



An
Bord
Pleanála

Inspector's Report

ABP-318047-23

Development

Killycronaghan Closed Landfill
Remediation Project

Location

Killycronaghan, Newbliss, County
Monaghan

Local Authority

Monaghan County Council

Type of Application

Application for approval made under
Section 177(AE) of the Planning and
Development Act, 2000 (local
authority development requiring
appropriate assessment)

Prescribed Bodies

Heritage Council
An Taisce
An Chomhairle Ealaíon
Bord Fáilte Éireann
Inland Fisheries Ireland
(Ballyshannon Regional Office)
Waterways Ireland
Environmental Protection Agency

Uisce Éirean (formally Irish Water)
Minister for Tourism, Culture, Arts,
Gaeltach, Sport and Media
Minister for the Environment, Climate
and Communications
Minister for Housing, Local
Government and Heritage

Date of Site Inspection

20th February 2024

Inspector

Rachel Gleave O'Connor

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1.0 Introduction

- 1.1. Monaghan County Council is seeking approval from An Bord Pleanála to undertake landfill remediation works at a closed landfill site located c.27km upstream from Lough Oughter and associated Loughs SAC, which is also hydrologically linked to Upper Lough Erne NI SAC and SPA which are designated European sites. There are several other designated European sites (SPAs and SACs) in proximity to the proposed works (see further analysis below). A Natura Impact Statement (NIS) and application under Section 177AE was lodged by the Local Authority on the basis of the proposed development's likely significant effect on a European site.
- 1.2. Section 177AE of the Planning and Development act 2000 (as amended) requires that where an appropriate assessment is required in respect of development by a local authority the authority shall prepare an NIS and the development shall not be carried out unless the Board has approved the development with or without modifications. Furthermore, Section 177V of the Planning and Development Act 2000 (as amended) requires that the appropriate assessment shall include a determination by the Board as to whether or not the proposed development would adversely affect the integrity of a European site and the appropriate assessment shall be carried out by the Board before consent is given for the proposed development.

2.0 Proposed Development

- 2.1. The development will consist of the following:
 - The development of a site access;
 - The development of a temporary site compound and office area;
 - Site clearance, including the removal of an existing gate, existing timber post and wire fencing and clearance of existing vegetation;
 - Grading/profiling of the existing site area;
 - Installation of an engineered landfill capping system covering an area of 2.6ha;
 - Installation of surface and subsurface surface water drainage infrastructures;

- Installation of passive landfill gas management infrastructure;
- The installation of stock proof fencing, and a new access gate on-site;
- Landscaping of the final formation of the capping area using a high value native grass cover; and
- Post completion of the remediation works ongoing environmental monitoring and maintenance of the engineered cap and onsite drainage system will be required.

2.2. The re-profiling works will involve the shallow cutting of material, with all excavated material reused on-site. Granular 'dust' material to 50-100mm thickness will be used to provide foundation for the engineered cap. The engineered landfill cap 'barrier' will cover an area of approximately 24,700sqm. It will isolate the waste body from rainfall inputs protecting underlying ground water and adjacent surface waters. It will also minimise potential for uncontrolled landfill gas migration to the atmosphere or adjacent lands and provide a physical barrier between the finished surface and buried wastes, facilitating the control of surface water discharge to receiving waters.

2.3. The engineered cap will comprise:

- Vertical standpipes;
- A passive below liner landfill gas venting system;
- A 1m LLDPE barrier to isolate the waste body from rainfall inputs and prevent uncontrolled fugitive gas emissions from the waste body;
- Over liner gas management system;
- A subsurface drainage system;
- A surface drainage system;
- A subsoil layer average thickness 800mm; and
- A topsoil layer average thickness 200mm barrier.

2.4. Below the LLDPE barrier a gas collection geocomposite and pipework system will be constructed to collect and direct landfill gas to a series of vertical standpipes venting to atmosphere at 2-3m above final ground level via passive ventilation.

- 2.5. The LLDPE barrier will be a 1.0mm thick 'plastic' sheet that is impermeable to both water and gas. It prevents gas escaping into the overlying soils and stops water from rainfall entering the underlying waste body. Over the LLDPE barrier, a geocomposite surface drainage system is rolled to form a cavity to intercept rainfall. French drains around the capping perimeter will collect and direct surface water runoff to receiving watercourses. An imported subsoil layer will be situated above this at 800mm deep, with a topsoil layer of 200mm deep.
- 2.6. Temporary works include leachate management, daily cover of exposed waste, odour management, traffic management and stock proof fencing.
- 2.7. Permanent management and monitoring of the works are also described in the application submission.
- 2.8. **Accompanying documents:**
- **Covering letter from Monaghan Council including notification of prescribed bodies.**
 - **Planning and Environmental Report.**
 - **NIS.**
 - **Environmental Impact Assessment Screening Report.**
 - **Construction and Environmental Management Plan.**
 - **Maps and Drawings.**
 - **Copy of the Newspaper Notice.**
 - **Letter from Monaghan Council regarding registration of the land.**
 - **Letter of consent from the landowner.**

3.0 **Site and Location**

- 3.1. The subject site is located within the townland of Killycronaghan and has a stated site area of 3.75 hectares. The site is accessed from the L2151 and part of the site's eastern boundary fronts onto that local road. The proposed landfill capping boundary is 74m from the L2151.

