



An
Bord
Pleanála

Inspector's Report ABP-318080-23

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| Development | Improvements works and extension to existing St. Brigid's burial ground. |
| Location | Drumcliff Graveyard, Ennis, Co. Clare |
| Local Authority | Clare 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 | DHLG&H (DAU) |
| Observer(s) | Raymond Griffin |
| Date of Site Inspection | 12 th October 2023 |
| Inspector | Karla Mc Bride |

1.0 Introduction

- 1.1. Clare County Council is seeking approval from An Bord Pleanála to undertake improvement works and to extend the existing St. Brigid's section of the burial ground at Drumcliff, Ennis in Co. Clare. The burial ground is located to the S and SW of Ballyallia Lake SAC and SPA, and to the W of the River Fergus which ultimately forms part of the Lower River Shannon SAC and River Shannon and River Fergus Estuaries SAC. There are several other designated European sites in the wider area. 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 Site and Location

- 2.1. Drumcliff Graveyard is located c.4km to the NW of Ennis, and the surrounding rural area comprises a mix of agricultural uses along with several detached houses and farm buildings. The original historic graveyard is located on the N side of the Drumcliff Road, and the newer graveyard is located on the S side of the road. The newer graveyard is accessed via two main entrance points off Drumcliff Road via a linear car park, and there is a service access along the W site boundary with the neighbouring houses. The lands rise in a southerly direction towards the Ennis water treatment plant, and the site boundaries are defined by a mix of walls, fences, trees and hedgerows, with a mature wooded area in the W section.

- 2.2. The project site is located within the SW section of the newer St. Brigid's burial ground. It comprises the S half of the most recently developed Section E, and the adjoining Section G lands to the S which rise steeply to towards the water treatment plant on the hilltop. Sections E and G are separated by the main access / service road which is defined by a fence to the S, and the N boundary of Section E is defined by a row of mature deciduous trees. Both areas are characterised by grassland.
- 2.3. Ballyallia Lough is located to the N and NE of the project site. The cemetery lands slope down towards Drumcliff Road and the nearby Drumcliff Stream. This stream joins the Poulnacorry River which flows NE to the River Fergus, which in turn discharges into the NW corner of Ballyallia Lough. The River Fergus then flows S out of the SE corner of Ballyallia Lough, and to the E of the project site. Ballyallia Lough is a designated SAC, SPA and pNHA, and the SW section of the European site boundary extends to the immediate N of the Drumcliff Road and cemetery car park. The River Fergus (E) forms part of the Lower River Shannon SAC which overlaps with the River Shannon and River Fergus Estuaries SPA c.6 to 8km downstream at Clarecastle to the S. The surrounding rural area may also be important for mobile species from these and other further afield European sites.
- 2.4. There are several features of historic and cultural heritage interest in the surrounding area including the original Drumcliff Graveyard with its church and round tower which are Recorded and National Monuments, along with several other features (incl. bridges), which also designated Protected Structures.
- 2.5. Photographs & maps in Appendix 1 describe the site & surroundings in more detail.

3.0 **Proposed Development**

Clare County Council propose to carry out improvement works at Section E and to extend the existing burial ground into Section G at St. Brigid's Graveyard.

The proposed works would comprise:

- An additional 350 double plots (incl. provision for ash plots).
- Access road improvements (incl. lay-bys, turning circles & traffic calming),
- Parking, drainage & footpaths.

- Planting & landscaping works (incl. Columbarium & Reflectance Garden)
- Associated site works.

3.1. **Accompanying documents**

The application was accompanied by the following documents: -

- Drawings & Photographs
- AA Screening & NIS reports
- Ecological Impact Assessment report (EclA)
- EIAR Screening report
- Hydrological & Hydrogeological Assessment report
- Archaeological Appraisal report
- Landscape Proposals & Preliminary CEMP
- List of Prescribed Bodies & copies of Public Notices.

4.0 **Planning History**

4.1. No recent relevant planning cases for the project 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. Articles 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. The following European sites are located within a c.15km radius of the subject site.

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| Ballyallia Lake SAC | Ballyogan Lough SAC |
| Lower River Shannon SAC | Knockanira House SAC |
| Toonagh Estate SAC | Old Domestic Buildings, Rylane SAC |
| Dromore Woods & Loughs SAC | Poulnagordon Cave (Quin) SAC |
| Poulnadatig Cave SAC | Newgrove House SAC |
| Newhall & Edenvale Complex SAC | Lough Gash Turlough SAC |
| Ballycullinan, Old Domestic Building SAC | |
| Ballycullinan Lake SAC | Ballyallia Lough SPA |
| East Burren Complex SAC | River Shannon & River Fergus SPA |
| Old Domestic Building (Keevagh) SAC | Slieve Aughty Mountains SPA |
| Moyree River System SAC | Corofin Wetlands 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 and Regional Planning policy

National Planning Framework, 2018-2040

This Plan sets out a high-level strategic plan for shaping future growth and development to 2040. It seeks to develop a region-focused strategy to manage growth and environmentally-focused planning at a local level. It contains several National Strategic Outcomes (NSOs) which include seeking to achieve empowered rural economies and communities, enhanced amenity and heritage, and a transition to a low-carbon and climate resilient society.

National Development Plan, 2021-2030

This Plan underpins the National Planning Framework 2018-2040. It contains several priorities which include investment in regional growth potential and enhancing the tourism potential of the region.

Climate Action Plan, 2024

This plan seeks to tackle climate breakdown and achieve net zero greenhouse gas emissions by 2050. It identifies several risks as a result of climate change including rising sea-levels, extreme weather, further pressure on water resources and food production systems, and increased chance and scale of river and coastal flooding.

The Planning System and Flood Risk Management, 2009

These Guidelines seeks to avoid inappropriate development in areas at risk of flooding and avoid new developments increasing flood risk elsewhere and they advocate a sequential approach to risk assessment and a justification test.

National Biodiversity Action Plan, 2022

The Plan sets out actions through which a range of government, civil and private sectors will undertake to achieve Ireland's 'Vision for Biodiversity' and follows on from the work of the first and second National Biodiversity Action Plans. It contains 119 x targeted actions which are underpinned by 7 x strategic objectives.

Framework & Principles for the Protection of Archaeological Heritage, 1999

This document outlines the State's general principles in relation to the management and protection of the archaeological heritage.

Architectural Protection Guidelines for Planning Authorities, 2004

These Guidelines provide a practical guide for planning authorities (and others) who must comply with Part IV of the Planning and Development Act 2000 on the protection of the architectural heritage.

