



Cush Wind Farm
Phase II

Environmental Impact Assessment Report

Annex 5.2: Biodiversity – Relevant Policy

Cush Wind Limited

EU HABITATS AND BIRDS DIRECTIVE

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

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

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

NATIONAL LEGISLATION

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

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

Offaly County Development Plan 2021-2027

The relevant policies pertaining to ecology are outlined below.

Policy / objective number	Policy title	Wording of Relevant Policy or Sub-Clause
BLO-01	Natural Capital	It is an objective of the Council that development occurs within environmental limits, having regard to the requirements of all relevant environmental legislation and the sustainable management of County Offaly's natural capital.
BLO-02	Designated and Non-Designated Sites	It is an objective of the Council that no plans, programmes or projects giving rise to significant cumulative, direct, indirect or secondary impacts on European 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, programmes, etc. or projects).
BLO-03	Designated and Non-Designated Sites	It is an objective of the Council that all projects and plans arising from this Plan will be screened for the need to undertake Appropriate

Policy / objective number	Policy title	Wording of Relevant Policy or Sub-Clause
		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 subsequent Appropriate Assessment where necessary, that the requirements of Article 6(3) and, where applicable, Article 6(4) of the Habitats Directive are satisfied.
BLO-04	Designated and Non-Designated Sites	It is an objective of the Council to ensure that the impact of development within or adjacent to national designated sites, Natural Heritage Areas, proposed Natural Heritage Areas, Ramsar Sites and Nature Reserves likely to result in significant adverse effects on the designated site is assessed by requiring the submission of an Ecological Impact Assessment prepared by a suitably qualified professional, which should accompany planning applications.
BLO-05	Designated and Non-Designated Sites	It is an objective of the Council in accordance with Article 4(4) of the Birds Directive and Regulation 27(4) of the European Communities (Birds and Habitats) Regulations 2011-2015 to strive to avoid pollution or deterioration of bird habitats outside Special Protection Areas.
BLO-06	Designated and Non-Designated Sites	It is an objective of the Council to take account of the objective and management practices proposed in any management or related plans for European Sites (SACs and SPAs) in and adjacent to the county published by the Department including the National Raised Bog Special Areas of Conservation (SACs) Management Plan 2017-2022 and any subsequent editions.
BLO-07	Geology, Eskers and Quarries	It is an objective of the Council to protect county geological sites and mushroom stones identified in Table 4.11 Schedule of County Geological Sites identified by the Irish Geological Heritage Programme for Protection in County Offaly.
BLO-08	Geology, Eskers and Quarries	It is an objective of the Council to increase pedestrian and cycling access to esker and geological sites in turn increasing appreciation of esker and geological heritage, where possible, subject to Article 6 of the Habitats Directive.
BLO-09	Geology, Eskers and Quarries	It is an objective of the Council to consider, in consultation with the National Parks and Wildlife Service, Westmeath County Council, the Geological Survey of Ireland and others, the potential designation of the north Offaly esker landscape as a UNESCO Geopark, to promote the unique geological heritage of the area.
BLO-10	Peatlands	It is an objective of the Council to require the preparation and submission of a Hydrological Report/Assessment for significant developments within and in close proximity to protected raised bogs and to take account of same in the assessment of impacts on the integrity of peatland ecosystems.
BLO-11	Peatlands	It is an objective of the Council to work with relevant stakeholders on suitable peatland sites in order to demonstrate best practice in sustainable peatland conservation, management and restoration techniques to promote their heritage and educational value subject to ecological impact assessment and appropriate assessment screening.
BLO-12	Waterways, Lakes and Wetland Landscapes	It is an objective of the Council to maintain a riparian zone for larger and smaller river channels based on the Inland Fisheries Ireland updated guideline document, 'Planning for Watercourses in the Urban Environment, a Guide to the Protection of Watercourses through the use of Buffer Zones, Sustainable Drainage Systems,