- 3.2. The site is located circa 8km northeast of Clones town, 1.7km southwest of Smithborough village and 1km from the N54 National Road. The site is located in a rural area and there are no dwelling houses located within 100m of the site. There are farming structures in the vicinity, including poultry housing approximately 80m north of the site.
- 3.3. According to the information submitted, the waste deposited at the site comprised of municipal solid waste to a maximum depth of 4.8m below ground level. The closed landfill is currently covered with topsoil which supports improved agricultural grassland.
- 3.4. The site is partially bounded to the north, east and southeast by the Kilgormly stream. The Maghermey River partially adjoins the site to the northwest. Surface water ditches bound the site to the southwest. The site is located within the catchment of the River Erne, with all local surface water entering the Lough Erne lake system approximately 18km to the west. There are several small lakes located in the vicinity of the site. Coaghen Lough is located approximately 0.9km to the east of the site. Two smaller unnamed lakes are located approximately 0.5km and 0.7km east of the site, while Lough Oony is located approximately 1.2km northwest of the site.
- 3.5. Information submitted describes the landownership of the site. This confirms that part of the Ulster Canal was historically within the closed landfill boundary, but this part of the canal was infilled approximately 100 years ago. Following the closure of this part of the canal, the site was used as a quarry and subsequently the closed landfill which was operated by Monaghan County Council under lease agreement with the landowner of the wider site area. This part of the canal is not registered and the company that previously operated the canal has been out of business since the 1920s. Therefore a letter of consent for this part of the subject site cannot be obtained, however a letter of consent is included from the landowners of the wider site that have farmed this part of the canal for approximately 100 years.

4.0 Planning History

- 4.1. The planning history is referred to in section 3.1 of the submitted Planning and Environmental Report. It is stated that the closed landfill on the subject site was not

subject to any planning process, application or grant of planning permission. The landfill commenced operations in the 1970's and early 1980's until operations ceased in 1984. No planning applications have been recorded at the site.

5.0 Legislative and Policy Context

- 5.1. **The EU Habitats Directive (92/43/EEC):** This Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) and 6(4) require an appropriate assessment of the likely significant effects of a proposed development on its own and in combination with other plans and projects which may have an effect on a European Site (SAC or SPA).
- 5.2. **European Communities (Birds and Natural Habitats) Regulations 2011:** These Regulations consolidate the European Communities (Natural Habitats) Regulations 1997 to 2005 and the European Communities (Birds and Natural Habitats) (Control of Recreational Activities) Regulations 2010, as well as addressing transposition failures identified in CJEU judgements. The Regulations in particular require in Reg 42(21) that where an appropriate assessment has already been carried out by a 'first' public authority for the same project (under a separate code of legislation) then a 'second' public authority considering that project for appropriate assessment under its own code of legislation is required to take account of the appropriate assessment of the first authority.
- 5.3. **National nature conservation designations:** The Department of Culture, Heritage and the Gaeltacht and the National Parks and Wildlife Service are responsible for the designation of conservation sites throughout the country. The three main types of designation are Natural Heritage Areas (NHA), Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) and the latter two form part of the European Natura 2000 Network.
- 5.4. European sites located in proximity to the subject site include:
- Upper Lough Erne NI SPA (site code: UK9020071),
 - Upper Lough Erne NI SAC (site code: UK0016614),
 - Lough Oughter and Associated Loughs SAC (site code: 000007),
 - Kilroosky Lough Cluster SAC,

- Magheraveely Marl Loughs NI SAC,
- Slieve Beagh SPA,
- Slieve Beagh NI SAC, and
- Slieve Beagh-Mullaghfad-Lisnaskea NI SPA.

5.5. **Planning and Development Acts 2000 (as amended):** Part XAB of the Planning and Development Acts 2000-2017 sets out the requirements for the appropriate assessment of developments which could have an effect on a European site or its conservation objectives.

- 177(AE) sets out the requirements for the appropriate assessment of developments carried out by or on behalf of local authorities.
- Section 177(AE) (1) requires a local authority to prepare, or cause to be prepared, a Natura impact statement in respect of the proposed development.
- Section 177(AE) (2) states that a proposed development in respect of which an appropriate assessment is required shall not be carried out unless the Board has approved it with or without modifications.
- Section 177(AE) (3) states that where a Natura impact assessment has been prepared pursuant to subsection (1), the local authority shall apply to the Board for approval and the provisions of Part XAB shall apply to the carrying out of the appropriate assessment.
- Section 177(V) (3) states that a competent authority shall give consent for a proposed development only after having determined that the proposed development shall not adversely affect the integrity of a European site.
- Section 177AE (6) (a) states that before making a decision in respect of a proposed development the Board shall consider the NIS, any submissions or observations received and any other information relating to:

The likely effects on the environment.