Regional Spatial & Economic Strategy, the Southern Region (2020)

The RSES supports the delivery of the programme for change set out in the National Planning Framework and the National Development Plan. It sets out a strategic vision and policy objectives for climate change, sustainable development, renewable

energy, urban and rural areas, the economy, the environment, connectivity, amenities and utilities. Several policy objectives seek to promote tourism and recreation, protect water quality, enhance biodiversity, and ensure the protection of sensitive sites and habitats.

5.7. **Clare County Development Plan 2022 – 2028**

Zoning: the lands are zoned for Community uses.

Burial Grounds Objective CDP10.23: seeks to:

- a) To provide extensions to existing burial grounds and facilitate the provision of new burial grounds in cooperation with local communities, at appropriate locations throughout the County;
- b) To ensure that burial grounds throughout the County are managed and maintained in a manner which respects their associated culture and heritage, having regard to the relevant byelaws;
- c) To support the development of crematoria in County Clare, subject to normal planning considerations; and
- d) To support the provision of new funeral homes which are designed to sensitively meet the needs of a diverse population

Chapter 2: Climate Action

CDP2.6 to 2.13: flood risk assessment & storm water management.

Chapter 11: Physical Infrastructure, Environment and Energy

CDP11.26: deals with the WFD & RBM, protection of groundwater & surface water resources, achieve & maintain at least good water quality status, consider proposals where it can be clearly demonstrated the requirements of the RBM Plan will be met.

CDP11.27-33: protection & sustainable use of surface & ground water resources, provision of water & wastewater services, Ennis & Environs water supplies.

CDP11.40-42: noise pollution, air quality & light pollution (incl. impacts on bats).

Chapter 14: Landscape

Landscape Character Type: Low Drumlin Farmland (LDF).

Landscape Character Area: Ennis Drumlin Farmland (13).

Chapter 15: Biodiversity, Natural Heritage and Green Infrastructure

CDP15.1: protect biodiversity & implement the National Biodiversity Action Plan, All Ireland Pollinator Plan, and the County Heritage & Biodiversity Plans.

CDP15.3 to 6: protect European, National & County Geological sites.

CDP15.8 to 22 protect non-designated sites, biodiversity, habitats, waterbodies, wetlands, woodlands, trees, hedgerows, and Freshwater pearl mussel.

CDP15.28: deals with Dark Sky Reserve Designations.

Natural Heritage sites:

- Ballyallia Lake SAC & SPA
- Lower River Shannon SAC
- River Shannon & River Fergus SPA

Chapter 16: Architectural, Archaeological and Cultural Heritage

CDP16.1-7: protect architectural heritage (incl. PSs).

CDP8-12: protect archaeological heritage (incl. sites, features & objects of interest).

Recorded / National Monuments & Protected Structures:

- Drumcliff Church (CL033-033001)
- Drumcliff Round Tower (CL033-033003)
- Drumcliff Graveyard (CL033-033002)
- Ecclesiastical Enclosure ENE of Drumcliff Church (CL033-034001)
- Temple Varaghan Church ENE of Drumcliff Church (CL033-034002)

National Inventory of Architectural heritage (NIAH)

- Ballymacquiggan Bridge N of Drumcliff Churchyard (NIAH No. 20403315)

6.0 Consultations

6.1. Prescribed Bodies:

The Council circulated the project details to the following Prescribed Bodies: -

- Minister for Housing, Local Government & Heritage
- Dept. of Environment, Climate & Communications
- NPWS, Inland Fisheries & Uisce Eireann
- An Taisce, Heritage Council, Arts Council & Failte Ireland
- Clare County Council

Submissions were received from the **DHLG&H (DAU)**:

- Proximate to & associated with 3 x recorded Monuments (Church, Graveyard & Round Tower), 2 of which are National Monuments (Church & Tower).
- Applicant's Archaeological report recommended test excavations prior to approval, as did DAU in response to a previous Part 8 application.
- Attach a condition to require an Archaeological Impact Assessment as per Framework & Principles for the Protection of Archaeological Heritage (1999).
- Recommended conditions align with sample Conditions C.2 & C5 of OPR Practice Note PN03: Planning Conditions (Oct. 2022).
- Recommended conditions relate to: - carrying out an AIA, examination of plans & particulars; preparation of report & mitigation strategy; establishment of buffer zones, preservation by record & monitoring; submission of final report to the PA & DAU with any resultant costs covered by the developer; and the inclusion of heritage constraints in the CEMP.

Public Submissions:

One submission received from Raymond Griffin who appreciates the need for additional Burial Plots but has the following concerns about adverse impacts.

- Property abuts the Service Road that runs from the main road to the start of Section E, which is a source of ant-social activity when the gate is left open.

- Additional plots will give rise to more people visiting the cemetery with a resultant increase in anti-social activity.
- Will not consent to any variation of or deviation from the existing boundary.
- No need for a new Operations Area as the existing Service Area is adequate to serve the existing plots, and its proximity would affect his residential amenities (incl. noise, disturbance & litter).
- No provision of toilets with further resultant impacts on amenity & hygiene.
- Additional surface water run-off, soak pit is already deficient & ineffective, and already a serious problem as overflow water enters the Spring Water Supply.
- There are several Spring Wells & Swallow Holes the vicinity, and some of the town's water supply is locally sourced and pumped up to the reservoir.
- Swallow Hole in the Old Graveyard is connected to main Spring Water with a Spring Well c.100m to the E, run-off regularly enters this Swallow Hole during heavy rainfall, which could affect water quality & public health.
- Anecdotal evidence that permission has been refused for several developments due to the presence of springs in the vicinity & the risk of contaminating the public water supply from overflowing septic tanks.
- Negative impact on nest site for Long Ear Owls within wooded area.
- Proposal would seriously injure residential amenity & depreciate property values, and result in a health hazard & deterioration of water quality.

The submissions were circulated to the Council for information.

7.0 Assessment

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

The proposed development would comply with national, regional and local policy in respect of climate change, the environment, heritage, residential amenity and transportation. The Council states that the works are justified as they would provide for additional burial plots for the local community (incl. minority faiths), and that the works would take several months to complete. The proposed works would be compatible with the Community Uses zoning objective for the lands, and it would implement Objective CDP10.23 of the Development Plan which seeks to provide extensions to existing burial grounds.

One submission was received from a Prescribed Bodie (DHLG&G), it did not raise any objections to the project subject to compliance with a condition which requires an archaeological assessment of the site, having regard to the proximity of the proposed extension to National and Recorded Monuments (Graveyard, Church & Round Tower). One submission was received from an adjoining property owner (Raymond Giffin) who raised several concerns which are summarised in section 6.0 above (incl. proximity of operations area, surface water run-off & contamination of public water supplies), which will be addressed in the following sections of this report. No other submissions were received from members of the public.

