Ummera Gravel Pit

Ummera,

Macroom,

Co. Cork

Remedial Appropriate Assessment Screening Report

An Coimisiún Pleanála Case Number: ABP-308036-20

Prepared for:

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Contents

1. Introduction 1
1.1 Background 1
2. Relevant Legislation 3
3. Methods 8
3.1 Desk Study 8
3.2 Appropriate Assessment Process 8
3.3 Zone of Influence 9
3.4 Characterising Impacts 10
3.5 Likely Significant Effects 11
3.6 Guidance 11
4. Description of Baseline Ecology 13
5. Stage 1 - Appropriate Assessment Screening 14
5.1 Identification of Natura 2000 Sites 14
5.2 Likely Cumulative Impact of the Site on European Sites, in-combination with other plans and projects 20
6. Article 6(3) Appropriate Assessment Screening Statement And Conclusions 21
6.1 Data Collected to Carry Out Assessment 21
6.2 Concluding Statement 21
7. References 23

1. Introduction

1.1 Background

JKW Environmental Ltd was commissioned by Drimoleague Concrete Works Limited (the Applicant) to undertake a Remedial Appropriate Assessment (AA) Screening in respect of a gravel pit at Ummera, Macroom, County Cork (the Site). The Site comprises an existing gravel pit which has been in operation for a prolonged period, and which is the subject of a substitute consent application currently before An Coimisiún Pleanála (Case Number: ABP-308036-20).

The Applicant operates a gravel pit at Ummera which commenced prior to the introduction of modern planning controls. An Coimisiún Pleanála is currently considering an application for substitute consent in order to regularise the historic operation of the gravel pit in accordance with Part XAB of the Planning and Development Act 2000 (as amended). The substitute consent application, with Remedial Environmental Impact Assessment Report, was submitted to An Bord Pleanála (now An Coimisiún Pleanála) in August 2020.

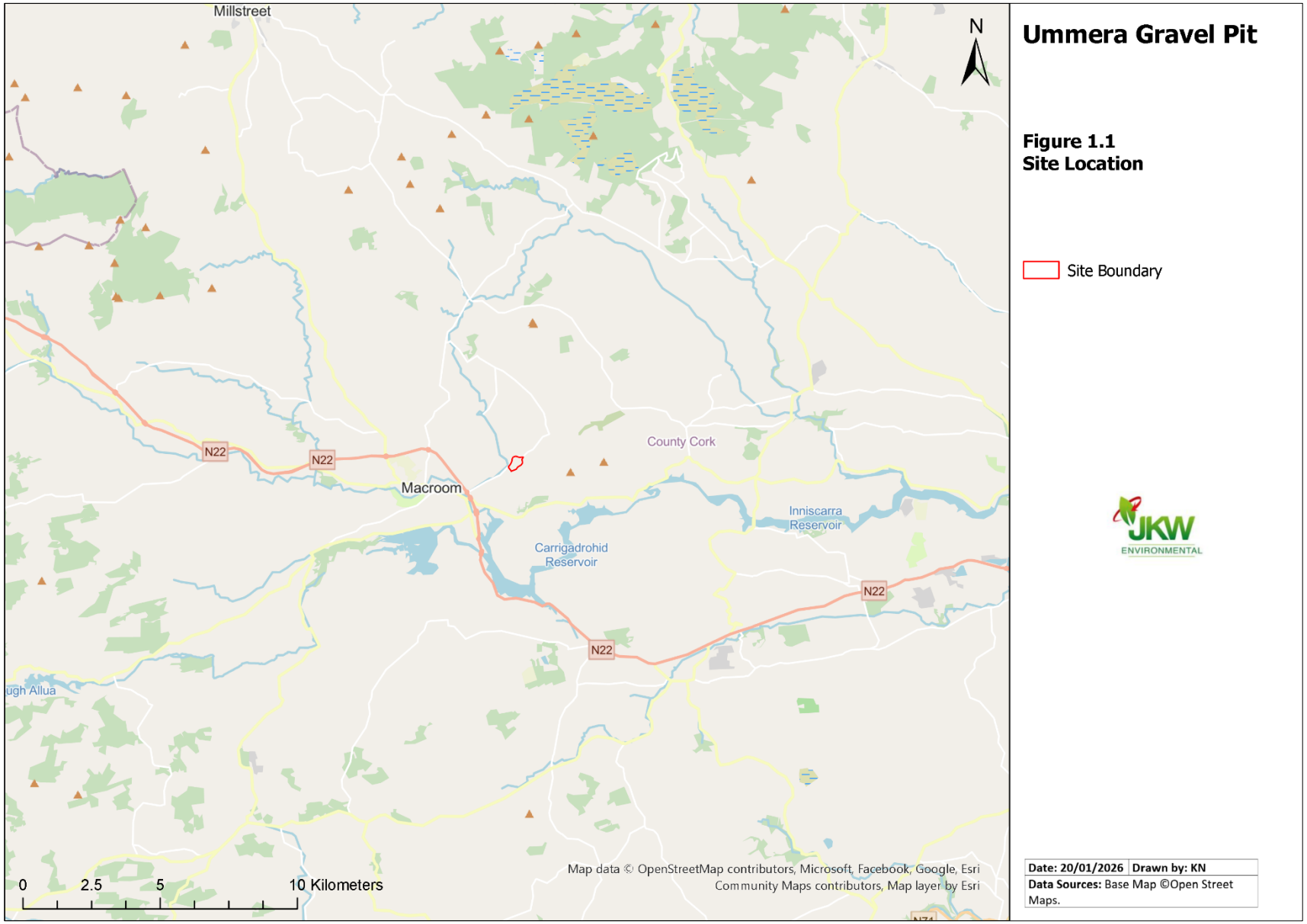
An Coimisiún Pleanála has requested the submission of a Remedial Appropriate Assessment Screening Report pursuant to Article 6(3) of Council Directive 92/43/EEC (the Habitats Directive) and sections 177U and 177V of the Planning and Development Act 2000 (as amended), in order to enable the competent authority to determine whether the subject development, either alone or in combination with other plans or projects, resulted in likely significant effects on any European site.