The likely consequences for the proper planning and sustainable development of the area.

The likely significant effects on a European site.

- 5.6. **National Planning Framework:** Project Ireland 2040 outlines the obligations upon public authorities to take appropriate steps to avoid the deterioration of natural habitats and the requirements relating to appropriate assessment. (Page 154).
- 5.7. **Regional Planning Guidelines:** The Regional Spatial and Economic Strategy for the Northern and Western Regions 2020-2032 includes RPO 5.5 requiring the conservation and protection of designated areas and natural heritage areas, European sites and their integrity.
- 5.8. **County Development Plan:** The Monaghan County Development Plan 2019-2025 includes policy AAP1 concerning Appropriate Assessment, and seeking to prevent plans or projects that would give rise to significant adverse effect upon the integrity of European sites.

6.0 The Natura Impact Statement

- 6.1. Monaghan County Council's application for the proposed development was accompanied by a Natural Impact Statement (NIS) which scientifically examined the proposed development and the European sites. The NIS identified and characterised the possible implications of the proposed development on the European sites, in view of the site's conservation objectives, and provided information to enable the Board to carry out an appropriate assessment of the proposed works.
- 6.2. An EPA AA Screening Determination is appended at Appendix 1 of the submitted NIS. In summary, this concluded the following:
- There is a hydrological connection between the closed landfill and Upper Lough Erne NI SPA (site code: UK9020071), Upper Lough Erne NI SAC (site code: UK0016614) and Lough Oughter and Associated Loughs SAC (site code: 000007).
 - The Agency completed an Appropriate Assessment of potential impacts on these sites, concluding that the integrity of any European site, particularly Upper Lough Erne NI SPA, Upper Lough Erne NI SAC, Lough Oughter and Associated Loughs SAC, Kilroosky Lough Cluster SAC, Magheraveely Marl Loughs NI SAC, Slieve Beagh SPA, Slieve Beagh NI SAC and Slieve Beagh-

Mullaghfad-Lisnaskea NI SPA, will not be significantly effected if works are carried out in accordance with conditions attached hereto.

7.0 Consultations

7.1. The application was circulated to the following bodies:

- Heritage Council
- An Taisce
- An Chomhairle Ealaíon
- Bord Fáilte Éireann
- Inland Fisheries Ireland (Ballyshannon Regional Office)
- Waterways Ireland
- Environmental Protection Agency
- Uisce Éirean (formally Irish Water)
- Minister for Tourism, Culture, Arts, Gaeltach, Sport and Media
- Minister for the Environment, Climate and Communications
- Minister for Housing, Local Government and Heritage

8.0 Responses

8.1. No responses were received.

8.2. **Public Submissions:**

- No responses received.

9.0 Assessment

9.1. **The likely consequences for the proper planning and sustainable development of the area:**

9.2. The Monaghan County Development Plan 2019-2025 contains policies and objectives which promote, encourage or seek contribution towards, the protection of natural environments, ecosystems, designated sites, water bodies and quality of surface waters, specifically HCLSO 1, HLP 3, GIP 6, WPP 1 and WPP 17. Policy

WMP 1 also supports implementation of strategic objectives of the Connaught-Ulster Regional Waste Management Plan 2015-2021. This waste management plan for the region includes policy G2 concerning the remediation of historic closed landfill sites. The River Basin Management Plan 2018-2021 and Draft River Basin Management Plan 2022-2027 both set out measures for the protection and improvement of the quality of Ireland's waters and stem from the EU Water Framework Directive.

- 9.3. The proposed remediation works are intended to reduce environmental risk associated with the historic closed landfill use of the site. The proposed works would also result in a greater level of protection to the receiving environment, including ground and groundwater, as well as receiving downstream surface waters linked to European sites.
- 9.4. Section 3.3 of the submitted Planning and Environmental Report states that the current water quality of the Kilgormly River which bounds the site to the southeast, east and north, and Magherarny River which bounds the site to the northwest and lies northeast of the site, are defined as 'moderate' by the EPA for the latest monitoring period of 2013-2018. The prevention of landfill leachate from entering these water bodies will help to improve the water quality status of these water bodies. The proposed works would also control landfill gas emissions.
- 9.5. Therefore, the principle of the remediation works proposed are supported by planning policy as set out above.
- 9.6. **The likely effects on the environment**
- 9.7. Information submitted with the application outlines that the closed landfill commenced accepting waste during the 1970s and early 1980s until operations ceased in 1984. Monaghan County Council is responsible for the remediation of the site at Killycronaghan Closed Landfill in accordance with a Certificate of Authorisation issued for the site by the Environmental Protection Agency (EPA) under Regulation 7(6) of the Waste Management (Certificate of Historic Unlicensed Waste Disposal and Recovery Activity) Regulations 2008 (Licence number: H0366-01).
- 9.8. The proposed works involve the installation of an engineered landfill capping system which will cover an area of approximately 24,700sqm. This will isolate the waste body from rainfall inputs which might otherwise produce leachate and will protect the

