



Appropriate Assessment Screening & Natura Impact Statements (NIS)

DELEGATE NOTES & PRACTICAL REFERENCE HANDBOOK

CMG Events - One-day Professional Seminar

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Purpose of this handbook

- A delegate reference to accompany the final 100-slide CMG course on Appropriate Assessment Screening and Natura Impact Statements.
- The notes follow the final slide structure and consolidate the legal, ecological and practical reasoning used during the seminar.
- The emphasis is on a clear evidence trail: project -> pathway -> protected feature -> effect -> conclusion.
- Case-study material is presented as teaching material drawn from the final trainer manual, not as a new independent reassessment of the underlying planning cases.

Prepared from the final course package dated 5 August 2026.

Course Orientation and Contents

Core course message

- Appropriate Assessment is a structured legal and ecological assessment process, not simply another environmental report or planning formality.
- The assessment must follow evidence. The competent authority makes the final determination.
- Distance is an indicator, not the assessment. Ecological connectivity determines relevance.

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Course Objectives

- Understand the stages of Appropriate Assessment.
- Apply Source-Pathway-Receptor reasoning.
- Distinguish Stage 1 screening from Stage 2 Appropriate Assessment.
- Review AA Screening and NIS documents for clarity, evidence and defensibility.

A Practical Assessment Mindset

Three fundamentals

- Understand the project.
- Understand the ecology.
- Explain the reasoning.

Professional judgement is essential, but it must be visible and transparent. A report should not rely on an unexplained assertion that a pathway is unlikely or that an effect will not occur. It should show the evidence and reasoning that allow a reviewer or competent authority to reach the same conclusion.

Opening and Course Orientation

Slides 1-8

Appropriate Assessment (AA) is used to assess plans and projects in relation to European Sites and the habitats and species those sites protect. The course treats AA as both a legal process and an ecological reasoning exercise. Good assessment is not measured by document length; it is measured by whether the conclusion can be traced back through the project description, ecological evidence and assessment logic.

Why Appropriate Assessment Matters

European Sites represent important areas for biodiversity protection. AA is not a prohibition on development. Its purpose is to ensure that development is considered with a proper understanding of ecological consequences and that decision-makers can distinguish proposals where effects can be excluded from those requiring more detailed assessment.

- Focus on European Site integrity rather than general environmental “damage”.
- Assess the protected features for which the site is designated.
- Use objective information and explain uncertainty.
- Remember that the consultant informs the process; the competent authority decides.

Common Challenges

- Incomplete or inaccurate project descriptions.
- Reliance on distance alone.
- Weak or assumed pathway analysis.
- Failure to identify the relevant qualifying interests or special conservation interests.
- Generic, copied or unsupported conclusions.
- Poor linkage between evidence, effects and the final conclusion.
- Generic mitigation that is not tied to a defined effect.

Defensibility test

- What was assessed?
- Why was it assessed?
- What evidence was used?
- How does the conclusion follow from that evidence?

Delegate Reflection

Identify one recurring difficulty you encounter when preparing, reviewing or relying on an AA document. Consider whether the difficulty relates mainly to project description, European Site selection, ecological pathways, evidence, the Stage 1/Stage 2 legal test, mitigation, in-combination effects, or the wording of the conclusion.

Module 1 - Legal Framework

Slides 9-20

Habitats Directive and Birds Directive

Appropriate Assessment arises from Article 6(3) of the Habitats Directive (92/43/EEC). The course also addresses the Birds Directive because Special Protection Areas form part of the Natura 2000 network. In

Ireland, the framework is implemented through the European Communities (Birds and Natural Habitats) Regulations 2011, as amended, alongside the relevant planning and environmental decision-making processes.

The trigger is ecological possibility, not simple proximity. A plan or project may require assessment where a credible ecological mechanism exists by which it could affect a European Site. Conversely, proximity alone does not establish an effect.

Roles: Competent Authority and Consultant

The consultant provides objective ecological information, assessment and professional reasoning. The competent authority must have sufficient information to make its own assessment and determination. A sound report is therefore written to support an independent decision rather than simply to state the consultant's preferred outcome.

- Consultant: describe the project, gather ecological information, identify pathways, assess effects, explain uncertainty and present a reasoned conclusion.
- Competent authority: examine the information, consider protected features and conservation objectives, apply the correct legal test and make the determination.

Stages of Appropriate Assessment

Stage	Course focus
Stage 1 - Screening	Can likely significant effects on a European Site be objectively excluded?
Stage 2 - Appropriate Assessment	Can adverse effects on the integrity of the European Site be excluded in view of conservation objectives, using sufficient scientific information?
Further stages where applicable	Alternative solutions and later Article 6 processes are distinct from the core Stage 1/Stage 2 focus of this course.

A project being screened in does not mean that it will be refused. It means that the screening stage has not been able to exclude likely significant effects and that more detailed assessment is required.

Precaution and Evidence

The precautionary principle requires uncertainty to be addressed rather than ignored. The course stresses that precaution is not the same as automatically assuming harm. The correct approach is to identify the uncertainty, determine whether it can be resolved with objective information, and progress to further assessment where the Stage 1 test cannot be met.

Evidence trail

- Survey / mapping / hydrological information / scientific literature / conservation objectives
- -> Assessment of the credible pathway and protected feature
- -> Reasoned conclusion

Key Case-Law Anchors

Case	Principle used in the course
C-127/02 Waddenzee	Objective scientific assessment and the precautionary approach; assessment is required where significant effects cannot be excluded on objective information.
C-258/11 Sweetman	Importance of European Site integrity and the ecological characteristics supporting the protected feature.

Case	Principle used in the course
C-323/17 People Over Wind	Correct treatment of mitigation at screening; mitigation needed to remove uncertainty about significant effects cannot be relied upon to avoid Appropriate Assessment.
C-721/21 Eco Advocacy CLG v An Bord Pleanála	Clarifies People Over Wind: constituent elements that are inherent standard features of the project, included irrespective of any effect on a European Site, may be taken into account at screening. It also reinforces the need for adequate reasons where a project is screened out despite contrary opinions or reasonable scientific doubt.
C-461/17 Holohan	Importance of understanding the ecological characteristics and requirements of protected features and their supporting relationships.