This Remedial AA Screening has been prepared to address the potential for effects on European sites arising from the historical operation of the Ummera Gravel Pit, having regard to the conservation objectives of those sites. The assessment is retrospective in nature but applies the same legal and scientific standards as would apply to a prospective Appropriate Assessment. It has been undertaken using current best scientific knowledge and in accordance with relevant European Commission and Irish guidance.

The Remedial AA Screening has been informed by the Remedial Environmental Impact Assessment Report (rEIAR) prepared in support of the substitute consent application, which describes the development, its operational history, and the receiving environment, including surface water, groundwater and hydrological context. The AA Screening relies on this information for the purposes of identifying potential source–pathway–receptor linkages and assessing whether likely significant effects on European sites can be excluded at Stage 1. The findings of Cork County Council's Section 261A assessment were also considered in this report.

This Remedial AA Screening has been prepared without taking account of any measures intended to avoid or reduce impacts on European sites. Its purpose is to determine whether, on the basis of objective information, the subject development can be screened out from the need for Appropriate Assessment on the grounds that it was not likely to have had significant effects on any European site, either individually or in combination with other plans or projects, in view of the sites' conservation objectives.

The site location (hereinafter referred to as "the Site") is shown in Figure 1.1.


Millstreet
N
Ummera Gravel Pit
Figure 1.1
Site Location
Site Boundary
N22
N22
Macroom
County Cork
Inniscarra
Reservoir
Carrigadrohid
Reservoir
N22
N22
ugh Allua
0
2.5
5
10 Kilometers
Map data © OpenStreetMap contributors, Microsoft, Facebook, Google, Esri
Community Maps contributors, Map layer by Esri
Date: 20/01/2026
Drawn by: KN
Data Sources: Base Map ©Open Street Maps.

2. Relevant Legislation

European Nature Directives (Habitats and Birds)

The Habitats Directive (Council Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora) forms the basis for the designation of Special Areas of Conservation. Similarly, Special Protection Areas are classified under the Birds Directive (Council Directive 2009/147/EEC on the Conservation of Wild Birds). Collectively, Special Areas of Conservation (SAC) and Special Protection Areas (SPA) are referred to as the Natura 2000 network. In general terms, they are considered to be of exceptional importance for rare, endangered or vulnerable habitats and species within the European Community.

Under Article 6(3) of the Habitats Directive an appropriate assessment must 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 conservation objectives of a Natura 2000 site[1], and the development, where necessary, of mitigation or avoidance measures to preclude negative effects.

Article 6, paragraph 3 of the EC Habitats Directive 92/43/EEC ("the Habitats Directive") states that: "*Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. In the 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*".

The Habitats Directive is transposed into Irish law by the EC (Birds and Natural Habitats) Regulations 2011 – 2015. Part XAB of the Planning and Development Acts 2000 (as amended) transposes Article 6(3) and 6(4) of the Habitats Directive in respect of land use plans and proposed projects requiring development consent.

EC (Birds and Natural Habitats) Regulations 2011 to 2021 – Part 5

Part 5 of the EC (Birds and Natural Habitats) Regulations 2011 – 2021 sets out the circumstances under which an 'appropriate assessment' is required. Section 42(1) requires that '*a screening for Appropriate Assessment of a plan or project for which an application for consent is received, or which a public authority wishes to undertake or adopt, and which is not directly connected with or necessary to the management of the site as a European Site, shall be carried out by the public authority to assess, in view of best scientific knowledge and in view of the conservation objectives of the site, if that plan or project, individually or in combination with other plans or projects is likely to have a significant effect on the European site*.' Section 42(2) expands on this, stipulating that a public authority must carry out a screening for Appropriate Assessment before consent for a plan or project is given, or a decision to undertake or adopt a plan or project is taken. To assist a public authority to discharge its duty in this respect, Section 42(3)(a) gives them the authority to direct a third party to provide a Natura Impact Statement and Section 42(3)(b) allows them to request any additional information that is considered necessary for the purposes of undertaking a screening assessment.

[1] Also referred to as European Sites in the Planning and Development Acts 2000 – 2021.

Section 42(6) requires that 'the public authority shall determine that an Appropriate Assessment of a plan or project is required where the plan or project is not directly connected with or necessary to the its management as a European Site and if it cannot be excluded, on the basis of objective scientific information following screening under this Regulation, that the plan or project, individually or in combination with other plans or projects, will have a significant effect on a European site'.

Planning and Development Acts 2000 (as amended) - PART XAB

In the context of this project, the provisions of Part XAB are engaged in respect of an application for substitute consent, with An Coimisiún Pleanála acting as the competent authority.

The relevant sections of Part XAB of the Planning and Development Acts 2000 (as amended) are set out below.

Screening for appropriate assessment

Section 177U requires that— (1) A screening for appropriate assessment of a draft Land use plan or application for consent for proposed project shall be carried out by the competent authority to assess, in view of best scientific knowledge, if that Land use plan or proposed project, individually or in combination with another plan or project is likely to have a significant effect on the European site.

(2) A competent authority shall carry out a screening for appropriate assessment under subsection (1) before—

> (a) a Land use plan is made including, where appropriate, before a decision on appeal in relation to a draft strategic development zone is made, or
>
> (b) consent for a proposed project is given.

(3) In carrying out screening for appropriate assessment of a proposed project a competent authority may request such information from the applicant as it may consider necessary to enable it to carry out that screening, and may consult with such persons as it considers appropriate and where the applicant does not provide the information within the period specified, or any further period as may be specified by the authority, the application for consent for the proposed project shall be deemed to be withdrawn.

(4) The competent authority shall determine that an appropriate assessment of a draft Land use plan or a proposed project, as the case may be, is required if it cannot be excluded, on the basis of objective information, that the draft Land use plan or proposed project, individually or in combination with other plans or projects, will have a significant effect on a European site.

(5) The competent authority shall determine that an appropriate assessment of a draft Land use plan or a proposed project, as the case may be, is not required if it can be excluded, on the basis of objective information, that the draft Land use plan or proposed project, individually or in combination with other plans or projects, will have a significant effect on a European site.