underlying ground water and adjacent surface waters. It will also minimise the potential for uncontrolled landfill gas migration and provide a physical barrier between the finished surface and buried waste.

- 9.9. The main potential environmental effects associated with the proposed remediation works relate to the potential for emissions. There will be some landfill gas released from the site, however the proposed works incorporate an engineered cap that will facilitate controlled venting of gas to the atmosphere. There is also potential for emissions to water that could result from sedimentation release during excavation, with potential associated consequential effect upon water quality. The potential for such emissions to water and necessary mitigation is addressed in the submitted Natura Impact Statement for the application as outlined in the Appropriate Assessment set out below. During construction works, there will also be noise emissions and other nuisances associated with construction, however these will be time limited nuisances which can be controlled and limited through mitigation measures and are not expected to impact surrounding dwelling which are located a significant distance away. The remediation works will be subject to environmental control and mitigation measures to avoid adverse environmental effects.
- 9.10. Visually, it is anticipated that the site clearance works, grading / profiling and landscaping of the site will significantly improve the visual amenity of the area. The subject site is an appropriate distance from existing listed monuments, RPS structures etc. and will not interfere with the amenity and setting of listed sites.
- 9.11. Overall, the proposed remediation works will improve emissions from the site in the long term, with a positive impact upon water quality within the river network downstream because leachate generation will reduce following construction of the engineered cap.
- 9.12. **The likely significant effects on a European site:** The areas addressed in this section are as follows:
- Compliance with Articles 6(3) of the EU Habitats Directive
 - The Natura Impact Statement
 - Appropriate Assessment

- 9.13. **Compliance with Articles 6(3) of the EU Habitats Directive:** The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires 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. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site.
- 9.14. **The Natura Impact Statement (NIS):** The application was accompanied by an NIS which described the proposed development, the project site and the surrounding area. Appended to the NIS is an EPA AA Screening Determination which screened the project in for Appropriate Assessment during their approval of a Certificate of Authorisation for the remediation works. The NIS outlined the methodology used for assessing potential impacts on the habitats and species within several European Sites that have the potential to be affected by the proposed development. It predicted the potential impacts for these sites and their conservation objectives, it suggested mitigation measures, assessed in-combination effects with other plans and projects and it identified any residual effects on the European sites and their conservation objectives.
- 9.15. The NIS was informed by the following studies, surveys and consultations:
- A desk top study.
 - An ecological walkover survey carried out at the site on 14th May 2022 by an Ecologist.
- 9.16. The report concluded that, subject to the implementation of the recommended mitigation measures, the proposed development would not adversely affect the integrity of European sites.
- 9.17. Having reviewed the NIS and the supporting documentation, I am satisfied that it provides adequate information in respect of the baseline conditions, does clearly identify the potential impacts, and does use best scientific information and knowledge. Details of mitigation measures are provided and they are summarised in

Table 3-10 of the NIS. I am satisfied that the information is sufficient to allow for appropriate assessment of the proposed development (see further analysis below).

9.18. Appropriate Assessment

9.19. I consider that the proposed remediation works are not directly connected with or necessary to the management of any European site.

9.20. Having regard to the information and submissions available, nature, size and location of the proposed development and its likely direct, indirect and cumulative effects, the source pathway receptor principle and sensitivities of the ecological receptors the following European Sites are considered relevant to include for the purposes of initial screening for the requirement for Stage 1 appropriate assessment on the basis of likely significant effects.

Table 1: European sites considered for Stage 1 screening:

European site (SAC/SPA)	Qualifying Interests	Distance
Lough Oughter and associated Loughs SAC (Site code: 000007)	Natural eutrophic lakes with Magnopotamion or Hydrocharition - type vegetation [3150] Bog woodland [91D0] Lutra lutra (Otter) [1355]	c.26.9km downstream of the site.
Upper Lough Erne NI SAC (Site code: UK0016614)	Lutra lutra (Otter) [1355] Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0] Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0] Natural eutrophic lakes with Magnopotamion or Hydrocharition - type vegetation [3150]	c.27km downstream of the site.
Upper Lough Erne NI SPA (Site code: UK9020071)	Cygnus cygnus (Whooper Swan) [A038]	c.27km downstream of the site.

