDC and NPWS for all other species/habitats.

2.3 Relevant European Sites

The identification of relevant European sites to be included in this report was based on the identification of the Zone of Influence (ZoI) of the proposed development, a source-pathway-receptor model of effects and the likely significance of any identified effects.

2.3.1 Zone of Influence

The proximity of the proposed development to European sites, and more importantly QIs/SCIs of the European sites, is of importance when identifying any potentially likely significant effects which may arise. During the initial scoping of this report a 15km ZoI was applied for impact assessment. A conservative approach has been used, which minimises the risk of overlooking distant or obscure effect pathways, while also avoiding reliance on buffer zones (e.g. 15km), within which all European sites should be considered. This approach assesses the complete list of all QIs/SCIs of European sites in Ireland (i.e. potential receptors), instead of listing European sites within buffer zones. This follows Irish departmental guidance on AA:

"*For projects, the distance could be much less than 15km, and in some cases less than 100m, but this must be evaluated on a case-by-case basis with reference to the nature, size and location of the project and the sensitivities of the ecological receptors, and the potential for in combination effects*" (DEHLG 2010; p.32 para 1).

Following the guidance set out by the NRA (2009) the proposed development has been evaluated based on an identified ZoI with regard to the potential impact pathways to ecological features (mobile and static). The ZoI of the proposed development on mobile species (e.g. birds, mammals and fish), and static species

[2] Invasive species scheduled to the EC (Birds and Natural Habitats) Regulations 2011-2015 ('the Regulations'). Under the Regulations, it is an offence to plant, disperse, allow or cause to disperse, spread or otherwise cause to grow in any place anyspecies scheduled to the Regulations without a licence.

and habitats is considered differently. Mobile species have 'range' outside of the European site in which they are a listed QI/SCI. The range of mobile QI/SCI species varies considerably from several metres, in the case of whorl snails *Vertigo* sp., to hundreds of kilometres in the case of migratory wetland birds. Whilst static species and habitats are generally considered to have ZoIs which closely surround their location they can be significantly affected at considerable distances from an effect source, for example, where an aquatic QI habitat or plant is located many kilometres downstream from a pollution source.

Hydrological linkages between the proposed development and European sites (and their QIs/SCIs) can occur over significant distances; however any effect will be site specific, depending on the receiving water environment and nature of the potential impact. As a precautionary measure, a reasonable worst-case ZoI for water pollution from the proposed development is considered to be the surface water catchment.

2.3.2 Source-Pathway-Receptor Model

The likely significant effects of the proposed development on any European site has been assessed using a source-pathway-receptor model, where:

- A 'source' is defined as the individual element of the proposed works that has the potential to impact on a European site, its qualifying features and its conservation objectives.
- A 'pathway' is defined as the means or route by which a source can affect the ecological receptor.
- A 'receptor' is defined as the special conservation interests (SCI) of SPAs or qualifying interests (QI) of SACs for which conservation objectives have been set for the European sites being screened.

A source-pathway-receptor model is a standard tool used in environmental assessment. In order for an effect to be likely all three elements of this mechanism must be in place. The absence of removal of one of the elements of the mechanism results in no likelihood for the effect to occur. The source-pathway-receptor model was used to identify a list of European sites and their QIs/SCIs, with potential links to the proposed development. These are termed as 'relevant' European sites/QIs/SCIs throughout this report.

2.3.3 Likely Significant Effect

The threshold for a likely significant effects (LSE) 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[3] outlines:

"*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 this report therefore, 'relevant' European sites are those within the potential ZoI of activities associated with the construction and operation of the proposed development, where LSE pathways to European sites were identified through the source-pathway-receptor model.

[3] *Sweetman v. An Bord Pleanála* (Court of Justice of the EU, case C-285/11). A de minimis effect is a level of risk that is too small to be concerned with when considering ecological requirements of an Annex I habitat or a population of Annex II species present on a European site necessary to ensure their favourable conservation condition. If low level effects on habitats or individuals of species are judged to be in this order of magnitude and that judgment has been made in the absence of reasonable scientific doubt, then those effects are not considered to be likely significant effects.

2.3.4 Consideration of ex-situ effects

EC (2019) advises that Member States, both in their legislation and in their practice, allow for the Article 6(3) safeguards to be applied to any development pressures, including those which are external to European sites but which are likely to have significant effects on any of them.

The CJEU developed this point when it issued a ruling in case C-461/17 ("Brian Holohan and Others v An Bord Pleanála") that determined inter alia that Article 6(3) of Directive 92/43/EEC must be interpreted as meaning that an appropriate assessment must on the one hand, catalogue the entirety of habitat types and species for which a site is protected, and, on the other, identify and examine both the implications of the proposed project for the species present on that site, and for which that site has not been listed, and the implications for habitat types and species to be found outside the boundaries of that site, provided that those implications are liable to affect the conservation objectives of the site.

In that regard, consideration has been given in this assessment to implications for habitats and species located both inside and outside of the European sites considered in the screening appraisal with reference to those sites' Conservation Objectives where effects upon those habitats and/or species are liable to affect the conservation objectives of the sites concerned.

2.3.5 Mitigation Measures at Screening Stage

In determining whether or not likely significant effects will occur or can be excluded in the Stage 1 appraisal, measures intended to avoid or reduce the harmful effects of the proposed development on European sites, (i.e. "mitigation measures") or best practice measures have not been taken into account in this screening stage appraisal. This approach is consistent with EU guidance and the case law of the Court of Justice of the European Union (CJEU):

EC (2001) states that "project and plan proponents are often encouraged to design mitigation measures into their proposals at the outset. However, it is important to recognise that the screening assessment should be carried out in the absence of any consideration of mitigation measures that form part of a project or plan and are designed to avoid or reduce the impact of a project or plan on a Natura 2000 site". This direction in the European Commission's guidance document is unambiguous in that it does not permit the inclusion of mitigation at screening stage.

In April 2018, the Court of Justice of the European Union issued a ruling in case C-323/17 People Over Wind & Peter Sweetman v Coillte Teoranta ("People Over Wind") that Article 6(3) of Directive 92/43/EEC must be interpreted as meaning that, in order to determine whether it is necessary to carry out, subsequently, an appropriate assessment of the implications, for a site concerned, of a plan or project, it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site.

The judgment in People Over Wind is further reinforced in EC (2019) which refers to CJEU Case C-323/17.

2.3.6 UK Departure from the EU

It is recognised that following the United Kingdom's departure from the European Union, SACs and SPAs in the UK are no longer considered "Natura 2000 sites" for the purpose of an assessment pursuant to Article 6(3) of the Habitats Directive. However, pursuant to the UK's Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019, those sites still retain the same protection under UK law as they did prior to the UK's exit from the EU.

In the circumstances, and consistent with the UK's obligations as a signatory to the Bern Convention on the Conservation of European Wildlife and Natural Habitats, to which the Birds and Habitats Directives give effect, and in order to ensure the highest level of protection for the species and habitats protected by those Directives, the following assessment includes a full assessment of relevant UK and RoI sites forming part of the Natura 2000 or UK National site network of sites protected under those Directives.