Module 2 - European Sites

Slides 21-30

European Sites, SACs and SPAs

European Sites form part of the Natura 2000 network. Special Areas of Conservation (SACs) protect habitats and species under the Habitats Directive. Special Protection Areas (SPAs) protect bird interests under the Birds Directive. The assessment does not treat a European Site as a single undifferentiated boundary; it examines the protected features and ecological functions relevant to the proposal.

Qualifying Interests and Special Conservation Interests

For an SAC, identify the relevant qualifying interests. For an SPA, identify the special conservation interests. A site may have many listed interests, but the assessment should focus on those with a plausible ecological relationship to the project. A generic list of all designated features is not a substitute for analysis.

Questions for a protected feature

- What exactly is protected?
- What habitat or conditions does it depend on?
- Where does it feed, breed, roost, move or function?
- Could the project alter those conditions through a credible pathway?

Conservation Objectives and Favourable Conservation Condition

Conservation objectives provide the ecological benchmark for assessing effects. They should be applied, not merely copied into an appendix. The assessor should consider whether the proposal could influence the habitat area, structure, function, distribution, supporting processes, population attributes or other ecological conditions relevant to the protected feature.

Favourable conservation condition helps frame what must be maintained. At Stage 2, the integrity conclusion must be linked back to the conservation objectives and the ecological requirements of the protected features that could actually be affected.

Boundaries and Ecological Connectivity

Mapped European Site boundaries are important, but they do not define every ecological relationship. Protected species may use supporting habitat outside the boundary, water or groundwater may connect a project to a site, and coastal processes may operate across mapped lines. The course therefore treats distance as one part of the evidence, never as the assessment itself.

- Surface-water connectivity.
- Groundwater connectivity.
- Coastal processes and sediment movement.
- Disturbance pathways such as noise or lighting.
- Species movement and use of supporting habitat outside the European Site.

European Sites Exercise

- ☐ Identify the potentially relevant European Site(s).
- ☐ Identify the qualifying interest(s) or special conservation interest(s).
- ☐ Identify the conservation objective or ecological requirement that matters.
- ☐ Identify a credible source and pathway from the project.
- ☐ State whether the pathway is complete, incomplete or uncertain, and why.

Module 3 - Proposal and Baseline

Slides 31-42

Understand the Whole Project

A robust AA assessment begins with a complete description of the project. The assessment cannot be more reliable than the project description on which it is based. Describe not only the principal structure or activity but also associated works, construction methods, access, drainage, wastewater, ground works, lighting, emissions and operational activities.

Project description checklist

- Location and site context.
- Scale and footprint.
- Construction phase and methods.
- Operational phase.
- Drainage and water management.
- Wastewater treatment or discharge.
- Earthworks, access and associated works.
- Lighting, noise, emissions or disturbance where relevant.

Desk Study and Mapping

Desk-study information may include European Site information, conservation objectives, mapping, catchments, drainage and water features, ecological records, planning history and other relevant environmental information. Mapping is a tool for understanding relationships; it should be used to test ecological connectivity rather than to justify a fixed-radius approach.

Site Visits and Habitat Assessment

A site visit may be needed to verify the project setting and the pathways assumed from desk-study information. Field verification can confirm habitat type and condition, watercourses, open drains, drainage direction, wastewater arrangements, supporting habitat and other features that are material to the assessment.

The course emphasises proportionality. A field survey or specialist survey should be undertaken because it is needed to answer a relevant ecological question, not simply because a species or habitat exists somewhere in the wider area.

Water, Drainage and Wastewater

Hydrological and hydrogeological pathways are recurring AA issues. The assessment should distinguish the existence of a potential source from evidence of a pathway to a sensitive receptor. For wastewater, consider the

proposed system, receiving environment, drainage routes, soil or groundwater context where relevant, and whether the protected feature is actually dependent on the receiving pathway.

- Do not assume a drainage connection solely from mapping.
- Do not assume no connection solely from distance.
- Use site evidence, drainage design and relevant hydrological or hydrogeological information to demonstrate the pathway position.

Construction and Operational Effects

Construction pressures	Operational pressures
Sediment mobilisation; temporary drainage changes; dust; noise; temporary disturbance; habitat clearance or ground works.	Wastewater or other discharges; ongoing drainage; lighting; disturbance; emissions; habitat or land-use change; operational traffic where relevant.

Baseline Exercise

- ☐ What information is missing from the project description?
- ☐ Which pathways can be tested from desk study alone?
- ☐ What requires site verification?
- ☐ Is any specialist survey needed to answer a defined question?
- ☐ Does the baseline allow the relevant protected feature and conservation objective to be assessed?

Module 4 - Source-Pathway-Receptor

Slides 43-52

Source-Pathway-Receptor (SPR) is the central reasoning framework used throughout the course. It moves the assessment away from simple distance-based thinking and asks whether there is a mechanism by which a project pressure can reach and affect a protected feature.

Source

The source is the pressure created by the project. Examples used in the course include wastewater, sediment, nutrients, disturbance, habitat change and emissions. The source should be project-specific rather than a generic environmental hazard.

Pathway

The pathway is the mechanism by which the pressure could travel or operate. Examples include surface water, groundwater, drainage networks, coastal processes, air, disturbance mechanisms and species movement. A map feature is not automatically a functional pathway; the connection must be credible and supported by evidence.

Receptor

The receptor is the protected ecological feature that could be affected. It may be an Annex I habitat, Annex II species, Special Conservation Interest, or a supporting ecological feature that is relevant to the designated interest. The receptor should be sensitive to the pressure being assessed.

Complete and Incomplete Pathways

A complete SPR chain requires all three elements

- Source: a project-specific pressure exists.
- Pathway: a credible mechanism connects the pressure to the protected feature.
- Receptor: a sensitive designated feature or relevant supporting feature could be affected.

If one of these elements is absent and the absence is supported by objective information, the pathway may be incomplete and effects may be capable of exclusion. If a material uncertainty remains, the assessor should identify what evidence is required to resolve it.