European site (SAC/SPA)	Qualifying Interests	Distance
Kilroosky Lough Cluster SAC (Site code: 001786)	<p>Hard oligo-mesotrophic waters with benthic vegetation of Chara spp. [3140]</p> <p>Calcareous fens with Cladium mariscus and species of the Caricion davallianae [7210]</p> <p>Alkaline fens [7230]</p> <p>Austropotamobius pallipes (White-clawed Crayfish) [1092]</p>	c.7km to the west of the site.
Magheravelly Marl Loughs NI SAC (Site code: UK0016621)	<p>Hard oligo-mesotrophic waters with benthic vegetation of Chara spp. [3140]</p> <p>Alkaline fens [7230]</p> <p>Calcareous fens with Cladium mariscus and species of the Caricion davallianae [7210]</p> <p>White-clawed (or Atlantic stream) crayfish Austropotamobius pallipes [1092]</p>	c.4km north/west of the site.
Slieve Beagh SPA (Site code: 004167)	Hen Harrier (Circus cyaneus) [A082]	c.10km north of the site.
Slieve Beagh NI SAC (Site code: UK0016622)	<p>Natural dystrophic lakes and ponds [3160]</p> <p>Blanket bogs [7130]</p> <p>European dry heaths [4030]</p>	c.10km north of the site.
Slieve Beagh-Mullaghfad-Lisnaskea NI SPA (Site code: UK9020302)	Hen Harrier (Circus cyaneus) [A082]	c.10km north of the site.

9.21. Based on my examination of the NIS report and supporting information, the NPWS and DAERA (NI) websites, aerial and satellite imagery, the scale of the proposed development and likely effects, separation distance and functional relationship between the proposed works and the European sites, their conservation objectives and taken in conjunction with my assessment of the subject site and the surrounding area, I would conclude that a Stage 2 Appropriate Assessment is required for Upper

Lough Erne NI SPA (site code: UK9020071), Upper Lough Erne NI SAC (site code: UK0016614) and Lough Oughter and Associated Loughs SAC (site code: 000007) of the 8 European sites referred to above.

9.22. The remaining 5 sites, namely Kilroosky Lough Cluster SAC, Magheraveely Marl Loughs NI SAC, Slieve Beagh SPA, Slieve Beagh NI SAC and Slieve Beagh-Mullaghfad-Lisnaskea NI SPA, can be screened out from further assessment because there is no hydrological or any other connection or pathway between the subject site and these aforementioned European sites, in addition, the scale of the proposed works, the nature of the Conservation Objectives, Qualifying and Special Conservation Interests, the separation distances and the lack of a substantive linkage between the proposed works and the European sites. It is therefore reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on the following European Sites: Kilroosky Lough Cluster SAC, Magheraveely Marl Loughs NI SAC, Slieve Beagh SPA, Slieve Beagh NI SAC and Slieve Beagh-Mullaghfad-Lisnaskea NI SPA, in view of those sites conservation objectives and a Stage 2 Appropriate Assessment is not therefore required for these sites.

9.23. **Relevant European sites for the purposes of Stage 2:** The Conservation Objectives and Qualifying Interests, including any relevant attributes and targets for Upper Lough Erne NI SPA (site code: UK9020071), Upper Lough Erne NI SAC (site code: UK0016614) and Lough Oughter and Associated Loughs SAC (site code: 000007), are set out are set out below.

Site Name	Qualifying Interests	Distance
1. Upper Lough Erne NI SPA (Site code: UK9020071)	Cygnus cygnus (Whooper Swan) [A038]	c.27km
2. Upper Lough Erne NI SAC (Site code: UK0016614)	Lutra lutra (Otter) [1355]	c.27km

Site Name	Qualifying Interests	Distance
	<p>Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i>, <i>Alnion incanae</i>, <i>Salicion albae</i>) [91E0]</p> <p>Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0]</p> <p>Natural eutrophic lakes with <i>Magnopotamion</i> or <i>Hydrocharition</i> - type vegetation [3150]</p>	
3. Lough Oughter and associated Loughs SAC (Site code: 000007)	<p>Natural eutrophic lakes with <i>Magnopotamion</i> or <i>Hydrocharition</i> - type vegetation [3150]</p> <p>Bog woodland [91D0]</p> <p><i>Lutra lutra</i> (Otter) [1355]</p>	c.26.9km

1. Upper Lough Erne NI SPA (site code: UK9020071):

Upper Lough Erne Northern Ireland is located in the lowland drumlin belt in County Fermanagh and is hydrologically linked with Lough Oughter and associated Loughs in the Republic of Ireland. The site consists of a very large natural eutrophic lake with a multitude of small satellite lakes in a predominantly limestone catchment. The Upper Lough Erne NI APA is designated for Whooper Swan (*Cygnus cygnus*) and the site is also important for other wetland and waterbirds. Most of the area of Upper Lough Erne NI SPA overlaps with the Upper Lough Erne SAC.