(6) (a) Where, in relation to a proposed project, a competent authority makes a determination that an appropriate assessment is required, the competent authority shall give notice of the determination, including reasons for the determination of the competent authority, to the following—

> (i) the applicant,

(ii) if appropriate, any person who made submissions or observations in relation to the application to the competent authority, or

(iii) if appropriate, any party to an appeal or referral.

(b) Where a competent authority has determined that an appropriate assessment is required in respect of a proposed project it may direct in the notice issued under paragraph (a) that a Natura impact statement is required.

(c) Paragraph (a) shall not apply in a case where the application for consent for the proposed project was accompanied by a Natura impact statement.

(7) A competent authority shall, as soon as may be after making the Land use plan or making a decision in relation to the application for consent for proposed project, make available for inspection by members of the public during office hours at the offices of the authority, and may also publish on the internet —

(a) any determination that it makes in relation to a draft Land use plan under subsection (4) or (5) as the case may be, and reasons for that determination, and

(b) any notice that it issues under subsection (6) in relation to a proposed project.

(8) In this section 'consent for proposed project' means, as appropriate —

(a) a grant of permission,

(b) a decision of the Board to grant permission on a planning application or an appeal,

(c) consent for development under Part IX,

(d) approval for development that may be carried out by a local authority under Part X or Part XAB or development that may be carried out under Part XI,

(e) approval for development on the foreshore under Part XV,

(f) approval for development under section 43 of the Act of 2001,

(g) approval for development under section 51 of the Roads Act 1993, or

(h) a substitute consent under Part XA.

(9) In deciding upon a declaration or a referral under section 5 of this Act a planning authority or the Board, as the case may be, shall where appropriate, conduct a screening for appropriate assessment in accordance with the provisions of this section.

(10) In deciding upon an application under section 176A or a determination review or an application referral under section 176C, a planning authority or the Board, as the case may be, shall, where appropriate, conduct a screening for appropriate assessment in accordance with the provisions of this section.

Natura impact report and natura impact statement

Section 177T states that— (1) (a) A Natura impact report means a statement for the purposes of Article 6 of the Habitats Directive, of the implications of a Land use plan, 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 sites.

(b) A Natura impact statement means 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 on European site, in view of the conservation objectives of the site or sites.

(2) Without prejudice to the generality of subsection (1), a Natura impact report or a Natura impact statement, as the case may be, shall 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.

(3) As respects a draft National Planning Framework, the Government shall prepare a Natura impact report in relation to a draft Land use plan and the following bodies shall also prepare a Natura impact report in relation to a draft Land use plan—

(a) as respects a draft regional spatial and economic strategy, the regional assembly for whose area the draft strategy is made,

(aa) as respects a draft National Planning Framework, the Minister

(b) as respects a draft planning scheme in respect of all or any part of a strategic development zone, the planning authority (which term shall be construed in accordance with section 168(5)) for whose area the draft scheme is made,

(c) as respects a draft development plan or draft variation of a development plan, the planning authority for whose area the draft plan or draft variation is made, and

(d) as respects a draft local area plan, the planning authority in whose area the local area concerned is situate.

(4) The applicant for consent for proposed development may, or if directed in accordance with subsection (5) by a competent authority, shall furnish a Natura impact statement to the competent authority in relation to the proposed development.

(5) At any time following an application for consent for proposed development a competent authority may give a notice in writing to the applicant concerned, directing him or her to furnish a Natura impact statement

(6) Where an applicant for consent for proposed development who, having been directed in accordance with subsection (5), fails to furnish a Natura impact statement within the period specified in the notice, or any further period as may be specified by the competent authority, the application for consent for the proposed development shall be deemed to be withdrawn.

(7) (a) Without prejudice to subsection (1) a Natura impact report or a Natura impact statement shall include all information prescribed by regulations under section 177AD.

(b) Where appropriate, a Natura impact report or a Natura impact statement shall include such other information or data as the competent authority considers necessary to enable it to ascertain if the draft Land use plan or proposed development will not affect the integrity of the site.

3. Methods

3.1 Desk Study

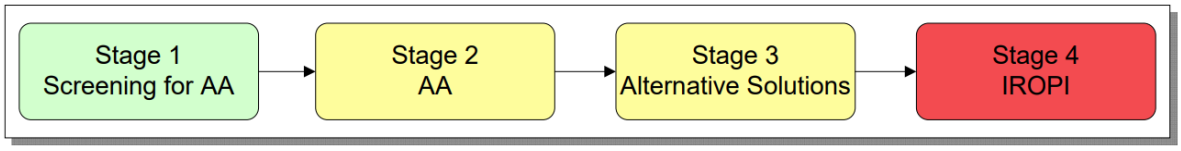
A desk study was carried out to collate information available on Natura 2000 sites within the potential zone of influence of the development. The Site and the surrounding area were viewed using satellite imagery[2]. Cork County Council planning portal[3] and An Coimisiún Pleanála portal[4] were accessed for information on other permitted and proposed development within the zone of influence of the project. The National Parks and Wildlife Service (NPWS) website[5] was accessed for information on Natura 2000 sites. Environmental Protection Agency (EPA) Maps[6] was accessed for other environmental information relevant to preparation of this report.

The following documents were referenced during the desk-top study to inform the Appropriate Assessment and the baseline ecology information:

- Online data available on European sites and habitats/species as held by the National Parks and Wildlife Service (NPWS) from www.npws.ie, including conservation objectives documents
- Online data available on protected species as held by the National Biodiversity Data Centre (NBDC) from www.biodiversityireland.ie, specifically related to the records recorded within the 2 km grid squares (ITM) – W37R & W37S.
- Birds of Conservation Concern in Ireland (Gilbert et al, 2021), available at https://birdwatchireland.ie/birds-of-conservation-concern-in-ireland/
- Information on the surface water network and surface water quality in the area available from www.epa.ie
- Information on soils, geology and hydrogeology in the area available from the Geological Survey Ireland (GSI) online Spatial Resources service. Available from https://www.gsi.ie/en-ie/data-and-maps/Pages/Groundwater.aspx
- Ordnance Survey of Ireland mapping and aerial photography available from https://tailte.ie/
- GeoHive online mapping (https://geohive.ie/index.html)
- Cork County Development Plan 2022-2028.