Worked Examples

Scenario	SPR reasoning
Wastewater	Source: wastewater discharge. Pathway: groundwater or surface-water connection. Receptor: aquatic qualifying interest. Test whether the connection is credible and whether the receptor is sensitive to the potential change.
Sediment and surface water	Source: earthworks/sediment mobilisation. Pathway: drainage network or watercourse. Receptor: river or aquatic European Site feature. Assess timing, magnitude and the conservation objective potentially affected.
Coastal development	Source may include disturbance, sediment movement or habitat change. Pathway may include coastal processes or mobile species connectivity. Receptor must be the relevant coastal habitat/species or SPA interest, not the site boundary alone.

SPR Workshop

- ☐ Identify the source.
- ☐ Identify the pathway.
- ☐ Identify the receptor.
- ☐ State the evidence available for each link.
- ☐ Identify any uncertainty.
- ☐ State the assessment conclusion that follows from the evidence.

Module 5 - AA Screening

Slides 53-65

Purpose of Stage 1 Screening

Screening is a preliminary assessment that determines whether likely significant effects on a European Site can be excluded. It is not an assessment of whether the project is acceptable and it is not the Stage 2 integrity test. If likely significant effects can be objectively excluded, the AA process ends at Stage 1. If they cannot be excluded, further assessment is required.

The screening question

- Could the plan or project, either alone or in combination with other plans and projects, have a significant effect on a European Site?
- Can that possibility be objectively excluded on the basis of the available information?

Information Required

- A complete project description.
- Relevant European Sites selected through ecological connectivity.
- Relevant qualifying interests and special conservation interests.
- Conservation objectives.

- Project-specific pressures or sources.
- Credible pathways and sensitive receptors.
- Relevant in-combination considerations.
- Objective evidence supporting the conclusion.

Selecting Relevant European Sites

The course rejects a fixed-radius approach as the assessment method. Search areas may assist data gathering, but relevance is determined by credible ecological connectivity. A site kilometres away may be relevant where a functional water or ecological pathway exists; a closer site may be screened out where no credible pathway connects the project to the protected feature.

Likely Significant Effects and Uncertainty

At screening, assess whether the project could influence the ecological characteristics or conservation objectives of the relevant protected feature. The threshold is not certainty of damage. Equally, the existence of a European Site or a theoretical environmental hazard is not enough by itself. The assessment should identify a credible mechanism and explain whether significant effects can be excluded.

Where uncertainty is genuine and material to the screening test, it should be stated transparently. Additional information may resolve the uncertainty; otherwise the project progresses to Stage 2.

Mitigation at Screening and Project Design

People Over Wind is used in the course to explain that mitigation measures needed to remove uncertainty about significant effects cannot be relied upon at screening to avoid Appropriate Assessment. The course also asks practitioners to distinguish such mitigation from features that genuinely form part of the project as proposed. The assessment should explain the status of the measure rather than simply labelling it “design”, “best practice” or “mitigation”.

Practical question

- Is the feature an integral part of the project as described, or was it introduced specifically to avoid an identified European Site effect?
- Does the screening conclusion rely on that feature to remove an otherwise credible likely significant effect?
- Is the reasoning transparent enough for the competent authority to understand the distinction?

Eco Advocacy (C-721/21): Standard Project Design versus Mitigation

In Eco Advocacy CLG v An Bord Pleanála, Case C-721/21, ECLI:EU:C:2023:477 (15 June 2023), the Court of Justice expressly distinguished Natura-specific mitigation from constituent elements that are inherent in the project. The Court held that Article 6(3) does not prevent the competent authority, at screening stage, from taking account of project features that may reduce harmful effects where those features were incorporated as standard features of that type of project, irrespective of any effect on the European Site.

The practical issue is therefore purpose and status, not the label attached to the measure. A drainage system, wastewater treatment arrangement, interceptor, attenuation feature or other environmental control is not automatically “mitigation” merely because it has the consequence of reducing pollution. Equally, a measure cannot be converted into standard design simply by calling it “best practice”. The report should evidence why the feature is genuinely part of the project as designed and would have been included irrespective of the Natura 2000 issue.

Feature status	Treatment at Stage 1 screening	What the report should demonstrate
Standard / inherent project feature	May be considered as part of the project where it is genuinely standard or inherent and was not incorporated for the purpose of avoiding or reducing a European Site effect.	Show that the feature forms part of the project from the outset; identify the design, planning, engineering or regulatory basis; explain that it would be included irrespective of the European Site.

Feature status	Treatment at Stage 1 screening	What the report should demonstrate
Natura-specific mitigation	Must not be relied upon at screening to remove an otherwise credible likely significant effect.	Identify the effect first and progress to Stage 2 where the measure is introduced or relied upon specifically to avoid or reduce that effect on the European Site.

Practical reporting test

- Was the feature part of the project description before the AA issue was identified?
- Is it normally required or routinely incorporated for projects of the same type?
- Would it be included even if no European Site were present?
- Is there objective evidence - drawings, specifications, planning policy, technical standards or engineering design - supporting that status?
- Does the screening conclusion remain based on the source-pathway-receptor assessment rather than on a Natura-specific avoidance measure?

Eco Advocacy and the Duty to Give Reasons

Eco Advocacy also addresses the reasoning required when a competent authority screens a project out. The authority is not required to answer every legal or factual submission point by point. However, where contrary expert opinions or reasonable doubts have been raised, its reasons must be sufficient to show why it was nevertheless able to conclude that there was no reasonable scientific doubt as to the possibility of significant effects. For practitioners, this reinforces the importance of an explicit evidence trail rather than a bare “no significant effects” conclusion.

In-Combination Effects

Screening must consider the proposal alone and in combination with other relevant plans or projects. The assessment should remain focused on interactions that share relevant pressures, pathways or receptors. A long list of unrelated planning permissions does not demonstrate an in-combination assessment.

Common Screening Errors

- “The SAC is 5 km away, therefore there is no impact.”
- Identifying a drain or watercourse without identifying a project-specific source and sensitive receptor.
- Listing every European Site in a large radius without explaining ecological relevance.
- Generic statements that no significant effects are anticipated.
- Using mitigation at screening without explaining its legal and project-design status.
- Ignoring in-combination effects or addressing them only as a list of unrelated developments.