Design and layout:

The design and layout of the proposed amendments to the existing Section E and proposed extension into Section G of St. Brigid's burial ground are described in sections 2.0 and 3.0 above. Sections E and G are located within the elevated SW section of the overall graveyard which is bound by rural land uses, and the two sections are separated by the main service road.

Section E comprises linear rows of burial plots that run parallel to the service road and this section is partly occupied. It is proposed to amend the layout of the unoccupied part to provide ash plots and a centrally located Columbarium, along with Islamic and Bahai burial plots to the E which would have faith related orientations. The Section G lands on the SW side of the main service road rise up

steeply towards the Ennis water treatment plant that occupies the hilltop and is fenced off. The linear rows of burial plots would be located adjacent to the service road and on either side of a centrally located open space and pedestrian access area that would interconnect with the Collaboration area in Section E. The steeply sloping site would be accessed by a mix of steps, ramps and footpaths. The main service road would extend along the W and S site boundaries to a number of small car parking areas. The existing Section E operations area would relocate slightly N in the direction of the rear boundary of the adjacent house. It would be bound by a 2m high timber fence and landscaping, as would the Section G operations area in the SW section.

The footprint of the proposed Section G extension is occupied by an agricultural field, the works would not entail any significant vegetation removal, and the proposed works would include new surface water drainage arrangements. Given that the project would provide for an extension to an existing long established burial ground in line with several Development Plan policies, and the provision of burial plots for minority faiths and ash plots, to take account of cultural diversity and changing burial practices, the design and layout of the proposed works are considered acceptable.

Visual & residential amenity:

The area surrounding the graveyard is mainly characterised by rural land uses along with several detached houses and farm buildings. There are two houses located adjacent to the W site boundary which is defined by a tree and hedgerow lined access / service lane with a gated access off the main road. The elevated Section G site and environs are defined by grassland and hedgerows. A linear wooded area defines the boundary of the existing Section E with the adjacent burial sections to the N and this wooded area comprises mature trees of mixed deciduous species. The tree and hedgerow lined laneway and the linear wooded area contribute to the overall character and visual amenity of the area. The proposed development would not result in any significant removal of vegetation along the access laneway or any of the trees in the linear wooded area, and the project would not adversely affect impact the visual amenities of the area, having regard to its scale and low-lying nature.

In terms of general residential amenity, the proposed works would not overlook, overshadow, result in a loss of privacy, or otherwise adversely affect the amenity of any nearby dwelling houses. Any localised removal of vegetation to accommodate the slight relocation of operations area in the E Section towards the rear garden boundary of the adjacent house would have a minor adverse impact on the visual amenities and character of the area in the short term. However, the area would be bound by a 2m high timber fence and surrounded by landscaping, and notwithstanding the concerns raised by Mr. Griffin, I am satisfied that the proposed works (incl. the relocated operations area) would not give rise to an adverse impact on the amenities of nearby houses in the long term.

The further concerns raised by Mr. Griffin in relation to antisocial behaviour along the access laneway are noted, however I am not convinced that the proposed extension to the cemetery would serve to increase such activity in the area. This concern along with the control of litter and the absence of public toilets relates to the overall management of the facility by the Council. Concerns in relation to noise and general disturbance could be addressed by way of a standard operational hours condition.

There are several heritage features in the vicinity including the original historic Drumcliff Graveyard, Church, and Round Tower which are Recorded and National Monuments. Ballyallia Lake to the N and NW and the River Fergus (E) are designated European sites, and any potential adverse impacts on cultural heritage and biodiversity will be addressed in the following sections of this report.

Biodiversity:

The existing graveyard and proposed extension are located within an undulating rural area that is characterised by agricultural fields defined by hedgerows. There are some small, wooded areas in the SW section of the graveyard, mainly along the N boundary of Section E and along the access laneway to the W. The site is not traversed by any watercourses or drainage ditches although there are several swallow holes and spring wells in the wider area. The Drumcliff Stream and SW section of Ballyallia Lough are located nearby to the NW. Drumcliff Stream flows N into the Poulnacorry River, and then the River Fergus (W) which in turn discharges into NW corner of Ballyallia Lough, which subsequently discharges SE to the River Fergus (E) to the E of the subject site and on the far side of the Drumlin landscape.

The Ballyallia Lake SAC and SPA, Lower River Shannon, and River Shannon and River Fergus Estuaries SPA are designated for a variety of habitats and species, including several species of waterbird, and there are several further afield European sites that are designated for mobile species (incl. otter, birds & bats). The Development Plan contains several objectives which seek to protect European sites and biodiversity which are summarised in section 5.7 above (incl. CDP15.3 to 6 & CDP15.8 to 22). Appropriate Assessment issues will be addressed in s.7.4 below.

The nearby watercourses, wooded areas and hedgerows may provide a habitat, refuge, foraging area or resting place for a variety of terrestrial and aquatic animal species (incl. otters, birds, bats, fish & aquatic invertebrates) which have been described in the submitted documents. This includes a Stage 1 Screening and Natural Impact Assessment reports which examined the relationship between the proposed development and European sites, and an Ecological Impact Assessment Report. These reports were informed by desk top studies and site surveys which described the ecological characteristics of the receiving environment and identified the potential impacts on Europeans Sites and biodiversity. The NIS report contains mitigation measures which should be incorporated into the CEMP.

No SAC or SPA qualifying habitats or species were recorded in the vicinity of the proposed development, and no suitable support habitat for qualifying species was noted in the desktop studies and field surveys. However, the nearby watercourses may provide suitable support habitat for several fish species (incl. Lampreys & Salmon). Otter may commute or forage along the rivers and their tributaries, and the linear wooded area may contain suitable nesting and/or foraging habitat for birds and bats.

There was no significant evidence of nesting **birds** in the vicinity of the proposed works, except for a Long-eared owl nest in the linear wooded area of Section E. However, a wide variety of birds have been recorded in the wider area, and I noted the presence of several species of waterbird in the nearby SW section of Ballyallia Lough SPA to the N of the graveyard and Drumcliff Road. I note that none of the trees would be felled, however a condition should be attached to require a pre-construction survey of the trees for the presence of Long-eared owl, and to ensure that any vegetation clearance works take place outside of the bird nesting season.