This will enable the competent authority to ensure that there will no adverse effect on the integrity of those RoI sites and the UK national site network.

3 THE PROPOSED DEVELOPMENT

The proposed development is an urban regeneration scheme which will involve the demolition of buildings/properties, the provision of new urban spaces, streets, roads, public areas, car parking and pedestrian and cycle facilities; the provision of new utility services; urban landscaping and the provision of public realm and amenity facilities. The location of the proposed development and the boundary of the proposed works is illustrated at **Figure 1.0 Site Location**.

3.1 Project Description

The proposed development works will take between 12 - 24 months to complete and will comprise the following works:

- A summary of the proposed development is outlined below:
- The demolition of buildings and structures, including street frontage buildings No's 8-11 Dublin Street and associated outbuildings and structures; the building to the rear of No.24 Dublin Street; partial removal of the rear section of the Northern Standard building fronting the Lower Courthouse car park; storage sheds, walls, and fencing.
- New building façades/side elevations to No's 7 and 12-13 Dublin Street, likely to be a masonry wall with piers finished in render (for structural stability) to facilitate creation of the new junction onto Dublin Street;
- Creation of a new urban space, comprising a street, junction and extended footpaths to connect Dublin Street through to its backland areas, opening up new areas for development and enhancing the pedestrian linkages throughout this area. This area is intended as a multi-use space and is capable of being temporarily cordoned off for use as an event space, for a market, pop-up commercial/retail uses, or occasional festival events. The creation of this new space creates a new setting and enables new opportunities for future infill development and reuse/ adaptation of existing underutilised buildings on either side of the new space, creating opportunities for new commercial and residential activity. It is proposed that this area will be known as Charles Gavan Duffy Place.
- reation of new streets:
- New street connecting Charles Gavan Duffy Place to the Courthouse, to be known as Church Walk;
- Realignment of an existing road to create a promenade, and to be known as The Mall;
- Realignment of an existing road, to be known as Farney Road;
- Creation of new urban civic spaces, streets, junctions, pedestrian pavements, steps, and cycle routes
- Construction of new public realm comprising new surfaces, kerbing, street furniture, public street and feature lighting, soft landscape planting, cycle parking and signage
- Clearance, regrading and creation of two potential development areas with supporting embankments, hardcore surfacing and boundary fencing
- New boundary treatments comprising walls, railings and fencing
- Alterations to the existing car parking layouts within the Courthouse car park and Lower Courthouse car park, and a reduction in long stay parking spaces
- Upgrading and installation of new utility services, CCTV, and a new ESB sub-station
- All associated site development works.
- It is estimated that the proposed work will take between 12- 24 months to complete on site.

4 RECEIVING ENVIRONMENT

4.1 Overview of Proposed Development

The proposed development involves the redevelopment of an urban area primarily comprising existing development including commercial and residential development. The wider environment, surrounding Monaghan town centre includes areas of further urban development, the Shambles River, areas of agricultural land and forestry.

4.2 European Sites

This screening exercise considers European sites designated under European Council Directives 92/43/EEC and 2009/147/EC, in addition to those sites within Northern Ireland which now form a part of the UK National Site Network and are designated under The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended). As per the terminology guidance published by DAERA (2020) these SPAs and SACs continue to be referred to as European sites.

The proposed development must be screened against those European sites for which a pathway of effect can be reasonably established between a receptor and the source of an effect.

Table 4.1 below provides descriptive details of designated sites and features of natural heritage importance located within the projects potential ZoI including where these sites are connected through an identifiable impact pathway. The boundary of each of these designated sites in relation to the proposed project is illustrated in **Figure 2.0 Designated Sites.**

Table 4.1: European Sites and their Qualifying Interests within 15km of the Proposed Development

European Site	Distance & Direction from Site	Selection Feature
Slieve Beagh SPA [004167]	10.39km NW	• Hen Harrier *Circus cyaneus* [A082]
Magheraveely Marl Loughs SAC [UK0016621]	12.1km W	• Hard oligo-mesotrophic waters with benthic vegetation of *Chara* formations [3140] • White-clawed Crayfish *Austropotamobius pallipes* [1092] • Alkaline fens [7230] • Calcareous fens with *Cladium mariscus* and species of the Caricion davallianae [7210]
Slieve Beagh-Mullaghfad-Lisnaskea SPA [UK9020302]	15.2km NW	• Hen Harrier *Circus cyaneus* [A082]
Slieve Beagh SAC [UK0016622]	15.2km NW	• Blanket bogs (* if active bog) [7130] • Natural dystrophic lakes and pools [3160] • European dry heaths [4030]
Lough Neagh and Lough Beg SPA [UK9020091]	38.9km N (straight-line distance) 58.6km by hydrological connection.	• Common Tern *Sterna hirundo* [A193] (breeding) • Great Crested Grebe *Podiceps cristatus* [A005] (breeding) • Great Crested Grebe *Podiceps cristatus* [A005] (passage) • Whooper Swan *Cygnus cygnus* [A038] (wintering) • Bewick's Swan *Cygnus columbianus bewickii* [A037] (wintering) • Golden Plover *Pluvialis apricaria* [A140] (wintering) • Great Crested Grebe *Podiceps cristatus* [A005] (wintering) • Pochard *Aythya ferina* [A059] (wintering) • Tufted Duck *Aythya fuligula* [A061] (wintering) • Scaup *Aythya marila* [A062] (wintering)

European Site	Distance & Direction from Site	Selection Feature
		• Goldeneye *Bucephala clangula* [A067] (wintering) • Little Grebe *Tachybaptus ruficollis* [A004] (wintering) • Cormorant *Phalacrocorax carbo* [A017] (wintering) • Greylag Goose *Anser anser* [A043] (wintering) • Shelduck *Tadorna tadorna* [A048] (wintering) • Wigeon *Anas Penelope* [A052] (wintering) • Gadwall *Anas strepera* [A051] (wintering) • Teal *Anas crecca* [A052] (wintering) • Mallard *Anas platyrynchos* [A053] (wintering) • Shoveler *Anas clypeata* [A056] (wintering) • Coot *Fulica atra* [A125] (wintering) • Lapwing *Vanellus vanellus* [A142] (wintering) • Habitat extent • Roost site locations

4.3 Habitats and Flora

4.3.1 Terrestrial

The nearest 'terrestrial' QI habitats to the proposed development are blanket bog and European dry heaths associated with Slieve Beagh SAC which lies 15.2km to the north-west of the proposed development.

No terrestrial habitats within the proposed development boundary or within the wider locality have affinity to QI habitats or offer any significant value to QIs or SCIs of any European sites.

4.3.2 Aquatic

Analysis of the EPA online mapper identified the Shambles River as the only surface watercourse within proximity to the proposed development, this watercourse lies adjacent to the southern boundary of the site.

The Shambles River is not designated as a European site, however it provides a hydrological link, via the Ulster Canal, the Cor River and the River Blackwater, to the Lough Neagh and Lough Beg SPA, which lies 58.6km downstream of the proposed development.