3.2 Appropriate Assessment Process

The Department of the Environment Heritage and Local Government Guidelines (DELHG, 2009), outlines the European Commission's methodological guidance (EC, 2002). This guidance promotes a four-stage process in completing an AA. An important aspect of the process is that the outcome at each successive stage determines whether a further stage in the process is required. Throughout the process, the precautionary principle must be applied, so that any uncertainties do not result in adverse impacts on a site. These guidance documents identify a staged approach to conducting an AA, as shown below.



[2] www.google.ie/maps
[3] https://planning.corkcoco.ie/eplan/searchtypes
[4] https://www.pleanala.ie/en-ie/home
[5] https://www.npws.ie/protected-sites
[6] https://gis.epa.ie/)

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

- whether a plan or project is directly connected to or necessary for the management of the site, and
- whether a plan or project, alone or in combination with other plans and projects, is likely to have significant effects on a Natura 2000 site in view of its conservation objectives.

For those sites where potential adverse impacts are identified, either alone or in combination with other plans or projects, further assessment is necessary to determine if the proposals will have an adverse impact on the integrity of a European designated site, in view of the site's conservation objectives (i.e. the process proceeds to Stage 2). For the purposes of this remedial (retrospective) screening, references in the guidance above to 'proposals' and to whether a project 'will have' effects are to be read as referring to the subject development, being the historic operation, and to whether it was likely to have had significant effects.

Stage 2: Appropriate Assessment - This stage requires a more in-depth evaluation of the plan or project, and the potential direct and indirect impacts of them on the integrity and interest features of the European designated site(s), alone and in-combination with other plans and projects, taking into account the site's structure, function and conservation objectives. Where required, mitigation or avoidance measures will be suggested.

The competent authority can only agree to the plan or project after having ascertained that it will not adversely affect the integrity of the site(s) concerned. If this cannot be determined, and where mitigation cannot be achieved, then alternative solutions will need to be considered (i.e. the process proceeds to Stage 3).

Stage 3: Alternative Solutions - Where adverse impacts on the integrity of Natura 2000 sites are identified, and mitigation cannot be satisfactorily implemented, alternative ways of achieving the objectives of the plan or project that avoid adverse impacts need to be considered. If none can be found, the process proceeds to Stage 4.

Stage 4: Imperative Reasons of Overriding Public Interest (IROPI)/Derogation - This stage is required where an alternative solution is not available. In this situation, the project can only proceed for Imperative Reasons of Overriding Public Interest (IROPI), despite the plan or project resulting in adverse effects on European Site(s). This stage provides for an assessment of compensation measures to maintain or enhance the overall coherence of the Natura 2000 network. The Commission must be informed of the compensatory measures. Compensatory measures must be practical, implementable, likely to succeed, proportionate and enforceable, and they must be approved by the Minister.

3.3 Zone of Influence

The 'zone of influence' for a project is the area over which ecological features may be affected by biophysical changes as a result of the project and associated activities. This is likely to extend beyond the project site, for example where there are ecological or hydrological links beyond the site boundaries. The zone of influence will vary for different ecological features depending on their sensitivity to an environmental change (CIEEM, 2018).

Sites are screened out based on one or a combination of the following criteria:

- The existence of potential for pathways for significant effects, such as hydrological links, project proposals and the site to be screened;
- The distance of the relevant site from the project boundary; and

- The existence of a link between identified threats or vulnerabilities at a site to potential impacts that may arise from the project.

Irish guidance (DoEHLG, 2010)[7] states, for the zone of influence of plans, that "*A distance of 15 km is currently recommended in the case of plans, as a potential zone of influence, and this distance is derived from UK guidance (Scott Wilson et al, 2006)". The guidance goes on to state that "for projects, the distance could be much less than 15 km, and in some cases less than 100 m, but this must be evaluated on a case-by-case basis with reference to the nature, size and location of the project, the sensitivities of the ecological receptors, and the potential for in-combination effects.*"

Guidance from the Office of the Planning Regulator (OPR)[8] states that "*The zone of influence of a proposed development is the geographical area over which it could affect the receiving environment in a way that could have significant effects on the Qualifying Interests of a European site. This should be established on a case-by-case basis using the Source-Pathway-Receptor framework and not by arbitrary distances (such as 15 km)".*

The zone of influence for this project was identified through a review of the nature of the project, the type of impacts and effects that could have arisen as a result, the distance between the project and European sites, and the qualifying interests of the European sites.

3.4 Characterising Impacts

The methodology for the assessment of impacts is derived from the Assessment of Plans and Projects Significantly Affecting Natura 2000 Sites (EC, 2002). When describing changes/activities and impacts on ecosystem structure and function, the types of impacts that are commonly presented include the following:

- direct and indirect effects,
- short- and long-term effects,
- construction, operational, restoration and deconstruction / demolition effects, and
- isolated, interactive and cumulative effects.

Impacts that could potentially have occurred through the implementation of the project can be categorised under a number of impact categories as outlined in the EC 2002 document as follows:

- Loss/Reduction of habitat area,
- Disturbance to key species,
- Habitat or species fragmentation,
- Reduction in species density, and
- Changes in key indicators of conservation value such as decrease in water quality and quantity.

