


Habitats Directive Article 6 Assessment for Waste Water Discharge License Termon Housing Scheme

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	Text No	Attachment No	Description	Date	Check By
	Ter/LA/F1(i)	F.1	Habitats Directive Article 6 Assessment	20/06/2011	Donal Casey

Executive Summary

Article 6 assessments are required under the Habitats Directive (92/43/EEC), and are required where a plan or project may give rise to significant effects upon a Natura 2000 site. Natura 2000 sites are those identified as sites of Community importance designated under the Habitats Directive (Special Areas of Conservation, here after referred to as SACs) or the Birds Directive (Special Protection Areas, here after referred to as SPAs). In the case of the present assessment, Ramsar sites are also included by way of best practice. It is important to note that the phrase ‘*Appropriate Assessment*’ is sometimes used more loosely to refer to the whole process set out under Articles 6(3) and 6(4) of the Habitats Directive (Dodd *et al.*, 2008), and therefore note that for the present assessment the term ‘*Article 6 assessment*’ will be used, not ‘*Appropriate Assessment*’ (which refers to Stage 2 in the sequence under Article 6 assessment).

Guidance on Strategic Environmental Assessment (SEA) produced by the EPA (EPA, 2008) provides a useful definition of Article 6 assessments (referred to as appropriate assessment in that document) (EPA, 2008): “*An assessment based on best scientific knowledge, of the potential impacts of the plan on the conservation objectives of any Natura 2000 site (including Natura 2000 sites not situated in the area encompassed by the draft plan or scheme) and the development, where necessary, of mitigation or avoidance measures to preclude negative effects*”. Importantly, an Article 6 assessment has a narrow focus i.e. the maintenance of the integrity of the site and assessing the significance of the effects on designated interest features and the conservation objectives of the site. It is a protection led assessment and is carried out using the precautionary principle.

The assessment of the present proposal for licensing the Waste Water Discharge at Termon concluded the following:

The screening process has been undertaken to identify the qualifying interests and potential impacts arising from the Termon Wastewater treatment plant.

The process has shown that there are no significant negative effects on any Natura 2000 site arising from the discharges from the Termon agglomeration. . It is unlikely that there will be ‘in combination’ negative effects from any other additional plans or developments in the catchment.

Introduction

Article 6 is one of the most important articles of the Habitats Directive in determining the relationship between conservation and site use. Article 6(3) requires that “*Any plan or project not directly connected with or necessary to the conservation of a 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.*” The purpose of this report is to describe how that Article 6 assessment was carried out, and also to detail the results and conclusions from the assessment.

Waste Water Discharge (Authorisation) Regulations

Local Authorities are required to carry out an Appropriate Assessment as per article 6 of the Habitats Directive (92/43/EEC (2000)) in relation to waste water authorisations pursuant to the Waste Water Discharge (Authorisation) Regulations, 2007 (S.I. No. 684 of 2007).

The specific objectives of the WWDA Regulations are contained within the regulations.

Article 6 assessment

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 the framework for 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 EU-wide network. The Habitats Directive and the Birds Directive and sites designated under them form this network of European protected sites that are better known as the Natura 2000 network. This consists of:

Special Areas of Conservation (SACs) for flora, fauna and habitats of Community interest under the EU Habitats Directive;

Special Protection Areas (SPAs) for rare, vulnerable or migratory birds under the EU Birds Directive;

Sites that are being considered for designation as one of the above are referred to as cSAC (candidate) or pSPA (proposed).

Ramsar sites are wetlands of global importance, listed under the Convention on Wetlands of International Importance. Ramsar sites are contained within Natura 2000 sites and for that reason, and in line with best practice, Ramsar sites, if present would have been included in this assessment.

Article 6 sets out provisions, which govern the conservation and management of Natura 2000 sites. Article 6(3) and 6(4) of the Habitats Directive set out the decision-making tests for

plans and projects likely to affect Natura 2000 sites. Article 6(3) establishes the requirement for Appropriate Assessment:

“Any plan or project not directly connected with or necessary to the management of the [Natura 2000] site but likely to have a significant effect thereon, either individually or in combination with other plans and 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 implication 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”

This assessment is underpinned by the precautionary principle, especially in the assessment of potential impacts and their resolution. If it is not possible to rule out a risk of harm on the evidence available then it is assumed a risk may exist and it needs to be dealt with in the appropriate assessment process.