There are several European sites in the wider area that have been designated for Lesser horseshoe bat, and the surrounding riparian lands, hedgerows and trees may provide suitable roosting, nesting or foraging habitat for **bats**, although no substantive evidence of bats was detected in the vicinity of the site during the surveys. The site either lies outside the key foraging and roosting areas for Lesser horseshoe bats (c.6km & 3km) or there are no sustained linear connections between known bat roosts and the project site via trees and hedgerows. In the event that bats do frequent the project site and environs, I note that no trees would be felled and there would be no artificial lighting, with only temporary short-term impacts anticipated by way of disturbance during the works. Notwithstanding this conclusion, the applicant should be required to carry out a pre-construction survey of the trees, and to seek a Derogation Licence in the event that any bat roosts are present, to enable their safe and humane relocation to another suitable nearby habitat, as required.

The ***River Fergus*** and its tributaries may provide suitable habitat for several species of **fish** (incl. Lampreys & Salmon) along with suitable habitat for several prey species of **aquatic invertebrate** and **macrophytes** which form part of the food supply for fish species in the rivers. There was no record of Lampreys or Salmon in their various life cycle stages in the Drumcliff Stream or Poulnacorry River, although suitable support habitat may be present in the downstream River Fergus (E). These watercourses have the potential to convey deleterious construction materials downstream via surface water runoff from the construction works, in the absence of appropriate safeguards which could adversely affect water quality and fisheries (incl. riverbed smothering, changes to pH, clogging fish gills & habitat degradation). However, the mitigation measures contained in the NIS report would ensure that appropriate protection measures are put in place during the construction works (incl. no concrete mixing or vehicle washing on site, and protection from silt & chemical contamination). The proposed surface water drainage arrangements would ensure that contaminants would not enter the watercourses during the operational phase, particularly from run-off during heavy rainfall.

The nearby ***Ballyallia Lake***, a relatively small, shallow lake situated on the River Fergus, is a naturally eutrophic lake and Annex I habitat and a designated SAC and SPA, which is base-rich with relatively clear water. It is set amongst heavily farmed

land to the N and S, with a low-lying floodplain of wet grassland and rough grazing to the S and SW of the main lake, in close proximity to the Drumcliff Road and the graveyard. Any unmitigated works during the construction and operational phases have the potential to affect water quality in the rivers that flow into the Lake and hence the chemical and biological balance of the Natural Eutrophic Lake. However, the aforementioned mitigation measures and drainage arrangements would ensure that appropriate protection measures are put in place with no adverse impacts on the lake and environs anticipated.

Several species of mammal frequent the site and surrounding rural area. Although there would be some localised disturbance during the construction works, there would be no significant loss of habitat or foraging areas, and the impacts would be short term and temporary. It is likely that the various species would return after the works are complete. Otter has been recorded in the lower reaches of the River Fergus and the surrounding watercourses may provide suitable habitat for foraging. However, no evidence of otter was detected during the surveys and the subject site and environs are not traversed by any watercourses or drainage ditches that connect to the tributaries of the River Fergus, therefore it is unlikely that otter commutes across the graveyard, with no adverse impacts anticipated.

The proposed works would not require the substantial removal of any trees or hedgerows, and no resultant significant adverse impacts on biodiversity are anticipated during the works. However, there could be some localised disturbance to foraging areas, resting places and refuges for birds and possibly bats, and any removal of vegetation during the bird nesting season should be prohibited.

Invasive plant species a biosecurity condition should be attached to ensure that the works (and vehicles) do not introduce invasive species to the area.

An Ecological Clerk of Works would be appointed to oversee the works and the mitigation measures contained in the NIS report would protect sensitive species.

Conclusion: Having regard to all the above, the predicted impacts on biodiversity would be temporary and short term with no significant adverse impacts anticipated. I note that the NPWS and IFI did not submit any observations, and that the DHLG&H (DAU) did not raise any concerns about biodiversity. No significant adverse impacts

on biodiversity are anticipated, subject to a pre-construction bird and bat survey of the trees in the linear wooded area at Section E, the avoidance of vegetation clearance works during the bird nesting season, and the implementation of the surface water drainage arrangements and water quality protection measures.

Ground & surface water drainage:

The site lies within a wider area that is prone to fluvial flooding along the various surface water bodies (incl. River Fergus & Ballyallia Lough). The soils within the elevated future Section G occasionally reach full capacity during heavy rainfall, which in turn gives rise to surface water runoff across the main service road that separates Sections E and G (which I observed during my site visit), and resultant downgradient ponding in the lower levels of the existing graveyard. The application was accompanied by a Hydrological and Hydrogeological Assessment report which described the site, environs, project, and surface water management arrangements.

The project would be located down-gradient of the nearby Ennis water treatment plant and there is no potential for direct impacts on water quality at the facility.

The Observer (Mr. Griffin) raised concerns in relation to flood risk and the possible indirect contamination of public water supplies from surface water run-off, given that some of the water is sourced from low-lying spring wells in the surrounding area, and then pumped uphill to the treatment plant.

The elevated Drumlin site is characterised by a deep under burden of clay soil and subsoil (c.8.5m-13.5m) over intact limestone bedrock that provides a substantial degree of protection to the underlying aquifer. This groundwater body would not be contaminated by burial ground water filtering through the soil layers (incl. ammonia & nitrates), given the substantial soil depth. The burial ground project is located an adequate distance from the surrounding surface water bodies including Drumcliff Stream and the SW section of Ballyallia Lough, which exceeds the standard 50m buffer zone around waterbodies. The project is also located c.250m from the Poulnacorry Swallow Hole to the N which is in turn connected to the Drumcliff Spring Public Water Supply c.1km to the S, and this distance complies with the minimum 250m separation required between burial grounds and drinking water sources.

Mr Griffin's local knowledge of the area in relation to other spring wells and swallow holes in the vicinity is noted, although these features would also appear to be located in excess of the minimum separation distances outlined above. I also note that the Hydro report states that the existing and long-established burial ground has not given rise to any water quality or contamination problems, and that no contaminants at levels of concerns were detected in any of the trial hole surveys.

Although the project will result in a slightly larger impermeable area (incl. access roads & footpaths) a substantial proportion of green space would be retained which would act as a natural percolation area during heavy rainfall. Furthermore, the proposed surface water drainage network (incl. perforated pipes, gullies & new soak pits) has been designed to cater for surface water run-off. I am satisfied that the project will not give rise to an additional flood risk, inundation of any downgradient areas or the contamination of spring wells by excess surface water run-off, and that it would also help alleviate existing run-off problems in the W section of the graveyard.

I note that the OPW, Uisce Eireann and Inland Fisheries Ireland did not make any submissions on the proposed development.

Cultural heritage:

The site is located within an area that has a rich archaeological heritage and there are several sensitive heritage features in the vicinity, including the original historic Drumcliff Graveyard, Church, and Round Tower which are Recorded and National Monuments, and Protected Structures. The Council's Archaeological Appraisal report describes the historical importance of the area, and the Development Plan contains several objectives which seek to protect protected structures, historic buildings and features of archaeological significance (incl. CDP16.1-7 & CDP8-12).