The concept of the 'integrity of the site' is explained in the EU publication Managing Natura 2000 sites: The provisions of Article 6 of the 'Habitats' Directive 92/43/EEC, as follows;

[7] Appropriate Assessment of Plans and Projects in Ireland -Guidance for Planning Authorities

[8] https://www.opr.ie/wp-content/uploads/2021/03/9729-Office-of-the-Planning-Regulator-Appropriate-Assessment-Screening-booklet-15.pdf

'*It is clear from the context and from the purpose of the directive that the 'integrity of the site' relates to the site's conservation objectives. For example, it is possible that a plan or project will adversely affect the integrity of a site only in a visual sense or only habitat types or species other than those listed in Annex I or Annex II. In such cases, the effects do not amount to an adverse effect for purposes of Article 6(3), provided that the coherence of the network is not affected. On the other hand, the expression 'integrity of the site' shows that focus is here on the specific site. Thus, it is not allowed to destroy a site or part of it on the basis that the conservation status of the habitat types and species it hosts will anyway remain favourable within the European territory of the Member State.*

As regards the connotation or meaning of 'integrity', this can be considered as a quality or condition of being whole or complete. In a dynamic ecological context, it can also be considered as having the sense of resilience and ability to evolve in ways that are favourable to conservation. The 'integrity of the site' has been usefully defined as 'the coherence of the site's ecological structure and function, across its whole area, or the habitats, complex of habitats and/or populations of species for which the site is or will be classified'

A site can be described as having a high degree of integrity where the inherent potential for meeting site conservation objectives is realised, the capacity for self-repair and self-renewal under dynamic conditions is maintained, and a minimum of external management support is required. When looking at the 'integrity of the site', it is therefore important to take into account a range of factors, including the possibility of effects manifesting themselves in the short, medium and long-term.

The integrity of the site involves its ecological functions. The decision as to whether it is adversely affected should focus on and be limited to the site's conservation objectives.

3.5 Likely Significant Effects

The threshold for a likely significant effect is treated in the screening exercise as being above a *de minimis* level[9]. The opinion of the Advocate General in CJEU case C-258/11 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 zone of influence of the quarry operations, and to which likely significant effect pathways were identified through the source-pathway-receptor model.

3.6 Guidance

Documents associated with the development and relevant ecology databases were consulted as part of this assessment. The following guidelines and legal judgements were used in the completion of this assessment;

[9] 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.

- Assessment of Plans and Projects Significantly Affecting Natura 2000 Sites – European Commission Methodical Guidance on the provisions of Article 6(3) and 6(4) of the 'Habitats' Directive 92/43/EEC (European Commission 2001)
- Office of the Planning Regulator (OPR) Practice Note PN01, Appropriate Assessment Screening for Development Management (2021).
- Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities (DoEHLG 2009).
- Integrated Biodiversity Impact Assessment – Streamlining AA, SEA and EIA Processes: Practitioner's Manual (EPA 2013).
- European Court of Justice Ruling 11th April 2013 Case C- 258/11 Peter Sweetman and Others v An Bord Pleanála - Criteria to be applied when assessing the likelihood that N6 Galway City Outer Bypass Road scheme will adversely affect the integrity of Lough Corrib SAC.
- High Court Ruling 25th July 2014 by Ms. Justice Finlay Geoghegan; Neutral Citation [2014] IEHC 400; High Court Record No. 2013 802 JR; Kelly -v- An Bord Pleanála – Judicial review of grant of planning by An Bord Pleanála for two wind farm phases in County Roscommon.
- High Court Ruling 24th November 2014 by Mr. Justice Hedigan; Neutral Citation [2014] IEHC 557; High Court Record No. 2014 320 JR; Rossmore Properties Limited & Anor -v- An Bord Pleanála.
- High Court Ruling 25th February 2016 by Mr. Justice Barton. Neutral Citation [2016] IEHC 134; High Court Record No. 2013 450 JR; Balz & Anor -v- An Bord Pleanála.
- European Court of Justice ruling 12th April 2018 in respect of Case C-323/17 (People Over Wind & Sweetman) - it is not appropriate for the purposes of Appropriate Assessment (AA), at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of a plan or project.
- European Court of Justice ruling 19th April 2018 in respect of Case C-164/17, Compensation vs Mitigation, Grace & Sweetman Vs ABP.
- High Court Ruling 8th February 2019 by Justice Barniville in respect of Kelly -v- An Bord Pleanála & anor. The Court concludes "as a matter of fact and law, that SUDS are not mitigation measures which a competent authority is precluded from considering at the stage 1 screening stage". The Irish High Court ([2019] IEHC 84).
- Heather Hill Management Company CLG v An Bord Pleanála (Burkeway Homes Limited as Notice Party) [2019] IEHC 450. Mr. Justice Garrett Simons granted an order of certiorari setting aside the decision of the Board to grant permission for a residential development of 197 units at Bearna Co. Galway, on the basis that it was a material contravention of the Galway County Development Plan (the CDP), it failed to carry out a 'justification test' as required and failed to carry out proper Appropriate Assessment screening.
- European Commission. Managing Natura 2000 Sites: The provisions of Article 6 of the 'Habitats' Directive 92/43/EEC, (21-11-18) C (2018) 7261 Final. Commission Notice Brussels.
- Court of Justice judgment 15 June 2023, Case C-721/21 Eco Advocacy CLG v An Bord Pleanála.

4. Description of Baseline Ecology

The Site comprises an existing gravel pit located in a rural agricultural landscape in the vicinity of Ummera, Macroom, County Cork. Land use in the wider area is characterised by a mosaic of agricultural grassland, hedgerows, local road infrastructure and dispersed rural dwellings. The Site itself is disturbed and modified as a result of historic extraction activities and does not support habitats of conservation value that are qualifying interests of any European site.

A review of species records on the National Biodiversity Data Centre Ireland (NBDC) website shows records indicating the presence of protected species: Badger (*Meles meles*), Irish Stoat (*Mustela erminea subsp. hibernica*), Hedgehog (*Erinaceus europaeus*), Leisler's Bat (*Nyctalus leisleri*), and Red Squirrel (*Sciurus vulgaris*) and within the 2km polygons (W37R & W37S) surrounding the Site.

With respect to regional hydrology, the Site is within the Lee, Cork Harbour and Youghal Bay WFD Catchment, the Sullane_SC_020 sub-catchment and the Laney_040WFD River sub basin.

The Curraghanearla Stream (EPA Code: 19C86) flows along the northern boundary of the Site, adjacent to the public road. This watercourse has a WFD river waterbody status of 'High' for the 2019–2024 reporting period and is listed as 'Under Review' under the third cycle WFD risk assessment.

At the northern boundary of the Site, the Curraghanearla Stream joins the Bealick Stream (EPA Code: 19B45), also referred to as the Clashavoon Stream. The Bealick / Clashavoon Stream is a third-order watercourse which flows south-west along the western boundary of the Site. This watercourse also has a WFD river waterbody status of 'High' for the 2019–2024 period and is similarly listed as 'Under Review' under the third cycle WFD risk assessment.