Policy / objective number	Policy title	Wording of Relevant Policy or Sub-Clause
		Instream Rehabilitation, Climate/Flood Risk and Recreational Planning’.
BLO-13	Waterways, Lakes and Wetland Landscapes	It is an objective of the Council to (a) investigate the feasibility of and cooperate with relevant agencies in providing a Linear Park based on the River Shannon from Banagher to Meelick, which takes account of the sensitive ecological nature of the Callows area and (b) to support the development of an overall vision/strategy for the Shannon Callows in co-operation with all stakeholders to ensure that the area is appropriately managed at a landscape scale.
BLO-14	Trees, Forestry and Hedgerows	It is an objective of the Council to preserve individual trees and groups of trees that are included in Table 4.13 and 4.14.
BLO-15	Trees, Forestry and Hedgerows	It is an objective of the Council to consider the making of Tree Preservation Orders to protect trees and woodlands of high value.
BLO-16	Trees, Forestry and Hedgerows	It is an objective of the Council to encourage the preservation and enhancement of native and semi-natural woodlands, groups of trees and individual trees, not listed in Table 4.13 and 4.14.
BLO-17	Trees, Forestry and Hedgerows	It is an objective of the Council to encourage pursuant to Article 10 of the Habitats Directive, the management of features of the landscape, such as traditional field boundaries, important for the ecological coherence of the Natura 2000 network and essential for the migration, dispersal and genetic exchange of wild species.
BLO-18	Trees, Forestry and Hedgerows	It is an objective of the Council to encourage the retention, wherever possible, of hedgerows and other distinctive boundary treatment in the county. Where removal of a hedgerow, stone wall or other distinctive boundary treatment is unavoidable, provision of the same type of boundary will be required of similar length and set back within the site in advance of the commencement of construction works on the site (unless otherwise agreed by the Planning Authority).
BLO-19	Green Infrastructure	It is an objective of the Council to require all new developments to identify, protect and enhance ecological features by making provision for local biodiversity (for example, through provision of swift boxes or towers, bat roost sites, green roofs, etc.) and provide ecological links to the wider Green Infrastructure network as an essential part of the design process.
BLO-20	Invasive Species	It is an objective of the Council to require, as part of the planning application process, the appropriate eradication/control of invasive species when identified on site or in the vicinity of a site, in accordance with Regulation 49 of the European Communities (Birds and Natural Habitats) Regulations 2011 to 2015.
BLO-21	Invasive Species	It is an objective of the Council to continue to maintain mapping identifying the location of invasive species in the county in conjunction with the National Biodiversity Data Centre.
BLO-22	Areas of High Amenity	It is an objective of the Council to ensure that new development, whether individually or cumulatively, does not impinge in any significant way on the character, integrity and distinctiveness of or the scenic value of the Areas of High Amenity listed in Table 4.17. New development in Areas of High Amenity shall not be permitted if it causes unacceptable visual harm, introduces incongruous landscape elements, or causes the disturbance or loss of landscape elements that contribute to local distinctiveness, historic elements contributing to landscape character and quality, characteristic vegetation, or the visual condition of landscape elements.

Policy / objective number	Policy title	Wording of Relevant Policy or Sub-Clause
BLO-23	Landscape	It is an objective of the Council to prepare a County Landscape Character Assessment in accordance with all relevant legislation and guidance documents and following the forthcoming National and Regional Landscape Character Assessment.
BLO-24	Landscape	It is an objective of the Council to have regard to the Landscape Sensitivity Areas in Tables 4.18, 4.19 and 4.20 in the consideration of planning applications.
BLO-25	Landscape	It is an objective of the Council to protect skylines and ridgelines from development where such developments will create significant visual intrusion.
BLO-26	Protection of Key Scenic Views, Key Prospects and Key Amenity Routes	It is an objective of the Council to protect Key Scenic Views and Key Prospects contained in Table 4.21, and Key Amenity Routes as listed in Table 4.22 from inappropriate development.
BLO-27	Protection of Key Scenic Views, Key Prospects and Key Amenity Routes	It is an objective of the Council to ensure that proposed developments take into consideration their effects on views from Key Scenic Views and Prospects and Key Amenity Routes and are designed and located to minimise their impact on this views and prospects.
BLO-28	Wilderness Corridors	It is an objective of the Council to work with stakeholders such as Bord Na Móna, Coillte, National Parks and Wildlife Service, Waterways Ireland and Just Transition related groups to examine the feasibility of developing a Wilderness Corridor on rehabilitated peatlands linked to routes identified in Figure 6.13 'Midlands Cycling Destination, Offaly Network Map'.