Conservation Objectives:

To maintain each feature in favourable conservation condition.

Potential direct effects:

- Based on the precautionary principal, it is assumed that this Annex 1 species (Whooper Swan) could occur within the vicinity of the project. Sediment or pollutant emissions arising from proposed remediation works could potentially result in negative effects on the habitat and wintering population of the species.

Potential indirect effects:

- Potential for indirect effects on prey of Whooper Swan resulting from emissions during the proposed remediation works.

Potential in-combination effects:

- Without mitigation, there is potential for adverse effect to biodiversity, by contributing to cumulative deterioration in water quality.

2. Upper Lough Erne NI SAC (site code: UK0016614):

Upper Lough Erne Northern Ireland is located in the lowland drumlin belt in County Fermanagh and is hydrologically linked with Lough Oughter and associated Loughs in the Republic of Ireland. The site consists of a very large natural eutrophic lake with a multitude of small satellite lakes in a predominantly limestone catchment. In addition to the conservation interests which the site is designated for, the SAC also contains areas of Molinia meadows, alkaline fens and bog woodland. The site additionally supports Atlantic salmon (*Salmo salar*). Most of the area of Upper Lough Erne NI SAC overlaps with the Upper Lough Erne SPA.

Conservation Objectives:

To maintain the favourable conservation condition (or restore where appropriate) the favourable conservation condition of otter, natural eutrophic lakes with magnopotamion or hydrocharition type vegetation, and alluvial forests with *alnus glutinosa* and *Fraxinus excelsior* in the Upper Lough Erne NI SAC.

Potential direct effects:

- Based on the precautionary principal it is assumed that the Alluvial forests Annex I habitat could occur within the vicinity of the project. Sediment or pollutant emissions arising from proposed remediation works could potentially result in negative effects on the area, diversity, presence of associated features, structural and age variation of this habitat.

Potential indirect effects:

- In respect to otter, there is potential for sediment or pollutant emissions arising from proposed remediation works that could potentially result in

negative effects on fish spawning habitat, thereby reducing fish biomass in otter foraging territories. This would lead to a reduction of presence of otter and otter numbers.

Potential in-combination effects:

- Without mitigation, there is potential for adverse effect to biodiversity, by contributing to cumulative deterioration in water quality.

3. Lough Oughter and Associated Loughs SAC (site code: 000007):

Lough Oughter and its associated loughs are located in the lowland drumlin belt in northern and central Cavan. The SAC site consists of an interconnected maze of about 90 inter-drumlin lakes and 14 basins in the course of the Erne River, with many islands and peninsulas. The site is also hydrologically connected with Lough Erne as SAC and SPA in Northern Ireland. The Lough Oughter and associated Loughs SAC is designated for Natural Eutrophic Lakes, Bog Woodland and Otter. Additional to these conservation interests, the SAC also contains areas of dry woodland, marsh, reedbed and wet pasture. The site additionally supports populations of water birds including nationally important numbers of Whooper Swan, Tufted Duck and Cormorant, important numbers of Greenland White-fronted Goose, Great Crested Grebe, Wigeon, Teal and Pochard. Snipe, Lapwing and Golden Plover also utilise the wet grassland areas. Part of the SAC overlaps with the Lough Oughter SPA.

Conservation Objectives:

To maintain the favourable conservation condition of Otter and to restore the favourable conservation condition of Natural eutrophic lakes with Magnopotamion or Hydrocharition type vegetation.

Potential direct effects:

- Based on the precautionary principal it is assumed that the Natural eutrophic lakes Annex I habitat could occur within the vicinity of the project. Sediment or pollutant emissions arising from proposed remediation works could potentially

result in negative effects on the habitat and wintering population of the species.

Potential indirect effects:

- In respect to otter, there is potential for sediment or pollutant emissions arising from proposed remediation works that could potentially result in negative effects on fish spawning habitat, thereby reducing fish biomass in otter foraging territories. This could affect the distribution of otter.

Potential in-combination effects:

- Without mitigation, there is potential for adverse effect to biodiversity, by contributing to cumulative deterioration in water quality.

9.24. Mitigation measures:

The following mitigation measures are set out in Table 3-10 of the submitted NIS and are applicable to Upper Lough Erne NI SPA (site code: UK9020071), Upper Lough Erne NI SAC (site code: UK0016614) and Lough Oughter and Associated Loughs SAC (site code: 000007).

- Site supervision by suitably qualified Environmental Manager assisted by an Ecologist when required.
- Toolbox Talks with construction staff on implementation and maintenance of mitigation measures.
- Compact surface of stored soils during reprofiling and capping works.
- Weather forecasts to be reviewed daily and earthworks not undertaken during periods of heavy rainfall.
- Minimise disturbance of the waste body and cover any exposed waste at the end of each working day.
- Temporary silt fences to be installed along the site perimeter and around soil stockpiles. A twin layer of silt fencing to be installed at all locations. Additional silt fencing on site if required for repairs.