Recommended Screening Report Structure

Section	Purpose
1. Introduction and methodology	State the purpose, assessment framework, information sources and scope.
2. Project description	Describe the full project, including associated works, construction and operation.
3. European Sites	Identify relevant sites, protected features and conservation objectives.
4. Screening assessment	Identify sources, pathways, receptors, direct/indirect effects and in-combination effects.
5. Conclusion	Answer the Stage 1 test and explain why likely significant effects can or cannot be excluded.

Screening Conclusion

The conclusion is the final step in the reasoning. A weak conclusion simply states that no significant impacts are anticipated. A strong conclusion identifies the European Sites and protected features considered, the pathways assessed, the evidence used and the reason why likely significant effects can or cannot be excluded.

Module 6 - Natura Impact Statements

Slides 66-78

Purpose of an NIS

A Natura Impact Statement (NIS) provides the scientific information needed by the competent authority to carry out Appropriate Assessment where likely significant effects cannot be excluded at screening. It is not a planning sales document or a justification report. The assessment must focus on the protected features and conservation objectives that may actually be affected.

When Stage 2 is Required

Stage 2 follows where the Stage 1 test has not been met. The legal question changes. Screening asks whether likely significant effects can be excluded. Appropriate Assessment asks whether, following detailed assessment, adverse effects on the integrity of the European Site can be excluded in view of conservation objectives.

Recommended NIS Structure

Section	Core content
Introduction and methodology	Scope, Stage 1 findings and information used.
Project description	Full project and the elements relevant to the identified effects.
European Sites and conservation objectives	Protected features and ecological objectives relevant to the assessment.
Baseline ecological information	Sufficient, appropriately timed information on habitats, species, conditions and pressures.
Effects assessment	Direct, indirect and in-combination effects assessed against the relevant features.
Mitigation	Specific measures linked to identified effects, with implementation and effectiveness explained.
Residual effects	Assessment of what remains after mitigation.
Site-integrity conclusion	A reasoned conclusion in view of conservation objectives.

Baseline and Protected Features

The baseline must be sufficient to understand the ecological receptor and the effect pathway. The assessment should identify the specific qualifying interest or special conservation interest affected and explain its ecological requirements. General site descriptions that are not linked to the identified effects add volume without strengthening the assessment.

Direct and Indirect Effects

Direct effects may include habitat loss, physical disturbance, species displacement or direct interactions. Indirect effects may arise through water-quality change, hydrological alteration, disturbance, lighting, sediment

movement or changes to ecological function. For each effect, the NIS should identify the pressure, pathway, receptor, magnitude or duration where relevant, and the conservation objective that could be influenced.

Mitigation

Mitigation should be specific, measurable and directly linked to an identified effect. It should not appear as a generic list of environmental good practice. A robust NIS explains what the measure does, which effect it addresses, how it will be implemented or secured, and why it is expected to be effective.

Effect -> mitigation -> residual effect

- Identify the effect before mitigation.
- Identify the measure that addresses that effect.
- Explain implementation and effectiveness.
- Assess the effect remaining after mitigation.
- Determine whether uncertainty remains for the protected feature and conservation objective.

Mitigation Versus Best Practice

Environmental good practice may be valuable but is not automatically AA mitigation. The course requires the writer to explain whether a measure is ordinary project practice, an integral design feature, or mitigation intended to address a defined European Site effect. In an NIS, the important question is whether the measure is tied to the effect pathway and can be relied upon in the residual-effects assessment.

Residual Effects and Site Integrity

Mitigation does not end the analysis. Residual effects are the effects that remain after mitigation has been applied. The NIS should ask whether a remaining risk or uncertainty exists for the protected feature, taking account of the conservation objectives and the ecological structure, function and requirements that support the European Site.

The final Stage 2 conclusion should address whether adverse effects on the integrity of the European Site can be excluded. It should not rely on area alone or a general statement that the development is small. The reasoning must be evidence-based and linked to the relevant conservation objectives.

NIS Review Exercise

- ☐ Is the baseline sufficient and appropriately timed?
- ☐ Are the correct protected features and conservation objectives assessed?
- ☐ Are direct and indirect effects clearly separated?
- ☐ Is each mitigation measure specific to an identified effect?
- ☐ Are residual effects assessed after mitigation?
- ☐ Does the site-integrity conclusion follow from the evidence, or does uncertainty remain?

Special Practice Note - Retention Applications, AA and Substitute Consent

Supplementary delegate note - legal position checked 12 August 2026.

Retention cases require particular care because the ordinary planning route changes once Appropriate Assessment is required. The key provision is section 34(12) of the Planning and Development Act 2000, as amended. This is not simply a reporting issue: it determines whether the planning authority has jurisdiction to consider the retention application at all.

Section 34(12): the statutory bar

Section 34(12) provides that a planning authority shall refuse to consider an application to retain unauthorised development where it decides that an environmental impact assessment and/or an appropriate assessment was required or is required for that development. Section 34(12B) requires the authority, where it refuses to consider the application on that basis, to return the application and fee and give reasons. Ordinary retention applications are therefore expressly subject to this statutory limitation.

The statutory trigger is that Appropriate Assessment was or is required. Practitioners often describe the consequence as “an NIS is required”, but the legal point is more precise: if Stage 1 cannot objectively exclude likely significant effects and the project requires Appropriate Assessment, section 34(12)(b) is engaged.

Stage 1 outcome for retained development	Planning consequence
Likely significant effects can be objectively excluded	The AA barrier in section 34(12)(b) is not engaged on that basis. The ordinary retention application may proceed to be considered, subject to all other planning and environmental requirements.
Likely significant effects cannot be excluded; Appropriate Assessment is required	The planning authority must refuse to consider the ordinary retention application under section 34(12)(b). It cannot cure that jurisdictional problem by requesting an NIS and carrying out Stage 2 within the ordinary retention application.

Why a normal NIS cannot cure a retention application

For a proposed development, the normal sequence is Stage 1 screening followed, where required, by Stage 2 Appropriate Assessment supported by an NIS. For unauthorised development seeking retention, section 34(12) interrupts that sequence. Once the planning authority decides that Appropriate Assessment was or is required, it must refuse to consider the retention application rather than move the case into a normal Stage 2 process.

This is why the quality of the Stage 1 screening is especially important in retention cases. The screening must be scientifically robust and legally defensible, but it must not be manipulated to reach a desired procedural outcome. If likely significant effects genuinely cannot be excluded on objective information, the correct legal consequence must be acknowledged.