An EPA monitoring station, located approximately 1.9km downstream of the proposed development, indicates a water quality status of 'poor' in 2017 (the most recent data). The river waterbody status (2013-2018) of the Shambles River (Shambles_010) is also considered 'poor'.

The water quality and waterbody status of intervening watercourses are as follows:

- Ulster Canal/River Blackwater: Moderate;
- Cor River: Moderate;
- River Blackwater (Caledon): Good;
- River Blackwater (Benburb): Good;
- River Blackwater (Argory): Poor; and
- Lough Neagh Peripherals: Poor Ecological Potential.

The proposed development lies within the Monaghan Town groundwater body, which is classified as 'good' status, for the period 2013 to 2018. This groundwater body does not adjoin any European site.

The draft Strategic Flood Risk Assessment for Monaghan County includes for flood mapping and projections which illustrate that a portion of the proposed development lies within Flood Zone B (1 in 1000 year or 0.1% Annual Exceedance Probability (AEP)), with a much smaller area lying within Flood Zone A (1 in 100 year or 1% AEP). Such floodwater projections arise in the south of the site in associated with the River Shambles.

The nearest 'aquatic' QI habitat to the proposed development is hard oligo-mesotrophic waters with benthic vegetation of *Chara* formations, alkaline fens and calcareous fens with *Cladium mariscus* and species of the Caricion davallianae, within the Magheraveely Marl Loughs SAC, which is located c.12.1km to the west of the proposed development. These habitats are not hydrologically linked with the proposed development.

No aquatic habitats were recorded within the footprint of the proposed development.

4.3.3 Flora and Invasive Alien Species

The field survey recorded no evidence or potential for QI flora, including Killarney fern *Trichomanes speciosum,* marsh saxifrage *Saxifraga hirculus*, slender naiad *Najas flexilis*, slender green feather moss *Hamatocaulis vernicosus*, or petalwort *Petalophyllum ralfsii*. None of these species were returned from the desk study data search.

One invasive alien species, scheduled to the European Communities (Bird and Natural Habitat Regulations) 2011-2015, was noted during the field survey of the proposed development. A number of stands of Japanese Knotweed *Fallopia japonica* were noted within the boundary of the proposed development. Desk study records for the area include a number of records of Japanese knotweed.

The proposed development therefore supports invasive alien species, scheduled to the European Communities (Bird and Natural Habitat Regulations) 2011-2015.

4.4 Mobile Species

4.4.1 Qualifying Interests

Desk study results indicated that several QI mobile species have been recorded within 100m of the proposed development site, while the field survey found no evidence or potential for mobile QI species within the proposed development boundary and its surrounds.

The nearest mobile QI species, designated as part of a SAC is white-clawed crayfish *Austropotamobius pallipes* associated with the Magheraveely Marl Loughs SAC, located approximately 12.1km west of, and within a different catchment unit from, the proposed development.

4.4.1.1 Mammals

The desk study returned five results of European otter *Lutra lutra* from locations within 10km of the proposed development, however no records were returned from within 1km of the proposed development.

The proposed development is outside the favourable reference range of the lesser horseshoe bat *Rhinolophus hipposideros* (NPWS, 2013), which is the only bat species designated as a QI in Ireland. The species is restricted to the western Atlantic seaboard.

4.4.1.2 Fish

The proposed development is within the favourable reference range of the QIs Atlantic salmon *Salmo salar*, brook lamprey *Lampetra planeri* and river lamprey *Lampetra fluviatilis.* Records of these species were not returned from within 1km of the proposed development.

4.4.1.3 Invertebrates and Amphibians

The proposed development is outside the favourable reference range and potential foraging range (i.e. 10km, Zimmerman *et al.*, 2011) of marsh fritillary *Euphydryas aurinia*. The favourable reference ranges of all QI whorl snails are outside the proposed development and its surrounds.

The proposed development is outside the favourable reference range of both QIs freshwater pearl mussel *Margaritifera margaritifera* and Irish freshwater pearl mussel *Margaritifera durrovensis,* and is not within the same catchment management unit as any freshwater pearl mussel SAC catchment.

The proposed development is also outside the favourable reference range of the QIs white-clawed crayfish, Kerry slug *Geomalacus maculosus* and natterjack toad *Bufo calamita*.

No records of any of the above invertebrate or amphibian species were returned during the desk study data search, from within 1km of the proposed development.

4.4.2 Special Conservation Interests

The field survey recorded the presence of SCI herring gull *Larus argentatus* within the proposed development boundary. The desk study returned records for 15 SCI bird species, associated with the nearby or hydrologically linked SPAs (see **Table 4.1**, above) from the preceding 10 years, within 10km of the proposed development (see **Table 4.2**).

There were no habitats offering nesting or foraging sites for any SCI species within the footprint of the proposed development.

Species Name	Record Count	Date of Last Record
Hen Harrier *Circus cyaneus*	3	18/11/17
Great Crested Grebe *Podiceps cristatus*	15	31/12/11
Golden Plover *Pluvialis apricaria*	3	31/12/11
Pochard *Aythya ferina*	5	31/12/01
Tufted Duck *Aythya fuligula*	15	13/12/12
Goldeneye *Bucephala clangula*	3	10/12/11
Little Grebe *Tachybaptus ruficollis*	9	26/08/16
Cormorant *Phalacrocorax carbo*	12	27/03/17
Greylag Goose *Anser anser*	2	31/12/11
Wigeon *Anas penelope*	5	31/12/11
Teal *Anas crecca*	10	13/12/12
Mallard *Anas platyrynchos*	39	26/08/16
Coot *Fulica atra*	31	26/08/16
Lapwing *Vanellus vanellus*	19	31/12/11

5 APPROPRIATE ASSESSMENT – STAGE 1: SCREENING ASSESSMENT

5.1 Screening for Appropriate Assessment

Under Section 177U (1) of the Planning Acts, a Screening for AA of the proposed development shall be carried out by the competent authority to assess in view of best scientific knowledge, if that proposed development, individually or in combination with other plans or projects, is likely to have a significant effect(s) on any European sites.

In order to comply with the requirements of Article 6(3) of the EU Habitats Directive, the process of Screening for AA was undertaken for the proposed development. A report to inform screening for AA (RPS 2020) assessed the potential for the project to result in likely significant effects on any European sites, wither alone or in combination with other plans or projects. A standalone AA Screening Report has been included in the planning application document submitted for this application.

5.2 Potential for Likely Significant Effects

When considering whether a European site can be screened out, the competent authority cannot take into account any measures intended to avoid or reduce the harmful effects of the proposed development (i.e. mitigation measures), however, a 2019 Irish High Court consideration concluded that Sustainable Drainage Systems (SuDS) are "*as a matter of fact and law…not mitigation measures which a competent authority is precluded form considering at the stage1 screening stage"*.

The report to inform screening for AA (RPS 2020) identified the potential for LSE to the Lough Neagh and Lough Beg SPA, resulting from:

- Surface water pollution; and
- Spread of scheduled invasive plant species.