Downstream of the Site, the Bealick / Clashavoon Stream flows south-west, passes beneath a local road, and joins the River Laney. The River Laney subsequently flows into the Sullane River, which in turn discharges to the Carrigadrohid Reservoir, a major impoundment on the River Lee system. Downstream of Carrigadrohid Reservoir, the River Lee flows into Inniscarra Reservoir before continuing eastwards towards Cork Harbour and associated transitional waters. This downstream sequence is described in the rEIAR and reflects a catchment containing multiple significant hydrological controls and impoundments.

The Site is located within the Ballinhassig West groundwater body, which has been classified as having 'Good' groundwater status for the 2019–2024 WFD reporting period and is identified as 'Not at risk' under the third cycle WFD risk assessment.

The underlying geology comprises a combination of Poor Aquifer – Bedrock, which is generally unproductive except in localised zones, and Locally Important Aquifer – Bedrock, which is moderately productive only in discrete local zones. Groundwater vulnerability in the area is identified as high in places, reflecting shallow overburden and bedrock conditions.

5. Stage 1- Appropriate Assessment Screening

This section of the report identifies the potential zone of influence of the historical operation of the gravel pit and assesses whether that activity, either alone or in combination with other plans or projects, was likely to have resulted in significant effects on European sites.

5.1 Identification of Natura 2000 Sites

The first step in the identification of Natura 2000 sites is to determine the potential zone of influence of the historical operation of the gravel pit. When the zone of influence of the Site has been determined, Natura 2000 sites within this area can be identified. The potential for these sites to have been affected can be evaluated by considering:

- Scale and type of the historical operation.
- Proximity to the works.
- Qualifying interests.
- Ecological[10] and Landscape[11] connectivity.

A source-pathway-receptor model has been used to establish which European Sites could occur within the zone of influence of the project. Under such a model the project, as described above, represents the source. The receptors represent European Sites and their associated qualifying features of interest.

European Sites and their associated qualifying features are likely to occur in the zone of influence of the project only where the above pathways establish a link between the project site and European Sites or where the project site is likely to play an important role in supporting populations of mobile species that are listed as special conservation interests/qualifying species for surrounding European Sites.

Table 5.1 provides a determination as to whether each of the European Sites listed occur within the zone of influence of the project. Figure 5.1 show the locations of the Natura 2000 sites within 15km of the project.

[10] Connectivity is defined as a measure of the functional availability of the habitats needed for a particular species to move through a given area. Examples include the flight lines used by bats to travel between roosts and foraging areas or the corridors of appropriate habitat needed by some slow colonising species if they are to spread (CIEEM, 2018)

[11] Landscape connectivity is a combined product of structural and functional connectivity, i.e. the effect of physical landscape structure and the actual species use of the landscape (Kettunen et al. 2007)

Table 5.1. Natura 2000 Sites within zone of influence

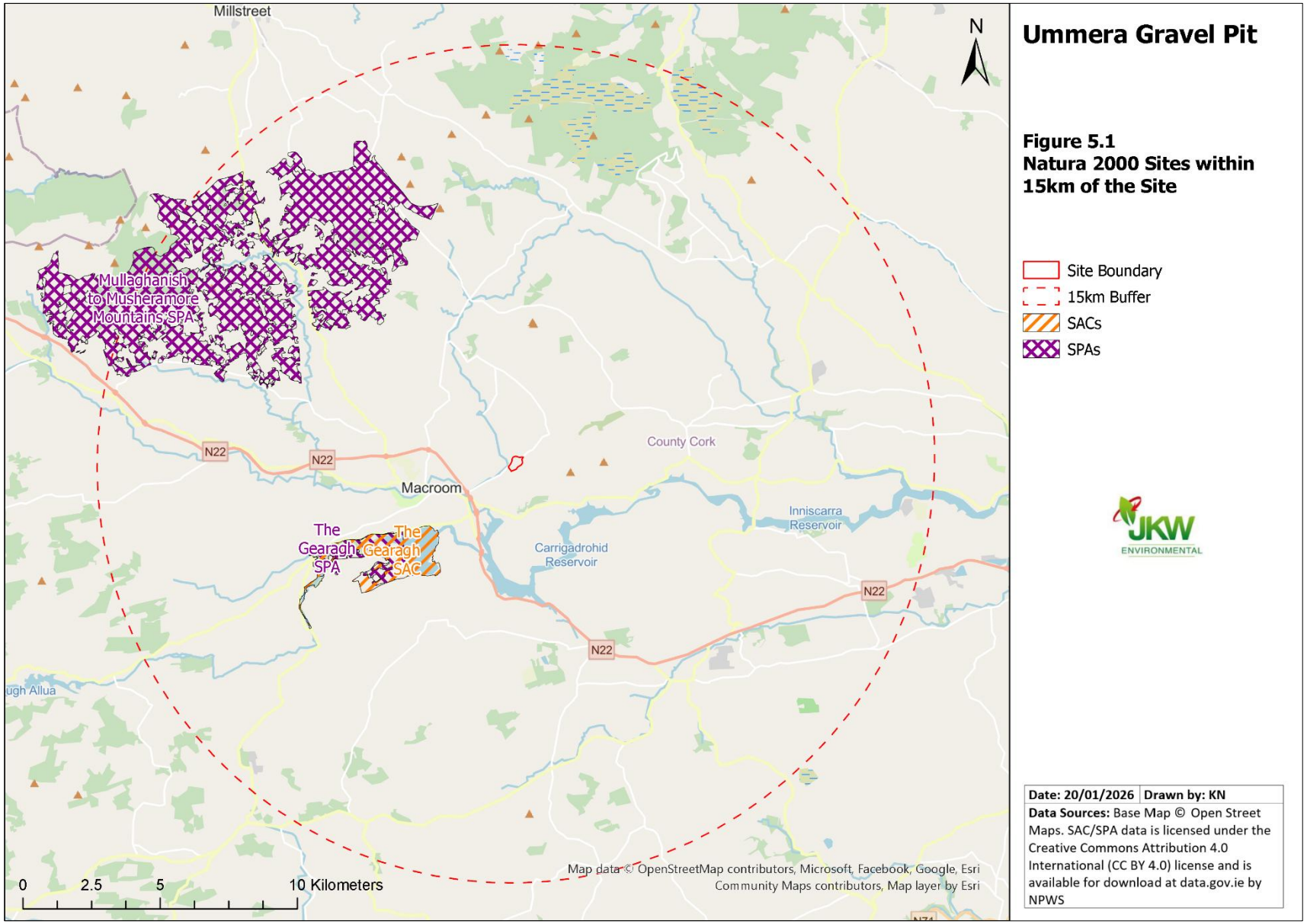
Natura 2000 Site Distance from Site[12]	Qualifying Interests	Conservation Objectives	Pathway	Description of Potential Impacts	Potential Pathways for Further Assessment
Special Areas of Conservation (SACs)					
The Gearagh SAC [000108] c. 3.5 km south west	**Habitats:** [3260] Floating River Vegetation [3270] Chenopodion rubri p.p. and Bidention p.p. vegetation [91A0] Old Oak Woodlands [91E0] Alluvial Forests* **Species:** [1355] Otter (*Lutra lutra*)	To maintain or restore the favourable conservation condition of habitats designated within The Gearagh SAC which is defined by a list of specific attributes and targets. Full details of the conservation objectives can be found at: https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000108.pdf	There are no surface water pathways connecting the Site to The Gearagh SAC. The SAC is located upstream of the confluence of the River Lee and the River Sullane, whereas the Site lies downstream within the Lee catchment. Groundwater flow beneath the gravel pit is localised and is not directly connected to The Gearagh SAC.	The Gearagh SAC is designated for a range of freshwater and terrestrial qualifying interests, including alluvial woodland habitats and otter, which may be sensitive to changes in hydrology, water quality and physical disturbance. The Site is located at a distance from the SAC and does not overlap with, or occur adjacent to, the designated site. There is no land take within the SAC, no loss or fragmentation of woodland or other terrestrial habitats, and no direct disturbance of qualifying interests associated with the historical operation of the gravel pit. In addition, there are no surface water or groundwater pathways	No. No source–pathway–receptor linkage has been identified between the Site and The Gearagh SAC. Accordingly, there is no potential for likely significant effects on the qualifying interests of the SAC, either alone or in combination with other plans or projects, and the Site can be screened out at Stage 1 Appropriate Assessment.