Substitute Consent: the route to regularise development requiring AA

Where the objective is to regularise unauthorised development that required or requires Appropriate Assessment, the statutory route is an application for substitute consent directly to An Coimisiún Pleanála under section 177E of the Planning and Development Act 2000, as amended. The current direct-application regime does not require the former leave-to-apply step that was contained in sections 177C and 177D before their repeal.

- Section 177E: a direct application for substitute consent is made to An Coimisiún Pleanála and must be accompanied by a remedial EIAR, a remedial Natura impact statement (rNIS), or both, as applicable.
- Section 177G: an rNIS addresses significant effects on the relevant European Site that have occurred, are occurring, or can reasonably be expected to occur because the development was carried out, together with appropriate remedial or mitigation measures and their timing.
- Section 177K: the Commission may grant or refuse substitute consent, but it shall not grant substitute consent unless satisfied that exceptional circumstances exist that justify the grant.

Exceptional circumstances - section 177K

Substitute consent is not an automatic retrospective permission mechanism. In deciding whether exceptional circumstances exist, section 177K requires the Commission to consider matters including whether regularisation would circumvent the EIA or Habitats Directives; whether the applicant reasonably believed the development was not unauthorised; whether environmental assessment and public participation have been substantially impaired; actual or likely significant environmental effects or adverse effects on European-site integrity; the extent to which effects can be remediated; the applicant's planning-compliance history; and any other relevant matters.

Retention / substitute-consent workflow	Delegate action
1. Describe the as-built development	Assess what was actually constructed or carried out, including drainage, wastewater, associated works, historic operation and any ongoing activity.
2. Carry out Stage 1 screening	Use objective information to assess the retained development alone and in combination with other relevant plans/projects.
3. If likely significant effects can be excluded	Record the reasons clearly; ordinary retention may remain available, subject to the rest of planning law.
4. If Appropriate Assessment is required	Flag section 34(12)(b): the planning authority must refuse to consider the ordinary retention application. Do not attempt to cure this by adding a normal NIS to the retention file.
5. If regularisation is pursued	Consider a direct section 177E substitute-consent application to An Coimisiún Pleanála with the required rNIS/rEIAR documentation.
6. Address exceptional circumstances	The application must confront the section 177K criteria expressly; the existence of an rNIS does not itself establish entitlement to substitute consent.

Practical procedural note

An Coimisiún Pleanála's current substitute-consent guidance states that direct applications under section 177E relate to development already carried out for which EIA and/or Appropriate Assessment was required, and that such applications can only be granted in exceptional circumstances. The guidance also identifies a screening route under sections 176A to 176C for cases where a person seeking retention considers that remedial EIA/AA documentation is not required. This is a procedural area in which the current legislation and commencement position should always be checked for a live case.

Legal currency note: the Planning and Development Act 2024 is being commenced in stages and contains future retrospective-consent provisions. This handbook records the operative section 34(12) / Part XA substitute-consent framework checked on 12 August 2026. Always verify the commencement and transitional position before advising on a current application.

Module 7 - Case Studies

Slides 79-88

The course case-study block applies the same legal and ecological logic to different development types. The purpose is not to memorise outcomes. It is to practise identifying the complete project, the relevant European Site interests, the credible SPR chain, the evidence needed and the correct Stage 1 or Stage 2 conclusion.

Residential Development

For a dwelling and on-site wastewater system near a European Site, assess the full project: construction, drainage, wastewater treatment, access, associated earthworks and operation. A wastewater source does not automatically establish a pathway. The assessment must consider whether groundwater or surface water creates a credible connection to a sensitive protected feature.

- ☐ Source: what project pressure exists?
- ☐ Pathway: is there a credible groundwater/surface-water connection?

- Receptor: which aquatic or other protected feature is sensitive?
- Evidence: what site, drainage, soil, groundwater or receiving-environment information is needed?
- Conclusion: can effects be objectively excluded or is Stage 2 required?

Aquatic European Site

For a project in a catchment connected to an aquatic European Site, identify the pollutant or physical pressure, the drainage or water pathway, the receiving receptor and the conservation objective potentially affected. Sediment, nutrients, hydrological change and water-quality effects should be distinguished rather than treated as one generic “water impact”.

Coastal Development

Coastal assessment requires attention to dynamic processes. Consider coastal habitats, disturbance, sediment movement, supporting habitats and mobile species connectivity. A European Site boundary does not necessarily define the full ecological network used by a protected species, and a visible coastline does not by itself establish a functional effect pathway.

Agricultural Development

Potential pressures may include nutrient enrichment, runoff, sediment and drainage alteration. The assessment must identify what actually changes because of the project and how that change could reach a sensitive receptor. Where the project affects slurry generation, storage or management, the relevant project scope and pathways must be clearly defined.

Review Exercises

AA Screening review	NIS review
Project description; European Sites; protected features; pathways; in-combination effects; evidence-based Stage 1 conclusion.	Baseline; protected features; conservation objectives; effects before mitigation; mitigation; residual effects; Stage 2 site-integrity conclusion.

Module 8 - Quality Review

Slides 89-96

Quality Review Principles

A quality AA document should be clear, transparent, evidence based and traceable. The key review question is not whether the report is long; it is whether the information and reasoning allow the competent authority to make a lawful decision. A reviewer should be able to follow the chain from project to European Site, protected feature, pathway, effect and conclusion.

Audit trail

- What was assessed?
- Which European Site and protected feature were relevant?
- What source and pathway were identified?
- What evidence was used?
- What effect was assessed?
- How does the conclusion follow?

AA Screening Quality Review

- Complete project description, including associated works and operation.
- Relevant European Sites selected through ecological connectivity, not a fixed radius alone.

- ☐ Correct qualifying interests and special conservation interests.
- ☐ Conservation objectives reviewed.
- ☐ Specific sources/pressures identified.
- ☐ Credible pathways evidenced or rejected.
- ☐ Sensitive receptors identified.
- ☐ In-combination effects considered.
- ☐ No reliance at Stage 1 on measures introduced specifically to avoid or reduce an identified European Site effect
- ☐ Where a feature is relied upon as standard project design, its inherent/standard status is evidenced in accordance with Eco Advocacy C-721/21
- ☐ Conclusion follows from objective information and records the Stage 1 decision test.