5.3 Screening for Appropriate Assessment Conclusion

Through an assessment of the source-pathway-receptor model, which considered the ZoI of effects from the proposed development and the potential in-combination effects with other plans and projects, the following findings were reported by RPS (2020):

- In the absence of adequate assessment or the application of mitigation measures to control surface water pollution during construction of the proposed project the potential for LSE to the Lough Neagh and Lough Beg SPA cannot be ruled out; and
- In the absence of adequate assessment or the application of mitigation measures to control the potential spread of scheduled invasive plant species during construction of the proposed project the potential for LSE to the Lough Neagh and Lough Beg SPA cannot be ruled out.

It was concluded that on a precautionary basis, the potential for likely significant effects on Lough Neagh and Lough Beg SPA as a result of the proposed project could not be ruled out and therefore the AA process should proceed to the preparation of a NIS.

For the purposes of this NIS, RPS has assumed that the competent authority would agree that the proposed development '*Screens in*' to the requirement for AA; although it is ultimately the responsibility of the competent authority to make the final determination.

No Natura 2000 sites within the Republic of Ireland are likely to be significantly affected by the proposed development.

6 APPROPRIATE ASSESSMENT – STAGE 2: NATURA IMPACT STATEMENT

The requirement to carry out a NIS followed on from the conclusion arrived at during the Screening process (See Section 5 and RPS (2020). In order to determine if the identified source-pathway-receptor linkages could give rise to Likely Significant Effects (LSE), the following steps are taken:

1. Identification of the information required, including the proposed development, linkages to European sites and descriptions of relevant European sites;
2. Examination of the site-specific conservation objectives and attributes of the QIs/SCIs of relevant European sites; and
3. Prediction of any LSE of the proposed development, including in-combination effects.

6.1 Required Information

6.1.1 Proposed Development

The proposed development has been described in detail in Section 2 of this report.

6.1.2 Linkages to European Sites

The connectivity between the proposed project and all European sites has been assessed. The Lough Neagh and Lough Beg SPA has been identified as the only relevant European site for this NIS. The source-pathway-receptor model for the proposed development is detailed at **Table 6.1**. Only relevant identified effects are brought forward to the next part of the NIS assessment.

The SCIs of the Lough Neagh and Lough Beg SPA comprise a range of bird species, in addition to the habitat available for these species. It is considered therefore that any identified links between the proposed project and this European site are equally relevant to all SCIs for which the site has been designated, which all rely upon the supported habitats within this SPA.

Table 6.1: Source-Pathway-Receptor Model for the Proposed Development

Phase	Source of Potential Effect	Description of Effect Pathway	Potential Zone of Influence of Effect	Potential Relevance of Effect to AA
Construction	Noise, vibration, lighting and human presence during movements of vehicles and staff associated with construction activities.	During construction noise or other construction-related disturbance could reduce the ability of populations of qualifying interest / special conservation interest species to forage, roost or breed.	Varies by species. Generally assessed to within 500m of the proposed development footprint for wintering birds (see Madsen, 1985; Smit & Visser, 1993; and Rees *et al.,* 2005). However distance may be significantly lower (e.g. 150m for otter underground sites (NRA 2006) or higher (e.g. hen harriers may take flight when nesting at up to 750m from disturbance (Whitfield *et al.,* 2008).	**Not relevant.** These effects are not predicted to result in any LSE within the ZoI as there are no significant populations of QI or SCI species present within the ZoI of the proposed project. The effects of noise, vibration, lighting and human presence are therefore scoped out from further assessment.
	Surface water run-off carrying suspended silt or contaminants into local watercourses.	Silt, hydrocarbons, and/or other contaminants (oils, fuels, etc.) may enter nearby watercourses through surface water run-off.	The zone of influence of effects from contaminated surface water is difficult to accurately estimate as it will depend on numerous factors including the type and concentration of pollutants, assimilative capacity of receiving waters, and time of year (related to water levels). As a precautionary measure, a reasonable worst-case zone of influence for water pollution from the proposed development site is considered to be the downstream surface water catchment. In this report the surface water catchment is defined as watercourses which lie downstream of the proposed development in addition to Lough Neagh, into which they flow.	**Relevant.** It has been determined that silt, grit, fuels, oils or known soil contaminants could enter surface water during the construction of the proposed development. These effects are potentially amplified by the 'moderate' and 'poor' receiving water quality of the intervening waterbodies. In the absence of mitigation measures to control surface water pollution during construction of the proposed project, the potential for LSE to the Lough Neagh and Lough Beg SPA cannot be ruled out.
	Disturbance of invasive species during the	Construction activities could lead to the dispersal of scheduled invasive species	The zone of influence of effects associated with the spread of invasive species is difficult to accurately estimate, as plant	**Relevant.** It has been determined that fragments of Japanese knotweed, capable of regenerating, could enter

Phase	Source of Potential Effect	Description of Effect Pathway	Potential Zone of Influence of Effect	Potential Relevance of Effect to AA
	construction of the proposed development.	either via machinery, materials, clothing or wild animals.	fragments may spread on tyre treads to distant unrelated sites. In relation to water-bourne spread of vegetation, the zone of influence generally is restricted to the surface water catchment.	surface water during the construction of the proposed development. In the absence of mitigation measures to control invasive plant species during construction of the proposed project, the potential for LSE to the Lough Neagh and Lough Beg SPA cannot be ruled out.
	Changes of groundwater quality, yield and/or flow paths associated with earthworks during construction.	Construction activities (e.g. earthworks) could interfere with groundwater quality, yields and/or flow paths, potentially affecting the water quality or habitats dependant on groundwater supply.	The zone of influence of effects associated with groundwater impacts is difficult to accurately estimate, as it will depend on factors including the depth and intrusion of excavations, and time of year (related to water levels). As a precautionary measure, a reasonable worst-case spatial zone of influence is considered to be 500m from the point of excavation; which is a precautionary doubling of the 250m stated as the potential zone of influence from intrusive excavations to sensitive upland peatland sites (SEPA, 2014).	**Not relevant.** These effects are not predicted to result in any LSE within the ZoI as there are no significant populations of QI or SCI species present within the ZoI of the proposed project. The effects of changes in groundwater quality, yield and/or flow paths are therefore scoped out from further assessment.
Operation	Noise, lighting and human presence, including vehicle movements associated with the operational use of the site.	During operation noise, lighting or other related operational phase disturbance could reduce the ability of populations of qualifying interest / special conservation interest species to forage, roost or breed.	Varies by species. Generally assessed to within 500m of the proposed development footprint for wintering birds (see Madsen, 1985; Smit & Visser, 1993; and Rees *et al.,* 2005). However distance may be significantly lower (e.g. 150m for otter underground sites (NRA 2006) or higher (e.g. hen harriers may take flight when nesting at up to 750m from disturbance (Whitfield *et al.,* 2008).	**Not relevant.** These effects are not predicted to result in any LSE within the ZoI as there are no significant populations of QI or SCI species present within the ZoI of the proposed project. The effects of noise, vibration, lighting and human presence are therefore scoped out from further assessment.
	Surface water run-off carrying suspended silt or	Silt, hydrocarbons and/or other contaminants (oils, fuels etc.) may enter	The zone of influence of effects from contaminated surface water is difficult to	**Relevant.** It has been determined that silt, grit, fuels, oils or known soil