Given that the proposed development would be located at a substantial remove from the historic graveyard, it would not adversely affect the character or setting of any of the sensitive structures, and the project would comply with the Development Plan objectives. However, the surrounding lands may contain as yet undiscovered historical artefacts, as noted in the Archaeological Appraisal report and the DHLG&H (DAU) submission, which requested that an archaeological investigation assessment (AIA) be undertaken. This concern could be addressed by way of a planning

condition which requires that appropriate investigations are undertaken before the works commence. Discoveries should be recorded, preserved by record, monitored and reported on to the DHLG&H and the Council.

Need, effectiveness & alternatives:

I am satisfied that the applicant has provided adequate background information to justify the need for the proposed improvements and extension to St Brigid's Graveyard. The project would comprise an extension to an existing long-established burial ground. It would also provide burial plots for minority faiths to take account of cultural diversity, and ash plots for cremated remains to reflect changing interment practices. I am also satisfied, on the basis of my examination of the submitted documents and assessment of the site and environs, that the proposed development will function effectively, and that the works constitute an appropriate and proportionate response to the aforementioned needs.

Conclusions:

Having regard to the foregoing, I am satisfied that the proposed development is acceptable in principle and that the works are justified.

7.2. Screening for Environmental Impact Assessment

The applicant's EIA Screening report concluded that the proposed works do not need to be subject to a mandatory or sub-threshold EIA, and that an EIAR is not required for the proposed development.

The proposed development is a "project" for the purposes of EIA under Stage 1 stage (a) of the OPR guidance and further consideration is required. The project is listed as a type of development in Schedule 5 Part 1 or Part 2 of the Planning and Development Regulations 2001 (as amended), although it is not of a scale whereby a mandatory EIAR would be required. In relation to sub-threshold development, having regard to the nature and small scale of the proposed development, which would comprise amendments and an extension to an existing long established burial ground, and the characteristics of the receiving environment which is not densely developed, nor covered by any sensitive geological, natural or cultural heritage designations (albeit its position relative to a Recorded & National Monument, and proximity to the boundary of a European site), I am satisfied that the proposed development: -

- Would not have any significant adverse effects on population and human health, biodiversity, land, soil or water, air and climate, material assets, cultural heritage, or the landscape, and
- Would not result in any significant demolition works, use of natural resources, production of waste, pollution or nuisance, or give rise to a risk of major accidents and/or disasters, a risk to human health.

The need for a sub-threshold environmental impact assessment can, therefore, be excluded, as the project does not meet any of the criteria determining whether a sub-threshold development would be likely to have significant effects on the environment, with regard to the characteristics of the works, its location, and the characteristics of potential impacts.

7.3. The likely effects on the environment

Notwithstanding the conclusions reached in section 7.2 above in relation to EIA, the Board, in making its decision, is required to consider the likely effects on the environment in respect of the proposed development.

As stated previously, having regard to the nature and scale of the proposed development and the characteristics of the surrounding area, I am satisfied that the proposed works would not have any significant adverse effects on population and human health, biodiversity, land, soil or water, air and climate, material assets, cultural heritage or the landscape. However, it is noted that the linear wooded area and hedgerow habitats may provide a refuge and foraging opportunities for a range of species (incl. mammals, birds & possibly bats). As such the Council should ensure that the ecological mitigation measures contained in the NIS report are fully implemented, that pre-construction bird and bat surveys at the linear wooded area at Section E are undertaken before works commence, and that any vegetation clearance works do not take place during the bird nesting season.

7.4. **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

7.5. **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.

7.6. **The Natura Impact Statement**

The application was accompanied by a Stage 1 AA Screening report and Natural Impact Statement report which scientifically examined the proposed works and their relationship with European sites in the surrounding area. The reports were informed by surveys and desk studies (incl. NPWS & EPA datasets).

The desk studies and site survey described the site and environs. This included details of potential connections between the proposed works and European sites. The reports assessed the surrounding area for qualifying interest habitats and species for the European sites. The ecological characteristics of the European sites were described, EPA water quality data was provided (mainly Moderate Status), and the European sites within the Zone of Influence were identified. No European site qualifying interest habitats or species were recorded on or in the vicinity of the site.

The AA Screening report confirmed that the proposed development would not be located within a European site. It stated that there are 21 x European sites within a 15km radius of the proposed works, including 17 x SACs and 4 x SPAs. The report screened out all but two these sites (Ballyallia Lake SAC & Ballyallia Lough SPA) and concluded that the remaining sites would not be affected because of the the

nature and scale of the project, separation distances, upgradient location and/or the absence of any direct aquatic or mobile connections over a reasonable distance.

The Naura Impact Statement described Ballyallia Lake SAC and Ballyallia Lough SPA, it listed the qualifying habitats and species (QIs & SCIs) and described the nature of the connection between the proposed works and the European sites. It characterised the potential effects on the European sites including in-combination effects in view of the site's Conservation Objectives. The identified effects related to pollution from surface water run-off and discharges resulting in a diminution in water quality, loss/change to habitats, and/or disturbance to foraging territory. It concluded that there would be no significant direct, indirect or cumulative impacts on the integrity of the SAC and SPA provided the mitigation measures are implemented.

Having reviewed the NIS report and 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, and details of mitigation measures are provided. I am satisfied that the information is sufficient to allow for appropriate assessment of the proposed development, subject to the further consideration of European sites located within an enlarged Zone of Influence (further analysis below).

7.7. Appropriate Assessment

The proposed development would comprise amendments and an extension to an existing graveyard along with associated works (incl. access roads, footpaths, landscaping & new drainage arrangements).