[12] Measured in a straight line between the Site and closest point of Natura 2000 site boundary

				connecting the Site to The Gearagh SAC, and the Site lies downstream of the SAC within the River Lee catchment. On this basis, no direct or indirect impacts on the freshwater or terrestrial qualifying interests, or on the conservation objectives of The Gearagh SAC, could have occurred.	
Special Protection Areas (SPAs)					
The Gearagh SPA [004109] c. 4.6 km south west	Teal (*Anas crecca*) [A052] Mallard *(Anas platyrhynchos*) [A053] Coot (*Fulica atra*) [A125] Wigeon (*Mareca penelope*) [A855] Wetland and Waterbirds [A999]	To maintain or restore the favourable conservation condition of habitats designated within The Gearagh SPA which is defined by a list of specific attributes and targets. Full details of the conservation objectives can be found at: https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004109.pdf	There are no surface water pathways connecting the Site to The Gearagh SPA. The SPA is located upstream of the confluence of the River Lee and the River Sullane, whereas the Site lies downstream within the Lee catchment. Groundwater flow beneath the gravel pit is localised and is not directly connected to The Gearagh SPA.	The Gearagh SPA is designated for wetland and waterbird species which may be sensitive to disturbance. The Site is located approximately 4.6 km from the SPA and does not overlap with, or occur adjacent to, the designated site. Given this separation distance, there is no potential for noise, visual disturbance or other forms of direct disturbance associated with the historical operation of the gravel pit to affect qualifying bird species within the SPA. There is no land take within the SPA, no loss or fragmentation of supporting habitats, and no surface water	No. No source–pathway–receptor linkage has been identified between the Site and The Gearagh SPA. Given the separation distance of approximately 4.6 km and the absence of any disturbance, hydrological or ecological pathways, there is no potential for likely significant effects on the qualifying interests of the SPA, either alone or in combination with other plans or

				or groundwater pathways connecting the Site to the SPA. On this basis, no direct or indirect impacts on the qualifying interests or conservation objectives of The Gearagh SPA could have occurred.	projects. The Site can therefore be screened out at Stage 1 Appropriate Assessment.
Mullaghanish to Musheramore Mountains SPA [004162] c. 6.9km north west	Hen Harrier (*Circus cyaneus*) [A082]	To maintain or restore the favourable conservation condition of habitats designated within Mullaghanish to Musheramore Mountains SPA which is defined by a list of specific attributes and targets. Full details of the conservation objectives can be found at: https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004162.pdf	There are no direct surface water, groundwater or terrestrial pathways connecting the Site to the Mullaghanish to Musheramore Mountains SPA. The SPA is located approximately 6.9 km north-west of the Site and is hydrologically and ecologically disconnected from the gravel pit. Groundwater flow beneath the Site is localised and does not connect to the SPA.	The Mullaghanish to Musheramore Mountains SPA is designated for Hen Harrier, which may be sensitive to disturbance and changes to supporting habitats. The Site is located approximately 6.9 km from the SPA and does not overlap with, or occur adjacent to, the designated site. Given this separation distance, there is no potential for noise, visual disturbance or other forms of disturbance associated with the historical operation of the gravel pit to affect Hen Harrier within the SPA. There is no land take within the SPA, no loss or fragmentation of supporting habitats, and no ecological or hydrological pathways linking the Site to the SPA. On this basis, no direct or indirect impacts on	No. No source–pathway–receptor linkage has been identified between the Site and the Mullaghanish to Musheramore Mountains SPA. Given the separation distance and the absence of disturbance, hydrological or ecological pathways, there is no potential for likely significant effects on the qualifying interests of the SPA, either alone or in combination with other plans or projects. The Site can therefore be screened out at Stage 1

				the qualifying interests or conservation objectives of the Mullaghanish to Musheramore Mountains SPA could have occurred.	Appropriate Assessment.