Phase	Source of Potential Effect	Description of Effect Pathway	Potential Zone of Influence of Effect	Potential Relevance of Effect to AA
	contaminants onto local watercourses.	nearby watercourses through surface water run-off.	accurately estimate as it will depend on numerous factors including the type and concentration of pollutants, assimilative capacity of receiving waters, and time of year (related to water levels). As a precautionary measure, a reasonable worst-case zone of influence for water pollution from the proposed development site is considered to be the downstream surface water catchment. In this report the surface water catchment is defined as watercourses which lie downstream of the proposed development in addition to Lough Neagh, into which they flow.	contaminants could enter surface water during the construction of the proposed development. These effects are potentially amplified by the 'moderate' and 'poor' receiving water quality of the intervening waterbodies. In the absence of mitigation measures to control surface water pollution during construction of the proposed project, the potential for LSE to the Lough Neagh and Lough Beg SPA cannot be ruled out.
	Alterations to foul water treatment and discharge.	Foul water, associated with new requirements for provision of infrastructure, may enter nearby watercourses via treatment outfalls.	The zone of influence of effects from contaminated surface water is difficult to accurately estimate as it will depend on numerous factors including the type and concentration of pollutants, assimilative capacity of receiving waters, and time of year (related to water levels). As a precautionary measure, a reasonable worst-case zone of influence for water pollution from the proposed development site is considered to be the downstream surface water catchment. In this report the surface water catchment is defined as watercourses which lie downstream of the proposed development in addition to Lough Neagh, into which they flow.	**Not relevant.** These effects are not predicted to result in any LSE within the ZoI as there are no significant populations of QI or SCI species present within the ZoI of the proposed project which are likely to be highly sensitive to such effects. The effects of alterations to foul water treatment and discharge are therefore scoped out from further assessment.

6.2 Conservation Objectives

6.2.1 Lough Neagh and Lough Beg SPA

Site-specific conservation objectives are available from DAERA (DAERA 2015). These objectives are as follows:

- To maintain each feature in favourable condition;

Further objectives within this are:

- To maintain or enhance the population of the qualifying species;
- Fledging success sufficient to maintain or enhance population;
- To maintain or enhance the range of habitats utilised by the qualifying species;
- To ensure that the integrity of the site is maintained;
- To ensure there is no significant disturbance of the species; and
- To ensure that the following are maintained in the long term:
  - Population of the species as a viable component of the site
  - Distribution of the species within site
  - Distribution and extent of habitats supporting the species
  - Structure, function and supporting processes of habitats supporting the species

For the waterfowl assemblage component objectives are to:

- Ensure that there is no significant decrease in the population against national trends; and
- Maintain species diversity contributing to the waterfowl assemblage.

For habitat component objectives are to:

- Maintain or enhance the area of natural and semi-natural habitats used or potentially usable by feature bird species subject to natural processes;
- Maintain the extent of main habitat components subject to natural processes; and
- Maintain or enhance sites utilised as roosts.

The site-specific conservation objectives for the site identify a range of relevant main threats, pressures and activities with impacts on the site or site features.

Of these identified threats and pressures the following are considered to be relevant to the potential LSE identified in respect of the proposed project:

- Adjoining habitat: important for waterfowl populations – sensitive to the spread of invasive plant species.
- Habitat quality: open water – sensitive to water quality and habitat deterioration effects associated with inputs into the freshwater environment.

Impacts upon the qualifying features of the Lough Neagh and Lough Beg SPA are predicted in respect of both of these identified threats and pressures through water quality and habitat deterioration and spread of scheduled invasive plants.

6.3 In-Combination Effects

Legislation, guidance and case law (See **Section 1.1** and **Section 2.1**) requires that in-combination effects with other plans or projects are considered. On this basis, a range of other plans and projects were considered in terms of their potential to have in-combination effects with the proposed development.

The assessment of in-combination effects has regard to developments potentially affecting the Lough Neagh and Lough Beg SPA, with which a potential pathway has been identified. The Natura Standard Data from for Lough Neagh and Lough Beg SPA identify the most important impacts (high and medium) and activities with high effect on the sites as:

- G01 – Outdoor sports and leisure activities, recreational activities;
- C01 – Mining and quarrying;
- H01 – Pollution to surface waters (limnic, terrestrial, marine and brackish);
- A02 – Modification of cultivation practices;
- I01 – Invasive non-native species;
- J03 – Other ecosystem modifications;
- M02 – Changes in biotic conditions;
- A04 – Grazing;
- D04 – Airports, flightpaths;
- D02 – Utility and service lines;
- M01 – Changes in abiotic conditions.

6.3.1 Plans

6.3.1.1 National Development Plan

The National Development Plan 2018-2027 (Government of Ireland, 2018) does not set out any National Strategic Outcomes, which are deemed to create in-combination effects with the proposed development.

6.3.1.2 Monaghan County Development Plan

The Monaghan County Development Plan 2019-2025 (MCC 2019) sets out several relevant biodiversity objectives, including:

HLP 4:

"*No projects giving rise to significant cumulative, direct, indirect or secondary impacts on Natura 2000 sites arising from their size or scale, 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 individually or in combination with other plans or projects".

AAP 1:

"*All projects and plans arising from this plan will be screened for the need to undertake Appropriate Assessment under Article 6 of the Habitats Directive. A plan or project will only be authorised after the competent authority has ascertained, based on scientific evidence, Screening for Appropriate Assessment, and a Stage 2 Appropriate Assessment where necessary that:*

1. *The plan or project will not give rise to significant adverse direct, indirect or secondary effects on the integrity of any European site (either individually or in combination with other plans or projects); or*
2. *The plan or project will have significant adverse effects on the integrity of any European site (that does not host a priority natural habitat type/and or a priority species) but there are no alternative solutions and the plan or project must nevertheless be carried out for imperative reasons of overriding public interest, including those of a social or economic nature. In this case, it will be a requirement to follow procedures set out in legislation and agree and undertake all compensatory measures necessary to ensure the protection of the overall coherence of the Natura 2000 network; or*

   The plan or project will have a significant adverse effect on the integrity of any European site (that hosts a natural habitat type and/or a priority species) but there are no alternative solutions and the plan or project must nevertheless be carried out for imperative reasons of overrising public interest, restricted to reasons of human health or public safety, to beneficial consequences of primary importance for the environment or, further to an opinion from the commission, to other imperative reasons of overriding public interest. In this case, it will be a requirement to follow procedures set out in legislation and agree and undertake all compensatory measures necessary to ensure the protection of the overall coherence of the Natura 2000 network."

This plan has been subject to AA, which determined that, subject to the implementation of mitigation measures associated with the various aspects of the plan, it would not have potential to give rise to adverse impacts upon the integrity of any European Site.