- Resurfacing of access track with Clause 804 with minimal fines.
- Concrete to be delivered to site via ready-mix trucks, with pours timed onsite to occur outside of heavy rainfall periods, and trucks to use wheel wash facilities. Concrete will be kept out of all watercourses and drains.
- Refuelling of plant carried out at the refuelling station located at the temporary site compound. The station will be equipped for a spill response and specially trained and dedicated environmental and emergency spill response team will be appointed. On demand refuelling only to be carried out by trained personnel. Onsite refuelling of machinery/plant with excavations to be carried out using a mobile double skinned fuel bowser. Drip trays and spill kits to be kept available on site, to ensure that any spills from vehicles are contained and removed off site.
- Any diesel, fuel or hydraulic oils to be stored in bunded storage tanks.
- Spill control equipment to be kept in construction area.
- Portaloos and/or containerised toilets and welfare units to be used. Sanitary waste to be removed by a waste disposal contractor.
- Daily road sweeping and maintenance to prevent deposits to the L2151 road.
- Wheel cleaning to prevent soil deposit to the L2151 road.
- The capped surface will be vegetated post-construction to prevent the generation of silted runoff.
- The constructed surface drainage system will filter surface water before it enters the receiving watercourses.
- The water used for the jetting of pipes to clear the sub surface drainage system of roots or silt will be fed back into the surface drainage system.

9.25. **Residual effects/Further analysis:**

- With the incorporation of the mitigation measures set out above, the generation of suspended solids and leachate will be minimised, in addition, material will be prevented from entering receiving watercourses.

9.26. **Conclusion:** I am satisfied that the proposed development individually or in combination with other plans or projects would not adversely affect the integrity of these European sites in light of its conservation objectives (subject to the implementation of mitigation measures outlined above).

9.27. **Appropriate Assessment Conclusions:**

9.28. Having regard to the above, I consider that it is reasonable to conclude on the basis of the information on the file, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, that the proposed development, individually or in combination with other plans and projects would not adversely affect the integrity of the European sites Upper Lough Erne NI SPA (site code: UK9020071), Upper Lough Erne NI SAC (site code: UK0016614) and Lough Oughter and Associated Loughs SAC (site code: 000007), in view of the site's Conservation Objectives.

10.0 EIA Screening

10.1. The application includes an Environmental Impact Assessment (EIA) Screening Report and I have had regard to the same. The report concludes that the proposed development is below the thresholds for mandatory EIA and that a sub threshold Environmental Impact Assessment Report (EIAR) is not required in this instance as the proposed development will not have significant impacts on the environment.

10.2. Schedule 5, Part 1 and 2 of the Planning and Development Regulations 2001 (as amended) sets out the classes and associated thresholds of development for which an EIA is mandatory. The proposed remediation works do not fall within a class under which EIA would be mandatory.

10.2.1. Item (15)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that an EIA is required for:

“Any project listed in this part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.”

10.3. The submitted EIA Screening Report addresses the criteria under Schedule 7 with reference to EIA Screening Guidelines contained in the Office of the Planning

Regulator's Practice Note PN02 EIA Screening. In addition, the information set out in Schedule 7A of the Regulations has also been addressed in the submitted report. I have had regard to the characteristics of the site, location of the proposed development, and types and characteristics of potential impacts. I have examined the applicants EIA Screening Report and the information set out in response to Schedule 7 (Table 3-1 of the submitted report), as well as the sub criteria having regard to Schedule 7A (Table 3-2 of the submitted report), and I have considered all information which accompanied the application.

- 10.4. I note the Certificate of Authorisation attached at Appendix 1 to the EIA Screening Report setting out the EPA permission with respect to the Waste management (Certification of Historic Unlicensed Waste Disposal and Recovery Activity) Regulations 2008. Condition no.3 under the certificate requires management and monitoring of the works to ensure protection of the environment.
- 10.5. There are no likely significant negative impacts identified in the EIA Screening Report. While the proposed remediation works will result in some emissions, it is noted that ultimately the works will have a positive impact upon air and water quality following the construction of the engineered cap. It is acknowledged that there is potential for the proposed remediation works to have significant effects upon European sites as described in the Appropriate Assessment in section 9 of this report above, however with the implementation of the detailed mitigation measures set out in the submitted NIS it is concluded beyond reasonable scientific doubt that the integrity of the Upper Lough Erne SPA and SAC, as well as the Lough Oughter and Associated Loughs SAC, will not be adversely affected. It is anticipated that the proposed remediation works will significantly improve the visual amenity of the immediate area surrounding the site, with ground clearance and more aesthetically appealing site grading/profiling and landscaping as part of the proposed works. There are no other likely significant impacts with respect any protected, important or sensitive sites and no interference with land uses in the area.
- 10.5.1. I concur with the conclusions set out in the submitted EIA Screening Report and I am satisfied that with the incorporation of mitigation, the proposed development would not be likely to have significant effects on the environment.
- 10.5.2. **EIA Screening Conclusion:**

10.5.3. It is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not therefore be required. I recommend that a screening determination be issued accordingly, confirming that no EIAR is required.