Millstreet
Mullaghanish to Musheramore Mountains SPA
The Gearagh SPA
The Gearagh SAC
N22
N22
Macroom
County Cork
Carrigadrohid Reservoir
Inniscarra Reservoir
N22
N22
ugh Allua
0
2.5
5
10 Kilometers
Map data © OpenStreetMap contributors, Microsoft, Facebook, Google, Esri Community Maps contributors, Map layer by Esri
N
Ummera Gravel Pit
Figure 5.1
Natura 2000 Sites within 15km of the Site
Site Boundary
15km Buffer
SACs
SPAs
JKW ENVIRONMENTAL
Date: 20/01/2026
Drawn by: KN
Data Sources: Base Map © Open Street Maps. SAC/SPA data is licensed under the Creative Commons Attribution 4.0 International (CC BY 4.0) license and is available for download at data.gov.ie by NPWS

On the basis of the information presented above, including the identification of Natura 2000 sites, the assessment of potential source–pathway–receptor linkages, and the site-specific screening outcomes set out in Table 5.1, it can be concluded that the historical operation of the Ummera Gravel Pit did not have the potential to give rise to likely significant effects on any European site, either alone or in combination with other plans or projects. In all cases, the absence of credible hydrological, ecological or disturbance pathways, together with separation distances and the lack of land take or habitat interaction, allows likely significant effects on the qualifying interests and conservation objectives of Natura 2000 sites to be excluded at Stage 1 Appropriate Assessment screening. Accordingly, a Stage 2 Appropriate Assessment is not required.

5.2 Likely Cumulative Impact of the Site on European Sites, in-combination with other plans and projects

Article 6(3) of the Habitats Directive requires that the potential for likely significant effects on European sites be considered not only in isolation, but also in combination with other plans or projects. Accordingly, this section considers whether the historical operation of the Ummera Gravel Pit could have resulted in cumulative effects on Natura 2000 sites when considered in combination with other existing or reasonably foreseeable plans or projects.

The assessment of in-combination effects has been informed by the same source–pathway–receptor framework applied to the individual site screening presented in Section 5.1 and Table 5.1. In-combination effects can only arise where two or more plans or projects act together through a shared pathway to affect the same qualifying interests of a European site.

A review of the baseline information, hydrological context and screening outcomes demonstrates that no credible hydrological, ecological or disturbance pathways exist between the Site and any European site. The Site is located at a distance from all Natura 2000 sites, lies downstream of the Gearagh SAC and SPA within the River Lee catchment, and is not connected to European sites via groundwater or surface water pathways. No land take, habitat loss, habitat fragmentation or disturbance of qualifying interests has been identified in relation to the historical operation of the gravel pit.

In the absence of any source–pathway–receptor linkage between the Site and European sites, there is no mechanism by which cumulative effects could have arisen when the historical operation of the gravel pit is considered in combination with other plans or projects. Where no individual effects are identified and no pathways exist, in-combination effects cannot occur.

On this basis, it can be concluded that the historical operation of the Ummera Gravel Pit did not have the potential to result in likely significant effects on any European site in combination with other plans or projects.

6. Article 6(3) Appropriate Assessment Screening Statement And Conclusions

The findings of this Remedial Appropriate Assessment Screening are presented in accordance with the European Commission's Assessment of Plans and Projects Significantly Affecting Natura 2000 Sites: Methodological Guidance on the Provisions of Article 6(3) and 6(4) of the Habitats Directive 92/43/EEC (EC, 2021), Managing Natura 2000 Sites: the Provisions of Article 6 of the 'Habitats' Directive 92/43/EEC (EC, 2018), and the Department of the Environment's Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities (DoEHLG, 2010).

This screening has been undertaken in the context of an application for substitute consent under Part XAB of the Planning and Development Acts 2000 (as amended) and addresses the requirements of Article 6(3) of the Habitats Directive in respect of development that has already taken place.

6.1 Data Collected to Carry Out Assessment

This remedial screening assessment was informed by a review of National Parks and Wildlife Service site synopses and published conservation objectives for the relevant European sites. Consideration was also given to the findings of the Remedial Environmental Impact Assessment Report (rEIAR), including information on baseline ecology, hydrology and the receiving environment. Ordnance Survey mapping and aerial photography were reviewed to assess the spatial relationship between the Site, surrounding land uses, hydrological features and European sites.

This information was used to inform the identification and assessment of potential source–pathway–receptor linkages arising from the historical operation of the gravel pit, in accordance with best scientific knowledge and the precautionary principle.

6.2 Concluding Statement

This Remedial Appropriate Assessment Screening has examined, in view of best scientific knowledge and applying the precautionary principle, whether the historical operation of the Ummera Gravel Pit, either alone or in combination with other plans or projects, was likely to have had a significant effect on any European site.

European sites identified within the wider zone of influence of the Site include The Gearagh SAC, The Gearagh SPA, and the Mullaghanish to Musheramore Mountains SPA. The screening assessment has demonstrated that there are no credible hydrological, ecological or disturbance pathways connecting the Site to any of these European sites. The Site is located downstream of The Gearagh SAC and SPA within the River Lee catchment, at a substantial distance from all European sites, and does not overlap with or occur adjacent to any designated area. No land take, habitat loss, habitat fragmentation or disturbance of qualifying interests has been identified in relation to the historical operation of the gravel pit.

In the absence of any functional source–pathway–receptor linkages, and having regard to the nature and scale of the historical operation of the gravel pit and the conservation objectives of the relevant European sites, it can be concluded, on the basis of objective scientific information, that the development did not give rise to, and was not likely to have given rise to, significant effects on any Natura 2000 site, either individually or in combination with other plans or projects.

Accordingly, it can be concluded beyond reasonable scientific doubt that the historical operation of the Ummera Gravel Pit has not adversely affected the integrity of any European site, and that a Stage 2 Appropriate Assessment is not required under Article 6(3) of the Habitats Directive.

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