NIS Quality Review

- ☐ Screening findings and reasons for Stage 2 are clear.
- ☐ Baseline information is sufficient and appropriately timed.
- ☐ Relevant protected features and conservation objectives are identified.
- ☐ Direct, indirect and in-combination effects are assessed.
- ☐ Effects are assessed before mitigation.
- ☐ Mitigation is specific, measurable, secured and linked to each effect.
- ☐ Residual effects are assessed after mitigation.
- ☐ Uncertainty is stated and resolved where possible.
- ☐ Integrity conclusion addresses the European Site in view of conservation objectives.
- ☐ Document control, maps, names, references and project description are consistent.

Learning from Planning Decisions and Appeals

The course uses planning decisions, further-information responses and appeals to show that the strongest technical position is the one with the clearest evidence trail. When a decision is challenged, identify the precise finding at issue and test the reasoning rather than arguing from the preferred outcome.

- Quote the authority or prescribed-body concern accurately.
- Separate factual, scientific and legal issues.
- Test every link in the SPR chain.
- Identify the correct Stage 1 or Stage 2 test.
- Explain the status of design features, best practice and mitigation.
- Provide the evidence that resolves the stated uncertainty.
- Avoid substituting advocacy for ecological analysis.

Professional Judgement

Professional judgement is based on evidence, experience, accepted methodology and transparent reasoning. It should be proportionate to the complexity of the project and the ecological question. A simple project may require a focused assessment; a more complex project may require specialist input. In both cases, the reasoning should be understandable to someone who did not prepare the report.

Module 9 - Integration and Close

Slides 97-100

Integrated Assessment Workflow

Step	Action
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Step	Action
1	Define the complete plan or project.
2	Identify potentially relevant European Sites.
3	Identify the relevant qualifying interests or special conservation interests and conservation objectives.
4	Identify project-specific sources or pressures.
5	Test credible pathways and receptors using objective information.
6	Assess the proposal alone and, where relevant, in combination with other plans or projects.
7	Apply the correct Stage 1 or Stage 2 legal test.
8	State uncertainty transparently and obtain further evidence where needed.
9	Ensure the conclusion is the last step in the evidence trail.
Retention check	For unauthorised development seeking retention, ask whether section 34(12) prevents the planning authority from considering the application; if AA is required and regularisation is sought, consider substitute consent rather than a normal retention NIS.

Final Messages

A robust AA Screening or NIS is:

- Scientifically reasoned.
 - Legally informed.
 - Evidence based.
 - Transparent.
 - Defensible.
-
- Understand the proposal.
 - Understand the ecological context.
 - Identify credible pathways.
 - Support conclusions with evidence.
 - Use conservation objectives as an assessment benchmark.
 - Do not confuse report length with assessment quality.

Appendix 1 - Detailed Course Case Studies

The following summaries are taken from the final trainer manual. They record the teaching position of the source documents and should not be treated as new independent reassessments. Where an authority, prescribed body or appeal submission disagreed with a consultant conclusion, the course approach is to compare the competing evidence trails.

Killultán residential AA Screening - screened out

No open streams or watercourses were recorded within the application site. The project included a packaged wastewater treatment system and tertiary polishing filter, and the source report concluded no likely significant effects for St. John's Point SAC.

Key learning points

- Use the complete project description
- distinguish a possible wastewater source from an evidenced hydrological pathway
- the source report treats wastewater design and soak pits as standard project design rather than AA mitigation.

Castlegal revised screening - groundwater FI

The revised screening set out aquifer, soil, trial-hole, groundwater-flow and qualifying-interest information and stated that no SPR linkage existed.

Key learning points

- Further information should answer the precise uncertainty raised
- hydrogeological direction and receptor dependency matter more than a map layer alone
- link site suitability evidence to the relevant SAC feature.

Tullaghcullion shoreline retention screening

The source report recorded no streams or open drains and confirmed by site visit that drainage and the hot tub connected to the combined public sewer; it concluded that the works could be screened out.

Key learning points

- A shoreline location still requires evidence of an actual connection
- site verification can resolve disputed drainage assumptions
- retention projects require the as-constructed works and drainage to be accurately described.

Zinc Properties - consultant screening, council screening and appeal

The council relied on proximity and a direct hydrological connection and considered doubt to require Stage 2 notwithstanding drainage design. The appeal argued that a source had not been credibly identified and that the Stage 1 evidential threshold had been misapplied.

Key learning points

- Compare competing evidence trails rather than conclusions alone
- a pathway is incomplete without a pressure and sensitive receptor
- the documents illustrate debate over standard project design, mitigation and precaution.

Naomh Conaill NIS and lighting addendum

The NIS identified sediment migration to a boundary watercourse as an indirect construction pathway and provided a method statement. The addendum reported 0 lux at the SAC boundary, no viable lighting SPR linkage and no adverse effect on European-site integrity.

Key learning points

- Show the full effect-mitigation-residual-effect chain
- read a further-information addendum with the original NIS
- keep wider biodiversity enhancements separate from measures relied upon in the AA conclusion.

Cruit Island and Dunlewy - Stage 2 rural/coastal examples

The reports combined habitat evidence, wastewater and hydrological assessment, identification of relevant SAC/SPA features, mitigation and a final conservation-objective/site-integrity conclusion.

Key learning points

- Stage 2 must focus on the protected features that could actually be affected
- link mitigation to the identified pathway
- address site integrity in view of conservation objectives.

Gola Island and Falcarragh - corncrake and SPA assessment

The reports assessed habitat suitability and survey evidence for corncrake, identified timing restrictions for excavation and clearance, and concluded on the SPA's ability to continue meeting its conservation objectives.

Key learning points

- Being within an SPA does not remove the need to assess the actual SCI and habitat function
- survey timing and habitat structure are part of the evidence
- seasonal measures must connect to the disturbance risk identified.

Mountmellick remedial NIS and substitute-consent response

The screening recorded a hydrological connection to the River Barrow and River Nore SAC and screened in due to uncertainty. The rNIS assessed historic development and effects before and after measures; a later submission responded to concerns on landspreading, nutrient management and water quality.