6.3.1.3 Water Quality

The Water Framework Directive (WFD) 2000/60/EC provides a framework for the protection and improvement of rivers, lakes, marine and ground waters in addition to water-dependent habitats. The aim of the WFD is to prevent any deterioration in the existing status of water quality, including the protection of good and high water quality status where it exists. The second cycle River Basin Management Plan, covering the period 2018-2021, was published in April 2018. The plan sets out a proposed framework for the protection and improvement of Ireland's water environment in line with Water Framework Directive objectives. It was determined that the multiple River Basin District approach used in the 2009-2015 Management Plan was not as effective as expected so the 2018-2021 Management Plan has defined a single River Basin District. This national strategy outlined all the actions required to improve the water quality, with county councils and Irish Water playing an important role in the implementation of the plan. There are binding obligations on all Irish local authorities including Monaghan County Council to achieve good status of surface waters, under terms of the EU Water Framework Directive 2000/60/EC. And in related policies Monaghan County Development Plans, e.g. Water Protection Policies WPP1 to WPP18.

Furthermore, Irish Water, who has national statutory remit for wastewater and drinking water services, has committed to a 25 year programme of improvements to wastewater impacts on surface waters in their Water Services Strategic Plan (WSSP) (Irish Water, 2015).

6.3.1.4 Flooding

The draft Strategic Flood Risk Assessment for Monaghan details projected extent of flooding to inform and assist in the preparation of the County Development Plan. The North Western – Neagh Bann Catchment Flood Risk Assessment and Management Study (RPS, 2013), includes for a broad-scale analysis of flooding risk within the North Western and Neagh Bann catchment area and identifies the potential for flooding across the area and identifies various mitigation measures to ameliorate any potential flooding. This document has been subject to AA Screening, which determined that the programme of works considered in this assessment should be subject to mitigation as detailed within a Stage 2: Appropriate Assessment and including the implementation of appropriate mitigation measures.

6.3.2 Projects

A search was conducted of planning applications (projects) within the vicinity of the proposed development, using the Monaghan County Council planning portal map viewer. The search was limited to the five-year period preceding the date of issue of this report, and excluded retention applications (i.e. typically local-scale residential or commercial developments where an impact has already occurred), incomplete, withdrawn and refused applications.

In addition, small-scale proposals with no potential to give rise to impacts upon watercourses or proposals which would not involve works in close proximity to watercourses hydrologically linked to Lough Neagh and as such having no potential to act in-combination with the proposed development, were not considered.

The relevant projects with potential for in-combination LSE on European sites, are detailed in **Table 5.2**.

Table 5.2. Planning Search Results from the County Planning Enquiry System

Planning Application Reference Number	Project/Applicant Name & Proposed Location	Brief Development Description	Application Status/ Outcome	Approximate Distance & Direction from Proposed Development	Date Application Granted
178011	Monaghan County Council	Permission to renovate and restore the former Town Hall which is a Protected Structure, to demolish the 1929 rear extensions to the original structure and to erect a new single and 2 storey extension of office accommodation measuring 328m2	Granted with conditions	Within the site boundary	05/02/2018
16376	Irish Water	Permission to construct new sludge import reception tank, upgrade of existing inlet works and grit trap, upgrade of existing leachate reception tank, installation of additional associated pipework, services and all associated site works	Granted with conditions	200m to SE	24/11/2016

		at the existing wastewater treatment plant.			
18562	Coolberrin Wind Ltd.	…Installation of approximately 22km of 38kv electricity cables…	Granted with conditions	1km NE	04/09/2018
218005	Monaghan County Council Roads Dept.	Permission to develop a greenway from Monaghan Town's Coolshannagh roundabout (N2 junction with N12) to Ardgonnell Bridge, located on the border with Northern Ireland near the N12…	Granted with conditions	1km NE	05/07/2021
LA08/2021/ 0378/F	Armagh Banbridge Craigavon Borough Council	The construction of the Northern Ireland section of the cross border Ulster Canal Greenway between Monaghan Town and Middletown…	Consultations issued	10km NE	N/A

6.3.3 In-Combination Conclusion

A number of planning applications in proximity to the proposed development have potential to result in surface water pollution and potentially the spread of invasive species in combination with the proposed development, which are considered to represent a potential LSE on a single European site, namely Lough Neagh and Lough Beg SPA.

No other pathways have been identified by which any plan or project could have a likely significant in-combination effect on any of the other nearby European sites. It is therefore concluded that there is no potential for cumulative or in-combination impacts in respect of any further European sites.

7 MITIGATION MEASURES

For the purposes of this assessment the term “mitigation measures” are considered to be ‘those measures which aim to minimise, or even cancel, the negative impacts on a site that are likely to arise as a result of the implementation of a plan or project. These measures are an integral part of the specifications of a plan or project’ (Guidance document on Article 6(4) of the Habitats Directive 92/43/EEC, January 2007).

Based on the Appropriate Assessment carried out in Section 6, the mitigation will focus on the following potential pathways:

- Surface water pollution; and
- Scheduled invasive species.

Monaghan County Council, and any contractor appointed by the council, shall be required to comply with, and implement, the requirements and mitigation measures as set out here. It is required that these measures be incorporated, in full, into a Construction and Environmental Management Plan (CEMP).

7.1 Surface Water and Water Quality Management

7.1.1 Construction

The construction works shall be undertaken within a framework of environmental protection practices defined and co-ordinated via a CEMP. The CEMP shall provide measures that meet legislative requirements, and key regulatory guidance that define good working practices during construction, most notably the CIRIA guidance for the ‘Control of Water Pollution from Construction Sites’ (CIRIA, 2001).

The following measures in respect to the management of surface waters and water quality should be implemented:

- Existing surface water drainage infrastructure (e.g. gullies) will be ‘plugged’ to prevent contaminated surface water entering the Ulster Canal/Blackwater River, via drainage;
- Stockpiling of construction materials shall be strictly prohibited within 5 m of any existing surface water drainage, ditch or water-laden channel;
- Excavations shall be left open for minimal periods to avoid acting as a conduit for surface water flows;
- All ready-mixed concrete shall be brought to site by truck. A suitable risk assessment for wet concreting will be completed prior to works being carried out which will include measures to prevent discharge of alkaline waste waters or contaminated storm water to the underlying subsoil. Wash down and washout of concrete transporting vehicles will take place at an appropriate location within the site;
- Concrete shall be contained and managed appropriately to prevent pollution of watercourses.
- Concrete pouring will be prevented during periods of heavy rainfall, and quick setting mixes will be used;
- Waste materials shall be stored in designated areas that are isolated from surface water drains.
- Skips will be closed or covered to prevent materials being blown or washed away and to reduce the likelihood of contaminated water leakage;
- No harmful materials shall be deposited into nearby watercourses, including drainage ditches/pipes, on or adjacent to the site;

- Protection measures shall be put in place to ensure that all hydrocarbons used during the Construction are appropriately handled, stored and disposed of in accordance with recognised standards. These measures will include:
  - Hazardous materials including diesel, fuel oils, solvents, paints and/or lubricants stored on site will be stored within suitably designed bunded areas with a bund volume of 110% of the capacity of the largest tank/container.
  - Re-fuelling of plant will not occur within 50 m of any watercourse or surface water/groundwater feature. Drip trays will be used and spill kits will be kept available;
  - Machinery used on site will be regularly inspected to ensure there is no leakage from them and to ensure the machinery will not cause contamination of watercourses;
  - Where required, fuel will be transported in a mobile, double skinned tank and a spill tray will be used when refuelling (if taking place outside a compound area);
  - Waste oils and hydraulic fluids will be collected in leak-proof containers and removed from the site for disposal or re-cycling;
  - Only emergency breakdown maintenance will be carried out on site. Emergency procedures and spillage kits will be readily available at strategic site locations and construction staff will be familiar with emergency procedures; and
  - Any spillage of fuels, lubricants of hydraulic oils will be immediately contained, with an appropriate emergent response put in place. Any contaminated soil will be removed from the site and properly disposed of.