7.8. Stage 1 Screening Assessment.

The proposed development would not be located within an area covered by a European site designation, and it is not relevant to the maintenance of any such European site. There are 21 x European sites located within a c.15km radius / Zone of Influence of the site and the Qualifying Interests, Special Conservation Interests and approximate separation distances are listed below.

| SACs | Qualifying Interests (QIs) | Distance |
|---|---|----------|
| Ballyallia Lake | Natural eutrophic lakes | 100m |
| Lower River Shannon | Sandbanks & Estuaries Mudflats & sandflats Coastal lagoons & Reefs Large shallow inlets & bays, Perennial vegetation of stony banks Vegetated sea cliffs Salicornia & other annuals Atlantic & Mediterranean salt meadows Floating river vegetation Molinia meadows & Alluvial forests Freshwater Pearl Mussel Sea, Brook & River Lamprey Salmon & Otter Common Bottlenose Dolphin | 400m |
| Toonagh Estate | Lesser horseshoe bat | 3.0km |
| Dromore Woods & Loughs | Lesser horseshoe bat Natural eutrophic lakes Tall herb fringe communities Limestone pavements & Otter | 4.0km |
| Poulnadatig Cave | Lesser horseshoe bat & Caves | 4.5km |
| Newhall & Edenvale Complex | Lesser horseshoe bat & Caves | 5.0km |
| Ballycullinan, Old Domestic Building | Lesser horseshoe bat | 6.3km |
| Ballycullinan Lake | Calcareous fens | 6.5km |
| East Burren Complex | Hard oligo-mesotrophic waters Turloughs & Floating river vegetation Alpine & Boreal heaths Juniperus communis formations Calaminarian grasslands Semi-natural dry grasslands Lowland hay meadows Calcareous fens Petrifying springs with tufa formation Alkaline fens & Alluvial forests Limestone pavements Lesser Horseshoe Bat & Caves Otter & Marsh Fritillary | 7.0km |
| Old Domestic Building (Keevagh) | Lesser horseshoe bat | 8.0km |
| Moyree River System | Lesser horseshoe bat & Caves Floating river vegetation & Alkaline fens Limestone pavements & Otter | 8.4km |
| Ballyogan Lough | Calcareous fens & Limestone pavements | 9.8km |

| | | |
|---|--|-----------------|
| Knockanira House | Lesser horseshoe bat | 10km |
| Old Domestic Buildings, Rylane | Lesser horseshoe bat | 10.3km |
| Poulnagordon Cave (Quin) | Lesser horseshoe bat | 10.8km |
| Newgrove House | Lesser horseshoe bat | 11km |
| Lough Gash Turlough | Turloughs & Rivers with muddy banks | 13km |
| SPAs | Special Conservation Interests (SCIs) | Distance |
| Ballyallia Lough | Teal, Coot, Mallard, Wigeon & Shoveller Gadwell & Black-tailed Godwit Wetland & Waterbirds | 100m |
| River Shannon & River Fergus | Whooper Swan & Light-bellied Brent Goose Cormorant, Shelduck & Scaup Wigeon, Teal, Pintail & Shoveler Ringed, Golden & Grey Plovers Lapwing, Knot, Dunlin & Curlew Black-tailed & Bar-tailed Godwits Redshank, Greenshank Black-headed Gull Wetland & Waterbirds | 6.0km |
| Slieve Aughty Mountains | Merlin & Hen Harrier | 8.0km |
| Corofin Wetlands | Black-tailed Godwit, Teal & Little grebe Whooper swan & Wigeon Wetland & Waterbirds | 8.5km |

SAC Conservation Objectives (where listed):

- To maintain and / or restore the favourable conservation condition of the habitats and species for which the SACs have been selected.

SPA Conservation Objectives:

- To maintain and/or restore the favourable conservation condition of bird species listed as SCIs for these sites (Slieve Aughty Mountains, River Shannon & River Fergus Estuaries, and Ballyallia Lough SPAs).
- To maintain the favourable conservation condition of the wetland habitat as a resource for the regularly-occurring migratory waterbirds that utilise it (River Shannon & Fergus Estuaries and Corofin Wetlands SPAs).

The potential effects relate to:

- Release and transport of pollutants in ground and/or surface water flowing into the European sites via surface or ground water.
- Ex-situ impacts on qualifying species outside the European sites but which are an integral and connected part of the population of qualifying interest species, including: -
 - Loss of or damage to habitats used by QI/SCI species.
 - Loss of foraging & commuting areas used by QI/SCI species.
 - General disturbance to QI/SCI species during construction.
- Impacts on water quality and quantity, and/or vegetative composition of support habitats.
- Impacts on vegetative composition of habitats and/or support habitats as a result of colonisation by invasive species.

Screening assessment:

- ***Dromore Woods & Loughs, Old Domestic Buildings (Keevagh), Old Domestic Buildings (Rylane), Lower River Shannon, Newgrove House, Newhall & Edenvale Complex, Toonagh Estate, Poulmagordon Cave (Quin), Poulmagatig Cave, Moyree River System, Ballycullinan (Old Domestic Building), Ballycullinan Lake, East Burren Complex, Ballyogan Lough, Lough Gash Turlough & Knockanira House SACs***: Having regard to: - the nature of the QIs for these sites (incl. Lesser horseshoe bat & coastal, estuarine & riparian habitats & species); the known range of foraging and breeding Lesser horseshoe bat (c.6km & 3km) combined with the intervening absence of a sustainable linear connection between the sites (hedgerow & wooded areas), and the absence of lighting proposals at the graveyard; the substantial separation distance between the project and the European sites and the recorded locations of their QI habitats and species; and the absence of a downstream aquatic connection with the sites over a reasonable and pragmatic distance, it is unlikely that the proposed development would have an adverse effect on the QI habitats and species or their Conservation Objectives for these SAC sites.

- **Ballyallia Lake SAC:** Having regard to the nature of the QI habitat for this site (Natural Eutrophic lake with Magnopotamion or Hydrocharition - type vegetation), the proximity of the project to the SW boundary of this site (c.100m), and the presence of an indirect downgradient aquatic connection with the site via surface water run-off, it is possible that the proposed development could have an adverse effect on the QI habitat and its Conservation Objectives, and further consideration is therefore required.
- **River Shannon & River Fergus Estuaries, Slieve Aughty Mountains & Corofin Wetlands SPAs:** Having regard to:- the nature of the SCIs for these sites (incl. waterbirds & raptors) and their known foraging range; the species specific habitat and dietary preferences; and the substantial separation distances to a European site and the recorded locations of the SCI species within it; and the absence of a downstream aquatic connection with these sites over a reasonable and pragmatic distance; it is unlikely that the proposed development would have an adverse effect on the SCI species or their Conservation Objectives for these sites.
- **Ballyallia Lough SPA:** Having regard to the nature of the SCIs for this site (incl. waterbirds) and their known foraging range, the proximity of the project to the SW boundary of the European site (c.100m), and the presence of a downgradient aquatic connection vis surface water run-off with this site, it is possible that the proposed development could have an adverse effect on the SCI species and their Conservation Objectives, and further consideration is therefore required.

7.9 AA Screening Conclusion

In conclusion, having regard to the nature and scale of the proposed development, to the separation of the graveyard site from the European sites, to the nature of the qualifying/special conservation interests and conservation objectives of the European sites, and to the available information as presented in the Hydrological & Hydrogeological and Ecological Impact Assessment reports and the NIS regarding ground and surface water pathways and mobile connections between the site and

the European sites, and other information available (incl. NPWS website, aerial & satellite imagery), it is my opinion that the proposed development has the potential to affect the following 2 x European sites, having regard to the conservation objectives of these sites, and that progression to a Stage 2 Appropriate Assessment is required by reason of proximity and aquatic and/or mobile connections.