11.0 Recommendation

On the basis of the above assessment, I recommend that the Board approve the proposed development subject to the reasons and considerations below and subject to conditions including requiring compliance with the submitted details and with the mitigation measures as set out in the NIS.

12.0 Reasons and Considerations

In coming to its decision, the Board had regard to the following:

- (a) the EU Habitats Directive (92/43/EEC),
- (b) the European Union (Birds and Natural Habitats) Regulations 2011-2015,
- (c) the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the likely significant effects of the proposed development on a European Site,
- (d) the conservation objectives, qualifying interests and special conservation interests for the Upper Lough Erne NI SPA (site code: UK9020071), Upper Lough Erne NI SAC (site code: UK0016614) and Lough Oughter and Associated Loughs SAC (site code: 000007),
- (e) the policies and objectives of the Monaghan Development Plan, 2019-2025,
- (f) the nature and extent of the proposed works as set out in the application for approval which seek to incorporate a cap on existing landfill thereby reducing emissions including leachate,
- (g) the information submitted in relation to the potential impacts on habitats, flora and fauna, including the Natura Impact Statement, and

- (h) the report and recommendation of the person appointed by the Board to make a report and recommendation on the matter.

Appropriate Assessment:

The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report that the Upper Lough Erne NI SPA (site code: UK9020071), Upper Lough Erne NI SAC (site code: UK0016614) and Lough Oughter and Associated Loughs SAC (site code: 000007), are the only European Sites in respect of which the proposed development has the potential to have a significant effect.

The Board considered the Natura Impact Statement and associated documentation submitted with the application for approval, the mitigation measures contained therein, the submissions and observations on file, and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed development for the affected European Sites, namely the Upper Lough Erne NI SPA (site code: UK9020071), Upper Lough Erne NI SAC (site code: UK0016614) and Lough Oughter and Associated Loughs SAC (site code: 000007), in view of the site's conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment. In completing the appropriate assessment, the Board considered, in particular, the following:

- i. the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- ii. the mitigation measures which are included as part of the current proposal, and
- iii. the conservation objectives for the European Sites.

In completing the appropriate assessment, the Board accepted and adopted the appropriate assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the integrity of the aforementioned European Sites, having regard to the site's conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Sites, in view of the site's conservation objectives.

Proper Planning and Sustainable Development/Likely effects on the environment:

It is considered that, subject to compliance with the conditions set out below, the proposed development would not have significant negative effects on the environment or the community in the vicinity, would not give rise to a risk of pollution, would not be detrimental to the visual or landscape amenities of the area, would not seriously injure the amenities of property in the vicinity, would not adversely impact on the cultural, archaeological and built heritage of the area and would not interfere with the existing land uses in the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity and the proper planning and sustainable development of the area and to ensure the protection of the environment.

2. A suitably qualified person shall be appointed by the local authority to oversee the design and construction of the proposed landfill cap including the excavation and storage of all material within the site. Upon completion of the works a report of all site works shall be prepared by the appointed

person and submitted to the local authority to be maintained on record and shall be made available for public inspection during normal office hours.

Reason: In the interest of orderly development and public access to environmental information.

3. A suitably qualified person shall be appointed by the local authority to oversee the planting and landscaping of the restored landfill. Any plants which die or are removed or become seriously damaged or diseased shall be replaced within the next planting season with other of similar size and species.

Reason: In the interest of orderly development.

4. The planning authority shall prepare and fully implement a landscaping scheme which shall provide planting throughout the site. All planting shall be adequately protected from damage until established. Any plants which die are removed or become seriously damaged or diseased within a period of five years from the completion of the proposed development shall be replaced within the next planting season with others of similar size and species.

Reason: In the interest of visual amenity.

5. In the case that external lighting is to be provided at the site all external lighting shall be sufficiently cowled so as to ensure that light spillage beyond the boundary of the site is minimised.

Reason: In the interest of amenity.

6. The Construction and Environmental Management Plan shall be implemented in full in carrying out the proposed development.

Reason: To protect the amenities of the area.

7. All conditions attached to the closed landfill certificate of authorisation and in particular Condition No. 3 in respect of management and monitoring shall be fully complied with.

Reason: In order to prevent pollution and to ensure appropriate monitoring of the development.

Rachel Gleave O'Connor
Senior Planning Inspector

22nd February 2024