Stages of the Article 6 assessment

The stages of an Article 6 assessment are outlined in the European Commission Methodological Guidance on the provision of Article 6(3) and 6(4) of the ‘Habitats’ Directive 92/43/EEC (EC 2001) and the European Commission Guidance ‘Managing Natura 2000 Sites’. These are set out below in line with EPA guidance on Appropriate Assessment for Waste Water Discharge Licensing.

Stage 1 - Screening

Step 1: Management of the site. In the case of all waste water discharges the project is not connected with, or necessary to the management of a Natura 2000 site

Step 2: Description of the Project (in this case the TermonWWTP) and identification of European sites that may be affected (including ‘in combination’ effects)

Step 3: Characteristics of the site identifying areas where the project may impact on European sites.

Step 4: Assessment of Significance. Assessment of the likelihood of significant effects of the project on European sites, including individual and cumulative impacts. Exclusion of site where it can be objectively concluded that there will be no significant effects and hence no requirement to proceed to further stages.

Stage 2 - Appropriate Assessment (AA)

Step 1: Information collation of likely effects of project and impacts on European site.

Step 2: Description of the Natura 2000 sites, including qualifying interests.

Step 3: Identification of the conservation objectives for of these sites and potential significant impacts likely to occur from the proposal

Step 4: Identification and assessment of mitigation measures against any likely adverse effects of the Project.

Stage 3 - Assessment of alternative solutions

Step 1: Identification of alternative solutions

Step 2: Assessment of alternative solutions

Stage 4 – Imperative Reasons of Overriding Public Interest

Confirm that there are a) imperative reasons of overriding public interest and b) human health or safety considerations or important environmental benefits. If this is so then compensation measures are required for any remaining adverse effect.

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Results of Termon Housing Scheme WWTP Assessment

Stage 1 –Screening

Step 1: Management of the Site.

The project is a WWTP and therefore is not directly connected with or necessary for the management of the European sites involved.

Step 2: Description of Project and European Sites

Description of the Project

The Termon treatment system involves primary treatment only and comprises a a septic which discharges to the Lurgy River which is a tributary of the R Leannon. The R Lurgy confluence with the R Leannon is located at approx 5 Kms downstream from the Termon discharge point. This small scheme services a housing scheme with a p.e. of 42.

European Natura 2000 Sites

The discharge flows into the River Lurgy which is included in the River Leannon SAC and is a Freshwater Pearl Mussel river system. The R Lurgy however is not regarded as having any significant Pearl Mussel population potentially due the impact downstream of the Kilmacrennan WWTP on salmonoids.

Other Discharges to Recieving Waters

There are no other discharges to the R Lurgy in this area. The nearest significant discharge is from Kilmacrennan which discharges to the R Lurgy approx 5 Kms downstream at a point just upstream of its confluence with the R Leannon.

Step 3: Potential Impacts

Freshwater Pearl Mussels are not at favourable conservation status and are regarded as being impacted by siltation and excessive growth due to eutrophication.

Cumulative, Direct, Indirect, Short& Long Term Effects

There are no Cumulative, Direct, Indirect, Short& Long Term Effects considered likely on the Natura 2000 site involved in the receiving waters of this discharge.

Step 4 Likely Significance of Impacts

SAC Water Dependant habitats potentially impacted by Termon WWTP

The Leannan River is situated in north Donegal and flows from Gartan Lough to Lough Fern. The part of the river, which is within the site is the upper 3 km, which is a steep, fast-flowing section. The river has good water quality and its banks are fringed more or less continuously by deciduous woodland. The adjacent habitat is mainly wet grassland, which has been improved to varying degrees for grazing. There is also a good scattering of woodland, mostly deciduous, in the area.

The interest of this site lies in the presence of a population of Freshwater Pearl-mussel (*Margaritifera margaritifera*), a species listed on Annex II of the EU Habitats Directive and also protected under the Wildlife Act 1976

Given the low load factors of nutrients and suspended solids involved in this discharge, it is considered unlikely that there is any significant impact on the Freshwater Pearl Mussel.

Other Policies, Plans or Projects

There is current listing for improvements to the Kilmacrennan WWTP under the WSIP. The Kilmacrennan WWTP is subject to a separate licence application..

Conclusion

The screening process has been undertaken to identify the qualifying interests of the River Leannon Natura 2000 site and potential impacts arising from the wastewater discharges from the Termon Housing Scheme Agglomeration. The process has shown that it is considered unlikely that there is any significant impact on the Freshwater Pearl Mussel, which is the qualifying interest in this case. In conclusion therefore the AA has determined that the discharges from the Termon agglomeration will not adversely impact in any significant manner on the Natura 2000 site, the qualifying interests or conservation objectives

References

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