- Ballyallia Lough SPA
- Ballyallia Lake SAC

7.9. In coming to this conclusion, I am satisfied that the Lower River Shannon SAC and River Fergus and River Shannon Estuaries SPA, that the nearby watercourses ultimately discharge into, can be screened out from any further assessment, having regard to the relatively small scale of the proposed works and the extent of the aquatic separation distance between the project and these European sites, along with the recorded locations of the qualifying habitats and species, and to the site-specific requirements and foraging preferences of the various QI and SCI species.

7.10. **Stage 2 Appropriate assessment**

Ballyallia Lake is a relatively small, shallow lake situated on the River Fergus c.4km N of Ennis, Co. Clare. It is a naturally eutrophic lake (Annex I Habitat) which is base-rich with relatively clear water, set amongst heavily farmed land to the N and S, with a low-lying floodplain of wet grassland and rough grazing to the W and SW. The SAC was selected for its Natural Eutrophic Lakes Habitat and as an SPA for birds. It is also a Wildfowl Sanctuary. The lake and the floodplain to the W hold nationally important numbers of waterbirds (incl. Shoveler, Wigeon, Coot, Mallard & Gadwall). Significant numbers of Whooper Swan and other regular wintering species use the site (incl. Teal, Lapwing, Tufted Duck, Pintail & Little Grebe).

Likely significant effects on the Ballyallia Lake SAC

Site description: This SAC is located within c.100m of the project site, and it is designated for 1 x habitat (Natural Eutrophic Lakes). Having regard to the nature and scale of the work required to amend and extend the existing graveyard and associated works (incl. site clearance, excavations & burials), the characteristics of the surrounding lands which are in agricultural use, the separation distance between the proposed development and the European site, the nature of the QI for the site, and the presence of an indirect down gradient aquatic connection over a short distance via surface water run-off, and a possible groundwater connection, it is possible that the project could have an adverse effect on this SAC and its Conservation Objectives. The lands mainly drain N and NE via surface water run-off to agricultural fields that form part of the floodplain for Ballyallia Lake SAC, and to the nearby Drumcliff Stream which drains into the Poulacarry and Fergus (W) rivers, which ultimately discharge into Ballyallia Lake SAC over a relatively short distance.

| SAC Site name | Qualifying Interests | Conservation Objective | Attributes & targets |
|-----------------|--|--|--|
| Ballyallia Lake | Natural eutrophic lakes with Magnopotamion or Hydrocharition - type vegetation | To maintain the favourable conservation condition of Natural eutrophic lakes, which is defined by the following list of attributes and targets | Habitat area (stable or increasing); Habitat distribution (No decline); Typical species (good condition, abundance & distribution); Vegetation composition (characteristic zones); Vegetation distribution (maintain max depth); Hydrological regime (maintain water level fluctuations); Lake substratum quality (maintain type, extent & chemistry); Water quality (maintain appropriate transparency, nutrients, phytoplankton biomass & composition, algae biomass and macrophyte status); Acidification status (maintain appropriate pH); Water colour (maintain appropriate colour); Dissolved organic carbon (maintain levels); Turbidity (maintain levels) and Fringing habitat (maintain area & condition). |

Mitigation measures: The NIS report contains a comprehensive list of mitigation measures which would serve to protect the SAC and its QI habitat from adverse effects, and these include: -

- Preparation of a CEMP
- Adherence to best construction practices
- Compliance with minimum buffer zones & separation distances (burials)
- Appointment of Ecological Clerk of Works
- Surface water management measures (incl. perforated pipes, gullies & soak pits).

Potential direct effects: The proposed development would not be located within a European site, and it is not relevant to the maintenance of any European site and there is no potential for direct effects.

Potential indirect effects: There is potential for indirect adverse impacts on the QI Natural Eutrophic Lakes habitat, as result of the unmitigated release of fine sediments during the excavation and construction works, the release of chemical pollutants as a result of accidental spills during construction, and the percolation of burial contaminants and nutrients (incl. nitrates & ammonia) during the operational phase, into the receiving waterbodies. Potential adverse impacts would include changes in sediment balance and water quality (incl. chemistry, biology, pH & nutrient status) in the downstream habitat, and the introduction of invasive species from works vehicles with resultant changes in vegetation composition and structure. Following the implementation of NIS mitigation measures (refer above), the installation of the surface water management arrangements, and the measures contained in the Hydrological and Hydrogeological report and CEMP, in combination with the use of best construction practices and compliance with relevant requirements, and having regard to the substantial depth of the clay overburden (c.8.8m to 13.5m) which would protect the underlying groundwater from burial related contamination, I am satisfied that there would be no resultant adverse impacts on the Natural Eutrophic Lakes QI habitat and its constituent species, or the Conservation Objectives for the Ballyallia Lake SAC.

Potential in-combination effects: Potential indirect in-combination effects relate to damage to the QI habitat because of accidental spillages and sediment run off during the works, seepage of contaminants to ground water, and the accidental introduction

of invasive species by construction vehicles. This could give rise to pollution, contamination and/or colonisation with resultant impacts on water quality, having regard to the various plans or projects in wider area (incl. housing and agricultural & domestic discharges) in the absence of mitigation. However, having regard to the substantial depth of the clay overburden which would protect the underlying groundwater from contamination, and the implementation of the mitigation measures and recommended conditions (see below), I am satisfied that there would be no adverse cumulative effects on the European site or its qualifying habitat.

Residual effects: None anticipated post mitigation.

NIS Omissions: None noted.

Suggested conditions: Vegetation clearance should take place outside the bird breeding season. A Project Ecologist should be appointed to oversee the works. All plant and machinery used during the works should be thoroughly cleaned and washed before delivery to the site to prevent the spread of hazardous invasive species and pathogens.

Conclusion: I am satisfied that the proposed development individually or in combination with other plans or projects would not adversely affect the integrity of this SAC in light of its Conservation Objectives, subject to the implementation of mitigation measures outlined above.

Likely significant effects on the Ballyallia Lough SPA

Site description: Refer above. This SPA is located c.100m from the graveyard site and it is designated for a variety of bird species. Having regard to the nature and scale of the work required to extend the burial ground (which would involve excavations), and the survey results that were submitted by the applicant as part of the application, it is possible that the proposed development could have an adverse effect on this SPA site, its SCI species and/or their Conservation Objectives.

| SPA Site name | Special Conservation Interests | Conservation Objectives | Attributes & targets |
|-------------------------|--|---|----------------------|
| Ballyallia Lough | Teal & Coot Wigeon & Shoveler Gadwell & Mallard Black-tailed Godwit Wetland & Waterbirds | To maintain or restore the favourable conservation condition of the wetland habitat at Ballyallia Lough SPA as a resource for the regularly occurring migratory waterbirds that utilise it. | None specified. |

Mitigation measures: Refer above.