7.1.1 Operation

In addition to the above construction phase measures, petrol and oil interceptors will be installed within the proposed drainage outfalls to prevent contaminants entering the freshwater environment.

7.2 Invasive Species Management

The presence of invasive alien plant species has the potential to lead to an offence under the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. No. 477 of 2011). Regulation 49 of the 2011 Regulations prohibits (unless under licence) the breeding, release, or allowing or causing the dispersal from confinement of any animal listed in the Third Schedule of the Regulations; or the planting, allowing or causing dispersal, and spreading of any plant listed in the Third Schedule.

It is an offence to plant or encourage the spread of any third schedule invasive species by moving contaminated soil from one place to another, or incorrectly handling and transporting contaminated material or plant cuttings. Persons must therefore take all reasonable steps and exercise due diligence to avoid committing an offence under the 2011 Regulations (as amended). Scheduled invasive plants are known to grow within the proposed development site (Japanese knotweed). There is potential for these species to enter the freshwater environment and spread throughout the proposed development site during construction phase.

7.2.1 Construction

An invasive species survey has been undertaken by RPS, prior to submission of the application. This survey identified the location and extent of scheduled invasive species within the site, limited to a number of stands of Japanese knotweed.

The findings of this survey informed the completion of an outline Invasive Species Management Plan (RPS 2020). This document accompanies the submissions as Appendix 8:B to the EIAR. The implementation of the ISMP which includes for a range of measures to prevent the spread of Japanese knotweed will ensure that the proposed project does not give rise to the spread of this species into the freshwater environment and consequently any European site. Measures in the ISMP include:

- Appropriate fencing of Japanese knotweed to prevent the inadvertent spread of the plant during construction;
- That all machinery entering the site during construction activities shall be free from contamination with scheduled invasive plants. This can be achieved through wheel wash stations for vehicles entering and exiting the proposed development site;
- That materials which are introduced to the site during the construction shall be free from scheduled invasive species, with certification of such; and
- Options for treatment or eradication of the existing stands as appropriate, in-keeping with current guidance and legislation.

7.2.2 Operation

During operation, Monaghan County Council and/or any Contractor appointed by the council, must ensure that:

- An invasive species monitoring survey (carried out by a suitable qualified ecologist/invasive species specialist in the correct botanical season: e.g. April - September) shall be carried out annually until a suitable qualified ecologist/invasive species specialist is satisfied that there is no risk of spread of scheduled invasive species. The findings of each survey will be retained for auditing purposes;
- Where a scheduled invasive species is accidentally introduced or becomes established within the proposed development site during operation, or recorded during monitoring surveys, all activities shall be immediately halted and an effective exclusion zone will be erected (minimum 7 m) until such time that a suitably qualified ecologist/invasive species specialist can assess the site(s), and implement the required management protocol (as set out in the ISMP).

7.3 Residual Impacts

Subject to the implementation of the above mitigation measures in respect of both water quality and invasive species, it is considered that all potential LSE identified in respect of the proposed project will be fully mitigated.

No residual adverse effects upon the integrity of any European sites are predicted.

8 CONCLUSION OF THE APPROPRIATE ASSESSMENT

This NIS has been prepared following the Department of the Environment, Heritage and Local Government guidance 'Appropriate Assessment of Plans and Projects in Ireland - Guidance for Planning Authorities' (DoEHLG, 2010). As stated in that guidance document, the requirement of the AA is not to prove what the impacts and effects will be, but rather to establish beyond reasonable scientific doubt that adverse effects on site integrity will not result.

RPS has prepared this NIS to document the analysis and evaluation seeking to establish whether or not, in view of best scientific knowledge and applying the precautionary principle, and in light of the conservation objectives of relevant European sites, the proposed development, either individually or in combination with other plans or projects, will adversely affect the integrity of European sites.

The construction and operation of the proposed development has been detailed (**Section 2**), and the receiving environment has been described (**Section 4**). Lough Neagh and Lough Beg SPA has been identified within the ZoI of the proposed development via the following pathways likely to give rise to significant effects (**Section 6**):

- surface water pollution; and
- dispersal of scheduled invasive species

No likely significant effects, or adverse impacts upon the integrity of any Natura 2000 sites within the Republic of Ireland are predicted to arise as a result of the proposed development.

To minimise or entirely mitigate the negative impacts on a single European site (Lough Neagh that are likely to arise as a result of the proposed development, mitigation measures were recommended (**Section 7**). These mitigation measures provided recommendations for surface water and water quality management and invasive species management during construction and operation of the proposed development.

Provided the full implementation of mitigation measures is carried out, it is envisaged that there will be no significant residual effects on the integrity of any European site.

In conclusion, it is the opinion of RPS that in view of best scientific knowledge and applying the precautionary principle, and in light of the conservation objectives of the relevant European sites, the proposed development, either individually or in combination with other plans or projects, will not have adverse effect on the integrity of any European site(s), given the implementation of mitigation measures outlined.