Key learning points

- A remedial NIS requires a defensible historic baseline and addresses past as well as continuing/future effects
- agricultural effects may extend beyond the farmyard where slurry generation or management changes
- responses should address the precise scientific criticism and supporting evidence.

Appendix 2 - Final Review Checklists

AA Screening Checklist

- ☐ Complete project description, including associated works and operation
- ☐ Relevant European Sites selected through ecological connectivity, not a fixed radius alone
- ☐ Correct qualifying interests and special conservation interests
- ☐ Conservation objectives reviewed
- ☐ Specific sources/pressures identified
- ☐ Credible pathways evidenced or rejected
- ☐ Sensitive receptors identified
- ☐ In-combination effects considered
- ☐ No reliance on mitigation at screening unless the document explains why a feature is standard project design within the reasoning used
- ☐ Conclusion follows from objective information and records the decision test

NIS Checklist

- ☐ Screening findings and reasons for Stage 2 are clear
- ☐ Baseline information is sufficient and appropriately timed
- ☐ Relevant protected features and conservation objectives are identified
- ☐ Direct, indirect and in-combination effects are assessed
- ☐ Effects are assessed before mitigation
- ☐ Mitigation is specific, measurable, secured and linked to each effect
- ☐ Residual effects are assessed after mitigation
- ☐ Uncertainty is stated and resolved where possible
- ☐ Integrity conclusion addresses the European Site in view of conservation objectives
- ☐ Document control, maps, names, references and project description are consistent

Retention / Substitute Consent Checklist

- ☐ The retained development is described as actually constructed/carried out, including historic and ongoing elements
- ☐ Stage 1 screening applies the correct likely-significant-effects test to the retained development
- ☐ If Appropriate Assessment was or is required, section 34(12)(b) is identified as a bar to ordinary retention consideration
- ☐ A normal NIS is not presented as a means of curing a section 34(12) retention problem
- ☐ Where regularisation is pursued, the section 177E substitute-consent route is considered
- ☐ The rNIS addresses past, present and reasonably foreseeable effects in accordance with section 177G
- ☐ The section 177K exceptional-circumstances criteria are addressed expressly
- ☐ Current commencement/transitional provisions are checked before advising on the live case

Appeal / Challenge Checklist

- ☐ Identify the precise finding being challenged
- ☐ Quote the authority or prescribed-body reasoning accurately
- ☐ Separate factual, scientific and legal points
- ☐ Test every link in the Source-Pathway-Receptor chain
- ☐ Identify the correct Stage 1 or Stage 2 decision test
- ☐ Explain the status of project design, best practice and mitigation within the source documents

- ☐ Provide the evidence that resolves the stated uncertainty
- ☐ Avoid substituting advocacy for ecological analysis
- ☐ Conclude with the exact decision sought and the reasons supporting it

Appendix 3 - Key Legal Principles Quick Reference

Topic	Delegate reminder
Article 6(3)	AA is concerned with plans or projects that may affect European Sites; screening and Stage 2 apply different decision tests.
Waddenzee	Use objective scientific information and address uncertainty through the precautionary approach.
Sweetman	Focus the Stage 2 assessment on European Site integrity and the ecological characteristics supporting the protected feature.
People Over Wind	Do not rely at screening on measures introduced specifically to avoid or reduce an identified harmful effect on a European Site; such measures belong in the Stage 2 assessment.
Eco Advocacy C-721/21	Standard or inherent project features may be considered at screening where they form part of the project irrespective of any effect on a European Site. Evidence the feature's genuine standard/inherent status; do not relabel Natura-specific mitigation as design.
Holohan	Understand the ecological requirements of protected features and supporting relationships, including beyond mapped boundaries where relevant.
Competent authority	The consultant provides information and professional assessment; the competent authority makes the legal determination.
Conservation objectives	Use them as an active assessment benchmark rather than descriptive background.
Conclusion	The conclusion must be the result of the assessment, supported by a traceable evidence trail.
Section 34(12), Planning and Development Act 2000	A planning authority must refuse to consider an ordinary retention application where it decides that EIA and/or Appropriate Assessment was or is required for the unauthorised development.
Sections 177E, 177G and 177K	Where regularisation is sought for development requiring AA, substitute consent is the direct statutory route to An Coimisiún Pleanála; an rNIS addresses retrospective/ongoing effects, and a grant is prohibited unless exceptional circumstances justify it.

Primary legal references for the added delegate notes

- Court of Justice of the European Union, Eco Advocacy CLG v An Bord Pleanála, Case C-721/21, judgment of 15 June 2023, ECLI:EU:C:2023:477, especially paras 41-52.
- Court of Justice of the European Union, People Over Wind and Sweetman, Case C-323/17, judgment of 12 April 2018, ECLI:EU:C:2018:244.
- Planning and Development Act 2000, as amended: section 34(12), section 177E, section 177G and section 177K.
- Planning and Development Act 2024: section 495 (An Bord Pleanála renamed An Coimisiún Pleanála), subject to the Act's commencement and transitional provisions.
- An Coimisiún Pleanála, Substitute Consent Applications guidance, current in 2026.

Appendix 4 - 100-Slide Reference Map

This map follows the numbered teaching-slide sequence used by the final trainer manual and locked CMG PowerPoint. The three physical break/transition slides in the PowerPoint are not part of the numbered content sequence.

Slide	Title	Section
1	Welcome and Introduction	Opening and Course Orientation
2	Why Appropriate Assessment Matters	Opening and Course Orientation
3	Course Objectives	Opening and Course Orientation
4	Common AA Challenges	Opening and Course Orientation
5	Seminar Structure	Opening and Course Orientation
6	The Assessment Mindset	Opening and Course Orientation
7	What Makes an Assessment Defensible?	Opening and Course Orientation
8	Introduction Exercise	Opening and Course Orientation
9	Habitats Directive	Module 1 - Legal Framework
10	Birds Directive	Module 1 - Legal Framework
11	Irish AA Framework	Module 1 - Legal Framework
12	Legal Basis for AA	Module 1 - Legal Framework
13	Role of Competent Authority	Module 1 - Legal Framework
14	Role of Consultant	Module 1 - Legal Framework
15	Stages of AA	Module 1 - Legal Framework
16	Screening Stage	Module 1 - Legal Framework
17	Appropriate Assessment Stage	Module 1 - Legal Framework
18	Precautionary Principle	Module 1 - Legal Framework
19	Evidence-Based Decisions	Module 1 - Legal Framework
20	Legal Principles Review	Module 1 - Legal Framework
21	Introduction to European Sites	Module 2 - European Sites