Potential direct effects: The proposed development would not be located within a European site, and it is not relevant to the maintenance of any European site and there is no potential for direct effects.

Potential indirect effects: The development site lies within the core foraging range for several of the SCI bird species for this SPA, however the graveyard site does not contain suitable roosting or grazing habitat (relative to species specific dietary preferences). Therefore, there would be no direct or indirect effects on any of these species at the nearby floodplain to the N, other than some minor disturbance during the construction works. The proposed development would not give rise to collision risk, displacement, or barrier to movement. However, any diminution in water quality arising from a pollution event, including the unmitigated release of fine sediments, accidental spills or other buried ground contaminants (incl. nitrates & ammonia) could adversely affect downgradient support habitats for water birds in the SPA. This could give rise to potential impacts on SCI populations for this and the other SPAs, which share some of the more mobile SCI species (incl. Black-tailed godwit & Teal). Potential impacts on water quality are assessed in more detail above in relation to the SACs above. Following the implementation of NIS mitigation measures and the measures contained in the Hydrological and Hydrogeological report and CEMP (refer above), and the installation of the surface water management arrangements, in combination with the use of best construction practices and compliance with relevant requirements, and having regard to the substantial depth of the clay overburden which would protect the underlying groundwater from buried related contamination, I am satisfied that there would be no resultant adverse impacts on the SCI bird species or the Conservation Objectives for the Ballyallia Lough SPA.

Potential in-combination effects: Refer above.

Residual effects: Refer above.

NIS Omissions: None noted.

Suggested conditions: Refer above.

Potential in-combination effects: Refer above.

Conclusion: I am satisfied that the proposed development individually or in combination with other plans or projects would not adversely affect the integrity of this SPA in light of its Conservation Objectives, subject to the implementation of mitigation measures outlined above.

7.11. **Appropriate Assessment Conclusions:**

Having regard to the foregoing 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 site no. 000014 and European site no. 004041, or any other European site, in view of the site's Conservation Objectives.

8.0 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 those requiring compliance with the submitted details and with the mitigation measures as set out in the NIS.

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 Government of Ireland Climate Action Plan 2024,
- (d) the Architectural Heritage Protection Guidelines for planning authorities 2004,
- (e) the Southern Regional Economic & Spatial Strategy 2020,
- (f) 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,
- (g) the conservation objectives, qualifying interests, and special conservation interests for the Ballyallia Lake SAC (site code:000014), and Ballyallia Lough SPA (site code:004041),
- (h) the policies and objectives of the Clare Development Plan, 2022 to 2028,
- (i) the nature and extent of the proposed works as set out in the application for approval,
- (j) the information submitted in relation to the potential impacts on habitats, flora and fauna, including the Natural Impact Statement report (NIS), and
- (k) 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 Ballyallia Lake SAC (site code: 000014) and Ballyallia Lough SPA (site code:004041) are the only European Sites in respect of which the proposed development has the potential to have a significant effect.

The Board considered the Natural Impact Statement report 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 Ballyallia Lake SAC (site code: 000014) and Ballyallia Lough SPA (site code:004041), 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,
- iii. the conservation objectives for the European Sites, and
- iv. the submissions received from prescribed bodies and members of the public.

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 Site, in view of the site's conservation objectives.

Proper Planning and Sustainable Development and 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, or give rise to a traffic hazard. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area and it would not give rise to likely effects on the environment.

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.

2. The mitigation and monitoring measures outlined in the plans and particulars relating to the proposed development or as may be required in order to comply with the following conditions shall be implemented. Prior to the commencement of development, details of a time schedule for implementation of mitigation measures and any associated monitoring shall be prepared by the local authority and placed on file and retained as part of the public record.

Reason: In the interest of protecting the environment and European sites.

3. Prior to the commencement of development, the local authority, or any agent acting on its behalf, shall prepare in consultation with the relevant statutory agencies, a Construction Environmental Management Plan (CEMP), incorporating all mitigation measures indicated in the Natura Impact Statement (NIS) report, and demonstration of proposals to adhere to best practice and protocols.

Reason: In the interest of protecting the European Sites and biodiversity.

4. The following nature conservation requirements shall be complied with:
 - (a) No vegetation removal shall take place during the period 1st March to 31st August (inclusive).
 - (b) A pre-construction Long-eared owl survey by a suitably qualified ecologist shall be carried out before works commence.
 - (c) A pre-construction bat survey shall be carried out by a suitably qualified ecologist during the active bat season.
 - (d) Any destruction of bat roosting sites or relocation of bat species shall be carried out by a suitably qualified ecologist under a Derogation Licence granted by the Minister for Housing, Local Government and Heritage.

Reason: In the interest of biodiversity and nature conservation.

5. A suitably qualified ecologist shall be retained by the local authority to oversee the site set up and construction of the proposed development and implementation of mitigation measures relating to ecology. The ecologist shall be present during construction works. Upon completion of works, an ecological report of the site works shall be prepared by the appointed ecologist to be kept on file as part of the public record.

Reason: In the interest of nature conservation and the protection of biodiversity.

6. The County Council and any agent acting on its behalf shall ensure that all plant and machinery used during the works should be thoroughly cleaned and washed before delivery to the site to prevent the spread of hazardous invasive species and pathogens.

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

7. The County Council and any agent acting on its behalf shall facilitate the preservation, recording, protection or removal of archaeological materials or features that may exist within the site. A suitably qualified archaeologist shall be appointed by the County Council to prepare an Archaeological Investigation Assessment report and to oversee the site set-up and construction of the proposed development, and the archaeologist shall be present on-site during construction works. Upon completion of works, the Archaeological Investigation Assessment report shall be kept on file as part of the public record and a copy shall be submitted to the Minister for Housing, Local Government and Heritage.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

8. Drainage arrangements, including the attenuation and disposal of surface water, and flood risk management shall comply with the requirements of Irish Water and the planning authority for such works and services as appropriate.

Reason: In the interest of public health and to ensure a proper standard of development.

9. The construction works shall be limited between 08.00-hours and 18.00-hours Monday to Saturday excluding Bank Holidays.

Reason: To protect the amenities of nearby residential properties

9.0 Professional declaration

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Karla Mc Bride

Inspectorate

18th January 2024