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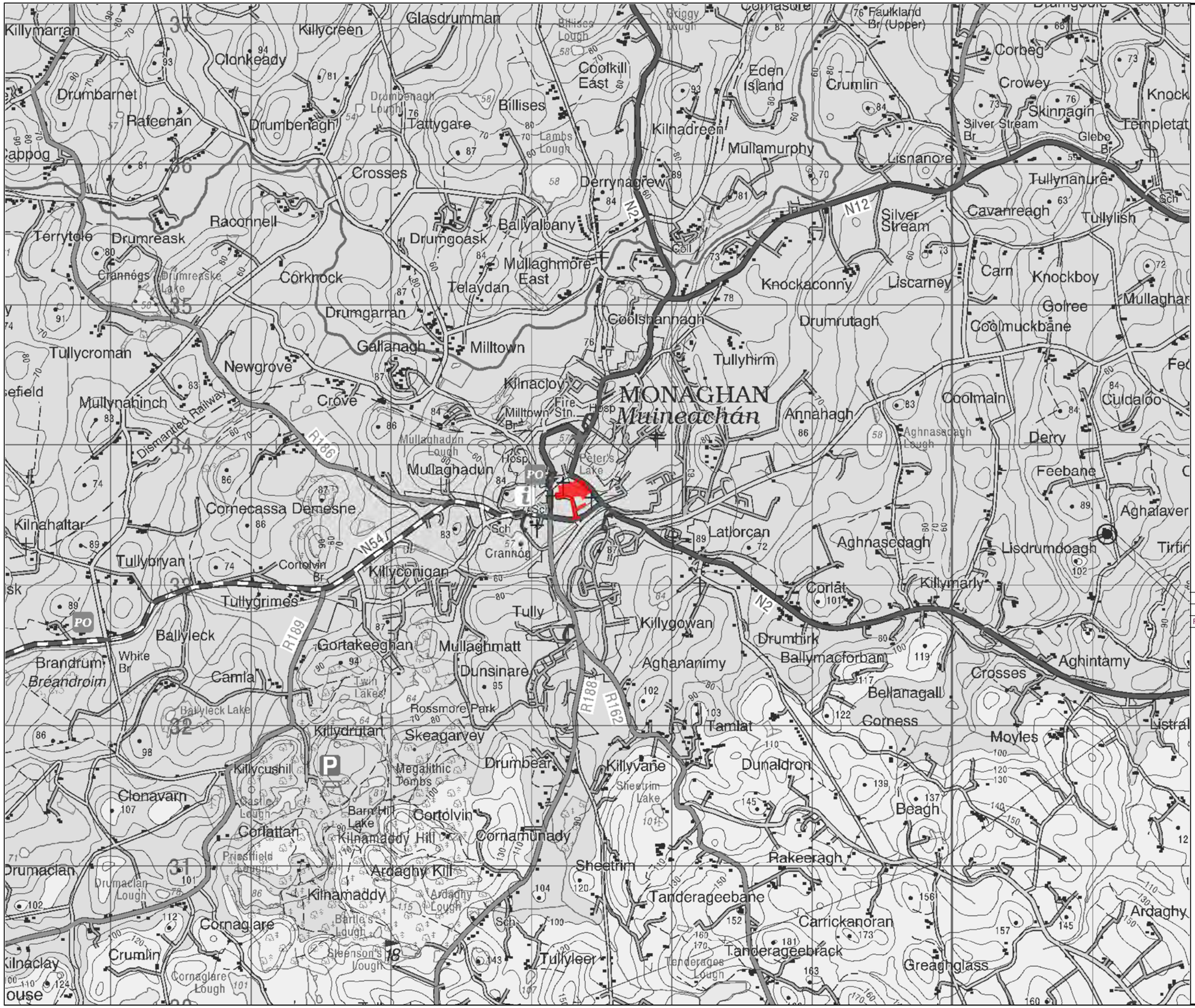
Figures

Figure 1.0: Site Location Plan
Figure 2.0: Designated Sites Plan



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Application Site

Rev	Description	By	Ckd	Date

Elmwood House, 74 Boucher Road, BELFAST, BT12 6RZ

Monaghan County Council

South Dublin Street & Backlands

Regeneration Project

NIS: Site Location Plan

Figure Number 1.0

Status	Scale @ A3	Date
Preliminary	**1:1250**	**09.03.20**

RPS Project Number **NI2162**

Revision **--**

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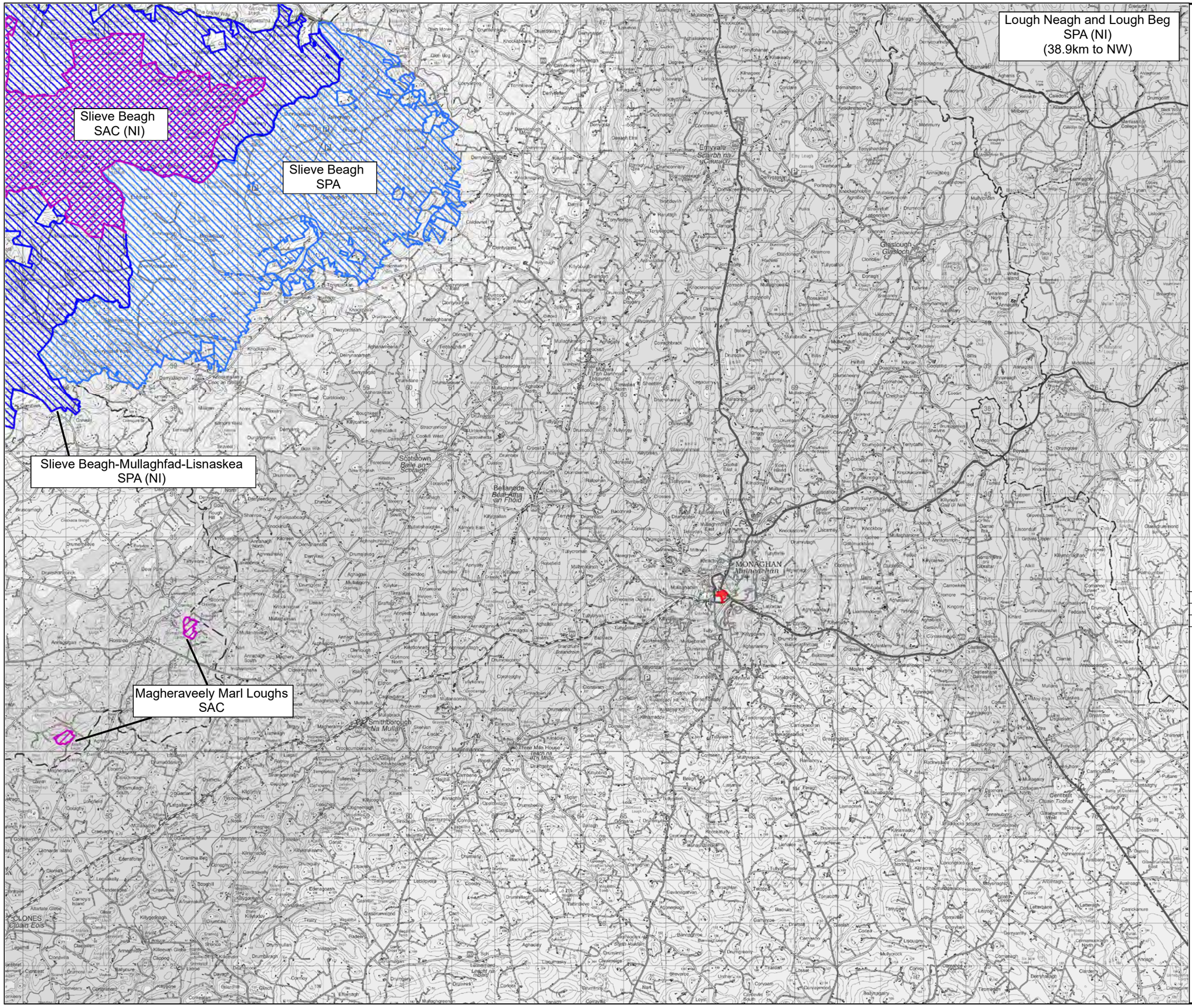

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- Application Site
- SAC
- SPA
- SAC (NI)
- SPA (NI)

Rev	Description	By	Ckd	Date

Elmwood House, 74 Boucher Road,
BELFAST, BT12 6RZ
T: 028 9066 7914

Monaghan County Council

South Dublin Street & Backlands Regeneration Project

NIS: Designated Sites Plan

Figure Number 2.0

Status	Scale @ A3	Date
Preliminary	**1:1250**	**09.03.20**

RPS Project Number **NI2162**

Revision **--**

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