Slide	Title	Section
22	Special Areas of Conservation (SACs)	Module 2 - European Sites
23	Special Protection Areas (SPAs)	Module 2 - European Sites
24	Qualifying Interests	Module 2 - European Sites
25	Special Conservation Interests	Module 2 - European Sites
26	Conservation Objectives	Module 2 - European Sites
27	Favourable Conservation Condition	Module 2 - European Sites
28	European Site Boundaries	Module 2 - European Sites
29	Ecological Connectivity	Module 2 - European Sites
30	European Sites Exercise	Module 2 - European Sites
31	Understanding the Proposal	Module 3 - Proposal and Baseline
32	Project Characteristics	Module 3 - Proposal and Baseline
33	Desk Study Information	Module 3 - Proposal and Baseline
34	Mapping and Spatial Assessment	Module 3 - Proposal and Baseline
35	Site Visits	Module 3 - Proposal and Baseline
36	Habitat Assessment	Module 3 - Proposal and Baseline
37	Water Features and Drainage	Module 3 - Proposal and Baseline
38	Wastewater Considerations	Module 3 - Proposal and Baseline
39	Construction Effects	Module 3 - Proposal and Baseline
40	Operational Effects	Module 3 - Proposal and Baseline
41	Ecological Baseline Exercise	Module 3 - Proposal and Baseline
42	Module Review	Module 3 - Proposal and Baseline
43	Introduction to Source-Pathway-Receptor	Module 4 - Source-Pathway-Receptor
44	Understanding the Source	Module 4 - Source-Pathway-Receptor
45	Understanding the Pathway	Module 4 - Source-Pathway-Receptor
46	Understanding the Receptor	Module 4 - Source-Pathway-Receptor
47	Complete and Incomplete Pathways	Module 4 - Source-Pathway-Receptor
48	Worked Example: Wastewater	Module 4 - Source-Pathway-Receptor
49	Worked Example: Sediment and Surface Water	Module 4 - Source-Pathway-Receptor
50	Worked Example: Coastal Pathways	Module 4 - Source-Pathway-Receptor
51	SPR Delegate Workshop	Module 4 - Source-Pathway-Receptor

Slide	Title	Section
52	SPR Module Review	Module 4 - Source-Pathway-Receptor
53	Introduction to AA Screening	Module 5 - AA Screening
54	The Screening Question	Module 5 - AA Screening
55	Screening Information Requirements	Module 5 - AA Screening
56	Identifying Relevant European Sites	Module 5 - AA Screening
57	Assessing Likely Significant Effects	Module 5 - AA Screening
58	Uncertainty and the Precautionary Principle	Module 5 - AA Screening
59	In-Combination Effects	Module 5 - AA Screening
60	Common AA Screening Errors	Module 5 - AA Screening
61	AA Screening Report Structure	Module 5 - AA Screening
62	Worked Screening Example: Residential Development	Module 5 - AA Screening
63	Worked Screening Example: No Credible Pathway	Module 5 - AA Screening
64	AA Screening Exercise	Module 5 - AA Screening
65	AA Screening Module Review	Module 5 - AA Screening
66	Introduction to Natura Impact Statements	Module 6 - Natura Impact Statements
67	When is an NIS Required?	Module 6 - Natura Impact Statements
68	NIS Structure	Module 6 - Natura Impact Statements
69	Baseline Ecological Information	Module 6 - Natura Impact Statements
70	Linking Effects to Protected Features	Module 6 - Natura Impact Statements
71	Direct Effects Assessment	Module 6 - Natura Impact Statements
72	Indirect Effects Assessment	Module 6 - Natura Impact Statements
73	Mitigation Measures in NIS	Module 6 - Natura Impact Statements
74	Mitigation Versus Best Practice	Module 6 - Natura Impact Statements
75	Residual Effects Assessment	Module 6 - Natura Impact Statements
76	Site Integrity Conclusion	Module 6 - Natura Impact Statements
77	Worked NIS Example	Module 6 - Natura Impact Statements
78	NIS Review Exercise	Module 6 - Natura Impact Statements
79	Introduction to Case Studies	Module 7 - Case Studies
80	Case Study 1: Residential Development	Module 7 - Case Studies

Slide	Title	Section
81	Residential Development SPR Assessment	Module 7 - Case Studies
82	Residential Screening Conclusion	Module 7 - Case Studies
83	Case Study 2: Aquatic European Site	Module 7 - Case Studies
84	Aquatic Pathway Exercise	Module 7 - Case Studies
85	Case Study 3: Coastal Development	Module 7 - Case Studies
86	Case Study 4: Agricultural Development	Module 7 - Case Studies
87	AA Screening Review Exercise	Module 7 - Case Studies
88	NIS Review Exercise	Module 7 - Case Studies
89	Quality Review Principles	Module 8 - Quality Review
90	AA Screening Quality Checklist	Module 8 - Quality Review
91	NIS Quality Checklist	Module 8 - Quality Review
92	Common AA Screening Errors	Module 8 - Quality Review
93	Common NIS Errors	Module 8 - Quality Review
94	Learning from Planning Decisions	Module 8 - Quality Review
95	Lessons from Reviews and Appeals	Module 8 - Quality Review
96	Professional Judgement in AA	Module 8 - Quality Review
97	Final Integrated Exercise	Module 9 - Integration and Close
98	Key Messages	Module 9 - Integration and Close
99	Questions and Discussion	Module 9 - Integration and Close
100	Course Close	Module 9 - Integration and Close

Final Delegate Takeaway

Return to the same logic on every project

- What is proposed?
- Which European Sites and protected features are relevant?
- What project-specific pressure exists?
- Is there a credible pathway?
- Could the protected feature or conservation objective be affected?
- What objective evidence supports the answer?
- Which legal test applies at this stage?
- Does the conclusion follow from the evidence?

CMG Events | Appropriate Assessment Screening & Natura Impact Statements

Delegate Notes & Practical Reference Handbook | 2026